

CITY OF DEER PARK
EAST SAN AUGUSTINE STREET
DEER PARK, TEXAS 77536

CC 75-192
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Minutes of

A JOINT WORKSHOP MEETING OF THE CITY COUNCIL, PLANNING AND ZONING COMMISSION AND THE STEERING COMMITTEE OF THE CITY OF DEER PARK TO BE HELD AT THE DEER PARK PUBLIC LIBRARY, 3009 CENTER, DEER PARK, TEXAS ON NOVEMBER 28, 2016, AT 6:00 P.M. WITH THE FOLLOWING MEMBERS PRESENT:

CITY OFFICIALS PRESENT:

JERRY MOUTON, JR	MAYOR
SHERRY GARRISON	COUNCILMANWOMAN
TOMMY GINN	COUNCILMAN
BILL PATTERSON	COUNCILMAN
RAE SINOR	COUNCILWOMAN
JAY STOKES	CITY MANAGER
GARY JACKSON	ASSISTANT CITY MANAGER
JIM FOX	CITY ATTORNEY
SHANNON BENNETT	ACTING CITY SECRETARY
BILL PEDERSEN	DIRECTOR OF PUBLIC WORKS

PLANNING AND ZONING PRESENT:

STAN GARRETT	CHAIRMAN
RAY BALUSEK	COMMISSIONER
DANIELLE WENDEBURG	COMMISSIONER

STEERING COMMITTEE PRESENT:

RON MARTIN	CHAIRMAN
MELVIN EMBRY	COMMITTEE MEMBER
CARLA NETTLES	COMMITTEE MEMBER
ROB JOHNSON	COMMITTEE MEMBER
LARRY BROTHERTON	COMMITTEE MEMBER

1. CALL TO ORDER – Chairman Ron Martin called the Joint Workshop Meeting to order at 6:00 p.m.
2. DISCUSSION OF ISSUES RELATING TO THE PROPOSED CITY OF DEER PARK ZONING ORDINANCE UPDATE - Angela Martinez of Knudson gave an overview of the

changes in the zoning map and zoning ordinance and answered any legal questions related to the ordinance. Lauren Smith of Olson and Olson was there to help answer any questions. Ms. Martinez stated, "There has been no proposed change to the zoning map." She highlighted the changes in the zoning ordinance, the remaining timeline and schedule of adoption, then opened the floor to questions. (Exhibit A1-A7)

Councilwoman Garrison asked, "What is the height requirement? I'm speaking specifically of the house off of P Street with the metal building that looks like a warehouse. I don't understand why we have buildings like that in the City."

Larry Brotherton, Chief Building Official answered, "As of now, we can't stop it. We have something in the ordinance now that will. The roof of any structure has to match the structure of the house. I asked the City Engineer, Bill Pedersen, if it was possible to put wooden roof on a metal building. He said it was cost prohibitive."

Councilwoman Garrison asked, "What page is that on in the ordinance?"

Mr. Brotherton answered, "It's on Page 77."

Commissioner Balusek asked, "Is that building more than 15 feet on P Street? It would have had to come before the Planning and Zoning Commission and I don't recall that building ever coming to us."

Mr. Brotherton answered, "It's 15 feet. He didn't put the decorative material on the side facing P Street. We can stop him from doing anything else. He wanted to put in a driveway and he can't permit that until he complies with putting on the decorative material. If we adopt this ordinance, it will solve that issue for anything over 200 square feet."

Mayor Mouton commented, "The variance in that particular case, it wasn't that the city allowed it, the city couldn't stop it. We never had a case like that arise to the point that the ordinance had to be amended to deal with that."

Councilwoman Garrison asked, "He didn't have to come to the Planning and Zoning Commission and ask for a variance to do that?"

Commissioner Balusek commented, "The only time he has to come to us is if the variance is greater than 15 foot. I'm assuming its 15 foot."

Councilman Patterson asked, "Is the homeowner going to put on the decorative material?"

Larry Brotherton answered, "He has refused to."

Councilman Patterson asked, "Should there be something in the ordinance that specifically says it should look like the house?"

Mayor Mouton commented, "It did, based on the statement that's in there. He has agreed to put a facade on the side that faces P street, right? However, he hasn't done it yet."

