

MINUTES OF THE MEETING OF THE PLANNING COMMISSION HELD IN THE COUNCIL CHAMBERS, AT CITY HALL, 1212 AVENUE M, HUNTSVILLE, TEXAS ON THE 21ST DAY OF JULY, 2016 AT 5:00 PM.

Members present: Woods; Johnston; Hilton; Anderson; Durda; Barry
Members absent: Cummings
City staff present: Kulhavy; Ridley; Schneider

1. CALL TO ORDER

- a. *This meeting was called to order by Chairman Johnston. [5:04 PM]*

2. PLEDGE OF ALLEGIANCE

- a. **U.S. Flag**
b. **Texas Flag**

3. INVOCATION

Commissioner Anderson led the invocation

*Chairman Johnston left the dais for Agenda Items 4 & 5 due to conflict of interest.
Vice-Chairman Anderson chaired the meeting for Items 4 & 5. [5:06 PM]*

4. PUBLIC HEARING to take testimony concerning the change in the Development District Classification of Blocks 1, 2, 3 and 7 of the G. A. White Subdivision from Neighborhood Conservation to Management.

Aron Kulhavy gave an overview the case noting the history of the subdivision and past Development District re-classification cases which were not approved due to withdrawal of the cases by the applicants. He also noted that amended subdivision/deed restrictions have recently been filed for the subdivision, however the City cannot enforce these and they had no bearing on staff's recommendation on this case. The Planning Commission initiated this case.

Vice-Chairman Anderson opened the Public Hearing. [5:12 PM]

The following citizens spoke in support of the change in Development District Classification making note of the change in the area to mainly rental property not owner occupied homes:

- **Robert McCaffety** - owner of property within the area proposed for re-classification.
- **Jimmy D. Henry** – owner of property within the area proposed for re-classification.
- **Micah Slaughter** – owner of property within the area proposed for re-classification.
- **Colt Christian** – owner of property within the area proposed for re-classification.
- **Debra Tinsley Humphrey** – owner of property within the area proposed for re-classification.
- **Steve Allbriton** – attorney representing the owner group which initiated and filed the recent amended subdivision/deed restrictions, making note of the procedures followed in the process to collect the needed votes for amending the restrictions.

The following citizens spoke in opposition to the change in Development District Classification:

- **Adam Fanning** – residing at 904 Oak Drive, outside of the area proposed for re-classification, stated that he bought a house to live in a neighborhood not a commercial area.
- **Scott Hornung** – residing at 912 Pecan Drive, outside of the area proposed for re-classification, stated his issues with the recent amended restrictions, presented a signed petition in opposition to the classification change, feels that it is the owners of the rental property in the subdivision which are not keeping up their property that are making the area “look bad”, noted possible decrease in property values, and feels like greed is motivating this attempt at re-classification, calling out Planning Commission Chairman Eric Johnson as one of the property owners who was behind the recent amended

restriction and then this subsequent re-classification case. **Vice-Chairman Anderson** cautioned Mr. Hornung to refrain from picking out individual members of the board, noting that no particular individual commissioner initiated the reclassification of this property as it was an entire board decision. City Attorney **Leonard Schneider** interjected that the public is allowed to express their opinion as long as no personal attacks are made. He will step in to stop the speaker if that occurs.

