



**MINUTES**  
**CITY OF NORCO**  
PLANNING COMMISSION  
CITY COUNCIL CHAMBERS – 2820 CLARK AVENUE  
REGULAR MEETING  
June 30, 2010

---

1. CALL TO ORDER: 7:00 p.m.
2. ROLL CALL: Vice-Chair Hedges, Commissioners Harris, Newton and Wright.  
Absent: Chair Jaffarian
3. STAFF PRESENT: Planning Director King and Executive Secretary Dvorak
4. PLEDGE OF ALLEGIANCE: Commissioner Harris
- 4.A. Proclamation presented to outgoing Commissioner Harris.
5. APPEAL NOTICE: Read by PD King
6. HEARING FROM THE AUDIENCE ON ITEMS NOT LISTED ON THE AGENDA:  
None.
7. APPROVAL OF MINUTES: Minutes of June 9, 2010

**MOTION:** M/S Wright/Harris to approve the minutes of June 9, 2010 as written.

**AYES:** Harris, Hedges, Newton and Wright

**NOES:**

**ABSENT:** Jaffarian

**ABSTAIN:**

**MOTION CARRIED**

8. CONTINUED ITEMS: None
9. PUBLIC HEARINGS: (All three heard under same hearing)
  - A. **Resolution No. 2010-\_\_\_**; Zone Code Amendment 2010-01 (City): A proposed Ordinance to amend Title 18 (Zoning) of the Norco Municipal Code to regulate the size, height, and approval process of accessory buildings allowed in agricultural-residential zones. *Recommendation: Recommend for Approval (Planning Director King)*
  - B. **Resolution No. 2010-\_\_\_**; Specific Plan 91-02, Amendment 5 (City): A proposed Ordinance to amend the Norco Hills Specific Plan to regulate the height and approval process of accessory buildings allowed in the Equestrian Residential District. *Recommendation: Recommend for Approval (Planning Director King)*

- C. **Resolution No. 2010-\_\_\_**; Specific Plan 99-01, Amendment 4 (City): A proposed Ordinance to amend the Norco Ridge Ranch Specific Plan to regulate the height and approval process of accessory buildings allowed in the Equestrian Residential District. *Recommendation: Recommend for Approval (Planning Director King)*

PK King presented the staff report on these three items, as on file in the Planning Division. The draft resolutions include the changes per earlier meetings.

PC Harris questioned the origin and flow of presentation of the changes to these amendments.

PC Newton said the wording in Item 7 is correct, but that this wording was not used in any of the three resolutions, as it should have been.

PC Harris questioned 18.12. and 18.13 where staff added "contiguous land area" and asked where this came from.

PD King replied that the Commission held several discussions on this at previous meetings.

Vice Chair Hedges declared the public hearing open and asked for public comments.

John Box said the May 19, 2010 City Council minutes did not include Deputy City Attorney Burn's reading into the record the email from City Attorney Harper. Mr. Box read the attached statement into the record, regarding the loss of property rights if these three amendments are passed.

Kathy Walker thanked the Commission for its work on this but had concerns on the checklists. She asked why something on a minor site plan would have to go before the Commission; this is not how any other city does this. She said the Commission is asking that everything built be approved by the Commission.

Bill Kohl also thanked the Commission for its hard work on this difficult process and wanted to express concerns he has collected from his neighborhood as follows: Labeling and communications of proposals are misleading; greatly reducing rights of property owners who do not keep animals on their properties. Accessory structures could be managed through a single code change. Enforce current laws. Mr. Kohl said many Norco residents are still unaware of this being pushed through. This should not have been all bundled together. He urged the Commission to come up with guidelines or limits for new Norco homeowners so that in the future no one is blindsided with unexpected requirements and regulations.

Pat Overstreet asked staff to read the definition of a barn, which PD King did. Ms. Overstreet said she cannot understand that while the moratorium on accessory buildings was in effect, that a huge one was built and neighbors on either side won't complain for one reason or another. She did not feel the Commission was favoring animal lovers. Definition, size, and contiguous area have been addressed, and she was okay with these amendments.

There were no further public comments and the public hearing was closed.

PC Newton asked if the checklist is enough information for a guideline. PD King said more guidelines equal more parameters and a more complicated document.

PC Newton suggested that applicants be offered a meeting with the Architectural Subcommittee, same as with a pre-application review. The Commission will not get excluded. A minor application could get approved by the subcommittee and still would come before the Commission for information only. It could still be discussed by the Commission.

