

Excerpt from the minutes of the March 28, 2006 City Commission meeting discussing conditioning conventional zoning.

Commissioner Schauner asked if those individual requests for rezoning could raise spot zoning issues.

Corliss said that issue could happen. He said spot zoning was an interesting label that had been placed on zoning decisions. He said that to some extent, the label "spot zoning" did not have the disapproval that it might have had in earlier years. A community going through the appropriate process and making reasonable determinations on zoning decided that certain specific tracts should be zoned one way as opposed to other properties, the fact that it showed up as a spot on the zoning map, was not by itself defective to the decision.

Chinn said it had to be determined whether the rezoning was consistent with neighboring properties, and if it was, then even though it was an individual parcel, it was not illegal spot zoning.

Corliss also asked Chinn to address the authority to condition conventional zoning. He said that they had come across that issue in a number of different cases and in this development code they now had a clear code authority for conditioning not only planned unit development zoning, but also conventional zoning. He said he and Chinn had spent quite a bit of time in discussions in review of the law and they felt very comfortable that with this new development code, the City Commission would have the authority to establish reasonable conditions on conventional zoning.

Chinn said that he had not worked with a code for 15 years that did not specifically authorize governing bodies to condition the approval of rezoning with reasonable conditions.

Commissioner Schauner said when using the word “reasonable”, reasonable people could differ as to what was reasonable. He asked if there was some standard in the zoning world that would be used to refine that subjective term.

Corliss said that it was determined by if it achieved the goals that were set out in the comprehensive plan and was it fair in its distinction between one property and another in the sense if it had a rational basis to make those distinctions, and were they further narrowing a particular category in the zoning ordinance to achieve a certain public health, safety, and welfare purpose.

Chinn said if the rezoning were related to the impacts that it might have on the community.

Commissioner Schauner asked if it was a rational basis if someone was to challenge the City Commission’s decision.

Chinn said the court would defer to a legislative determination in every instance in a zoning matter. He said if the City Commission determined this was a reasonable condition to impose upon a rezoning then the courts would defer to the City Commission’s judgment, but they would not always rubber stamp that judgment. He said the courts would always assume that the City Commission had made a reasonable decision and unless the court had an over abundance of evidence that it was not rational, would they ever look behind a City Commission’s determination on reasonableness.