



MINUTES

FOR THE
SEAGOVILLE PLANNING AND ZONING COMMISSION

Meeting scheduled to begin at 6:30 p.m.,

Tuesday, January 22, 2013

in the Council Chambers of City Hall,
located at 702 N. Highway 175 - Seagoville, Texas

**CHAIRPERSON
VICE-CHAIRPERSON
COMMISSIONER
COMMISSIONER
COMMISSIONER
COMMISSIONER
COMMISSIONER**

**JERRY BECKER
JAMES SUDDUTH
RITHA EDWARDS
RICK HOWARD
ALVIN ROSS
JOSE HERNANDEZ
BRAD INMAN**

► As authorized by Section 551.071(2) of the Texas Government Code, this meeting may be convened into Executive Session for the purpose of seeking confidential legal advice from the City Attorney on any agenda item listed herein.

I. CALL TO ORDER

Chairperson Becker declared a quorum present and called the meeting to order at 6:30 p.m.

Commissioners present: Commissioner Edwards
Commissioner Inman
Chairperson Jerry Becker
Commissioner Alvin Ross
Commissioner Jose Hernandez

Commissioners absent: Vice-Chairperson James Sudduth
Commissioner Rick Howard

City Staff present: Cindy Kintz, Planning Technician/P & Z Commission Liaison
Dara Crabtree, City Secretary (*In the audience*)
Cindy Brown, Human Resources Director/Risk Management
(*In the audience*)
Ladis Barr, Building Official/Fire Marshal (*In the audience*)

II. INVOCATION & PLEDGE OF ALLEGIANCE

Chairperson Becker gave the invocation and the commissioners led in the Pledge of Allegiance.

III. APPROVAL OF MINUTES

A. Approval of the Minutes for the regular meeting held on January 8, 2013.

MOTION: Approve the minutes for the regular meeting held on January 8, 2013.

FIRST: Commissioner Edwards SECOND: Commissioner Hernandez

AYES: Commissioner Edwards, Commissioner Hernandez, Chairperson Becker, Commissioner Ross and Commissioner Inman

NAYS: None

MOTION CARRIED: (5-0)

IV. PUBLIC HEARING(S)

As Chairperson Becker was reading the caption for the public hearing from the agenda, Commissioner Edwards recused herself from the meeting and made her way to the foyer for the applicant was a blood relative of hers.

A. #Z2013-02 - Hold a Public Hearing, discuss and take necessary action on a request to establish a Specific Use Permit (SUP) to allow for the primary use to be the sale of prepackaged foods and beverages and amending the Comprehensive Land Use Plan.

The subject property fronts on to the eastbound U.S. Highway 175 Service Road and is 91± feet southeast of Farmers Road and 458± feet southwest of Glendale Avenue in the City of Seagoville, Texas. (Property Physical address: 615 North U.S. Highway 175; Property Acreage: .89± acres; Property Legal Description: Lot K of the Town and Country Shopping Center Revised Replat being a part of the J. B. Merchant Survey, Abstract No. 850 as recorded in Volume 34, Page 219 of the Plat Records of Dallas County, Texas).

Applicant: Ronda G. Smith

1. Open public hearing; and receive staff report and public comments;

Chairperson Becker opened the public hearing for City Staff's report at 6:34 p.m.

Planning Technician Cindy Kintz presented Zoning Request #Z2013-02 to the commissioners.

Commissioner Hernandez questioned Building Official/Fire Marshal Ladis Barr on how distance measurements were taken from the subject property to the church (located at 401 East Farmers Road) in the immediate area.

Building Official/Fire Marshal Ladis Barr explained how he measured the distance from the subject property to the church property in accordance with the Texas Alcoholic Beverage Commission's regulations, which is also in accordance with State law. He further explained the minimum distances from churches to subject properties was 300 feet from front door to front door and 1,000 feet from schools, at the district's request.

Chairperson Becker opened the public hearing for public comments at 6:41 p.m.