PC Newton asked again to change all resolutions to read exactly like in the staff report regarding 846- foot restriction, with PC Wright and Vice-Chair Hedges in agreement.

PC Wright felt the suggestion regarding the subcommittee was a good idea. He wants more contiguous animal-keeping space on half-acres or less but not on larger than half-acre properties.

PC Harris did not want to limit the contiguous areas to half-acre properties. He said he feels miles away from the rest of the Commission on this issue. It still does not make sense that so many applications will have to start coming before the Commission. He is convinced property rights will be diminished in this City if these amendments are passed. The City is shifting property rights from people who want accessory buildings to those who want animal keeping. Animal keeping rights are already protected. Referring to an oversized building put up during the moratorium, he asked how such an oversized building was permitted.

PC Harris said the Specific Plan was wrong and the Norco Municipal Code was wrong; the City needs to correct these and stop the over-sized buildings from coming up. Staff will not be able to tell anyone what is going to be allowed as most everything will have to come before the Commission. He has been asking for guidelines for how the Commission will make determinations; what is and what is not acceptable. For example, a question on the checklist refers to a "scenic view shed". He asked how to define that. Scenic view shed will mean different things to different people; how will this be ascertained. PC Harris said now that "barn" has been defined, what difference will it

make? He asked why a corral larger than 864 feet would need to be approved by the Commission under a conditional use permit. He also questioned when at an earlier meeting where he thought any open accessory structures that were see-through would not need the same approval as one with all four walls, such as gazebos and cabanas.

PD King stated that no roof means no building permit needed.

PC Harris said the resolutions were confusing; for example, that a 250-square-foot storage shed would need an engineered site plan. He asked how the City will treat everyone the same under these new changes. He suggested that applicants would need lawyers to represent them at Commission meetings.

PD King said our policy is that plans coming before the Commission must be very definitive, as in engineered.

PC Harris referred to City Attorney Harper's February 18, 2010 memo regarding barn definitions and that would restrict land use. He did not agree with John Box's comments about the City forcing animal keeping on residents. In his neighborhood of about 240 homes in the hills, he believes there are only about four properties with horses. People are buying larger lots in Norco for other than animal-keeping uses. He initially wanted to address accessory structures. Now it appears the Planning Commission, with these amendments, is replacing the Home Owners Associations that many people moved here to get away from.

PC Wright said the current process is not working; obviously changes are needed.

PC Harris stated simply to rewrite our code to not allow two-story buildings. He added that these three amendments will lead to more structures built without permits. He also indicated the City would be overwhelmed with site plan applications at a time when our staff and budget are limited.

PC Newton agreed with Commissioner Harris on some points but did not see the City being overwhelmed with site plan applications; rather, the City needs to stop large accessory buildings from being overwhelming.

**MOTION 1:** M/S Wright/Newton to adopt Resolution 2010-07 recommending to the City Council that Zone Code Amendment 2010-01 be approved.

**Substitute motion:** Harris/\_\_\_ passed out a statement to the Commission and read it into the record and to the audience.

**No second, motion died.**

AYES: Hedges, Wright, and Newton

NOES: Harris  
ABSENT: Jaffarian  
ABSTAIN:

**MOTION CARRIED**

Commissioner Harris referred to his submitted written statement for his no vote.

**MOTION 2:** M/S Wright/Newton to adopt Resolution 2010-08 recommending to the City Council that Specific Plan 91-02 Amendment 5 be approved.

AYES: Hedges, Wright, and Newton  
NOES: Harris  
ABSENT:  
ABSTAIN: None

**MOTION CARRIED**

Commissioner Harris submitted a written statement for his no vote.

**MOTION 3:** M/S Wright/Newton to adopt Resolution 2010-09 recommending to the City Council that Specific Plan 99-01 Amendment 4 be approved.

AYES: Hedges, Newton, and Wright  
NOES: Harris  
ABSENT: Jaffarian  
ABSTAIN:

**MOTION CARRIED**

**MOTION 4:** M/S Hedges/Wright to approve the "Residential Accessory Building Review Checklists for Minor Site Plan and Minor Conditional Use Permit Reviews.

PC Harris submitted a written statement for his no vote.

The Commission held a short discussion on whether to proceed with this motion because the checklists were not actually on the agenda. PD King stated that several of the Council had said they would not take any action on the amendments until the checklists were reviewed by the Commission, not necessarily approved.

