

Minutes
Planning and Zoning Meeting
March 11, 2013

On this 11th day of March, 2013, 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
Rick Maxwell

Absent being: Jim Lawler; Darrell Murdock; Mike Herring; thus constituting a quorum.

Personnel present: Bill Herring, Mayor; and Darrell Rawlings, Code Compliance Officer.

Others present: Tom Franklin, Jourdanton, Texas; Reagan Houston & Misty Houston, Devine, Texas; James Armstrong, Medina Valley Times; Grady Roberts; Pearsall, Texas; Julie Heyen, Devine, Texas.

Commissioner Wilkins called the meeting to order.

The first order of business was to discuss and consider approving minutes from the meeting on February 25th, 2013.

The Planning & Zoning Commissioners reviewed the minutes.

Motion made by Commissioner Dougherty, seconded by Commissioner Maxwell to approve the minutes from the meeting on February 25th, 2013.

Ayes	--	Four
Nays	--	None
Absent	--	Three (Commissioner Lawler) (Commissioner Murdock) (Commissioner Herring)

Motion carried.

The second item was to discuss and consider a variance request made by Deutsche Bank National Trust Company as trustee for Novastar Mortgage Funding Trust Series 2007-1 Novastar Home Equity Loan Asset-Backed Certificates, Series 2007-1, by Ocwen Loan Servicing, LLC as Attorney-in-Fact, for a variance to Article 3, Section 3 (Area Regulation), of the Zoning Ordinance which requires a minimum building plot area to contain 9,000 square feet, to be reduced to 7,744.4 square feet as indicated on a preliminary plat of the Carrillo Subdivision, as prepared by Charles W. Rothe, Registered Land Surveyor.

Commissioner Wilkins asked if anyone was present to speak for the granting of the requested variance. No one was present to speak for the granting of the requested variance. Commissioner Wilkins asked Mr. Darrell Rawlings, Code Compliance Officer, for information regarding the proposed variance request. Mr. Rawlings explained that the requested variance resulted from a property that had a second dwelling built on

Planning and Zoning Meeting

March 11, 2013

Page 2

it without having the property platted and subdivided into two lots. He explained that he was unsure what had transpired in 2005 when the dwelling was built. Permits were issued by the city for construction and there were records of a subdivision plat being submitted; however, the plat was never approved by the city and never recorded. He informed the Commissioners that the new dwelling had gone through a foreclosure, and that both parties had obtained lawyers regarding the property to be foreclosed. Mr. Rawlings stated that a pre-application conference had been held with the attorneys involved and the surveyor and that the proposed lot containing the new dwelling, identified as "Lot 2" on the plat, did not meet the minimum area requirement or the rear building set-back requirement as established by the Zoning Ordinance and that the owners decided to seek variances to these two items.

Commissioner Dougherty inquired about the reason that the proposed "Lot 2" could not be platted to meet the minimum requirements established by city ordinance. Mr. Rawlings stated that he did not know why Lot 2 could not be platted to meet the minimum requirements. He informed the Commissioners that one of the attorneys was in Dallas and the other attorney, Mr. Tomas Ramirez, III, had informed Mr. Rawlings that he would not be able to attend the meeting but could be reached by phone, if the Commissioners so desired. Commissioner Wilkins inquired about the zoning classification of the property and Mr. Rawlings informed him that it was Class A. Single-Family Residence District. Commissioner Wilkins asked if a plat was prepared to divide the property before permits were issued. Mr. Rawlings stated that a plat had been submitted, but he was not sure if this was prior to permit issuance or not. He explained that the originally submitted plat had the property divided into two lots and that both lots ran the full length of the property from Windy Knoll Drive N. Commissioner Wilkins commented that the plat should have been approved to divide the property before the second home was built on the lot. Commissioner Wiemers stated that he would also like more information regarding why the minimum requirements cannot be met.

The Commissioners agreed that the City had ordinances in place and that they needed to be followed whenever possible and that more information was needed from the requestors regarding why a variance would be necessary.

Motion made by Commissioner Wiemers, seconded by Commissioner Dougherty to table the variance request made by Deutsche Bank National Trust Company as trustee for Novastar Mortgage Funding Trust Series 2007-1 Novastar Home Equity Loan Asset-Backed Certificates, Series 2007-1, by Ocwen Loan Servicing, LLC as Attorney-in-Fact, for a variance to Article 3, Section 3 (Area Regulation), of the Zoning Ordinance which requires a minimum building plot area to contain 9,000 square feet, to be reduced to 7,744.4 Sq. Ft. as indicated on a preliminary plat of the Carrillo Subdivision, as prepared by Charles W. Rothe, Registered Land Surveyor..

Ayes	--	Four
Nays	--	None
Absent	--	Three (Commissioner Lawler) (Commissioner Murdock) (Commissioner Herring)

Motion carried.