Councilwoman Sinor asked, "What is the use of the building?"

Larry Brotherton answered, "For his personal use."

Mayor Mouton commented, "Well, again, what is being proposed is going to address all of that. Right? Just to make sure we are all on the same page."

Commissioner Balusek asked, "We can't go back and redo it?"

Mayor Mouton answered, "Correct, but we are using this as an example of what we want to make sure doesn't occur again even by accident."

Councilwoman Garrison, commented, "The next question has to do with manufactured home parks. That has not changed any in the current ordinance. My question is, does the current site meet all of the requirements as far as the open space?"

Mr. Brotherton commented, "When they were built in the sixties, they met the requirements."

Councilwoman Garrison commented, "So what you are saying is, they don't meet it now. Right?"

Mr. Brotherton answered, "I don't know."

Councilwoman Garrison commented, "Probably not, because we don't have any new manufactured homes."

Mayor Mouton commented, "It met the ordinance requirements when it was constructed. There are a lot of facilities that if you go to improve them, they won't meet current ordinances. It's not just that particular scenario that wouldn't comply with current ordinances."

Councilwoman Garrison asked, "Does the same apply for all of the off street parking like on Estate and Hillshire? I think it says they can have two or maybe three cars, but they can't have people park in the yard. They don't have curbs, so nothing is done."

Mr. Brotherton answered, "With emergency vehicles, they will let them park on part of the yard, on both sides of the street. The fire trucks and ambulance may not be able to get down

the street. That's why we have the ordinance 'no parking in the yard'. We let them have a couple of wheels just so we can get down the street."

Councilwoman Garrison commented, "I understand. Otherwise you can't get down the street. I do understand that."

Mr. Brotherton commented, "That's why no variance for a second driveway has been turned down since that ordinance was passed, to help people out. We had 40 feet of separation between two driveways and that's probably our biggest variance right now."

Councilwoman Garrison commented, "When the Steering Committee was meeting, we were talking about the North end of Center Street. We all know there are several businesses there that stack the cars the way they want to. Some days there is no driveway to get to the building. This is probably a legal question. Could we put a time limit of 5 or 10 years stating you can no longer do that? You're going to have to in time make a change. Is that a possibility?"

Jim Fox, City Attorney answered, "There are some screening and parking requirements now."

Mayor Mouton commented, "So even anything we would enact now would be invoked if they tried to change the use of the property. She's asking the question, can we put something in place to give them a time limit of say 5 years that you have to change the use of this and conform to this. Is that legal?"

Lauren Smith of Olson and Olson commented, "Yes and no. The real answer is no. If you did something like that, you would have to provide some kind of compensation to the property owner."

Councilman Martin commented, "I think a lot of the issues are, these people don't have the money, so they keep the car until the people can come up with the money and they just sit there."

Mayor Mouton replied, "So then we revert back to what example we used on the house on P Street. Are there teeth in the amendments to the ordinance to make sure that doesn't occur again?"

Mr. Brotherton commented, "Not on this."

Mayor Mouton asked, "How can we make sure we amend the ordinance so that we don't end up with this again in regards to what a lot of us don't like about that particular case, which is it looking like it looks. How do we deal with that? What can we put in the ordinance to deal with that?"

Mr. Fox answered, "You could probably regulate it. It's more of a screening issue on new construction and new types of those businesses where requirements will be, they are placed in the back."

Councilwoman Garrison asked, "So what you are telling us, there's nothing we can do about that?"

Mr. Fox answered, "Well, as far as they said, he might be in the right of way. We can make them make sure it's not encroaching in the right of way right up against the curb. We can check into that."

Ms. Martinez commented, "Unless they remodel more than 51% of their building or they change uses, there's nothing you can do."

Mr. Fox commented, "The option is to buy them out. If you do that, you're going to be in a lawsuit on how much it's worth and loss of business."

Mr. Stokes asked "Is there a way to address that outside of the zoning ordinance?"

Mr. Fox commented, "There might be."

Councilwoman Garrison commented, "A lot of people say things to me about that all the time. Why can't you all clean that up? It looks so trashy and looks like those cars are parked there all the time and they never move. I go by there and they do move them."

