

710 EAST SAN AUGUSTINE

DEER PARK, TEXAS 77536

Minutes

of

A PRELIMINARY PUBLIC HEARING OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF DEER PARK, TEXAS, HELD IN THE CITY HALL, 710 EAST SAN AUGUSTINE STREET, JANUARY 09, 2017 BEGINNING AT 7:00 P.M. ON THE REQUEST OF THE CITY OF DEER PARK ON THE PROPOSED AMENDMENTS TO ORDINANCE NO. 819, THE ZONING ORDINANCE, WITH THE FOLLOWING MEMBERS PRESENT:

STAN GARRETT	CHAIRMAN
HAL ANDERSON	COMMISSIONER
DON TIPPIT	COMMISSIONER
DANIELLE WENDEBURG	COMMISSIONER

OTHER CITY OFFICIALS PRESENT WERE:

SHANNON BENNETT	ACTING CITY SECRETARY
LARRY BROTHERTON	BUILDING OFFICIAL

1. NOTICE OF PRELIMINARY PUBLIC HEARING - The Preliminary Public Hearing was opened by the Acting City Secretary reading the Notice of Preliminary Public Hearing. (Exhibit A)
2. HEARING OPENED FOR THOSE PERSONS DESIRING TO SPEAK IN FAVOR OF THE REQUEST – Chairman Garrett opened the hearing for those wishing to speak in favor of the request. No one spoke.
3. HEARING OPENED FOR THOSE PERSONS DESIRING TO SPEAK AGAINST THE REQUEST - Chairman Garrett opened the hearing for those wishing to speak against the request.
  - a. Mark Andrews, 2217 Killarney commented, “Looking at the records, my primary question comes to that they want to change it from multi-family to apartments, if I understand that correctly?”

Building Official Larry Brotherton asked, “What address?”

Chairman Garrett commented, “Changing from multi-family to apartments.”

Mr. Andrews replied, “The address we’re here talking about. The property just off Spencer. I have the Harris County number. I don’t have the address.”

Mr. Brotherton replied, "We don't have any rezones."

Mr. Andrews commented, "That's what's on the website. That's the only reason I have the website."

Mr. Brotherton commented, "Our zoning ordinance was adopted in October of 1963 and that was Ordinance No. 819. We have gone through two years with a consultant to redo the zoning ordinance. There's nothing right now on for a rezone for apartments. May I look at that?"

Mr. Andrews replied, "Certainly. I got this, for all the properties I have here. I pulled up on your website, this plot of land, which is over off of Spinner, next to the Donut Hole right behind Spencer Tax, that it was going to go from multi-family to apartment."

Chairman Garrett asked, "Spinner?"

Commissioner Danielle Wendeburg commented, "From townhomes to multi-family is the closest I see."

Mr. Brotherton asked, "The street is Spinner?"

Mr. Andrews interjected, "Pasadena Boulevard. That's the only reason I'm here. This is the information that I got off of the website."

Chairman Garrett asked, "This is from the City of Deer Park?"

Mr. Andrews replied, "Yes."

Mr. Brotherton commented, "This card talks about zoning Ordinance No. 819 the proposed amending may be viewed on the City of Deer Park website, but we don't have anything right now for a rezone."

Mr. Andrews commented, "Ok. I pulled this off of the City's website."

Mr. Brotherton commented, "The City cannot try to do anything to your property."

Mr. Andrews replied, "It's not my property. It's a Planning and Zoning notice I found on the website and the reason I'm here, is because you're trying to rezone from a multi-family to apartments."

Mr. Brotherton explained, "Well, multi-family is apartments."

Mr. Andrews stated, "If you want, I'll go get it off the website. Thank you."

Chairman Garrett called for others to speak against. No one spoke.

Commissioner Anderson continued the discussion, "I have a few questions that maybe the Steering Committee could share with me. I have a few questions about the Mixed Use MX District. It talked in circles and I'm not sure that I understand exactly what we're doing. It talked about a minimum of twenty dwellings per acre and forty maximum. Could you give me some clarification on that?"

