

**CITY OF SACRAMENTO**

**CALIFORNIA**

**DEPARTMENT OF LAW**

**EVERETT M. BLENN**  
CITY ATTORNEY

**JOSEPH E. COOMES, JR.**  
ASSISTANT CITY ATTORNEY

October 12, 1964

812 10TH STREET  
SUITE 201

TELEPHONE 442-8041  
EXT. 465

City Planning Commission  
308 City Hall  
Sacramento, California

Gentlemen:

RE: REPORT OF THE CITY ATTORNEY AS TO THE PROCEDURE TO  
BE TAKEN BY THE CITY PLANNING COMMISSION ON THE  
APPLICATION TO RE-ZONE FOUR LOTS IN SOUTH LAND PARK  
HILLS UNIT NO. 31

Prior to the answer of any legal questions such as you have asked in your letter of October 7, 1964, a statement of the facts surrounding such question is proper.

Briefly stated the facts are: the Planning Commission at its meeting of August 11, 1964, voted on this re-zoning with 5 votes in favor of the application and 2 against, and 2 absent. The Chairman mistakenly acted according to the provisions of the prior zoning ordinance which required a 2/3 vote of the Commission on a re-zoning, and declared the motion for re-zoning lost. An appeal from the denial of re-zoning was made by the applicant to the City Council.

At the time of the hearing before the Council it was stated by the Planning Director that under the provisions of the present City Comprehensive Zoning Ordinance which became effective on June 13, 1964, all reference to a requirement of a 2/3 vote on a re-zoning application had been eliminated. Upon being advised of this fact, the City Council on September 17, 1964, referred the matter back to the Planning Commission for clarification of the technicality wherein the Planning Commission denied the application on a roll call of 5 affirmative votes. The Commission, at its meeting of October 6, 1964, referred the matter to the City Attorney for a legal opinion as to the proper steps to be taken in this matter by the Commission.

Under this set of circumstances it is my opinion that the Planning Commission should take the following action in this matter: (1) rescind the former action of the City Planning Commission wherein the re-zoning was declared denied by the vote taken at its meeting of August 11, 1964, for the reason that the present ordinance now

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provides that a simple majority of the Planning Commission is all that is required for action on a motion or Resolution; (2) vote to re-open the hearing on the application for re-zoning and authorize the secretary to give notice of re-hearing on the application in accordance with the provisions of Section 13 a--2 of the Comprehensive Zoning Ordinance. This is necessary to satisfy requirements of due process and notice to persons having an interest in said re-zoning; (3) the Planning Commission should hold a re-hearing as noticed and allow both the applicant and the opponents to offer such further or additional facts or information as may be relevant to the application; (4) when the re-hearing is closed, the City Planning Commission is thereby authorized to act on the application.

Respectfully submitted,

*Everett M. Glenn*  
EVERETT M. GLENN  
City Attorney

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