Mayor Mouton commented, "For the agenda tonight, can we at least put something in the ordinance?"

Mr. Fox commented, "I'm not sure this is a zoning regulation. It may be requirements outside the zoning ordinance we can do."

Mr. Stokes commented, "We'll look at that, but we have to be careful that there's not an unintended consequence, that there's no way to write it to fit them to affect something you don't want to affect, but we'll look at that."

Ms. Martinez commented, "On new construction, you will be required to have screening."

Councilwoman Garrison asked, "Can we do something with the property on Pasadena Boulevard and Luella, behind the very nice house? Is there a way we can make them get rid of or comply or put a fence up? There has to be something."

Mr. Brotherton commented, "Mr. Fox files on him and we file on him and Jim prosecutes him twice a year, and he appeals it then it goes to county."

Jim Fox commented, "We're going to continue enforcement until he cleans it up. I'm confident we will get him to clean it up if he is able to. I don't know that he is physically able to."

Councilwoman Garrison asked, "Can you explain what vehicle stacking is?"

Ms. Martinez commented, "Mr. Brotherton and I touched on that again. It means, if Chick-fil-A for example, have lines of cars, that's called stacking. What we are trying to do is require a certain amount of space that each business has to have. Whether we stick with drive through, fast food or whether it goes to banks or other types of uses. Mr. Brotherton and I are discussing what the distance should be and how many cars."

Councilwoman Garrison asked "Is it going to affect what we have currently? We already have Shipley's, Chick-fil-A and Starbucks the way they are."

Ms. Martinez commented, "Nothing that we've done this entire process is going to affect anything that is existing now, until they either remodel by more than 51% or change the use."

Mayor Mouton commented, "Take Shipley's Donuts as an example. That was an existing facility that unless they were going to change mechanisms within the facility, there's no way we could enforce them to redesign it. The property probably wouldn't accommodate current ordinances, if we did too much to it, which would make it not useful anyway."

Councilwoman Garrison, commented, "It's just like Vegas. A building that size will not be allowed to go back there."

Ms. Martinez asked, "Are you all in these cases going to possibly have a lawsuit based on restriction of use on certain properties?"

Mr. Fox answered, "If it becomes unusable, I guess that's a possibility. It has to be used for something. I think if you regulate where its unusable for any purpose, that could be a problem."

Ms. Smith commented, "If it is, that's where your Board of Adjustments come into play. They can seek a variance."

Jim Fox commented, "It's called a 'Regulatory Taking' if you regulate it to the point where it's unusable, then you have taken the benefit of the property from the owner."

Councilwoman Garrison asked, "So that particular property that we are talking about right now, the owner owns it, but there are liens against it. Can the owner sell it? Then the liens will be paid by the new owner or from the money she makes on it."

Jim Fox, commented, "Yes. It's probably going to be sold at a tax sale honestly. If not, it will be sold in a general sale, then all the taxes and all the various liens would be paid from there."

Mayor Mouton commented, "The property cannot exchange hands without all the liens being paid. They couldn't get a clear title."

Jim Fox commented, "That's correct."

Councilwoman Garrison commented, "That is a small piece of property after it was cleared off."

Jim Fox commented, "Different uses require different parking requirements. There is no way you can put another restaurant there. There is not enough parking, but there are other uses that you might be able to use that would allow adequate parking."

Mr. Stokes commented, "And that issue predates what we are doing right now."

Councilwoman Garrison commented, "We are dealing with a much older town and a lot of old neighborhoods."

Jim Fox commented, "The problems are remnants of years and years of use and they have outgrown themselves. Eventually, the value of the property will increase to the point that economically it will make more sense for them to sell and move somewhere else."

Mayor Mouton commented, "Which points this whole discussion of this exercise to future use and making the potential maps of what it can be used for is why we are talking about this."

Ms. Martinez commented, "That was the whole comprehensive plan process."

Jim Fox commented, "You're looking at redevelopment as opposed to 40 years ago you were looking at normal growth and expansion and new subdivisions. Now this all has to be redeveloped, so that's why the changes are being made to allow for the different kind of development that will be required in the future."