Mr. Brotherton replied, "Any of the new districts that are recommended are there if you wanted to rezone something to a new district. They're not taking any property now and giving it a new zone. They do recommend eliminating the Community Service, but anything that was already in Community Service is already in General Commercial. There are several streets off of Pasadena Boulevard that are single family homes, but they're zoned Community Service. No one seems to know why that was done, obviously since 1963. The Mixed Use would be if you had some property that you want to develop that was zoned something other than Mixed Use. You could go for that zone and Mixed Use would allow retail on the bottom and residential on top, which we do not have right now."

Mr. Anderson commented, "That was my question. If someone wanted to do it, what kind of parameters are we laying out here and I read minimum of twenty, maximum of forty?"

Mr. Brotherton answered, "It offers that zone to rezone too. You would still have to go through the process. Let's say East Boulevard. If something is zoned General Commercial, you couldn't do Mixed Use in General Commercial without getting the rezone to Mixed Use. This could go for Center Street, maybe some sections of Spencer or Luella, but not anything that's zoned Residential."

Mr. Anderson commented, "I guess my question would be, in order to put something in this new district or for someone to come to it, there would need to be at least twenty dwellings or residences?"

Mr. Brotherton replied, "That would only be multifamily. Which number are you reading?"

Commissioner Anderson replied, "On my notes, it's 5.01. It says, for Mixed Use development consisting primarily of."

Mr. Brotherton interjected, "It says that's consisting of a Multi-Family Residential Development, and then you'd have to have the minimum twenty units. This Mixed Use also allows for commercial revitalization. A Mixed Use in Residential would be considered for multi-family. Mixed Use in Commercial, would not be multi-family. If you're going to have your residence above your dry cleaners, it's going to be for one

family. There's nothing in there that says that whoever owns the dry cleaners has to live above there or whoever would own the commercial business on the bottom. I guess you could rent the top out."

Commissioner Anderson stated, "That clarified it for me."

Chairman Garrett asked, "So there's nothing specifically in there that states it has to be the family that runs the dry cleaner?"

Mr. Brotherton answered, "No sir."

Commissioner Wendeburg commented, "That's what will make it the Mixed Use, they can rent out the top and have the cleaners on the bottom."

Mr. Brotherton replied, "It's just you'll have Commercial on the bottom and Residential on the top. It allows for that."

Chairman Garrett asked, "But, it's Commercial, you can rent that out above it?"

Mr. Brotherton answered, "If you've got the rezone to Mixed Use, yes sir. Right now, you can't do that in Deer Park."

Chairman Garrett commented, "Right. That's primarily for the Commercial areas in town?"

Mr. Brotherton replied, "If someone had a dry cleaner, they're not allowed to live in it."

Commissioner Tippit commented, "Section 10.08, Sub-Section 5, any residential accessory building of more than 200 square feet shall be a wood frame construction and colored materials, etc. So if someone wanted to use metal studs, is that not wood frame construction? Would that be a problem with that?"

Mr. Brotherton commented, "What it's trying to prevent is what happened on P Street. I don't know that you couldn't use metal studs. First of all, it would have to be engineered to the current wind code we require. I don't know if an engineer would feel good doing that. I'm not an engineer, so I don't know. What we're trying to prevent is, we don't want a commercial looking metal building in residential anymore, if it's over 200 square feet. The building code doesn't require anything under 200 square feet to have a permit, but our City ordinance trumps that and we require permits for storage buildings. This wood construction, it also says that the roof has to match the composition of the house, just to prevent what happened because there's nothing in our ordinance. We can keep him from running a business out of it, but we couldn't prevent him from building what the lot would take on the size."

Commissioner Tippit asked, "So if someone would submit their plans to you guys and you would approve them? If they had something other than wood frame construction, could they get a variance on something like that or how would that work?"

Mr. Brotherton replied, "If it's in a zoning ordinance, you can go for a variance. If it's in a building ordinance, no, but this is for the zoning ordinance. If he was going to build it out of metal studs, with the outside was going to have brick or Hardee and an engineer said that it will meet the current wind code that we are under, that's just something that we'd have to visit."

