

**MINUTES
PLANNING AND ZONING COMMISSION
Meeting of January 6, 2009**

The Planning and Zoning Commission of the City of Cedar Hill, Texas met on TUESDAY, January 6, 2009 at 6:00 p.m. in the Turk Cannady/Cedar Hill Room, 285 Uptown Blvd. Building 100, Cedar Hill, Texas.

Present: Chairman Bill Strother, Vice-Chairman David Rush and Commissioners Theresa Brooks, Todd Hinton, Tim Hamilton and Gehrig Saldaña.

Absent: Stephen Mason.

I. Call the meeting to order

Chairman Strother called the meeting to order at 6:04 p.m. declaring it an open meeting in which a quorum was present and the meeting notice was duly posted.

II. Approve the minutes of the December 16, 2008 regular meeting

A motion was made by Vice-Chairman Rush to approve the minutes December 16, 2008 regular meeting, as presented. The motion was seconded by Commissioner Hamilton. The vote was as follows:

Ayes: 6 – Chairman Strother, Vice-Chairman Rush and Commissioners Brooks, Hinton, Saldana and Hamilton.

Nays: 0

Chairman Strother declared the motion carried.

III. Citizens Forum

No one spoke

IV. Case No. 08-52 - CONDUCT A PUBLIC HEARING and consider a request for a Conditional Use Permit for an Adult Day Care Facility within a Local Retail zoning district located at 330 Cooper St. *Requested by Margaret Adeyemi.*

Margaret Adeyemi, P.O. Box 1470, Cedar Hill, TX 75106, stepped forth to present this request and answer any questions.

Ms. Adeyemi stated that she is requesting approval for an adult daycare facility at 330 Cooper St. She estimated to serve about 25 clients, with 2-3 employees. The site on Cooper St. was very appealing to her because it offered a house-like setting which she felt would make her clients feel more comfortable while they were there. She also stated there was a great need for this type of facility in Cedar Hill.

Chairman Strother opened the floor for anyone wishing to speak in favor of this request.

1. Gary Moon, 313 Cooper St., Cedar Hill, TX 75104

Mr. Moon stated he was neither for nor against this request, he simply had some general questions for the applicant. His questions included the following:

- What age group would this facility serve;
- Is there sufficient parking for the loading and unloading of clients;
- What is the nature of their needs i.e. disabilities, drug or alcohol addiction; and
- Would there be any noise generated from the proposed activities.

Chairman Strother closed that portion of the public hearing and opened the floor for anyone wishing to speak in opposition to this request.

No one spoke.

Chairman Strother closed the public hearing for this item and opened the floor to the Commission for discussion.

Ms. Adeyemi stated that the facility's clientele would be limited to adults, mostly elderly and some of them may have disabilities. The facility will have a very structured environment, offering a variety of activities including exercise, crafts and games. Parking, which would include pick up and drop off, would be located in the rear. Noise would not be an issue as all of the proposed activities would be indoors.

Commissioner Hamilton asked the applicant if she's operated a facility such as this in the past.

Ms. Adeyemi stated she has worked for several years in a home health care environment.

With respect to drop off and/or pick up, Commissioner Hinton stated he was concerned about traffic backing up onto Cooper St. and asked the applicant how she proposed to handle this if it were to occur.

Ms. Adeyemi stated she did not think there would be an issue with traffic, as many of their clients would be picked up by a bus or van and brought to the center daily.

Echoing and expanding on Commissioner Hinton comment regarding traffic, Vice-Chairman Rush asked if there would be any drop off or pick up in the front of the facility.

Ms. Adeyemi stated no, there will not be any drop off or pick up in the front.

Commissioner Brooks commented about the existing asphalt driveway and reminded the applicant that this area could not be used as a parking lot.

Chairman Strother asked if the existing carport would be removed.

Ms. Adeyemi stated yes, the existing carport will be removed and she would ensure that the asphalt area would not be used as parking.

Commissioner Brooks, referring to the applicant's request for a variance to the masonry screening wall requirement, asked if she understood that she'd be required to maintain the proposed landscaped screening area.

Ms. Adeyemi stated she was aware of this fact and would maintain it accordingly.

