

Minutes
Planning and Zoning Meeting
January 9, 2012

On this 9th day of January 2012, at 7:00 p.m., the Planning and Zoning Commission convened in a Regular Meeting, and the same being opened to the public at their regular meeting place; thereof, at City Hall, 303 S. Teel Drive, Devine, Texas. Notice of said meeting having been prescribed in Chapter 551, Government Code, and Vernon's Texas Codes, Annotated, and the following members thereof, being present, namely:

Doug Wilkins, Chairman
Onis Wiemers, Secretary
Ed Dougherty
Darrell Murdock
Jim Lawler
Mike Herring

Thus constituting a quorum.

Personnel present: Darrell Rawlings, Code Compliance Officer.

Others present: Stella Contreras, 1116 Warhorse Drive, Devine; Adriana Zapata, 405 Hayden Avenue, Devine.

Commissioner Wilkins called the meeting to order.

The first order of business was to discuss and consider approving minutes from the meeting on November 14th, 2011.

The Planning & Zoning Commissioners reviewed the minutes.

Motion made by Commissioner Wiemers, seconded by Commissioner Dougherty to approve the minutes from the meeting on September 12th, 2011.

Ayes	--	All
Nays	--	None

Motion carried.

The second order of business was to discuss and consider request made by Stella Contreras for a variance to reduce the minimum area required for residential use at 626 Hondo Avenue East, (Gutierrez Addition, Block A, Lot 19), as required by Appendix A; Article 11: Class I. Light Industrial District, Section 3. Area Regulation, from 9,000 square feet to 7,200 square feet.

Planning and Zoning Meeting
January 9, 2012
Page 2

Stella Contreras was present to speak for the granting of the requested variance. She addressed the Commissioners and explained that she wanted to place a manufactured home on the property, but that it was smaller than the minimum area required by city ordinance. Mrs. Contreras informed the Commissioners that the manufactured home would meet the set-back requirements. She provided photographs and a site plan of the proposed position of the manufactured home on the property, and further explained that the home would be for her mother.

Commissioner Wilkins asked Darrell Rawlings, Code Compliance Officer, if the other lots in this area meet the 9,000 square foot minimum. Mr. Rawlings explained that all of the lots in this block of the Gutierrez Addition are less than 9,000 square feet and almost all of them are used for single-family residences, two of which were manufactured homes. He informed the Commissioners that all zoning classifications from Class D. Two-Family Residence District to Class J. Industrial District require a minimum of 9,000 square feet for residential use. He explained that the zoning ordinance allows for lots smaller than the minimum area that were inside the city limits and platted prior to its adoption in January 1959, to be “grandfathered”; however, the lot in question was annexed after the passage of the ordinance and the variance was being sought to alleviate any potential problems in the future.

Commissioner Wilkins asked Mrs. Contreras if this lot contained a home on it before. Mrs. Contreras stated that it did contain a home before, but that it had burned in 2008 and had since been demolished.

Mrs. Contreras was informed that the matter would be brought before the City Council on Thursday, January 19, 2012 at the Community Center for their decision.

Motion made by Commissioner Dougherty, seconded by Commissioner Wiemers to recommend the city council grant the request made by Stella Contreras for a variance to reduce the minimum area required for residential use at 626 Hondo Avenue East, (Gutierrez Addition, Block A, Lot 19), as required by Appendix A; Article 11: Class I. Light Industrial District, Section 3. Area Regulation, from 9,000 square feet to 7,200 square feet.

Ayes	--	All
Nays	--	None

Motion carried.

The third order of business was to discuss Informational Items.

Commissioner Murdock asked if there was any set time frame when repairs needed to be made or a building demolished following a fire. He stated that there was a house on Hayden that had a fire a few months ago and that, to date, nothing had been done to in the way of repairs or demolition.

