

ORDINANCE NUMBER 1097

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA, AMENDING THE PERRIS ZONING CODE TO DESIGNATE THE DUTIES OF THE PERRIS PLANNING COMMISSION

WHEREAS, by Ordinance No. 1092, effective December 27, 2001, the City Council created the Perris Planning Commission to assist the City in land use planning and regulation; and

WHEREAS, Ordinance No. 1092 provides that the Planning Commission shall perform such duties as may be imposed upon the Commission by the City Council by ordinance or resolution; and

WHEREAS, the City Council desires to designate and clarify the duties of the Planning Commission;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Sections 19.01.050(B)(4) and (B)(5) of the Perris Zoning Code (Determining General Plan Consistency) are hereby amended to read in their entirety as follows:

- “4. The responsibility of determining consistency with the General Plan shall rest with the Director of Planning and Community Development, unless otherwise designated herein.
5. Administration of the General Plan shall be the responsibility of the City Council, with advice and recommendations from the Planning Commission. Administration of the General Plan may include:
 - a. Investigating reasonable and practical means for General Plan implementation, to serve as an effective guide for orderly growth and development, preservation, and conservation of open space and natural resources;
 - b. Providing periodic reports and recommendations to the City Council on the status of the General Plan and progress in its implementation.”

Section 2. Section 19.08.010 of the Perris Zoning Code (Definitions) is hereby amended to add the following definition:

“Planning Commission” shall mean the Planning Commission of the City of Perris.”

Section 1. Section 19.49.115 is hereby added to the Perris Zoning Code to read in its entirety as follows:

“PUBLIC HEARING BY PLANNING COMMISSION -- The Planning Commission shall hold a public hearing before recommending to the City Council approval, amendment, or denial of a specific plan, consistent with Chapter 19.56, PUBLIC HEARING PROCEDURES.”

Section 2. Section 19.50.040 of the Perris Zoning Code (Conformance With Laws) shall be amended to read in its entirety as follows:

“The Planning Commission or the Director of Planning and Community Development, as applicable, shall review the development plan for conformance with the City’s General Plan, Development code, specific plan regulations, and other applicable City regulations.”

Section 1. Section 19.50.050(C)(3) of the Perris Zoning Code (Other Materials/Specifications) is hereby amended to read in its entirety as follows:

“3. Any other plans that may be required by the director of Planning and Community Development which are reasonable or necessary to the Planning Commission’s or Director’s review of an application.”

Section 1. Section 19.54.020(C) of the Perris Zoning Code (Authority -- Conditional Use Permits) is hereby amended to read in its entirety as follows:

“The *California Government Code* allows for the adoption of regulations which require a use permit be obtained for the operation of specified uses. Use permits may require compliance with certain conditions of approval prior to the issuance of a permit to operate or building permit. The Planning Commission is authorized to approve or deny any requests

Section 2. Section 19.54.020(D) of the Perris Zoning Code (Authority- Variances) is hereby amended to read in its entirety as follows:

“The *California Government Code* allows for the adoption of regulations which permit the City Council to grant a variance from the required development standards contained in a Zoning Ordinance when practical difficulties, unnecessary hardships or results inconsistent with the general purpose of this Title result through the strict and literal interpretation and enforcement of the provisions of this Title. The Planning Commission in authorized to approve or deny any requests.”

[PUBLIC HEARING PROCEDURES]

Section 3. Section 19.56.010 of the Perris Zoning Code (Setting of Hearings) is hereby amended to read in its entirety as follows:

“All proposals requiring a public hearing by the City Council shall be set by the City Clerk. All proposals requiring a public hearing by the Planning Commission shall be set by the Director of Planning and Community Development.”

Section 4. Section 19.56.040 of the Perris Zoning Code (Hearing Decision) is hereby amended to read in its entirety as follows:

“Not more than 40 calendar days following the termination of the proceedings of the public hearing, the hearing body shall announce its findings by formal resolution or ordinance. Decisions of the Planning Commission shall be final and conclusive upon the twentieth day following the date of adoption of the resolution of the Commission, or upon the day following the next regularly scheduled City Council meeting, whichever date is the latest, in the absence of the filing of a written appeal as specified in Section 19.56.070.”

Section 5. Section 19.56.070 is hereby added to the Perris Zoning Code to read in its entirety as follows:

“APPEAL FROM PUBLIC HEARING

A. *General Appeal Procedure*

Whenever any person is aggrieved by any final order of the Planning Commission issued pursuant to the provisions of this Title, such person may appeal to the City Council the issuance of said order or confirmation by filing a written appeal in accordance with the provisions of this Chapter.

