Councilmembers Present: Barry, Bassett, Carlson Lillquist, Niner, Perrie and Mayor O’Brien

Others present were City Manager Barkley; City Attorney Pidduck; Community Development Director Witkowski; Deputy Clerk Keno; and 50 plus members of the audience.

REGIONAL RETAIL COMMERCIAL LAND USES – PROPOSED IMPLEMENTING ORDINANCE – PUBLIC HEARING; CONSIDERATION OF SEPA THRESHOLD DETERMINATION

The purpose of the special meeting is a public hearing on a proposed implementing ordinance for regional retail commercial land uses and consideration of jurisdiction over the appeals of the SEPA threshold determination for the proposed ordinance. An executive session will be held at the end of the meeting.

Mayor O’Brien outlined the procedure for the special meeting. Council will open the public hearing to receive information for documentation in the public record and comments from staff and then close the public hearing for a Council vote to determine the next step.

The City has received two comment letters about the SEPA determination and will need to determine whether Council will assume the jurisdiction to hold a SEPA appeal hearing or whether to send the appeal on to other agencies. Council’s decision will determine whether to open the public hearing again for public comment. If the public hearing is not reopened, time will still be allowed this evening for public comment. All comments will be limited to 5 minutes. The meeting will end at 9:30 p.m. and continue on at a later date. An executive session will be held after the close of the meeting and no action will be taken during that closed session.

Mayor O’Brien opened the public hearing for the purpose of considering and receiving testimony from staff regarding regional retail commercial land uses, the proposed implementing ordinance and consideration of SEPA threshold determination.

Community Development Director Witkowski entered into the public record the following materials:

the agenda report in its entirety dated June 25, 2007;

a folder containing the following materials:

the regional retail commercial proposed ordinance;

public record materials dated June 18, 2007--a compilation of materials related to the issue from past
deliberations on the proposed ordinance with index;

the final supplemental EIS dated November 1, 2006 for the comprehensive plan and draft supplemental EIS dated 2006 update for the comprehensive plan; and

City of Ellensburg wetland inventory update dated September, 2005 and the Ellensburg Fish & Wildlife inventory update dated September, 2005.

Also added into the record was a June 24, 2007 letter from Steve Merwick Re: Comments on draft Development Regulations, dated May 21, 2007 and a June 15, 2007 letter from Joyce Phillips, State of Washington Department of Community Trade and Economic Development, to City Manager Ted Barkley.

Director Witkowski summarized the agenda report. The June 19, 2007 Notice of Document Challenge from Larry Nickel, Lois Nickel and Nat Nickel and the June 19 & 20, 2007 memorandum from Joe Sheeran are essentially appeals of the SEPA decision. Both the City Attorney and the City’s Special Land Use counsel, Carol Morris, have reviewed the materials and believe Council should be presented with the option of either hearing the appeal formally to the SEPA determination as a body or to decline to do so and to then continue with the public hearing on the proposed ordinance. The City Code contains an ambiguity that speaks both for and against Council’s jurisdiction in the matter. In the case of ambiguity in the ordinance, case law requires the reading of the ordinance to be construed one way or the other. If Council decides to hear the SEPA appeal it must hear the appeal as a true hearing. If Council desires to have the appeal heard by a higher body outside of the City then Council could consider the Nickel and Sheeran documents as comment letters on the proposed ordinance. If Council decides to hold the SEPA appeal as a formal appeal it would need to close tonight’s public hearing, hold the SEPA appeal and then consider the draft proposed ordinance at another public hearing on the same night. There is no bar to Council discussion on the ordinance outside of a public hearing venue but Council cannot take formal action on the ordinance.

Council asked questions of staff.

Mayor O’Brien closed the testimony portion of the public hearing.

Council/staff discussion.

City Council to hold the SEPA hearing rather than giving up jurisdiction. Perrie

Council/staff discussion. State law provides that during the pendency of an appeal to a court of competent jurisdiction the development regulations that are approved by Council would be effective during the time the appeal is pending. Council may wish to consider a combined hearing where the SEPA appeal would be heard first, followed by the public hearing on the development regulations ordinance unless Council were to uphold the SEPA appeal. During the SEPA appeal portion of the combined hearing, testimony on the appeal would be limited to the appellants or a representative
selected by each appellant and staff’s response to that appeal. Other individuals would not be allowed to testify or submit documents. Any materials submitted by appellants by the July 10 deadline must address the specific areas identified in the appeal. Council should also identify where the documents are to be delivered by the deadline dates.

Further Council/staff discussion.

Vote on motion. Barry(Yes)
Bassett(No)
Carlson(Yes)
Lillquist(No)
Niner(No)
Perrie(Yes)
O’Brien(Yes)

Motion approved.