- **Dalene Zender** – owner of property at 1004 Pecan, within the area proposed for re-classification, stated her issues with the voting process for the recent amended restrictions as not all of the property owners in the subdivision received ballots. She asked that the re-classification case either be dropped or tabled until such time that all of the property owners are able to “work out” the deed restrictions.
- **Lanny Ray** – concerned citizen, who resides outside of the G.A. White Subdivision, expressed his problems with the recent amended Deed Restrictions, suggesting that motives need to be looked at.
- **Steve Covington** – family owns home at 919 Oak Drive, outside of the area proposed for re-classification, stated that the family intends to keep this home in the family forever, noting the positive imagery of the area at a gateway in the City, his opposition to the possibility of the area being developed with fast-food establishments, pointing out the diverse nature of the neighborhood and as being ideal for first-time home owners, and wanting to ensure that the amended deed restrictions were done properly.
- **Cheryl Foreman** – residing at 2606 Bois D Arc Drive, outside of the area proposed for re-classification, stated the difficulty that she had in finding a home to purchase, and although her home is close to 11th Street with its large traffic volume, her home is still in a neighborhood, and noting that presently, as currently classified, there has been an increase in traffic on Bois D Arc.
- **Judy Hornung** – residing at 912 Pecan Drive, outside of the area proposed for re-classification, stated that her home is the center of her life, and wishes for the neighborhood to remain peaceful.
- **Jan Lawrence** – residing at 913 Pecan Drive, within the area proposed for re-classification, stated that although she and her spouse will soon be retiring and plan to move outside of the City, she is concerned for the other home owners and the neighborhood. She feels like the recent amending of the restrictions was handled wrong.
- **Alfred J. Veasey** – residing at 1003 Oak Drive, within the area proposed for re-classification, stated that the area is a nice, safe, peaceful neighborhood which he would like to leave to his children. He takes care of his property and he did not receive a ballot in order to vote on the recent amended restrictions.
- **Sarah H. Murray** – residing at 1004 Oak Drive, within the area proposed for re-classification, stated that her home has been in the family for many years and asked the Commission if any of them did not feel that family values are important. She is familiar with her neighbors and cares about her neighbors. There is a bond between the long-time residents of the neighborhood. There already safety concerns with cars speeding through the neighborhood. She feels that her neighborhood is entitled to enjoy beauty as well as all others in the City and does not want to be looking at the back of restaurants, asking what plans there might be to protect the neighborhood and how potential development would be evaluated for placement in the neighborhood. She asked that the Commission “think outside the box” in planning for this neighborhood as the issue of development district re-classification has plagued the neighborhood for many years. As a portal to the City of Huntsville, the beauty of the trees should be and is more appealing to visitors than commercial development.
- **Art Wolfskill** – citizen residing outside of the G. A. White Subdivision, stated his two issues with the proposed re-classification of the area. (1) Questioned the sanctity of the Neighborhood Conservation Development District designation, and the need for retail development in this area. If additional retail space is needed, where does it need to be located? (2) The Planning Commission’s job is to plan for the greater good of Huntsville.

- **Jordan Herrin** – residing at 1016 Pecan (non-property owner), within the area proposed for re-classification, stated that the G.A. White subdivision is a gem. The neighborhood is a great place for young professional to live and would be a shame for it to be lost.

Rebuttal was given by attorney **Steve Allbritton**, clarifying that he had stated that most, not all, of the area was rental property. He also reiterated that the process for the vote for and the subsequent amending of the restrictions was all done properly.

Vice-Chairman Anderson made a last call for public comments at which time **John Christian**, residing at 2604 Bois D Arc Drive, stated his concern with the negative effect of apartments on the neighborhood and property values.

Vice-Chairman Anderson closed the Public Hearing. [6:20 PM]

5. **CONSIDER** concerning the change in the Development District Classification of Blocks 1, 2, 3 and 7 of the G. A. White Subdivision from Neighborhood Conservation to Management.

Aron Kulhavy confirmed for, **Commissioner Woods**, that the City of Huntsville does not have enforcement authority of subdivision/deed restrictions.

Commissioner Barry noted that, if the area is re-classified to Management District, certain uses will require a Conditional Use Permit for development. He also questioned the rental of single family dwelling homes in the area to SHSU college students, making note of the city ordinance requirement that only one unrelated person may reside in a single family dwelling. He stated that Chairman Johnston has always recused himself whenever the Commission discussed Development District re-classification of this area. He made reference to Commissioner Cummings's absence at this meeting and his past comments regarding the timing and growth of the City which ultimately dictates the value and change of use of property. The Commission decided to take on the re-classification of this area at this time to avoid "piece meal" re-classification requests of individual properties and address the area as a whole. The issue of subdivision/deed restrictions was never discussed by the Commission when considering the re-classification of this area.

Per questions by **Commissioners Hilton & Woods**, it was pointed out that per the recent amended restrictions for the subdivision only Block 8 located on the north side of Bois D Arc Drive was designated for strictly residential use. All of the other blocks in the subdivision were designed for residential and non-residential use. Also a Conditional Use Permit for development is only required for some very specific uses per the *Development Code*.

Vice-Chairman Anderson pointed out any changes in width to 11th Street and the IH 45 overpass bridge would be by the Texas Department of Transportation and not by the City of Huntsville.

Commissioner Hilton made note of the fact that a change in the Development District Classification does not mandate the current use of the property to change. It is up to the property owner to make the change in use of the property. He feels that the highest and best use of the subject property is commercial.