Commissioner Hamilton made a motion to approve Case Number 08-52, with the requested variance to the screening wall requirement. The motion was seconded by Commissioner Saldana. The vote was as follows:

Ayes: 6 – Chairman Strother, Vice-Chairman Rush and Commissioners Brooks, Hinton, Saldana and Hamilton.

Nays: 0

Chairman Strother declared the motion carried.

V. Case No. 08-55 – CONDUCT A PUBLIC HEARING and consider a request for a change in zoning **FROM** "LR" Local Retail **TO** "C" Commercial on 2.65-acres of land out of Abstract 1086, generally located north and west of U.S. Highway 67 and Wintergreen Road. *Requested by Patsy Anderton on behalf of A-1 Sand and Stone.*

Doyle Anderton, 8169 County Rd. 2424, Royse City TX. stepped forth to present this request and answer any questions.

Mr. Anderton stated that A-1 Sand and Stone has been in business at this location for 15 years. They have recently acquired some additional property and would like to expand their existing business.

Chairman Strother opened the floor for anyone wishing to speak in favor of this request.

No one spoke.

Chairman Strother closed that portion of the public hearing and opened the floor for anyone wishing to speak in opposition to this request.

No one spoke.

Chairman Strother closed the public hearing for this item and opened the floor to the Commission for discussion.

Vice-Chairman Rush stated that there seems to be a discrepancy with respect to the property lines shown on the applicant's exhibits.

Mr. Anderton stated that he was aware of this discrepancy and the issue has since been corrected.

Vice-Chairman Rush wanting to confirm with City staff, asked if the Comprehensive Plan shows this area to be retail in nature.

City Planner Leslie Price stated yes, the recently adopted Comprehensive Plan shows this area to be retail in nature.

Vice-Chairman Rush also asked City staff, that even if this zoning change request is approved, the applicant will still need to apply for a Conditional Use Permit for sand and gravel sales and storage.

Ms. Price stated yes, that is correct.

Vice-Chairman Rush made a motion on to approve Case Number 08-55, as presented. The motion was seconded by Commissioner Brooks. The vote was as follows:

Ayes: 3– Vice-Chairman Rush and Commissioners Brooks, and Hamilton.

Nays: 3 - Chairman Strother and Commissioners Saldana and Hinton.

Because of the resulting tie vote, Chairman Strother abstained his vote and so the motion passed by a 3-2 count.

Chairman Strother declared the motion carried.

VI. **Case No. 08-57 – CONDUCT A PUBLIC HEARING** and consider a request for a change in zoning **FROM** “SF-E” Single Family Residential **TO** “C” Commercial on 4.017-acres of land out of Abstract 1111, generally located about 1,500 ft. north of Mansfield Rd., adjacent to Cedar Hill State Park. *Requested by Martin Johnson of Chesapeake Energy.*

Rusty Anderson of Chesapeake Energy, 100 Energy Way, Ft. Worth TX. 76102 stepped forth to present this request and answer any questions.

Mr. Anderson stated that they were hoping to change the zoning on three tracts of land from single family to commercial. He stated that the city's current ordinance, which has been in place since 1984, states that you cannot drill on residential zoned property, only commercial.

Chairman Strother opened the floor for anyone wishing to speak in favor of this request.

No one spoke.

Chairman Strother closed that portion of the public hearing and opened the floor for anyone wishing to speak in opposition to this request.

1. Craig Hopkins - 731 Wood Ridge, Cedar Hill, TX 75104

Mr. Hopkins stated that he spoke with several neighbors in the Wood Ridge Country Estates and Juniper Ridge Subdivisions, as well as along Old Beltline Rd. regarding this request. He stated that everyone he spoke with is in opposition to this request and they have signed a petition to that effect and he is prepared to submit it to the City. He stated the following are the primary reasons for their opposition:

- Reduction in property values;
- Clear cutting of trees;
- Risk of explosions and fires, stated he's aware of this happening at other sites;
- Consistent noise, sound travels a great distance in this area;
- Truck traffic;
- Dust and diesel pollution.

