

AGENDA ITEM _____
DATE _____

Regular Meeting
March 12, 2014

**MINUTES OF A REGULAR MEETING OF THE CASA GRANDE BOARD
OF APPEALS HELD ON WEDNESDAY, MARCH 12, 2014 AT 4:00 P.M.
IN THE COUNCIL CHAMBERS LOCATED AT CITY HALL, 510 E.
FLORENCE BOULEVARD, CASA GRANDE, ARIZONA**

A. Call to Order at 4:09p.m.

B. Roll Call

Members Present:

Member Johnson
Member Hollenbach
Member Fuller

Members Absent:

Chair Solberg
Vice Chair Sommers

City Staff Present:

Dwight Williams, Building Official
Paul Tice, Planning and Development Director
Barbara Rice, Fire Marshall
Ana Woodward, Secretary

C. Approval of Minutes of the 02/12/2014 Meeting

Member Hollenbach asked the Board Members if they were ready to approve the minutes from February 12, 2014 and if they have any comments or corrections.

Member Hollenbach motioned to approve the minutes.

Member Fuller seconds the motion for the approval of the February 12, 2014 minutes.

Member Hollenbach called for a vote on the motion for approval. Motion passed 3-3.

D. Old Business:

D.1 Section 706.1.1 of the Building Code– Party wall requirements for buildings under condominium ownership

D.2 Section 503.1.4 of the Building Code– Amendment to allow buildings under condominium ownership to be considered as one building for building height and area purposes

Planning Director Tice presented a PowerPoint to the Board items D.1 and D.2 on the agenda as one related topic. He explained that at the last Board meeting staff was proposing two amendments to the Building Code, regarding how certain building code regulations might be applied to condominium developments. There are two distinct local amendments staff was looking at.

The section 706.1.1 which requires the construction of party walls on joint service walls built on a common property line. The typical party wall for example results in a two hour separation between adjacent buildings that share a wall constructed on a property line. Staff is trying to amend the code in a way that will allow condominium units to have their common walls constructed to standard tenant separation requirements. This would typical be a one hour wall for most tenant separation.

The second item of the building code that staff is recommended to amend is section 503.1 by adding a new section 503.1.4. This amendment to the building code would allow for developments to utilize unlimited building heights and area that is allowed under the building code where all the buildings are all in the same lot. Staff's proposed

Director Tice noted that staff is now recommending that these previous amendments not be pursued and as an alternative the Building Code be amended to include a new definition for "Condominium". He pointed out that the new "Condominium" definition included a statement that for purposes of the Building Code condominium unit lines are not to be considered lot lines. The new "Condominium" definition also indicates that for purposed of the Building Code the boundary of the common area tract shall be considered the property or lot boundary. Director Tice indicated that staff felt that with this new definition of "Condominium" that the previously recommended amendments to 706.1.1 and to 503.1.4 would not be necessary. Attached to these minutes are PowerPoint presentation and documentation that Planning Director Tice presented for D.1 and D.2.

Member Johnson asked if these buildings were over the allowable area. If they were not going to fit under unlimited area, then you have to apply some imaginary

property lines. Member Johnson asked if the wording needs to be in there with the exception of imaginary property lines as provided.

Building Official Williams indicated that this is already allowed in the code. The code is written in standard verbiage. It allows the property owner of multiple buildings on one lot and treats them as individual building or treats them as a single building. That provision is already in code and it is there choice as to which way they want to go.

Member Johnson replied what he is looking at is the purpose of this wall is separating condominium unit shall not be consider lot lines. The imaginary property line is a lot line.

Building Official Williams responded that the definition is under the Arizona Rules and Definition for condominium unit is an actual property line. The building code does not concern itself with who owns what and how it is owed only that it is a property line. We are going to treat this more as a tenant line than a property line. It would not relieve the owner of treating the development as individual buildings or as one building on a single lot.

Member Fuller asked it this does not have any impact on fire wall requirements and ratings.

Building Official Williams responded that it would be treated just like we would the Promenade. There are multiple tenants in a single building and whatever tenant separation is required between the two tenants.

Planning Director Tice explained that it does have an impact on fire walls and that it will not require fire walls between the units. There is a reading of building code that a fire wall is technically required between condominium units. This clarifies that there is not a requirement under our amended code.

Member Fuller asked if a fire start at one end and would it go through the whole condominium building. There is nothing that could stop it and destroy the interior of the building.

Fire Marshall Rice explained that without dividing this up by fire walls, then the entire building would have to sprinkle. If it is not being divided by fire walls with the 5000 sq., ft., so then it would be sprinkled it would have that protection.

Planning Director Tice agreed with Fire Marshall Rice statement. The final analysis the level of fire protection to these building is the same to as any multi-tenant building.

Member Hollenbach asked if this would allow a company wanted to purchase the three condominiums would they be able to remove the walls and make it one condo.