Planning and Zoning Meeting
January 9, 2012
Page 3

Darrell Rawlings, Code Compliance Officer, stated that he was not aware of anything in the city ordinance that specified a set time following a fire, or other disaster, where action must be taken. He informed the Commissioners that he will be attending a class in Uvalde on January 11, 2012 regarding unsafe or substandard buildings and what the city can do to work towards repairing or demolishing these buildings. Discussion regarding damaged or deteriorated buildings, city procedures, and the possible need for court injunctions ensued. Commissioner Wilkins asked how much damage does a building have to have before the city could require demolition. Commissioner Herring asked who would make a determination on the percentage or amount of damage or deterioration. Commissioner Herring also asked what constitutes abandonment of building. Commissioner Wilkins asked why the city couldn't condemn buildings. He stated that in all the years he has been on the Planning & Zoning Commission, the city has never condemned a building. Mr. Rawlings stated that he hoped to have these questions and other answered in the class he will be attending. Commissioner Dougherty expressed concern over a child or teenager getting into one of these buildings and getting hurt. He stated that it may result in the city being sued for not doing anything and may prove more costly than the city condemning it and demolishing it. Mr. Rawlings stated that there are several properties in town that need to have something done and that he had been speaking with the City Administrator and City Secretary regarding actions that could be taken. He informed the Commissioners that he would keep them up to date on their progress.

Mr. Rawlings reminded the Commissioners that he had contacted them in December requesting that they prepare a list of questions that they wanted the City Attorney, Tom Cate, to answer and asked the Commissioners if any of them had prepared such a list. The Commissioners Dougherty and Herring stated that their only questions centered around 406 Monticello Circle and 1505 Libold Drive which was the property with two dwellings on it discussed during the last Planning & Zoning Meeting. Commissioner Wiemers asked if the property was to be divided, did the utilities have to be relocated to serve 406 Monticello Circle and, if so, at whose expense that would be. Mr. Rawlings stated that any utility work that is caused by a private property owners actions are almost always paid for by the property owner and not the city, and explained that the city's main focus is generally to maintain and repair the existing system. A question that all of the Commissioners had was how the city could get a non-conforming use to be stopped. Commissioner Dougherty asked if a non-conforming use was considered to cease with a change of ownership. Mr. Rawlings stated that he was under the impression that a non-conforming use could continue as long as the use remained the same and that the use could not be changed except to a conforming use, but that he would need to verify with the City Attorney. The question was also raised about the dwelling at 1505 Libold Drive apparently being built without permits and in violation of the zoning ordinance in the 1970s or 1980s. Commissioner Wiemers stated that the city needed to find a way to stop non-conforming uses that are currently in existence, especially when they are posing a problem. Discussion held regarding the use of conditional use permits or requiring a non-conforming use to obtain a permit for that use to continue. Mr. Rawlings stated that procedures or policies needed to be set to handle each case based on specific facts and not appear arbitrary.

Planning and Zoning Meeting
January 9, 2012
Page 4

Mr. Rawlings stated that a citizen recently expressed a desire to have a piece of property rezoned and he was in the process of reviewing the process for zoning changes. He also informed the Commissioners that the city received a request for a closure of a right-of-way in the Breezy Hill Addition next to 315 Loraine Drive due to an encroachment of a manufactured home. He informed the Commissioners that the City Administrator was working with the Texas Department of Transportation regarding having the Southbound IH-35 access road extended south of E. Hondo Avenue. He explained that the plans are to move the on-ramp further south and extend the access road, but the city will have to agree to connect the access road from the ramp to FM 3176. The Commissioners asked when this project would be started. Mr. Rawlings stated that he had not been informed of any proposed start date. Mr. Rawlings informed the Commissioners that there has been some discussion among the administration about having another master plan done for the city, but this will probably be a few years before the city will have the funds.

There being no further business to come before the Planning and Zoning Commission, Chairman Wilkins called for a motion to adjourn the meeting.

Motion made by Commissioner Wiemers, seconded by Commissioner Dougherty to adjourn the meeting.

Ayes	--	All
Nays	--	None

Motion carried.

Chairman

Secretary