B. *Public Appeal*

Prior to the Planning Commission’s decision becoming final, the applicant, or any interested person who appeared at the Commission hearing and opposed such matter, may appeal the decision to the City Council by filing a written appeal with the City Clerk, with the appropriate filing fee. The City Clerk shall transmit one copy of the appeal to the Planning and Community Development director and one copy to the applicant, in the event that the appeal is not that of the applicant. The written appeal shall

specify the person making the appeal, the decision appealed from and the reasons for the appeal.

C. *City Council Appeal*

Prior to the Planning Commission's decision becoming final, any member of the City Council may appeal a decision and request review by the Council. Thereupon, the City Clerk shall give written notice to the Planning and Community Development Director and the applicant and set the matter for hearing by the City Council within 30 days.

D. *Notices*

Notices of the City Council hearing shall be given by the City Clerk in the same manner as notices are given for Planning Commission hearings.

E. *Hearing*

The appeal hearing shall be held within 30 days after the filing of the appeal, unless the 30 day time limit is waived by the appellant. The Council shall conduct a de novo public hearing on each such appeal and shall render its decision by resolution or ordinance.

F. *Referral of Appeal*

After the hearing and before making a final decision, the City Council may refer the appealed item back to the Planning Commission for further consideration."

Section 6. Section 19.56.080 shall be added to the Perris Zoning Code to read in its entirety as follows:

"PUBLIC NUISANCES -- The Planning Commission shall hear and decide orders to abate public nuisances as provided in the applicable sections of Chapter 7.02 of this Code, and orders to assess the costs of abatement against the property abated as authorized by this Code."

[CONDITIONAL USE PERMITS]

Section 7. Section 19.61.010(B) of the Perris Zoning Code (Conditions) is hereby amended to read in its entirety as follows:

“In granting any conditional use permit, the approving body shall affix those conditions which it determines will tend to safeguard the public health, convenience and general welfare in the City.”

Section 8. Section 19.61.030(B) of the Perris Zoning Code (Investigation and Prohibition) is hereby amended to read in its entirety as follows:

“B. *Investigation and Prohibition*

1. The hearing body shall investigate the facts bearing on each case to provide information necessary to assure action consistent with the intent and purpose of this Code.
2. A person may not file and the Director of Planning and Community Development shall not accept an application which is the same or substantially the same as an application upon which final action has been taken by the City within 12 months prior to the date of said application, unless accepted by a motion of the hearing body that took such prior final action.”

Section 9. Section 19.61.040 of the Perris Zoning Code (Public Hearing) is hereby amended to read in its entirety as follows:

“Upon the filing of a verified application, the Planning and Community Development Department shall set a public hearing before the Planning Commission when the Director of Planning and Community Development has determined that the application is in compliance with this code and the California Environmental Quality Act.

The notice and public hearing procedure shall be consistent with Chapter 19.56, PUBLIC HEARING PROCEDURES.”

Section 10. Section 19.61.050 of the Perris Zoning Code (Findings and Conditions) is hereby amended to read in its entirety as follows:

“The hearing body may not grant a conditional use permit for any use for which a conditional use permit may be granted under any provision of this Code unless it has first found from the evidence admitted during the hearing before the hearing body that the proposed use meets the findings contained in Section 19.54.040C.”

Section 11. Section 19.61.080 of the Perris Zoning Code (Effective Date) is hereby amended to read in its entirety as follows:

“A conditional use permit granted in accordance with this Chapter shall become effective on the date the decision of the approving body granting said conditional use permit becomes final, or on the date specified in conditional use permit, whichever is later.”

Section 12. Section 19.61.090 of the Perris Zoning Code (Time Limit) is hereby amended to read in its entirety as follows:

“A permit granted pursuant to this Chapter shall contain as a condition thereof the following: ‘The permit hereby allowed is conditioned upon the privileges being utilized within 12 months after the effective date, and if they are not utilized or less than 10 percent of the total cost of construction, erection, alteration, excavation, demolition, or similar work on any development authorized by such permits has been completed on the site, this authorization shall become void, and any development deemed to have lapsed.’ The approving body, however, shall have authority to extend the time limit upon a finding of unavoidable delay. Once any portion of the conditional use permit is utilized, the other conditions thereof become immediately operative and must be strictly complied with.”

Section 13. Section 19.61.100 of the Perris Zoning Code (Term) is hereby amended to read in its entirety as follows:

“Each conditional use permit is granted for a 12 month period unless designated otherwise for a longer term by the approving body. Thereafter, the property owner must make application to the Planning and community Development Department to extend the permit for an additional period and pay the required fee as adopted by resolution.”