AYES: Hedges, Wright  
NOES: Harris, Newton  
ABSENT: Jaffarian  
ABSTAIN: None

**MOTION FAILED**

PC Newton voted no due to a possible legality question because the item was not specifically on the agenda and no city attorney was present for advice. Commissioner Harris agreed, added that the checklists are woefully inadequate, and submitted his written statement for his no vote.

10. BUSINESS ITEMS: None
11. CITY COUNCIL: Received and filed.
  - A. City Council Action Minutes dated June 16, 2010
  - B. City Council Minutes dated June 2, 2010
12. PLANNING COMMISSION: Oral Reports from Various Committees: Commissioner Hedges said the Overlay zone for the Norconian area would be coming before the Commission on July 14, 2010.
13. STAFF: Current Work Program – Received and filed.
14. OTHER MATTERS:
  - Commissioner Newton commented on a request from the audience to speak under “Other Matters”. Accepting comments from the audience at this point is at the discretion of the Chairman and comments could not refer to what was on the meeting’s agenda.
  - Commissioners Newton and Wright thanked Commissioner Harris again for his time on the Commission.
  - Vice-Chair Hedges asked about Reyna’s signs on Sixth/California. PD King said the banners and flags were taken down except for one. A letter has gone out about the illegal corner sign needing to come down.
15. ADJOURNMENT: 8:50 p.m.

Respectfully submitted,

Steve King  
Planning Secretary

/sd-76002

Attachments:  
Read into the record: John Box  
Read into the record: Commissioner Harris

received at PG meeting  
6/30/10 sk  
attach to minutes

Planning Commission 06-30-10

For the record, I would like to make note that during City Council Meeting May 19<sup>th</sup>, 2010 the Minutes did not include Deputy City Burn's explanation of email received from John Harper 2-18-10 to Steve King. Mr. Burns read for the record John Harper's complete paragraph verbatim detailing that property rights would be affected by change proposed. And oddly, Mr. Burns's words were not included in the City Council Minutes that were provided by staff and that are before you today.

Now, I have a personal request, "No More Smoke and Mirrors...."

It is clearly stated in the record(s) that this commission is discriminating against residents with respect to their property rights to have or not have animals. However members of this commission and council have "publicly" denied that this is about discrimination and forcing people to preserve land for animals. As I have mentioned in the past, when I moved to Norco I and others neighbors knew we "could" have animals and many have enjoyed that right. Over the past 6 years I have witnessed what I will call an "Animal Paranoia" and "Forced Feeding". Now Council, Planning and Staff are trying to tell residents that you "must" have animals by current proposals or you are not welcome in Norco.

For the record, I would like to state that staff and planning are taking away all residents vested property rights. I would like to state that I personally have lost rights to my property under the moratorium and zoning code amendment before you today. I challenge this commission to send a letter through the water bill or by the best means to notify "all" residents what your intentions are. I assure you that a "majority" of the residents will not support your change in their vested property rights. Also I would request that an independent economic impact evaluation be made to quantify the results of your proposed zoning amendments. If you truly care about the residents you are representing then you will accept my challenge.

In addition, to loss in vested property rights and discrimination by design, the process is very subjective and will lead to new lawsuits. I agree with Council Member Harvey Sullivan and urge this commission to recommend to council that the current lot coverage of 40% is adequate for preserving animal keeping. Then if you really are concerned on large buildings then just focus on bldg. height requirements as also suggested by Council.