For the record, the appellants in the SEPA appeal hearing are Larry Nickel, Lois Nickel, Nat Nickel and Joe Sheeran. Deadline dates for submission of materials by appellants and respondent City of Ellensburg are as follows: July 10, 2007 at 5:00 p.m. for appellants’ written response; July 25, 2007 at 5:00 p.m. for respondent City’s written reply and provision of the written record. All written materials will be submitted to the City Clerk’s office on the deadline dates specified. City Council will hold the combined SEPA appeal hearing and public hearing on the proposed development regulations on July 30, 2007 at 7:00 p.m. in the Council Chambers. Testimony at the SEPA appeal hearing will be limited to the appellants or a representative of that appellant and City staff.

Council will not continue with the official public hearing for regional retail on the proposed implementing ordinance for the development regulations.

Continue the regional retail commercial land use proposed implementing ordinance Carlson public hearing; consideration of SEPA threshold determination to July 30, 2007 immediately following the conclusion of the SEPA appeal hearing with the public record open. Affirmed

Council took public comment from the audience.

Doug Mitchell, Planning Commission Chairperson, spoke about the Commission’s recommendations
to Council regarding the proposed ordinance. The Commission came up with a different definition of regional retail while working from the comprehensive plan to the ordinance. They thought size was a critical element and recommended a minimum size limit of 15,000 square feet of gross floor area per each individual business entity within a regional retail commercial development. The Commission favors a new zone with uses intended to be in that zone. Creating a new zone would ease the burden of Council in looking at each application and deciding if it fit the conditional use criteria. The Commission felt the 40-acre minimum is much too restrictive and recommends a 10-acre minimum. The Commission did not see the rationale for a 1,000,000 square foot maximum. Variety and competition would be healthier than having large chunks of land in ownership by a few. The Commission recommended that whatever design criteria Council decides on be specific and objective; the current draft is too subjective and unenforceable. Council and Mr. Mitchell discussed the lack of meeting notification, communication and participation with the Council in this process.

There was no spokesperson from the Landmarks and Design Commission.

Jill Arango, representing the Environmental Commission, stated the Commission did not have adequate time to discuss SEPA Checklist S07-08 because the comment period expired prior to their June meeting date.

Martin Kaatz, Downtown Task Force member, read from a prepared statement and submitted his statement to the City Clerk. Later in the meeting Mr. Kaatz, spoke about retail sales growth.

George Bottcher, 711 E. 2nd Avenue, speaking for himself, spoke about a gateway, security and items left out of the proposed ordinance that were listed in the comprehensive plan. He submitted a graphic illustrating relative sizes of storefronts based on square footage.

Roger Weaver, 1217 Radio Road, representing himself and future stakeholders in the community, spoke about the lack of protection in the proposed ordinance for people who are going to make the investment. The cities of Yakima, Moses Lake and Wenatchee vest at the site plan stage. Vesting is allowed in Kittitas County as well. Mr. Weaver believes the only hope for downtown is investment.

Duane Harbick, 914 W. 2nd Avenue, spoke against growth and development.

Reed Larsen, 102 N. Mt. Stuart Avenue, stated if business does not develop the City treasury is in serious trouble. Development will come to the County sooner or later; consumers dictate where development will take place. Healthy business investment is good for the downtown; the downtown has to be willing to help itself.

Rick Cole, 660 Southridge Drive, business and property owner within the City of Ellensburg, spoke about Council’s lack of communication with the Planning Commission. The proposed ordinance is designed to cause problems for some trying to come here to do business. A hard, fast set of rules as free of interpretation as possible is needed.
Council briefly discussed the Landmarks & Design Commission recommendations and requested staff notify the Commission it would like more specific recommendations for design criteria.

Mike Forman, MRM Construction, stated other communities are more aggressive than Ellensburg in making things happen. He cited his company’s projects in Yakima and Moses Lake. Downtown parking is lacking. Downtown needs to work with others to make things happen.

Helen Wise, 1106 E. 3rd Avenue, stated Council has not listened to the Downtown Task Force. If development is going to occur Council should encourage it at the South Interchange.

Ron Criddlebaugh, Ellensburg Chamber of Commerce Director, stated Council must make decisions and move forward. He encouraged Council to encourage business friendly legislation.

Councilmember Lillquist left the meeting at 8:55 p.m.

Catherine Clerf, 60 Moe Road, stated clear, concise rules are needed; everybody needs to be on the same page.

Tom Morris, 881 Susan Road, spoke about the need to create more revenue without increasing taxes or cutting services.

David Kaufman, 101 W. 10th, stated only a few people talked about the proposed ordinance. It would be appropriate to take the Planning Commission’s proposal and examine a way to come up with a new zone that actually reflects that new area of growth. The proposed ordinance does not meet those needs; the Planning Commission should be given more time to reflect further on the matter.

Dale Jurgens, 1011 Hansen Road, stated the citizens want to see something happen and some decisions made.

RECESS

Council recessed to executive session at 9:30 p.m. to discuss potential litigation for approximately 30 minutes. Council does not anticipate taking action.

At 10:00 p.m. Council announced it was extending the executive session for five minutes.

At 10:05 p.m., Council returned to the regular meeting

ADJOURN Adjourn at 10:05 p.m. Niner

Affirmed

_________________________________
Mayor
ATTEST: ________________________________

City Clerk