Planning Director Tice replied that was another topic in this agenda. The proposed definition of "Condominium" does not address that issue. It would allow for these individual to buy multiple condominium units and not have to build a two hour party wall between the condominiums. It allows the separation to be standard stud and drywall, with no openings similar with any tenant space. This amendment will allow the building code to deal with condominium development just like the zoning code does. Member Fuller asked how would that affect multiple story units, unlimited size and height does this mean it could be more than one story high.

Building Official responded yes, it could be more than one story high. There are multiple story condominium units and multiple tenant buildings. We treat them exactly the same and they would have to be fire sprinkled with certain fire protection built in. Depending on what's in the building that would not remove any of those other requirements. This is not a real property line and we don't have to put in party walls. It doesn't rule any other provision of the code.

Member Fuller stated that if these tenants are going to be self-insured because he did not think any reputable insurance companies would be interest in insuring these condominium because there is no fire protection.

Building Official Williams stated the protection would be the same as a multi-tenant office building. If you came in built one condominium building with six offices and you were leasing the six offices it would be the same fire protection.

Member Hollenbach responded that if it is sprinkled, the insurance company would be ok with insuring it.

Director Tice stated that staff is proposing to apply this definition to the building code and fire code. It appears to be that condominiums have been handled this way in the past in Casa Grande. We have condominium developments that don't have fire walls between the individual units. We have medical office condominium units at the hospital complex with no fire walls between the units. We have medical condominium units on Korsten and Peart with no fire walls between the units. What we are trying to do just make it crystal clear that's allowable under the building and fire code.

Member Johnson stated that it serves the purpose but it needs to be clarified. Member Johnson liked this proposal for both residential and commercial.

Member Hollenbach replied what are the drawbacks on requiring the fire walls?

Planning Director Tice indicated that cost is a drawback. The problem with the condominium is the roof system is a common element not individual owned. The fire party wall system has to go up through the roof which becomes problematic. There are logistical issues as well, with the maintenance of the exterior.

Planning Director Tice indicated he would like to present this issue on Monday night's work session to City Council. He ask for a motion from the Board that says you support the definition or not. Member Johnson responded to make a motion on the condominium to be added into the building code.

Member Hollenbach second that motion.

Member Hollenbach stated that the motion passed 3 to 0 and to go ahead and make this recommendation to the City Council.

Planning Director continued with discussion E.2 which is related to D.1 and D.2 even though it doesn't have anything to do with the building code but has do with further complexities regarding initial concepts. Director Tice will come back and continue with items D.3 and E.1 which are related items.

Planning Director stated that we just discussed the definition of condominium and the two associated concepts one is the condo unit and the condo building. The situation we come up with is that we have tenants that purchase multiple condominium unit and want to use them as one big tenant space. This is happening today on this condo building that is out lined on the PowerPoint presentation.

The technical issue is that these are seperate condominiums units, they are on recorded plat, with separate deeds. When you buy multiple units even if they are on the same parcel from the Assessor's office, you still have three platted condominium units which you can sell separately. The amended building code will require walls separating these units would have a one hour fire wall. This tenant will not want to construct that because they want one big tenant space. There is no zoning problem because there are no setbacks for these units. We do have a building problem because if they sell the condominium units separately in the future, they there is no separation constructed between the individual units.

Director Tice noted that at the staff an administrative technique can be used which is the covenant to hold property as one parcel. This type of agreement is is also refer to unity agreement or property tie agreement. These are agreements that allow a property owner to own multiple condominium units and use them as one large tenant space, It will give some relief from the building code by not needing the tenant separation in between units. In exchange, the property owner agrees not to sell them separately and hold them as one property. This agreement will be recorded

so it will run with the land and all future purchasers of the property will be aware of the agreement.

The agreement says property owner could come back and sell them separately with the release the covenant by just install the required tenant separation wall between the units. It's an administrative process we have used in the past and other community's use it as well. It solves the problem that we talked about fairly easily.

There is another solution that allows multiple condominium units to be combined to be used as one large unit and that is to modify the condo plat to resubdivide and consolidate condo lots. That is an option as well. The Covenant Agreement is an administrative process and the Resubdivision process requires going to City Council. Staff is currently working on changing the subdivision rules to allow this type of lot consolidation subdivisions to be processed administratively. Director Tice wanted to brief the Board on the options that are out there for the applicants.

Member Hollenbach questioned if these options were already in place?

Planning Director Tice response that yes, they are currently in place.

Member Johnson replied that what he would like to see added to the unity agreement is;

1. The area where each section of the code that is used in the unity agreement.
2. What the unity agreement is for?
3. The code section.
4. The code year.

If things change five years from now it may not be applicable anymore. If there is a new owner, they will know what is on the unity agreement. They will know whether it has allowable area, parking etc... and to be able to have specifically documented in each case and what it is for.