Rhonda Smith (Applicant) - 721 Quinette Drive, Seagoville, Texas 75159 - spoke in favor of her request. She commented that the majority, if not all, of the convenience store merchants in town reside outside the city limits. She stated that she lived within the City and would like the opportunity to sell the beer and wine products in her own city.

2. Close public hearing;

Chairperson Becker closed the public hearing at 6:43 p.m.

3. Discuss and take necessary action to make a recommendation to City Council on Zoning Request #Z2013-02.

MOTION: Recommend approval of Zoning Request #Z2013-02 to establish a Specific Use Permit (SUP) to allow for the primary use to be the sale of prepackaged foods and beverages and amend the Comprehensive Land Use Plan, as presented by the applicant.

FIRST: Commissioner Hernandez SECOND: Commissioner Ross

AYES: Commissioner Hernandez, Commissioner Ross, Chairperson Becker and Commissioner Inman.

NAYS: None

MOTION CARRIED: (4-0)

At this time, Planning Technician Cindy Kintz retrieved Commissioner Edwards from the foyer and they both returned to the meeting.

V. REQUESTS AND PRESENTATIONS

(During the Planning & Zoning Commission meeting held on January 8, 2013, the public hearing for Zoning Request #Z2013-01 was conducted and closed to

public comments. The Commission's further discussion and recommendation was tabled until the January 22, 2013 meeting.)

- A. #Z2013-01 -Discuss and take necessary action on a request to rezone approximately 114.3 acres from its current Agriculture (AG) zoning to the following: 64.688 acres proposed to the Planned Development - Agriculture (PD-AG) Zoning District and 49.612 acres proposed to the Planned Development - Commercial (PD-C) Zoning District and amending the Comprehensive Land Use Plan.

The subject acreage fronts 1,229± feet on to the westbound U.S. Highway 175 Service Road and is 1,130± feet northeast of F.M. 1389 in the City of Seagoville, Kaufman County, Texas. (Property Physical address: 1706 South U.S. Highway 175; Property Acreage: 114.301± acres; Property Legal Description: Lots 1, 2 and 3, Block A of the Sudduth Addition being part of the Andrew Nail Survey, Abstract No. 355 and the D. Wilkerson Survey, Abstract No. 566, as recorded in Instrument No. 2012-0010392 in the Plat Records of Kaufman County, Texas).

Applicant: James Sudduth

1. Make a motion to untable Zoning Request #Z2013-01.

MOTION: Untable Zoning Request #Z2013-01.

FIRST: Commissioner Ross SECOND: Commissioner Hernandez

AYES: Commissioner Ross, Commissioner Hernandez, Chairperson Becker, Commissioner Edwards and Commissioner Inman.

NAYS: None

MOTION CARRIED: (5-0)

2. Discuss and take necessary action to make a recommendation to City Council on Zoning Request #Z2013-01.

Commissioner Hernandez was prepared with his questions and recommendations for the commissioners to consider. He recommended that the flea market be allowed to operate on Fridays, Saturdays and Sundays from 9:00 a.m. until 5:00 p.m. on each of those days. He asked if the animals were kept in cages.

Larry Campbell (Applicant's Associate) - 1806 West U.S. Highway 175, Seagoville, Texas 75159 - addressed Commissioner Hernandez's question by stating that the animals were kept in cages.

Commissioner Hernandez recommended that food sales be on approved surfaces. He inquired about the size of vending spaces.

Larry Campbell stated the following sizes: 12'x14' in the pavilions; and 12'x12', 12'x14', 16'x20' and 20'x20' were available outdoors.

Commissioner Hernandez inquired about whether or not the vendors were supplied with electricity.

Larry Campbell responded by informing the commissioners that the vendors were not supplied electricity and that the vendors used generators.