2. Andy Andring - 729 Woodridge Dr. Cedar Hill, TX 75104

Mr. Andring stated he was opposed to the commercial zoning change request. He further stated that the residents have known about the potential for drilling in the area and they urge the City Council to develop ordinances that will protect and preserve residentially zoned property.

3. Peggy Wilson - 1819 Beltline Rd., Cedar Hill, TX 75104

Ms. Wilson stated that the City has recently adopted a new Comprehensive Plan and one of the objectives of the new plan is to protect and promote single family estate zoning. Ms. Wilson further stated that perhaps a change in zoning is not the best way to approach drilling in Cedar Hill. Other options she suggested are the issuance of temporary permits or restrictive permits. Ms. Wilson asked that her comments be reflected in all three zoning change requests.

4. John Depetris - 915 Mobley Rd., Cedar Hill, TX 75104

Mr. Depetris stated the City has an ordinance in place and that they should adhere to it. He stated that recently, due to these drilling rigs, the City of Ft. Worth has experienced problems with salt water.

5. Don Perkins - 724 Chaparral Trail, Cedar Hill, TX 75104

Mr. Perkins stated that he moved to Cedar Hill because of the it's natural beauty and that the City must take steps preserved this area. He is opposed to a change in zoning near the State Park and the Escarpment.

6. Billie Ballengee - 1649 Promontory Dr. Cedar Hill, TX 75104

Ms. Ballengee stated that she was a past president of the Promontory Homeowners Association. She and her husband have made a sizable investment in this area and are opposed to this change in zoning. She also would like for her comments to be reflected in all three zoning change requests.

7. Joe Beard - 9534 Loma Vista, Dallas, TX 75243

Mr. Beard stated that he owns property on Mobley Rd. and that he is opposed to this request for a change in zoning. He also stated that it is his understanding that the Mayor and City Staff were in the process of drafting new drilling ordinances for the City. He also would like for his comments to be reflected in all three zoning change requests.

8. Leslie Stark - 2050 W Beltline Rd., Cedar Hill, TX 75104

Mr. Stark stated that he was opposed to the requested zoning change.

Chairman Strother proposed to the Commission that they keep the public hearing open while we consider the other two cases.

Commissioner Brooks stated that she did not feel comfortable with that idea and would prefer to consider each case one at a time.

Chairman Strother closed the public hearing and opened the floor to the Commission.

Commissioner Brooks stated that she is personally not opposed to drilling, it was the request for commercial zoning change that she was uncomfortable with.

Laura Jones, along with T. Brown, both of Chesapeake Energy, 100 Energy Way, Ft. Worth, TX 76102 stepped up to the podium to address some of the comments from the public hearing.

Vice-Chairman Rush stated he is opposed to this zoning change request, but is not necessarily opposed to drilling if a suitable ordinance can be developed.

Commissioner Hamilton asked the representatives from Chesapeake how they choose a site for drilling.

Ms. Jones stated that they currently have contracts with several property owners to drill for their minerals. She stated they make every effort to make the smallest footprint possible as many times that is a stipulation of the land owner.

Chairman Strother asked Ms. Jones how they proposed to access this property since they are no existing roads [in the area].

Ms. Jones stated that they will work with the municipality and the land owner on access to the sites.

Mr. Anderson stated that access would be from Mansfield Rd. from a leased road.

Vice-Chairman Rush inquired as to the surface of this leased road.

Mr. Anderson stated it was a gravel road.

Chairman Strother commented to the applicants that they must have limited experience with the soils in the area if they planned on using a gravel road to accommodate heavy truck traffic.

Ms. Jones stated that they have very intelligent engineers on staff and that they do have experience with the soils in this area.

A motion was made by Vice-Chairman Rush to deny Case Number 08-57, as presented. Vice-Chairman Rush added that he was opposed to the zoning change request, not to drilling. The motion was seconded by Commissioner Hinton. The vote was as follows:

Ayes: 6 – Chairman Strother, Vice-Chairman Rush and Commissioners Brooks, Hinton, Saldana and Hamilton.

Nays: 0

Chairman Strother declared the motion carried.

