

**Minutes  
Planning and Zoning Meeting  
April 8, 2013**

On this 8<sup>th</sup> day of April, 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  
Jim Lawler  
Mike Herring

Absent being: Darrell Murdock; thus constituting a quorum.

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

Others present: None.

Commissioner Wilkins called the meeting to order.

The first order of business was to discuss and consider approving minutes from the meeting on March 11<sup>th</sup>, 2013.

The Planning & Zoning Commissioners reviewed the minutes.

Motion made by Commissioner Lawler, seconded by Commissioner Maxwell to approve the minutes from the meeting on March 11<sup>th</sup>, 2013.

Ayes	--	Six
Nays	--	None
Absent	--	One (Commissioner Murdock)

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.

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Commissioner Wilkins asked if anyone would be present to speak for the granting of the requested variance and to answer questions about hardships that support the granting of the variance. No one was present. Commissioner Dougherty stated that this was the second time that the variance request had been brought before the Commission without anyone being present to support the variance being granted to make the lot smaller than what is required by city ordinance.

Motion made by Commissioner Wiemers, seconded by Commissioner Dougherty to recommend that the City Council deny granting 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	--	Six
Nays	--	None
Absent	--	One (Commissioner Murdock)

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.

Commissioner Wiemers asked about there being two variance requests pertaining to the same property. Darrell Rawlings, Code Compliance Officer, explained to Commissioner Wiemers that the proposed lot not only didn't meet the minimum area requirements, as established by ordinance, but that the dwelling on the property would be encroaching on the rear building set-back line. Mr. Rawlings explained that a second dwelling was built on the property in violation of the zoning ordinance without first subdividing the property into two separate lots. He also informed the Commissioners that a preliminary plat had been submitted after the new home was completed; however, the surveyor passed away before the plat was prepared to meet the city subdivision ordinance and the plat was never recorded. He stated that, as he understood the matter, the new dwelling was foreclosed on and now Deutsche Bank National Trust Company and Santos and Santiago Carrillo now needed to have the plat completed to divide the property into two lots and make the property conform to the zoning ordinance regarding only one dwelling per lot as required in areas zoned Class A. Single-Family Residence District. Commissioner Wilkins asked if the front

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and side set-backs would be in compliance for the dwellings, to which Mr. Rawlings stated that they would. Commissioner Dougherty stated that he felt that the ordinance should be followed; and stated that he felt that someone should have come to the meeting to explain why the property could not be platted to meet the minimum requirements.

Motion made by Commissioner Dougherty, seconded by Commissioner Wiemers to recommend that the City Council deny granting 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	--	Six
Nays	--	None
Absent	--	One (Commissioner Murdock)

Motion carried.

The fourth item was to discuss informational items.

Commissioner Maxwell stated that he was contacted by June Turner regarding changing the zoning classification of her property on Hondo Avenue W. to allow commercial use. Darrell Rawlings, Code Compliance Officer, informed the Commissioners that Ms. Turner had contacted the City regarding vacating and re-platting property that she owns on Hondo Avenue W. due to an encroachment, and that she had expressed a desire to change the zoning classification of the property. Mr. Rawlings explained that after consulting with Gary Pelech, City Administrator, and Tom Cate, City Attorney, Ms. Turner was informed that the zoning classification of her property could not be changed at this time because it would not conform to the City's Comprehensive Plan. He stated that she was informed that the City is working on updating the Comprehensive Plan, and that this area, since it is located along a State Highway, would likely be planned to allow for commercial uses. Mr. Rawlings stated that the duplex currently located at 1005 & 1007 Hondo Avenue W. was a non-conforming use. According to the City Attorney, a non-conforming use is allowed to continue until a person challenges the right of the use to continue or until there are damages to the building in excess of fifty percent of the pre-damage value; in each case the matter would be brought to the Planning & Zoning Commission and City Council for a decision to be made on whether such use would be allowed to continue. Commissioner Maxwell stated that he was still new to the Commission and asked what the appropriate response would be to someone that approached him about a zoning change or variance. The Commissioners informed Commissioner Maxwell that he should refer them to the city office to inquire about the procedures to request a variance or zoning change.

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Motion made by Commissioner Wiemers, seconded by Commissioner Herring to adjourn.

Ayes	--	Six
Nays	--	None
Absent	--	One (Commissioner Murdock)

Motion carried.

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Chairman

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Secretary