Commissioner Hernandez stated that the applicant could come back closer to the time of constructing the animal shelter on Lot 3 and amend the planned development. He recommended that the signage be in accordance with the City's current Sign Ordinance. He recommended the commercial amusements be allowed to operate from 8:00 a.m. until 11:00 p.m. and should be permitted by the City. He was in agreement with the applicant requesting to waive the installation of sidewalks along the full length of his property that abuts U.S. Highway 175. He inquired about parking for the flea market.

Larry Campbell stated that there was two acres of gravel parking with overflow on an unapproved surface. He also commented that off-duty police officers that worked for the Seagoville Police Department were also employed by the flea market to assist with parking among other things.

Commissioner Hernandez asked Building Official/Fire Marshal Ladis Barr what the Code said for parking lots.

Building Official/Fire Marshal Ladis Barr stated that the Code called for approved surface and gave examples of crushed rock, concrete and gravel to name a few.

Commissioner Edwards asked if there was separate vendor parking.

Larry Campbell stated that there was separate vendor parking. He also informed the commissioners that there had been twelve (12) crape myrtles planted along with red bud trees and some other things planted.

Commissioner Edwards inquired about the crape myrtles.

Larry Campbell responded that the crape myrtles were planted every fifty feet along the white fence.

Chairperson Becker inquired about the restroom facilities.

Larry Campbell responded that there were seven buildings on the property that were connected to aerobic system(s).

Commissioner Hernandez asked if any of the vendors paid sales tax.

Larry Campbell responded that every week-end, when he goes into Walmart, he observes five to six vendors from the flea market restocking their supplies.

Chairperson Becker inquired about the “beer garden”.

Larry Campbell explained that the “beer garden” would have a six foot fence around the entire garden area and only one gate. He stressed that no one would be allowed to take the alcohol out of the garden area and carry around the flea market.

Planning Technician Cindy Kintz read aloud for the record the following definitions from the City’s Zoning Ordinance:

Restaurant, outdoor/patio dining. An establishment where food and beverages are prepared, served and consumed outside (i.e., not within an enclosed building on the premises) in an area that is part of, and contiguous with, the primary restaurant, using either disposable or non-disposable dishes/containers in one or more of the following methods:

(1) Cafeteria-style where patrons make their selections while going through a serving line and taken to an outside table for on-site consumption; or

(2) Where patrons are normally provided with individual menus and are served their food and beverages by a restaurant employee at the same outside table or counter where such are consumed.

Outside/patio dining areas shall comply with applicable on-site parking requirements for restaurants in accordance with zoning ordinance requirements for restaurant uses.

Restaurant/private club. A dine-in only restaurant (i.e., no drive-through, drive-in or walk-up services) that has all applicable local, state and federal permits/licenses for the on-site sales and consumption of alcoholic beverages, and that does not have or provide any type of carry-out sales of alcoholic beverages, in accordance with state law.

Brandon Baker (Applicant’s Associate) - 7252 County Road 277, Kaufman, Texas 75159 - Mr. Baker addressed the commissioners on behalf of the applicant concerning the operation of the beer garden. On several occasions during the course of the discussion, he would refer to the “beer garden” being constructed and operated in accordance with the Texas Alcoholic Beverage Commission’s regulations.

MOTION: Take a ten minute recess (at 7:13 p.m.).

FIRST: Commissioner Hernandez SECOND: Commissioner Edwards

AYES: Commissioner Hernandez, Commissioner Edwards, Chairperson

Becker, Commissioner Ross and Commissioner Inman

NAYS: None

MOTION CARRIED: (5-0)

The commissioners reconvened at 7:23 p.m.