Councilwoman Sinor commented, "There is an empty lot across from my subdivision that a church owns. They have started putting back stops on it and poured part of a driveway. Are they held to the same requirements as a home or business would be?"

Jim Fox, answered, "I don't think so. Until they build something, building improvements would trigger all the requirements."

Mr. Stokes commented, "It's an unusual situation. If a building was there and that stuff was coming up around it as an accessory to the building, it would probably be fine."

Councilwoman Sinor asked, "Would it still have to be permitted?"

Mr. Stokes commented, "It depends on what part."

Councilwoman Sinor commented, "It's called a prayer walk, and there are big boulders out there with big piles of dirt everywhere, big piles of broken concrete everywhere and a gentleman out there digging and putting in his own sprinkler system. If this is a church project, where is the church helping him with this?"

Ms. Martinez commented, "I don't have anything for back stops and baseball fields."

Councilwoman Garrison commented, "Does this property have a plan for something?"

Mr. Stokes commented, "Last week, myself and Mr. Brotherton and Mr. Fox, met with the person with the church and discussed that property and how it has evolved. This is a very unusual situation, but if you look at the current zoning, it closely resembles is a park. You can have a park in a residential zone, but it requires a Specific Use Permit. We've asked that person to come and apply for the Specific Use Permit, and this person agreed to do that."

Councilwoman Garrison asked, "Is this an individual or is this the person that owns it?"

Mr. Stokes answered, "It's a church. We are dealing with one principle person representing that church. He has agreed they will apply for a Specific Use Permit. It will now go through the process. It's very strange and I want to disclose I go to church there, but this isn't about me. What is a park? What is not a park? If I have 5 acres of land and I set up a horseshoe pit and go out there with my friends and play horseshoes, is that a park? Do I have to have drainage and everything that's at a park? I don't know. On the other side, if you put up 5 backstops and now there is a 100 people there and people parking everywhere and dragging mud into the street, yes that's definitely a problem."

Councilwoman Sinor commented, "In our small subdivision, we were going to put in a 1.3-acre park with parking spots and that was a long fought battle. We ended up having to make a \$25,000 donation to the park fund for the City to do a park with no parking spots. So if it's a park, is it a city park?"

Ms. Martinez asked, "Are they building a church?"

Mr. Stokes answered, "The plan is eventually to build a church building there and this will all be accessory to that, but it's out of order that is coming before the building."

Carla Nettles asked, "Are there church services going on there now?"

Mr. Stokes commented, "No. The church is on Avon Street."

Councilwoman Sinor commented, "The church is not paying taxes on it. What can we do to get it off the tax roll?"

Jim Fox commented, "That's a Harris County Appraisal District (HCAD) decision and we don't have anything to do with that."

Mr. Stokes commented, "The good news is, it's grown to a point where it's now going to need to come to Council for you all to say whether you want this or not, and if you do want it, what conditions should be attached to the Specific Use Permit."

Councilwoman Garrison commented, "It would be nice to know what exactly they are building there."

Mr. Stokes commented, "They are calling it a youth outreach, so that if their youth want to go over there and play baseball. There is also a walking trail. They want to eventually put up a volleyball net."

Councilman Patterson asked, "Do they have a stated documented plan?"

Mr. Stokes replied, "You are not putting me in the position to defend that. I am very much in the middle of all that."

Councilwoman Sinor commented, "I was told it was a prayer walk."

Mr. Stokes commented, "Yes, that would be part of it."

Councilwoman Garrison commented, "They do need to get a Specific Use Permit."

Mayor Mouton asked, "For the sake of this scenario, even if it evolves, does it fit the current ordinances? What are current ordinances mandating out there to answer the question?"

Mr. Stokes stated, "Currently, its zoned residential and if it's going to be deemed a park, they will have to apply for a Specific Use Permit and meet the conditions of whatever is attached to that."

Mayor Mouton asked, "Was he or was he not in communication with the City of what his intent was from the beginning?"

Councilwoman Sinor commented, "Well that's my point. This has been months and I know he didn't get a permit for the water because I called and he's putting in his own watering system out here."

Mr. Stokes commented, "They did get the drainage system all approved up front."