Respectfully yours,

John Gunnar Box  
159 Oldenburg Lane  
Norco, CA 92860

## **Major Reasons Against Proposal**

1. The labeling and communication of the proposals are misleading. It is primarily a proposal to shift the bundle of rights that Norco property owners have enjoyed since our inception from numerous uses to limited uses that are designed to greatly reduce rights of property owners who do not keep animals on their property. It does absolutely nothing to preserve animal keeping rights as they are currently protected through our zoning codes. Accessory structures could be managed through a simple code change that defines sizes, heights and types of structures that must meet building codes and not dictate something different from the normal and universally accepted use of accessory buildings. This would rectify the opposition to the overwhelming structures allowed in the past. The only use that should be dictated is the one already in place to assure that a structure on a PAKA is used for animal keeping. If these changes were properly communicated and more residents in the Agricultural-Residential Zones knew the huge reduction in their property rights and its impact on values, there would be considerable opposition to this proposal. Reversed property rights and accessory structure limitations should never have been bundled in the same proposal as one part is highly favored and the other is heavily opposed.
2. Essentially all structures requiring a permit will go to Planning Commission for approval. In spite of numerous residents and interested parties (along with a Commissioner/several Council members, staff members and the local Realtor Board) asking for comprehensive and clear guidelines on how the Commission will make decisions and the criteria for different types and uses of structures, no, or very few guidelines or limits have been proposed. **See below for examples of guidelines that should be established\*\*.**
3. The scope of loss of property rights is staggering and the extent is unknowable since every accessory structure must go to the Planning Commission without any guidelines or limits. The fact that anyone considering purchasing a lot covered by this proposal or anticipate adding an accessory building does not know their rights is in itself a huge loss of rights. Having to go through a hearing process instead of over the counter approval with a substantial percentage of applications is a huge loss of property rights. A 20,000 square foot lot in the A-1 zone that is required to designate a 2,880 square foot open area to be reserved for animal keeping is effectively losing over 14% of prime use that previously could be used for other things. Every additional condition, restriction or requirement imposed by the Planning Commission is a reduction in property rights.

4. Even though the City Attorney(s) have commented that restrictions may reduce the value of property and definitions such as a barn make property use more restrictive, neither the Council nor the Commission has made any attempt to quantify the huge impact this may have on the financial resources of the city. Not only does this impact the \$1.2M property tax that goes to the General Fund but the almost \$16M in incremental property tax that is used annually to help pay down the \$90M in the city's long term debt and the interest on that debt. Since there are many factors that drive property values besides use restrictions and the collection and distribution of taxes are subject to many additional factors, it is difficult to measure the exact contribution of each. However, with such huge rights reductions and the unknown use of property to new property buyers, I could easily estimate upwards of 10% reduction in lost revenue opportunity. These factors should be understood prior to making such a decision; particularly when they could be avoided or even managed to be an added revenue gain with the use of less City resources.

**Substitute Proposal – Same applies to all residential and agricultural zones, as well as Norco Hills and Norco Ridge Ranch Specific Plans.**

**(See below graph for max size w/o CUP)**

***Permitted uses:***

*Accessory buildings and uses:*

*(a) Private garages used by persons residing on the premises, cabanas, pergolas, laundry rooms, workshops, stables, barns, tack rooms, pens, corrals, and similar structures provided these structures shall not be used as a habitable dwelling or space as defined by the adopted Uniform Building Code, unless expressly authorized by this ordinance. Any structure that exceeds 864 square feet, or 2.75% of the lot size on lots sizes between 30,000 - 80,000 square feet are prohibited; the maximum size allowed on lots above 80,000 square feet is 2,200 square feet.*

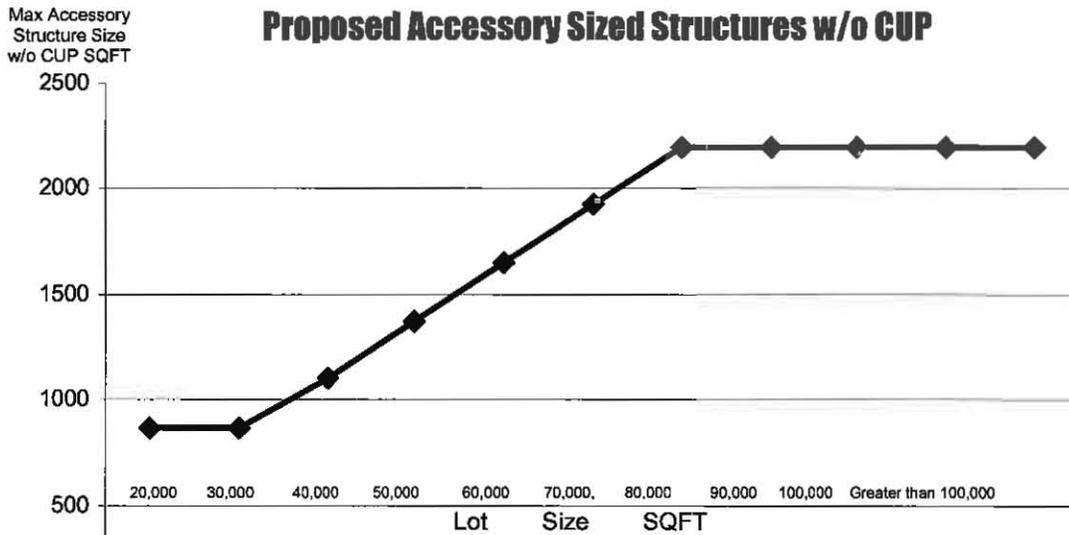
*(b) Home Occupation, as defined in Section 18.02.04 (31) and subject to conformance to the criteria for home occupations provided in Chapter 18.32 and all the provisions thereof.*