Aron Kulhavy made a procedural comment. He noted that the Commission may decrease the size of the area under consideration. The size of the area cannot be increased. The Planning Commission can take action on this case at this meeting. Adequate Public Hearing and meeting notice has been given. The Commission's recommendation will be forwarded to the City Council. There will be two readings with a Public Hearing before City Council.

Commissioner Durda commented that she feels for the families who live there and is concerned about the safety of the neighborhood however she also feels that the highest and best use of the subject property is for commercial use as opposed to single family dwelling homes.

Commissioner Hilton made a motion to recommend approval of the change in the Development District Classification of Block 1, 2, 3 and 7 of the G.A. White subdivision from Neighborhood Conservation to Management. Second was by Commissioner Woods. The vote was unanimous.

Vice-Chairman Anderson announced a 15 minute break and **Chairman Johnston** re-seated himself as Chair for the remainder of this meeting.

- 6. PUBLIC HEARING** to take testimony concerning the change in the Development District Classification of Lots 64 and 66 of Far Hills Addition, Section 2 from Neighborhood Conservation to Management.

Aron Kulhavy gave an overview of the case per the discussion form making note that there have been two re-classification cases for the lots located immediately to the south of Lot 66.

Chairman Johnston opened the Public Hearing. [6:56 PM]

There were no speakers in support of the Development District re-classification.

John Sonsel – residing at 416 Far Hills Drive, spoke in opposition to the change in the Development District Classification for the properties. He made note of the effect that the construction of the apartment project has had on the subdivision, increased noise and less privacy, and his concern with his property value. He asked what options were available to prevent the re-classification of these properties.

There were no other public comments.

Chairman Johnston closed the Public Hearing. [7:03 PM]

- 7. CONSIDER** the change in the Development District Classification of Lots 64 and 66 of Far Hills Addition, Section 2 Subdivision from Neighborhood Conservation to Management.

Aron Kulhavy, making note of the *Development Code* Conditions Use Permit safeguard for certain uses, confirmed that to the best of staff's knowledge, neither lot is currently owner occupied.

Commissioner Hilton stated that the use of the lots does not change until the owners of the properties choose to do so and no one is aware of any plans to change the use of the property at this time. He feels that the highest and best use of the properties is for commercial use. **Commissioner Durda** concurred.

Commissioner Woods made a motion to recommend approval of the change in the Development District Classification of Lots 64 and 66 of Far Hills Addition, Section 2 from Neighborhood Conservation to Management. Second was by Commissioner Anderson. The vote was unanimous.

- 8. PUBLIC HEARING** to take testimony concerning the change in the Development District Classification of Lots 1A and 3A, Block 2 of the Southwood Area of Northcrest Terrace Subdivision from Neighborhood Conservation to Management.

Aron Kulhavy gave an overview of the case per the staff discussion form noting that there has been one recent case to re-classify adjacent property in the subdivision. This property was also identified for re-classification to avoid "piece meal" re-classification cases. Staff has received a letter from the owners of Lot 3A in support of the re-classification of their property.

Chairman Johnston opened the Public Hearing. [7:09 PM]

There were no speakers in support or in opposition to the change in Development District classification for these lots.

Chairman Johnston closed the Public Hearing. [7:10 PM]

9. **CONSIDER** the change in the Development District Classification of Lots 1A and 3A, Block 2 of the Southwood Area of Northcrest Terrace Subdivision from Neighborhood Conservation to Management.

Commission Hilton stated that the change in classification is appropriate.

Commissioner Hilton made a motion to recommend approval of the change in the Development District Classification from Neighborhood Conservation to Management. Second was by Commissioner Barry. The vote was unanimous.

10. **DISCUSS** the revision of Development Code Section 8.600 regarding the regulations for Dynamic Signs.

Aron Kulhavy gave an overview of the item per the staff discussion form and informed the Commission that the structure of a sign was grandfathered with the adoption of the updated Development Code. The sign operation is not grandfathered, i.e. the message dwell time and lighting. The Commission is to listen and gather information at this meeting as no action will be taken. The original options for regulation of these signs, per the updated Development Code Decision Package, are included in the meeting packet.

Chairman Johnston moved Agenda Item No. 13, Public Comments, to this point in the meeting to allow the citizens in attendance to speak.