Chairman Garrett asked, "Anything else?"

Commissioner Anderson commented, "I know that we have read a little bit about the fees for the variances and the specific use permit and the rezoning. Personally when I read through that, the specific use fee I don't have a problem with, nor the rezoning. I'm concerned about variances, particularly driveways where the city has required an individual to not park in the grass anymore, therefore he needs to put a driveway in and he doesn't have the room. So, we're kind of forcing him to do something. We want them to park on concrete. I see a difference in there."

Mr. Brotherton commented, "The rates are \$500.00 is the recommendation and this is the first of three readings. Nothing will be etched in stone tonight and I know that talking with Shannon, just to run a variance request in the paper, is \$100.00, give or take because you're charged by the line. Then all the mailings, they have to send a letter out to everybody within 200 feet of every corner of the property. I have to get paid to show up, Shannon gets paid to show up, you have the juice it takes to run this place and \$150.00 was really too cheap."

Chairman Garrett asked, "Do you think \$300.00 would be more acceptable?"

Mr. Brotherton commented, "I'm neutral."

Commissioner Tippit asked, "So, if we have a recommendation that's different than this, do we provide that to Council or how does that work?"

Mr. Brotherton commented, "I think you would provide it to yourselves and I guess that we would refer that to the Consultant and they would make the changes. The only other change you could make I think right now our number one variance request is the width of a driveway. The only other way to prevent it would be to change the ordinance on the width of a driveway."

Commissioner Anderson commented, "Some of these other things, patio covers are something else we thought about in those kind of situations and those are in separations of driveways as well as width. New homes, it seems to be the width of a driveway. Old

homes on Estate, Kingsdale and those guys are having to get one because of separation of driveways.”

Mr. Brotherton replied, “The new homes, they have probably less than eighteen feet, unless it’s a custom home sometimes they’re bigger. Once you get onto private property, this is only where the driveway touches the street, that’s in our ordinance. We have a minimum width of ten feet and a maximum width of twenty. Some people, once they cross the sidewalk onto private property, have made it wider and that requires a permit, but no variance. If you figure the average width of a car is nine feet, you have a double car at eighteen feet, you could change the ordinance to an extra nine feet and make it twenty-nine feet maximum, which might be a little large.”

Commissioner Anderson commented, “My major concern really was the separation of driveways on these older homes. We’re kind of forcing folks to come back and put an additional driveway that actually won’t fit.”

Mr. Brotherton commented, “Actually the separation is forty feet and the older lots, that’s doable without a variance. In the newer homes, unless it’s a custom home, the lots are, in the SF-1’s are sixty-five feet wide and the SF-2’s are fifty feet wide. So there’s not enough room without a variance to do a second driveway or a horseshoe driveway. Most of the ones that want to widen, are doing it to abut the existing driveway, not a separate driveway.”

Commissioner Tippit asked, “Onto a separate issue, you know one of the variances we got called is the height of an attached or detached garage. Was that ever addressed in this?”

Mr. Brotherton commented, “Not in this, but when I had conference with Mr. Pedersen, if it’s attached with a breezeway, we think it was interpreted wrong. That is not an accessory structure. If you have a second garage, that is an accessory structure. The way they’re built now, with the porta cachaes, it’s a part of the house.”

Mr. Brotherton commented, “I got permission. We’ve had in the last five years, a lot of custom homes built and I think it was interpreted wrong, quite frankly.”

Commissioner Tippit commented, “I like your interpretation. Good deal.”

Commissioner Anderson commented, “The variance fee, I don’t know how we need to handle that, but everything else is ok.”

Chairman Garrett commented, “I think we should probably get with the Consultant on that and make our recommendation. We can do that as a group. Anything else?”

4. HEARING CLOSED – Chairman Garrett closed the public hearing at 7:17 p.m.

ATTEST:

APPROVED:

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Shannon Bennett, TRMC  
Acting City Secretary

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Stan Garrett, Chairman  
Planning and Zoning Commission