
PLANNING & ZONING COMMISSION
July 6, 2010
Minutes

Members Present: Bruce Bixby
 Gary Glenn
 Fred Famble
 Tim McClarty
 Clint Rosenbaum

Members Absent: Ovelia Campos
 David Todd

Staff Present: Ed McRoy, Assistant Director of Planning and Development Services
 Dan Santee, City Attorney
 Ben Bryner, Planning Services Manager
 Matt Jones, Planner II
 Zack Rainbow, Planner II
 Cody Marshall, Public Works

Others Present: Marvin Norwood
 Michael J. McCoy
 Ed Emerson
 Dave Boyll (AAIBO)

Item One: Call to Order

Mr. Tim McClarty called the meeting to order at 1:30 p.m. and declared a quorum present.

Item Two: Invocation

Mr. McClarty gave the Invocation.

Item Three: Approval of Minutes

The minutes from the last meeting were not completed; therefore no action was taken on this item.

Mr. McClarty read the opening statement for the Planning and Zoning Commission.

Item Four: Plats

- a. MRP-2010
 A public hearing to consider a plat of Osbourn Replat of Tract 7, Section 3, Eldorado Subdivision, a Subdivision of 597.25 acres out of Sections 24, 25, 40 and 41, Lunatic Asylum Lands, Taylor County, Texas.
- b. FP-3309
 A public hearing to consider a plat of Estates at Pack Saddle Creek Subdivision, 74.745 Acres out of the SE/4 of the South 1/2 of the NE/4 of Section 21, Lunatic Asylum Land, Abstract No. 770 & 769, Respectively, Taylor County, Texas..

Mr. Zack Rainbow presented the staff report for these plats. Staff recommends approval as all plats meet the requirements of the Subdivision Regulation.

Mr. McClarty opened the public hearing. No one came forward and the public hearing was closed.

Mr. Bruce Bixby moved to approve MRP-2010 and FP-3309. Mr. Gary Glenn seconded the motion and the motion carried by a vote of five (5) in favor (Bixby, Famble, Glenn, McClarty and Rosenbaum) to none (0) opposed.

Item Five: Zoning

a. Z-2010-09

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Sojourner Drilling Corporation to rezone property from GR (General Retail) to PD (Planned Development) zoning, located at 3366 Ambler Ave.

Mr. Matt Jones presented the staff report for this case. The request is to rezone property from GR to PD. The subject parcel totals approximately 12.5 acres and is currently zoned GR (General Retail). The parcel has been developed with a strip center commercial structure. The adjacent properties have MF (Multi Family Residential) to the north, RS-6 (Single Family Residential) to the east, RS-6, MD (Multi Family Residential), and GR zoning to the south, and GC (General Commercial), GR, and RS-8 to the west.

The area was annexed in 1956 and zoned SC (Shopping Center) sometime after it was annexed. With the passing of the Land Development Code the property is now zoned GR (General Retail). A request to rezone to GC (General Commercial) was denied by the Planning and Zoning Commission on June 7, 2010. This denial was not appealed to the City Council, but instead the applicant re-applied for this PD.

Currently the property is zoned GR and has been developed with a strip center commercial structure. The adjacent property to the north is developed with an apartment complex, as well as the property to the north across Sherry Ln. There are single family neighborhoods bordering the subject property on the south, east, and west. There are commercial developments to the south and west of the property.

The Future Land Use section of the Comprehensive Plan designates this general area as low density residential. The subject property is also along an Enhancement Corridor as defined by the Comprehensive Plan. The applicant is requesting the zone change to allow for the drilling and extraction of oil and natural gas. This use may not be compatible with the surrounding low density residential in the area. Although there are some existing commercial uses to the west and south, this type of use would not be compatible with the surrounding zoning or correspond with the Future Land Use Map.

Property owners within 200 feet of the rezoning request were notified. Five (5) comment forms were received in favor and five (5) were received in opposition of the request.

Staff recommends denial, due to the incompatibility of oil and gas drilling at this location in a predominantly residential neighborhood along an Enhancement Corridor. Staff recommends continuation of the existing Shopping Center zoning as more compatible with this area.

Mr. McClarty opened the public hearing.

Mr. Michael McCoy, 2333 Minter Lane, spoke in opposition. He stated that there are a lot of incompatible uses including residential and schools.

Mr. Marvin Norwood, owner of the car lot at 3426 Ambler Ave., spoke in favor. He stated that the City needs money and jobs, and that the Commission should approve this request.

Mr. McClarty closed the public hearing. The P&Z Commission discussed the request.

Mr. Bixby commented that the new Land Development Code (LDC) states that oil & gas drilling is not appropriate for the GR zoning. Even though the applicant is requesting a PD, it is still oil & gas.

Mr. Clint Rosenbaum commented that DFW deals with this issue a lot. He asked if there has been any discussion about this. Mr. Bixby stated that the use is mainly taken care of by setbacks.

Mr. Rosenbaum stated that a rezoning was approved near Impact, but that it was RS zoning to AO zoning.

Mr. Glenn stated that he agrees with Mr. Bixby. He doesn't want an oil well near his property.

Mr. Bixby moved to deny Z-2010-09. Mr. Glenn seconded the motion and the motion carried by a vote of five (5) in favor (Bixby, Famble, Glenn, McClarty and Rosenbaum) and none (0) opposed.

