

TO: Mayor Bill Euille and the Honorable Members of Council

FROM: Councilwoman Alicia Hughes

CC: City Manager Jim Hartmann
Deputy City Manager Michelle Evans
City Attorney James Banks
Assistant City Attorney Joanna Frizell
Council Docket

RE: Docket Item 22
Consideration of a Request to Amend the City Code to Change the Procedures for Processing Master Plan Amendments by City Council

DATE: 19 May 2010

MEMORANDUM

On 27 April 2010, I sent a communication to the City Attorney requesting a draft ordinance that would have the effect of “mak[ing] the City Council the final arbitrator of planning decisions with appeal to the City Council as a matter of right rather than upon the motion of a member of City Council,” with the intent of it being a discussion point for contemplating an amendment to the City Code. In response to that request, the City Attorney’s Office instead produced a memo entitled “Re: Procedures for Processing Matters Within the Jurisdiction of the Planning Commission” which you received, too.

The intent behind my request for this ordinance is the belief that any applicant seeking an amendment to the master plan, who so desires, should have City Council, an elected body, rather than the Planning Commission, an appointed body, be the final arbiter on their applications for amendments to the master plan, if he or she so chooses. As a matter of background, the genesis of the request is not a desire to change the supermajority vote requirement needed by Council to overturn a Planning Commission decision on an application to amend the comprehensive master plan. Rather, the genesis of the request is to replace the process by which denials of applications to amend the master plan may come before Council, as a matter of fundamental fairness to those who may be aggrieved by an adverse Planning Commission decision, which is rare.

Under the current state of the law/our City Code, when an Applicant files an application for an amendment to the master plan, it is heard by the Planning Commission and either approved or denied by the same. If approved, the application is forwarded to the City Council for consideration. If denied, the application dies in Planning Commission *unless* it is brought before City Council on motion of a sitting member and at that time, *must receive the vote of a supermajority of Council members to even be heard*. Then, if the matter is heard, the application must be approved by a supermajority of the members of City Council to overturn the Planning Commission denial. Hence, two supermajority votes are required currently, one procedural and one substantive. I seek to amend a process related to the procedural one. **Importantly, I**

reiterate that I do not seek to remove the supermajority required to reverse the Planning Commission decision as relate to applications to amend the master plan but rather to ensure that every Applicant has the opportunity to be heard by Council on this particular matter through the right of direct appeal to the City Council, if desired and in a manner unlike our current process.

From what I understand from researching decisions in previous years, it is quite rare that applications to amend the master plan are denied and thus, the approval of the requested change to the city code is not likely to present an undue burden on Council. Further, the benefit to citizens would by far outweigh the burden. My requested change would make more fair, more open a part of our planning process while simultaneously giving property owners a right to be heard by us rather than grant of the same as a privilege, as implied by the required step of lobbying members of Council to take on their cause. The latter is what the Code as written reflects to me in current form.

I thank you for your consideration. Should you have questions or require additional information, you are welcome to be in touch. I look forward to a great discussion on this matter.