The third item was to discuss and consider a variance request made by Deutsche Bank National Trust Company as trustee for Novastar Mortgage Funding Trust Series 2007-1 Novastar Home Equity Loan Asset-Backed Certificates, Series 2007-1, by Ocwen Loan Servicing, LLC as Attorney-in-Fact for a variance to Article 3, Section 3 (Area Regulation), of the Zoning Ordinance which requires a rear yard to have a depth of not less than 20-percent of the average depth of the lot to allow an existing house to encroach of 2.1 feet into said rear yard as specified on a preliminary plat of the Carrillo Subdivision as prepared by Charles W. Rothe, Registered Land Surveyor.

Discussion was held among the Commissioners that this request related to the same property discussed in the preceding item.

Motion made by Commissioner Wiemers, seconded by Commissioner Dougherty to table the variance request made by Deutsche Bank National Trust Company as trustee for Novastar Mortgage Funding Trust Series 2007-1 Novastar Home Equity Loan Asset-Backed Certificates, Series 2007-1, by Ocwen Loan Servicing, LLC as Attorney-in-Fact for a variance to Article 3, Section 3 (Area Regulation), of the Zoning Ordinance which requires a rear yard to have a depth of not less than 20-percent of the average depth of the lot to allow an existing house to encroach of 2.1 feet into said rear yard as specified on a preliminary plat of the Carrillo Subdivision as prepared by Charles W. Rothe, Registered Land Surveyor.

Ayes	--	Four
Nays	--	None
Absent	--	Three (Commissioner Lawler) (Commissioner Murdock) (Commissioner Herring)

Motion carried.

The fourth item was a Public Hearing on the Preliminary Report for changing the zoning classification of property consisting of approximately 19 acres of land located along the north side of Hondo Avenue E. in the area of IH-35 in the City of Devine, from Class A. Single Family Residence District to Class H. Commercial Business District, which is proposed to include any or all properties with the following addresses: 1009 Hondo Ave. E.; 697 Hondo Ave. E.; 691 Hondo Ave. E.; Hondo Ave. E. (R56809).

Commissioner Maxwell inquired if there were any dwellings located in the area to be rezoned. Mr. Darrell Rawlings, Code Compliance Officer, stated that there was one single-family dwelling located in the area and that it was next door to Sonic Drive-In #5251. Commissioner Maxwell asked if the dwelling was occupied. Mr. Reagan Houston informed the commissioners that the home was vacant and that it was for sale.

Commissioner Wilkins read an excerpt from the minutes of the meeting on February 25th, 2013 as follows:

“Discussion followed regarding the procedures to change the zoning classification. Commissioner Maxwell inquired about two of the properties that were currently occupied by businesses; namely Sonic Drive In #5251; and the Chevron gas station which also houses McDonalds, Subway and First Klass Cleaners. Mr. Rawlings explained that there were records of the businesses coming to the City for zoning changes prior to beginning construction and operation of these businesses; however, no ordinance could be found amending the Zoning Ordinance. Commissioner Wiemers asked if this would essentially be a formality to make the

Planning and Zoning Meeting

March 11, 2013

Page 4

change previously approved official. Mr. Rawlings indicated that it would. Commissioner Dougherty inquired if this zoning change was requested by the property owners. Mr. Rawlings explained that the zoning change proposal was initiated by the City. He stated that there had been numerous inquiries on the property in this area since the completion of the IH-35 access road north of Hondo Avenue, and that the city wanted to establish the zoning for allowable uses to help encourage development in this area. Commissioner Herring inquired about a second blue line on the map indicating the area of the proposed zoning change. Mr. Rawlings explained that this line marked the 200-foot area adjacent to the proposed zoning change, the owners of which would receive notice of the public hearings in addition to the property owners in the area involved in the proposed change.

“Discussion was held regarding the location of the property and the City’s Comprehensive Plan. Mr. Rawlings informed the Commissioners that the city has met with a consultant regarding updating the City’s Comprehensive Plan. Discussion was held regarding the allowable uses in a Class H. Commercial Business District with reference to the City’s Zoning Ordinance. Commissioner Maxwell commented that the area is open land, for the most part, with only a few dwellings to the north. Commissioner Dougherty inquired what the height regulations were for buildings in the Class H. Commercial Business District classification. Mr. Rawlings read the regulation regarding height restrictions for this classification from the Zoning Ordinance, which reads, “No building shall exceed 75 feet in height unless set back from all street lines one foot for each two feet of its height beginning about 75 feet, to a maximum ten feet of setback.” Commissioner Dougherty inquired if the city could limit the number of stories to four in this classification. Mr. Rawlings explained that this would require a change to the Zoning Ordinance, and stated that the city was considering revising the City’s Zoning Ordinance in conjunction with updating the Comprehensive Plan. Commissioner Dougherty stated that he had concerns over placing a burden on the Fire Department by someone building a multi-story building. Commissioner Maxwell stated that the insurance on a multi-story building would become an issue depending on available fire service response. Commissioner Dougherty stated that the area seemed best used as commercial, especially in consideration of businesses already established in the area and the proximity to IH-35 and State Highway 173. Mr. Rawlings informed the Commissioners that the Texas Department of Transportation is only providing limited access to the IH-35 frontage road which will require the eventual addition of one or more streets in the area which will work to reduce traffic congestion on the frontage road as the area develops. Commissioner Dougherty stated that, from a fire safety standpoint, having the area developed would be better fire protection than leaving it as it is with poor access and a lot of brush and grasses; structure fires, especially those surrounded by pavement, would be much easier to control than a brush fire. All Commissioners present indicated that they were in favor of the proposed zoning change of the indicated property to a Class H. Commercial Business District classification.”