- **Marcus Payne** with Citizens National Bank commented on the fact that his sign was permitted within the year before the updated Development Code was adopted and now part of the operation of the sign is not being allowed if it is to be in compliance with the Code. The code 5 second dwell time and restriction of animation is a real problem. The sign is used not only to promote the bank, but also for public service announcements for non-profits, law enforcement agencies, and the school district.
- **Mike Cochran**, president of eSign, Inc., stated that the regulations of the Code negatively affects his business, design and sale of LED signs, and the businesses that have these signs. He opposes the limitation of the sign size as well as the 5 second dwell time and restriction of animation. He feels that the light intensity does not need to be regulated, but agrees that the lighting needs to be dimmed at night. He stated that motion in a sign increased the readership of the sign.
- **Debbie Townley**, owner of Adams Furniture, made comment regarding the requirement the signature by a licensed State of Texas sign contractor on the Certification of Compliance. She is unable to find one, much less one that will certify compliance of her sign. She also made note of the increase sales that have resulted from her sign, not only good for her business, but good for the City of Huntsville.
- **Charles Smither, Jr.** commented that he has a procedural issue. He questioned that direction to Staff for the moratorium on enforcement of the sign code came from City Council.
- **Elizabeth Florer**, owner of Pita Pit, stated that even her small sign was a significant investment. The sign has made a difference in business. The sign cannot be programed to be in compliance with the Code requirements.
- **Clint McClaren** with Wiesners, commented that their sign is a \$250,000 sign that was compliant when permitted, but now is not. Suggested that perhaps different regulations may be appropriated for the IH 45 corridor and the City "in town" properties. The sign cannot comply with lighting intensity requirement of the code and still be seen.
- **Greg Debey** with Sonic stated that he has three signs to which he attributes a 10% increase in sales. Motion is needed in the background of these signs. Not having motion kills the dynamic of the sign.

- **Elizabeth Cole** of Cole Insurance commented that her sign was in compliance with permitting regulations at the time of installation. The sign, though small by most standards, was a large investment for her business, \$30,000 dollars. The sign currently needs some repair work to be operational, however she turned off her sign because, upon repair, the sign would not be able to be in compliance with the new Code regulations.

Commissioner Barry commented that perhaps leaving the dwell time to the determination of the individual sign owner would be best.

Chairman Johnston commented that brightness probably needs regulation but Commission got the dwell time regulation wrong adding that Clint McClaren probably has a good point about different regulations for the IH 45 corridor.

Commissioner Hilton pointed out that, if any one remembers, neon signs had motion. **Kulhavy** clarified that the Certification for Compliance is for brightness, not dwell time.

Aron Kulhavy stated that lighting intensity daytime standards range from 5,000 to 10,000 nits, with 90% reduction at night. Staff needs a standard in the Code for complaints. Staff will bring a Decision Package to the next meeting on August 4th for Commission to vote on the revision of the Code language for regulating dynamic display signs. Staff will notify the sign owners of meeting dates and times. He also announced that he has four letters in hand that state opposition to the existing Code regulations. These are from the Chamber of Commerce; Wesley United Methodist Church; First Assembly of God; and First National Bank.

Chester Crawford had been overlooked during the public comments. He stated that his sign is vital to his business and would not be effective if operated in compliance with the existing Code regulations.

- 11. CONSIDER** the Affidavit to Rescind the Minor Plat of the Noah Speer 3.6 Acre Subdivision located in the 2700 Block of Montgomery Road in the City of Huntsville.

Aron Kulhavy gave an overview of the Affidavit per the Staff Discussion Form noting that the plat was filed for a specific development with multiple utility easements dedicated for that development. The property was never developed and was sold. The current property owners wish to have the utility easements removed from their property. The Affidavit to Rescind the plat is appropriate as none of the easements dedicated per plat have been used by the City or intend to use them.

Commissioner Anderson made a motion to approve the Affidavit to Rescind the Minor Plat of the Noah Speer 3.6 Acre subdivision. Second was by Commissioner Woods. The vote was unanimous.

- 12. CONSIDER** the minutes of the June 16, 2016 meeting.

Commissioner Durda moved to accept the minutes of the June 16, 2016 Planning Commission meeting as presented. Second was by Commissioner Anderson. The vote was unanimous.

13. PUBLIC COMMENTS

Public comments were heard with Agenda Item No. 10. There were no additional public comments made.

14. ITEMS OF COMMUNITY INTEREST

- There is a burn ban currently in effect.

15. ADJOURNMENT

Commissioner Woods moved to adjourn. Second was by Multiple Commissioners. The vote was unanimous. [8:36 PM]