[VARIANCES]

Section 14. Section 19.62.010 of the Perris Zoning Code (Purpose and Intent) is hereby amended to read in its entirety as follows:

“For practical difficulties, necessary hardships, or results inconsistent with the general intent and purpose of this code which occur by reason of the strict interpretation of its provisions and the physical constraints of real property, the Planning Commission, upon the verified application of any interested person, shall initiate proceedings for consideration of a variance from the provisions of this Code. The Planning Commission in granting said variance may establish such conditions as may be deemed necessary to assure that the intent and purpose of this Code and the public health, safety and welfare will be promoted.

A variance shall not be construed as an amendment to this Code or cause the maps which are part of this Code to be changed.”

Section 15. Section 19.62.020 of the Perris Zoning Code (Justification) is hereby amended to read in its entirety as follows:

“The applicant shall set forth in detail on forms provided by the Director of Planning and Community Development, the reasons for the requested variances and shall demonstrate how the conditions set forth in this Section are satisfied, and all other information as may be required by the Planning Commission.

The Planning Commission, before granting a variance, must make in writing all of the findings contained in Section 19.54.040A.”

Section 16. Section 19.62.030 of the Perris Zoning Code (Application) is hereby amended to read in its entirety as follows:

A. *Application Filing*

1. Applications for variances shall be made to the Department of Planning and Community Development on forms provided by the Department.

The applicant shall set forth complete data required to satisfy all the requirements of Section 19.62.020. The completed application shall be submitted to the Planning Commission for public review.

2. Upon filing an application for a variance, a uniform fee, as established by City Council resolution and any amendments thereto, shall be paid for the purpose of defraying costs incidental to the proceedings.”

B. *Investigation and Prohibition*

1. The hearing body shall investigate the facts bearing on each case, verify information necessary to assure action consistent with the intent and purpose of this Code.
2. A person may not file and the Director of Planning and Community Development shall not accept an application which is the same as or substantially the same as an application upon which final action has been taken by the City within 12 months prior to the date of said application, unless accepted by a motion of the approving body.”

Section 17. Section 19.62.040 of the Perris Zoning Code (Public Hearing) is hereby amended to read in its entirety as follows:

“Upon the filing of a verified application, the Planning and Community Development Department shall set a public hearing before the Planning Commission when the Director of Planning and Community Development has determined that the application is in compliance with the Code and the California Environmental Quality Act.

The notice of and public hearing procedure shall be consistent with Chapter 19.56, PUBLIC HEARING PROCEDURES.”

Section 18. Section 19.62.050 of the Perris Zoning Code (Conditions) is hereby amended to read in its entirety as follows:

“The approving body, in granting a variance, may set forth reasonable conditions which shall assure the intent and purpose of this Code.”

Section 19. Sections 19.75.310 (A) and (B) of the Perris Zoning Code (Time Extensions) are hereby amended to replace “Board of Zoning Adjustment” with “Planning Commission” as the body that hears and considers requests for amortization period extensions.

Section 20. Chapter 19.77 of the Perris Zoning Code (Board of Zoning Adjustment) shall be repealed and deleted from the Zoning Code in its entirety.

Section 21. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Ordinance, or any part thereof, is held invalid or unconstitutional, such decision shall not affect the validity of the remaining sections or portions of this chapter or part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the fact that any one or more sections, subdivisions, paragraphs, sentences, clauses or phrases may be declared invalid or unconstitutional.

Section 22. Certification. The City Clerk shall certify to the passage and adoption of this Ordinance by the City Council of the City of Perris and shall cause a summary of this Ordinance to be published in accordance with Government Code Section 36933.

Section 23. Effective Date. This Ordinance shall take effect thirty (30) days after its passage.

ADOPTED, SIGNED and ***APPROVED*** this 30th day of April, 2002.

Mayor, Daryl R. Busch

ATTEST:

City Clerk, Margaret Rey

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) §
CITY OF PERRIS)

I, Margaret Rey, CITY CLERK OF THE CITY OF PERRIS, CALIFORNIA, DO HEREBY CERTIFY that the foregoing Ordinance Number 1097, introduced at a regular meeting of the City Council of the City of Perris held on the 26th day of March, 2002, was duly and regularly adopted by the City Council at a regular meeting thereof held on the 30th day of April, 2002, and that it was so adopted by the following called vote:

AYES: Motte, Rogers, Yarbrough, Landers, Busch
NOES:
ABSENT:
ABSTAIN:

City Clerk, Margaret Rey