MOTION: Recommend approval of Zoning Request #Z2013-01 to rezone approximately 114.3 acres from the current Agriculture (AG) Zoning District to the following: 64.688 acres proposed to the Planned Development - Agriculture (PD-AG) Zoning District and 49.612 acres proposed to the Planned Development - Commercial (PD-C) Zoning District and amend the Comprehensive Land Use Plan with the following recommendation on development criteria (standards) as set forth by the Planning & Zoning Commission:

1. **Approve** - The base zoning district governing development on the property shown on Exhibit A is the Commercial (C) District. All development on the property must comply with the regulations established in the Commercial Zoning District, except as provided herein.
2. In addition to the land uses allowed in the Commercial Zoning District, an **annual flea (~~outdoor~~) market shall be allowed to operate on Fridays, Saturdays, Sundays and national holiday Mondays with hours of operation being from 6:00 a.m. until 6:00 p.m. Vendor spaces shall be a minimum of 10'x10'. Harboring of live animals on non-market days is prohibited. All food sales shall be on an approved surface. Temporary wood structures or canopy frames are prohibited on non-market days. ~~and a city operated animal shelter or clinic are allowed by right on the property.~~** Tract 2, and the area defined by floodplain will continue to be zoned as an agricultural use. A residential structure is a permitted use in the Agricultural District.
3. A **flea (~~outdoor~~) market (~~is~~) as defined by the days and hours of operation** as "an occasional or periodic market held in an open area or structure where groups or individuals offer goods or animals for sale to the public. This use includes the accessory sale of food and beverages **as defined in Section 25.02.081, restaurant/private club, of the City's Zoning Ordinance** .
4. **Deny** - A city-operated animal shelter or clinic is defined as, "A facility for the treatment, hospitalization, or harboring of

animals included but not limited to dogs, cats, birds and horses.”

5. **Approve** - A private club is permitted on the property, subject to compliance with the TABC regulations.
6. **Approve** - Occasional sale of fireworks is allowed. This use shall e terminated 10 years from the date the property was annexed into the City.
7. ~~Commercial amusement uses are allowed on the property.~~ **Ten (10) special events maybe operating during non-market days from 8:00 a.m. until 11:00 p.m.**
8. **Approve** - Sidewalks shall not be required along service road to U.S. Highway 175.
9. ~~One masonry-base ground sign (i.e., like a monument- or pylon-style sign with masonry base/supports) is allowed along U.S. Highway 175 and visible from the service road, in accordance with the City Sign Ordinance with a maximum height of fifty feet (50') and a maximum size of three hundred seventy square feet (370') per side.~~ **Signs shall meet the City's current Sign Ordinance.**
10. **Approve** - That no gasoline pumps, automotive sales, convenience stores, drive-through window service, or drive-in service shall be allowed.
11. **Approve** - Overflow parking is allowed on unapproved surface.
12. ~~The Property is exempted from the city's landscaping provisions as it relates to street trees.~~ **There shall be a minimum ten foot (10') landscape buffer along the front of the property that abuts Highway 175.**
13. **Approve** - That no additional parking lot island shade trees except as provided herein shall be required.
14. **Approve** - That foundation landscaping of turf or groundcover shall only be required adjacent to State Highway 175.
15. ~~Deny - The dumpsters shall not be visible from view of U.S. Highway 175.~~ **Dumpsters shall be screened as per the City's Code of Ordinances.**
16. **Deny** - That the site plan shall be in substantial

conformance with the approved concept plan.

FIRST: Commissioner Edwards SECOND: Commissioner Ross

AYES: Commissioner Edwards, Commissioner Ross, Chairperson
Becker, Commissioner Hernandez and Commissioner Inman

NAYS: None

MOTION CARRIED: (5-0)

VI. ADJOURNMENT

MOTION: Adjourn the meeting at 8:30 p.m.

FIRST: Commissioner Inman SECOND: Commissioner Ross

AYES: Commissioner Inman, Commissioner Ross, Chairperson Becker,
Commissioner Edwards and Commissioner Hernandez

NAYS: None

MOTION CARRIED: (5-0)

JERRY BECKER
CHAIRPERSON

ATTEST:

CINDY KINTZ, PLANNING TECHNICIAN
PLANNING AND ZONING COMMISSION LIAISON