Mayor Mouton asked, "Did they submit something to the city?"

Mr. Stokes commented, "Yes, a couple of years ago and that was all approved for the whole property. To bring in the fill dirt and spread it, they had to get a plan approved."

Mayor Mouton asked, "So the pile of dirt can't be regulated and say you've got to remove this dirt, so all that is being done under the plan that was submitted?"

Mr. Stokes commented, "The dirt is pretty much being spread. The concrete piles look terrible, it's up front, and that is supposed to be removed very soon."

Ms. Nettles asked, "If it was a lot amongst other houses, can you put in walls, dirt and backstops up?"

Jim Fox answered, "If you go through the process of getting a Specific Use Permit you can."

Ms. Nettles asked, "What did the ordinance say if it is a residential lot?"

Mr. Stokes answered, "It's not just a lot; it's about 5 acres."

Councilwoman Garrison commented, "But the whole 5 acres is zoned residential."

Mr. Stokes commented, "That closest to Magnolia Estates is. It stretches all the way over to Underwood. The part close to Underwood is not residential. It goes all around the convenient store."

Councilwoman Garrison commented, "Regardless, this person has agreed to stop."

Mr. Stokes commented, "I can call him and ask him to stop. I didn't know what he was doing."

Councilman Patterson asked, "Did he get approval for the irrigation system?"

Mr. Stokes answered, "He started the irrigation system then based on some comments that were made and he did get it. The part that was tapped into the City's water supply was done by a licensed plumber and was permitted and approved."

Mayor Mouton commented, "The permit is only required to tie into the water, so he legally by state law actually trenched and put pipe in the ground without pulling a permit."

Mr. Stokes commented, "I will say that was done. I don't know if it was legal or not."

Mayor Mouton commented, "The permitting process is to tie in to potable water. Once he started digging, when people noticed, that's when it was notified. He should have applied for the permit first, but this whole thing was done backwards, in regards to starting the walking track and then he added the backstops. So, it's to the point now where the best thing that can be concluded from the cities position, is that if it looks like a park and smells like a park then it must be a park. Right?"

Mr. Stokes commented, "That is the conclusion we came to last week."

Mayor Mouton asked, "Has he been told he needs to treat this like a park because that's what it looks like, a park? So now it's going to come back to the city and treated like a park."

Melvin Embry asked, "If you apply for a Special Use Permit, do they always get granted?"

Mr. Fox answered, "No."

Mr. Embry commented, "He may not be able to do any of it."

Councilwoman Garrison commented, "He's got to come and apply for a Specific Use Permit. That message needs to be sent."

Mayor Mouton commented, "The message has been sent."

Mr. Stokes commented, "He hasn't officially applied. He was just told last week on Wednesday that he needs to apply for the permit and he's agreed to do that."

Councilwoman Sinor commented, "He's been out there working every day. I just think that is wrong. As a developer, I know what we went through. We had to put in sidewalks all the way around, fencing, parks, and certain kinds of equipment. It's got to be fair for everybody. The same rules should apply."

Mr. Stokes commented, "I don't think there will be any fencing requirements or any sidewalk requirements, but I will be glad to call him."

Mr. Embry asked, "Why will there be no sidewalks?"

Mr. Stokes commented, "There will when they put the primary building on."

Councilwoman Sinor asked, "What about the water usage? We pay for the water lines?"

Mr. Stokes commented, "The church put in the water lines a couple of years ago."

Councilwoman Sinor commented, "The other two houses had to reimburse us because we put in those water lines when we did the development."

Mr. Stokes commented, "I'm pretty sure a couple of years ago the church put in the water lines at their own expense. They talked about coming and trying to get an agreement like what you're talking about because the lots to the east of Magnolia Estate could potentially tap on to that or maybe it was the sewer, but he's never come. He's mentioned it for a couple of years, asking council to give him one of those agreements, but never moved forward with it. The City never put in any water or sewer line for them I know that. It was either existing or the church put it in; I think the church put it in. We'll check on it."

Mr. Embry commented, "Historical sidewalks are extended even when the driveway approaches. If you have people going to a park, your saying kids go jump in the mud first, there's no sidewalk. So there's a number of things that you don't have like a driveway and some other things and looking at those blocks, he's going to have a hard time putting parking in without some type of rearrangement. From my own thought, he's done something that he should have never started without permission of the Specific Use Permit because he may not get it now."