*Permitted Heights:*

*Maximum height of any accessory structure 864 square feet or smaller is 14 feet. Maximum height of any accessory structure greater than 864 square feet is 20 feet.*

**Uses which may be permitted by Conditional Use Permit:**

*Private garages used by persons residing on the premises, cabanas, pergolas, laundry rooms, workshops, stables, barns, tack rooms, pens, corrals, and similar structures provided these structures shall not be used as a habitable dwelling or space as defined by the adopted Uniform Building Code, unless expressly authorized by this ordinance. This applies to accessory buildings and uses that do not fall under those listed as Permitted Uses as defined by both size and height.*



Lot SqFt	Acre	w/o CUP Size Bldg	Sq Bldg Ea side Ft	%
20,000	0.46	864	29.4	4.32%
30,000	0.69	864	29.4	2.88%
40,000	0.92	1100	33.2	2.75%
50,000	1.15	1375	37.1	2.75%
60,000	1.38	1650	40.6	2.75%
70,000	1.61	1925	43.9	2.75%
80,000	1.84	2200	46.9	2.75%
90,000	2.07	2200	46.9	2.44%
100,000	2.30	2200	46.9	2.20%
110,000	2.53	2200	46.9	2.00%
120,000	2.75	2200	46.9	1.83%

**\*\*Samples of recommended guidelines to be established prior to allowing proposed Resolutions 2010-07,08,09 to be implemented. No particular order and there are some overlaps and many more guidelines required.**

- What architectural guidelines will be used, if any? Roles of Architectural Review Sub-Committee vs. Planning Commission? (these should be very precise and readily available so the applicant can use in their planning phase). According to the codes under CUPs and Site Plan Review, Section 18.41 applies to all. Since the architectural language of Section 18.41 is extremely comprehensive and requires an exhaustive checklist and hundreds of definitions are all of these available to applicants? Provide the guidelines, in objective language, that the Commission will use to determine these requirements are met.
- How will previous structures and improvements be dealt with? Those that are permitted vs. those that may not have been? Will Planning Commissioners and or Planning staff visit the property? If so, what guidelines will cover the visit? Limitations or restrictions?
- The proposed codes are very confusing in their language. Code 18.12.06 does not provide any permitted uses under *Permitted Uses* but does list two prohibited uses. Does this imply that any use that is normally associated with the type of structure can be used, or any legal use other than those prohibited? What is the rationale or purpose of the minor site plan review? Will the findings of this review clearly provide what the structure may be used for and what criteria/guidelines will be used to determine use? For example, barns, workshops and cabanas have almost unlimited uses throughout the city without any oversight unless illegal use is suspected. Are structures evaluated under the revised code going to have fewer rights than those allowed under the previous code? If different, how is it different? From an enforcement standpoint are similar structures going to have different uses allowed? Are different site plan or CUP determinations going to be property specific? If so, are equality and fairness assured? How will monitoring and enforcement be conducted? How will variations and specific property requirements be disclosed over time? The language carries into Specific Plans and the confusing applies there also.
- Similar confusing language exists with 18.12.08 and the carry over into the Specific Plans. It almost sounds like every conceivable structure and use requires the issuance of a CUP. If so, that should be clearly stated. What is meant by distinguishing habitable dwelling or space? Does that mean that even the Commission or the Council cannot issue a CUP to allow habitable dwelling or space? If so, that may be inconsistent with other codes including 18.45.
- What assistance will be available to assist the property owner? Such as drawing a plot plan. Many homeowners are not familiar with setbacks requirements, topographical elevations, contour lines, drainage flow, architectural themes, etc. Does the Commission expect expensive engineer blue prints? How much cost, time and inconvenience are added to the typical small homebuilt structure?
- Why is the use of a structure important? Other than the animal keeping requirement for structures allowed on a PAKA, why is the use even a factor? How will a barn be treated by the Planning Commission as opposed to a garage, cabana or workshop? What guidelines will be in place to assure that no

discrimination of use exists? Will decisions, conditions and rationale of Commission findings be on a spread sheet for public audit and review?