Planning Director Tice indicated that staff can do that. We can modify the unity agreement form to say it pertains to a modification of whatever section of the building code is applicable.

Planning Director Tice stated that there is another problem that does not require any change in the building code. but which he would like to the Board aware of. Occassionally there are developments which involve multiple parcels of land that are owned by different owners. There are different owners and deeds. From a building stand point we can take the same unity agreement and combine these

together. From a building code purposes we are going to treat these multiple parcels as one big parcel and as long as the owners agree not to sell them separately.

From a zoning stand point the problem is meeting the required zoning setback. The setbacks are applied to parcel properties. There are setbacks from these parcel boundaries and so the real cure from the zoning stand point is to have these parcels consolidated to one parcel.

Member Johnson inquired as to whether a unity agreement could include zoning too. Can you take it to your planning board and see if they would approve the unity agreement. Member Johnson pointed out that the first unity agreement that was used in Casa Grande was for both planning and building purposes. It was for parking and building setbacks.

Planning Director Tice replied that is something staff will be exploring.

The last example which is a little bit different, it is one building on multiple platted lots. Chair Solberg mentioned it in the last meeting. This is common in the downtown area and this is a real life example. It's a downtown building and is built on a parcel that consist of multiple platted lots; the legal description is lots 1- 20.

The building has been constructed across lots and again it's a problem from a zoning standpoint. If you were to build this today, there would be a problem it doesn't meet setbacks from each individual properties. From a building code stand point there really isn't a problem as the unity agreement solves the problem. However, the subdivision code says that in this kind of case what we should be doing is re-subdividing to merge the lots into one big lot.

Member Johnson indicated that the unity agreement is a recorded document. Member Johnson asked if there is anything that is required so during the sale of the property the new owners would get a copy of the unity agreement.

Planning Director Tice replied that it does get recorded with a specific parcel number., so it should show up on the title report for the sale of those properties so the buyer knows about the unity agreement. Planning Director Tice indicated that there was no need for a motion on these topics; it was just to inform the Board.

D.3 Ordinance # 936.14 and City of Casa Grande Building and Technical Administrative Code Section 113 regarding the Board of Appeals' Rules, Procedures, and Authority

Planning Director continued with item D.3 pertaining to Ordinance # 936.14; City of Casa Grande Building and Technical Administrative Code Section 113 regarding the

Board of Appeals' Rules, Procedures, and Authority and E.1 Rules of Procedures for the Board of Appeals. It was noted that after researching this ordinance internally with the City Clerk and City Attorney, it is unclear if this ordinance is still in effect or was previously repealed with the adoption of our of the 2003 building code in 2008.

Staff decided to take the conserved approach and proceed as if this Ordinance is still in effect. Staff's intent is that this Ordinance should be official repealed with the adoption of the 2012 codes and the adoption of the new Rules of Procedure for the Board of Appeals. Planning Director Tice presented a version of Ordinance 936.14 that has been marked up to reflect which provisions will be included in Section 113 of the Administrative Code and which provisions will be picked up by the Rules of Procedure for the Casa Grande Board of Appeals. This document is attached to these minutes.

Planning Director Tice has asked for feedback on the direction that staff is going on these procedures.

Member Johnson replied that staff is going on the right direction.

Member Hollenbach stated that he did not see a problem with it.

Member Fuller stated that it is good.

Planning Director Tice responded that once the 2012 codes are adopted by City Council staff will be coming back to the Board to adopted the proposed Rules of Procedures for a future meeting. This covered all the Old Business and New Business on the agenda.

E. New Business:

E.1 Rules of Procedures for the Board of Appeals.

E.2 Building Code, Zoning Code and Subdivision Regulations pertaining to:

i) A building site consisting of multiple lots on one parcel.

ii) A building site consisting of multiple parcels.

iii) Property Unity / Property Tie/Covenant to Hold as One Property agreements.

F. Public Comments:

G. Topics for the next meeting:

Planning Director Tice would like to set up another meeting on the 2nd week of May to brief the Board on the adoption process and whether or not there were any issues and put any other topics on the agenda that we may need.

Member Johnson stated that when Member Sommers resigned, he would like to know when she will be replaced and at that point we need to elect a new Vice Chair.

Planning Director Tice responded that he will check on the current status of the recruiting process for a new Board member. Member Hollenbach replied that he thought Robert Miller had turned in an application.

Member Johnson stated that he may have turned it in but just takes Council time to review the application. Member Johnson questioned if they could elect a Vice Chair today.

Planning Director Tice replied that it was not in the agenda today but we will put it on the next agenda.

Member Hollenbach requested for staff to add the election of a new Vice Chair on the next agenda.

H. Adjournment

Member Hollenbach requested motioned to adjourn.

Member Fuller motioned to adjourn.

Member Hollenbach second the motion to adjourn at 4:51.