Commissioner Wilkins opened the floor to public comment.

Mr. Tom Franklin from Jourdanton, Texas addressed the Commissioners. Mr. Franklin stated that he represented Ms. Elsa Colunga. He stated that Ms. Colunga had no objection to the zoning change. He stated that he was not sure if she was aware of the height restriction. He explained that he was not sure what her plans for the property were, but that there was a prospective purchaser for the property and that he was sure the buyer had checked into various regulations including the height limitation. The Commissioners explained that there was essentially no height limitation in this zoning classification provided that the building met the set-back requirements. He stated that he was not aware of any dwellings on her property, referring to Commissioner Maxwell’s earlier question and Mr. Rawlings’ response regarding the dwelling next door to Sonic Drive-In #5251. The Commissioners explained that other properties were

Planning and Zoning Meeting
March 11, 2013
Page 5

involved in the zoning change and they referred to the map to show Mr. Franklin the location of the dwelling. Mr. Bill Herring, Mayor, informed Mr. Franklin that the house had been sold and that it was going to be demolished. Mr. Franklin stated that Ms. Colunga was in favor of the zoning change.

Commissioner Wilkins asked those present if anyone else wanted to speak regarding the Preliminary Report for the proposed zoning change. No one else present indicated a desire to speak.

Motion made by Commissioner Dougherty, seconded by Commissioner Maxwell to close the Public Hearing on the Preliminary Report for changing the zoning classification of property consisting of approximately 19 acres of land located along the north side of Hondo Avenue E. in the area of IH-35 in the City of Devine, from Class A. Single Family Residence District to Class H. Commercial Business District, which is proposed to include any or all properties with the following addresses: 1009 Hondo Ave. E; 697 Hondo Ave. E.; 691 Hondo Ave. E.; Hondo Ave. E. (R56809).

Ayes	--	Four
Nays	--	None
Absent	--	Three (Commissioner Lawler) (Commissioner Murdock) (Commissioner Herring)

Motion carried.

The fifth item was to discuss and consider approving the Preliminary Report for changing the zoning classification of property consisting of approximately 19 acres of land located along the north side of Hondo Avenue E. in the area of IH-35 in the City of Devine, from Class A. Single Family Residence District to Class H. Commercial Business District, which is proposed to include any or all properties with the following addresses: 1009 Hondo Ave. E; 697 Hondo Ave. E.; 691 Hondo Ave. E.; Hondo Ave. E. (R56809) and the creation of a Final Report for presentation to City Council.

Discussion held regarding Preliminary Report. All Commissioners present were in agreement with the Preliminary Report of the proposed zoning classification change as read.

Motion made by Commissioner Dougherty, seconded by Commissioner Maxwell to approve the Preliminary Report for changing the zoning classification of property consisting of approximately 19 acres of land located along the north side of Hondo Avenue E. in the area of IH-35 in the City of Devine, from Class A. Single Family Residence District to Class H. Commercial Business District, which is proposed to include any or all properties with the following addresses: 1009 Hondo Ave. E; 697 Hondo Ave. E.; 691 Hondo Ave. E.; Hondo Ave. E. (R56809) and to make the Preliminary Report the Final Report for presentation to City Council.

Ayes	--	Four
Nays	--	None
Absent	--	Three (Commissioner Lawler) (Commissioner Murdock) (Commissioner Herring)

Motion carried.

Planning and Zoning Meeting

March 11, 2013

Page 6

The fifth item was to discuss informational items.

Commissioner Wiemers asked how long the process will take to update the Comprehensive Plan. Mr. Rawlings stated that no timeline had been set; however during the meeting with the consultant who is working on the revision to the City's Comprehensive Plan, discussion was held on trying to elicit as much public involvement as possible in the process, and even considered trying to get input from High School students. He explained that it may be a lengthy process and informed the Commissioners that the plans for streets and thorough-fares as well as for city utilities were being updated.

Commissioner Maxwell asked what the city's water status was regarding the drought. Mr. Rawlings informed the Commissioners that the city was currently under Stage Two water restrictions. Commissioner Maxwell inquired about the ground storage tank at Live Oak Drive and Rossville Avenue being removed. Mr. Rawlings informed the Commissioners that, to his knowledge, the Schaeffer Well had been closed several years ago.

There being no further business to come before the Planning & Zoning Commission, the meeting was adjourned.

Chairman

Secretary