- The Council insisted on the definition of a barn. Where is the definition of a barn contained in the code and Specific Plans? Why does a barn require a definition, yet a cabana, garage, workshop laundry room does not? Will there be specific, objective definitions, uses and criteria for each? The building code does not use these definitions, why does the Planning Commission insist on one to be defined and the others do not?
- It appears that a 30' x 30' corral or pen requires a CUP; does that make sense? Does it now require a building permit? What specific guidelines will be used to assess the suitability of a small corral? Is the rationale on the A Zone lots so the property owner is forced to declare a PAKA? Will/can the corral area be included in the open animal area?
- Define the "scenic viewshed" of a property (as required on Checksheet). How is "Block the scenic viewshed defined"? Does this mean totally blocking the view of an adjoining property to a person 6 feet tall standing in the center of the adjoining property, or blocking x% of the view looking toward a predominant landmark? How does setback factor in? How will the difference in opinions between the rights of a landowner to build an accessory structure and the rights of the neighbor to object to the structure be resolved? Where are the guidelines for these critical issues?
- California cities have struggled with view protection for the past century. Very few have any codes that touch this very sensitive area. Most do not protect views. In the absence of a strong code, how will the City protect itself when the Commission chooses the rights of one property owner over another without the benefit of codes or bulletproof guidelines? Where are the codes and/or guidelines? Usually, these very sensitive and emotional issues are handled through CC&Rs or HOAs. Will the Planning Commission act like the city's HOA?
- Many property owners in Norco build accessory structures and other improvements requiring permits without any application to the City or knowledge by the City. Without defined codes and specific criteria and guidelines, the percentage will likely increase considerably. What are the City's plans and guidelines to 1) quantify and identify these violations and 2) remedy the violations?
- The proposed code states that the maximum height for an accessory structure shall be 14' (<=864 square feet) or 20' (>864 square feet) unless a greater height is approved by the Commission. What criteria/guidelines will the Commission use to determine under what circumstances the maximum can be exceeded? What guidelines are in place to determine that all property owners are afforded the same rights under any exceptions?
- The Council required a homeowner with a PAKA to sign and record a deed restriction outlining specifically mapped access route from the trail to the PAKA before they would approve an accessory structure. To my knowledge this has not been required for anyone else by the City. The restriction runs with the property and will be binding on all future owners and can only be removed by the City. This action probably is discriminatory as the determination did not apply to others and other similar structures have the freedom to designate their own route to their PAKA. Will this type of undue pressure by the City be used in the Site

Review/CUP process? If so, what guidelines will be used to 1) determine under what circumstances it will be used? 2) assure the rights of the property owner 3) recommend that the landowner be represented by an attorney before signing away rights, and 4) assure that the City does not discriminate in the use of this practice?

- The checklists provided for Minor Site Plans and Minor Conditional Use Permits are substantially different that the requirements under Code sections 18.40 and 18.45. The codes do not define either a minor site plan review or a minor CUP differently from a site plan review and CUP. Yet the checklists provide an illusion that substantially less is required than the code requires. From a guideline perspective either the code should be modified to define Minor Site Plans and Minor Conditional Use Permits or the checklist should be compatible with Code.

*Additional sources from previous meetings/communications to support my vote in opposition to proposed resolution presented by staff.*

**Email City Attorney John Harper to Planning Manager Steve King 2/18/2010**

*Clearly, any restriction on the use of property may have the effect of reducing the value of the property but in order to rise to the level of a regulatory taking, the restriction must deprive the property of all economic beneficial use.*

**City Council Minutes May 19, 2010, Page 10**

*Deputy City Attorney Burns commented that a clear and descriptive definition of a barn, if created, makes it more restrictive.*

*Planning Manager King stated that the Planning Commission would need to know what the Council wants to include in regards to definitions for regulation purposes. He added that the enforcement down the road and the regulations to control the uses of the buildings will be the problem. He further added that the Building Code does not differentiate between the definitions of the buildings.*

Council Member Bash stated that he would like to see guidelines created for the benefit of the Planning Commission and the Council.

Public Works Director Thompson stated that there is staff involvement that enters into this process and this will need to be better defined for the inspection process.

**City Council Minutes May 19, 2010, Page 13**

Council Member Bash stated that he supported sending the ordinances back to the Planning Commission because of all of the confusion.

Mayor Pro Tem Hanna stated that if we are going to change the wording, it needs to go back to the Planning Commission so that they can put in the proper wording.

Mayor Miller stated that he wants to see the entire package cleaned up and brought back to the Council for approval.

Council Member Sullivan stated that he is concerned about the enforceability.