Councilwoman Sinor commented, "If there is ever a big crowd of kids over there using that property, I'd be very surprised."

Councilman Patterson asked, "With a Specific Use Permit, we can require them to put in parking space, is that correct?"

Mayor Mouton commented, "Yes".

Mr. Embry asked, "I have a question on the addition of a mixed use district. Is his just going to be a suggested use?"

Ms. Martinez answered, "It will be a new use, but we don't have a dedicated zone for it right now."

Mr. Embry asked, "Then my other question I have about it, can it be used on East Boulevard also?"

Ms. Martinez answered, "It can be used anywhere in the City."

Jim Fox commented, "They are not changing the zoning maps, this is for future potential use, to rezone specific areas for redevelopment and better uses down the road. They are putting them in there so we can use them as needed later on."

Ms. Martinez answered, "Correct. We are focusing on the current trends and making sure you guys have it in the ordinance to be ready for it so we don't have to go through this process again to add it in."

Mayor Mouton commented, "So, hypothetically give a case scenario of how that might be used."

Ms. Martinez answered, "The north end, we all talk about the north end, lets redevelop it, we don't have a patio home district, we've mentioned patio homes up there many times. Somebody came in and bought many lots. I'm not sure of the square footage, but if they bought enough lots, they could virtually rezone those lots for patio homes. On one of Mr. Johnson's developments, he goes and buys a commercial strip center, instead of just general commercial, if it's financially feasible for him, he could build retail on the bottom and an office on the top."

Mayor Mouton commented, "Which has been common in the region, but hasn't been applicable in Deer Park."

Ms. Martinez answered, "The suburban areas, League City, Pearland, have been doing a lot of it. Of course, those have been growing a lot more than Deer Park because they're not land locked like Deer Park. Kemah has been doing it, Clear Lake, Webster and Friendswood. It all depends whether it's financially feasible and I'm not sure what your land cost are right now and whether construction and land cost make it financially feasible, but just in case it does become financially feasible, you won't have to get a special use permit or do a zoning amendment to include this."

Councilwoman Garrison commented, "As much as we would like to see some things change in Deer Park, we are stuck in the old and there's not a lot we can do about the old. It's too bad, but until that day comes when some of that old stuff falls down, then we can go back and do something."

Ms. Martinez commented, "Correct."

Councilwoman Garrison commented, "I would personally like to see it pursued, particularly with those 2 service stations. They are very unattractive and honestly some of the landscaping down on the north end. Some places do try, but for the most part, most of us don't travel down there very often unless we have to because it's really not a very pretty place to go look at."

Mr. Fox commented, "I don't know if there is anything we can do about the landscaping, but we can look into doing something about the cars."

Mayor Mouton commented, "It would be more legal versus an ordinance amendment."

Mr. Fox commented, "They need to make an amendment on those ordinances regarding those types of businesses. They won't be a zoning type of change."

Mayor Mouton asked, "Is this something that will be applicable for this scenario that would slow this down or needs to be slipped in now?"

Mr. Fox commented, "It won't be part of the zoning ordinance. It would be a separate ordinance."

Ms. Martinez commented, "This is something similar to what a new one would come in, what it would have to look like."

Councilwoman Garrison commented, "I think that's why in the beginning when we started this process, I remember our first meeting, you said close your eyes and try to imagine the Deer Park that you would like. We can't do that now."

Mayor Mouton commented, "This gives us some ability to deal with these issues in a redevelopment aspect."

Councilwoman Garrison commented, "And that's really what we need."

Mayor Mouton asked, "Where do we go from here?"

Ms. Martinez commented, "We don't have any more workshops. You can send your comments to Bill Pedersen or Kathy Holcomb in Public Works."

3. ADJOURN – Chairman Martin adjourned the meeting at 7:10 p.m.

ATTEST:

APPROVED:

Shannon Bennett, TRMC
Acting City Secretary

Jerry Mouton
Mayor

Stan Garrett, Chairman
Planning and Zoning Commission