Item Six: Ordinance Amendment

Public hearing and possible vote to recommend approval or denial to the City Council on a proposal to amend Section 2.4.2.1 Land Use Matrix, Section 2.4.3 Requirements Applicable to Specific Land Uses, Section 3.1.1.1 ETJ Subdivision Provisions, and Section 4.2.1.3 Off-Street Parking-minimum Requirements and Standards of the Land Development Code.

Mr. Ben Bryner presented the staff report. At the Planning & Zoning (P&Z) Commission on May 17, 2010, the Commission asked staff to include an item on the next agenda for potential changes to the Land Development Code (LDC). The P&Z Commission met on June 7, 2010 and discussed changes to the following sections:

- Section 2.4.2.1 Land Use Matrix
- Section 2.4.3 Requirements Applicable to Specific Land Uses
- Section 3.1.1.1 ETJ Subdivision Provisions

Staff listened to the concerns and comments and is proposing options for Sections 2.4.2.1 and 2.4.3. Staff also had proposed changes to Section 3.1.1.1. The P&Z recommended additional changes at the meeting.

Additionally, a discrepancy was found in the LDC relating to parking requirements in multiple-family development where a clubhouse is provided on the site. The following section is being amended:

- Section 4.2.1.3 Off-Street Parking – Minimum Requirements & Standards

Staff is providing options for Sections 2.4.2.1 and 2.4.3 but does not offer a recommendation. Staff recommends approval of the proposed amendment to Section 3.1.1.1 and Section 4.2.1.3 of the Land Development Code.

The Commission reviewed the proposed changes for Sections 2.4.2.1 and 2.4.3 first. Mr. Bixby asked why the Neighborhood Retail zoning was not included list of zonings regulated by the setback condition. Mr. Bryner explained that any automobile wash, regardless of distance, requires a Conditional Use Permit to be approved by City Council.

Mr. Rosenbaum inquired to the reason for the ordinance change. Mr. Bixby stated that the discussion came up at the last Commission meeting and that there is a history of loud car stereos being a problem at car washes.

Mr. Rosenbaum questioned whether the term Automobile Wash is descriptive enough as there are multiple types of washes. He also questioned what would happen if the automobile washes still don't comply. Mr. Bryner stated that it would then be an enforcement issue through both the Planning Division and the Police Department.

Mr. Bixby stated that the 300 foot restriction for Conditional Use Permit approval might be excessive. Mr. Bryner explained that 300 feet is commonly used and appropriate.

Mr. Dan Santee asked whether staff had inquired with the Police Department about enforcement of the proposed sign language. Mr. Ed McRoy explained that proposed ordinance amendment only requires the operators to post the sign. Mr. Santee stated that the sign needs to identify what the regulation is we are requiring the use to comply with. Mr. Bixby asked if Mr. Santee has concerns with what the sign says. Mr. Santee responded affirmatively. Mr. McRoy explained the two ways of noise enforcement. Mr. Bixby stated that the signs are intended to be a friendly reminder to help neighborhoods within close proximity to car washes. Mr. McClarty stated that he is more concerned that there is a requirement to post a sign than the actual language on the sign.

Mr. Bixby recommended a reduction to 200 feet for Conditional Use Permit approval.

The Commission next reviewed the proposed amendment to Section 3.1.1.1. Mr. McClarty stated that he thinks the proposed wording is good.

Mr. McClarty opened the public hearing.

Tal Fillingim, Jacob & Martin, spoke in favor of the amendment and stated that the proposed amendment resolves the problems he has been dealing with in the ETJ.

Mr. McClarty closed the public hearing.

The Commission next reviewed the proposed amendment to Section 4.2.1.3. The Commission determined the amendment was needed.

Mr. McClarty opened the public hearing.

Mr. Ed Emerson, 3766 Woodridge Dr, owns 5 car washes and spoke against the amendment for Sections 2.4.2.1 and 2.4.3. He stated that the standard is to have a sign indicating a requirement to meet City ordinance for noise. Mr. Emerson expressed a desire to work with the Police Department and issue tickets before an amendment to the Land Development Code is made.

Mr. Bixby asked whether Mr. Emerson thought the setback was appropriate. Mr. Emerson stated that we need to be careful what we define as a car wash as there are several different types. The business is based on car counts so they need to be located by and around the people.

Mr. Russell English, car wash owner, spoke against the amendment as he does not see the noise as a problem. He stated that there is a problem with enforcement of the amendment as a complaint will be a low priority.

Mr. Bixby stated that nothing will change with enforcement. Mr. English asked why the signs are needed then. Mr. Bixby answered that it would be a reminder for patrons. Mr. English stated the he does not have the same perspective on the issue.

Mr. McClarty closed the public hearing. The P&Z Commission discussed the request.

Mr. Famble moved to approve the amendments to Section 3.1.1.1 and Section 4.2.1.3 but requiring the amendments to Sections 2.4.2.1 and 2.4.3 to be brought back to the Commission at a later date. Mr. Bixby seconded the motion and the motion carried by a vote of five (5) in favor (Bixby, Famble, Glenn, McClarty and Rosenbaum) and none (0) opposed.

Item Seven: Director's Report

Recent City Council decisions regarding items recommended by the Planning and Zoning Commission.

Mr. McRoy stated that the City Council approved all cases recommended for approval by the Planning and Zoning Commission

Item Eight: Adjourn

There being no further business, the Planning and Zoning Commission meeting was adjourned at approximately 2:50 PM.

Approved: _____, Chairman