VII. Case No. 08-58 – CONDUCT A PUBLIC HEARING and consider a request for a change in zoning **FROM** “SF-E” Single Family Residential **TO** “C” Commercial on 4.017-acres of land out of Abstract 1111, generally located about 3,500 ft. north of Mansfield Rd., adjacent to Cedar Hill State Park. *Requested by Martin Johnson of Chesapeake Energy.*

Rusty Anderson of Chesapeake Energy, 100 Energy Way, Ft. Worth TX. 76102 stepped forth to present this request and answer any questions.

Mr. Anderson stated that with every city they’ve worked with, about 35-40, there have been more up to date drilling ordinances than the one currently in place in Cedar Hill. According to Cedar Hill’s ordinance, their only option is to request a change in zoning.

He stated that they have met with City staff and given them copies of gas drilling ordinances to expedite the update process.

Chairman Strother asked City staff that if we are in the process of revising our ordinances, should it be suggested to the applicants that they withdraw their request.

Rod Tyler, Director of Planning, stated yes, we can ask them to withdraw their requests.

Ms. Jones stated that they do not want to withdraw their requests. She said it was their desire to work with the City on this matter and suggested tabling the requests for consideration at a later date.

Vice-Chairman Rush stated that he didn’t see the point in tabling these requests. He again reiterated that he is not against drilling, just the request for a change in zoning.

Commissioner Brooks stated that she was aware of the fact that the City is considering revising the gas drilling ordinances, and said that a change in zoning is not the way to go.

Commissioner Hinton commented to the applicants that Cedar Hill has just completed the lengthy process of updating the Comprehensive Plan and asked if they had an opportunity to participate in that [update].

Ms. Jones stated no they did not participate in the Comprehensive Plan update process, but rather chose to work specifically with City staff on the development of updated gas well ordinances.

Commissioner Hinton asked the applicant's if they were simultaneously working to obtain leases and with the City on revisions to the current gas drilling ordinance.

Ms. Brown stated that those timelines don't exactly match; sometimes the leases are obtained a couple of years in advance, to ensure they have enough leases in a particular area for a unit.

Commissioner Hinton stated that he understood that fact and stressed that drilling wasn't the issue, it's the zoning change request.

Chairman Strother opened the floor for anyone wishing to speak in favor of this request.

No one spoke.

Chairman Strother closed that portion of the public hearing and opened the floor for anyone wishing to speak in opposition to this request.

1. Billie Ballengee – 1649 Promontory Dr. Cedar Hill, TX 75104

Ms. Ballengee, referring to some of the comments made by the Chesapeake Energy representatives, stated that they are implying that they have contractual obligations to their lessees to drill and therefore the Commission should take that in consideration as well. She stated that in no way should this influence the Commission's decision.

2. Debbie Lethem, 2010 Jasmine Circle, Cedar Hill, TX 75104

Ms. Lethem stated that she was one of the people that agreed to seismic testing on her property. She suggested that the applicants investigate into more suitable areas for drilling.

3. Craig Hopkins - 731 Wood Ridge, Cedar Hill, TX 75104

Mr. Hopkins stated that he wanted his comments be reflected in all three zoning change requests. He further stated that Chesapeake Energy falsely stated that the property owner for this request lives in Cedar Hill. He asked the Commission not to table this request.

Commissioner Hinton stated that, from what he understands, there is a total linear foot limit on how far you can drill. For example, drill about 8,000 ft. down into the Barnett Shale, and then drill horizontally for an additional 3,000.

Ms. Jones stated yes, there is a limit.

Commissioner Hinton asked if that limit is about 12,000 ft.

Ms. Jones stated no, their average laterals are about 3,500 ft.

Commissioner Hinton asked if that 3,500 ft. limit only pertained to once they've reached the Barnett Shale.

Ms. Jones stated that the lateral would start at the kick-off point, which occurs at the total vertical depth, so from that kick off point to the end of the horizontal/lateral, is on average 3,500 ft.

Commissioner Hinton asked, for clarification, if the farthest they can drill in any direction with the current technology is 3,500 ft.

Ms. Jones stated that they actually go a vertical depth of 8,000-9,000 ft., it varies, and then the average lateral is 3,500 ft. Some may go a little further, some are a little shorter, it depends on the geology.

Commissioner Hinton thanked Ms. Jones for her explanation and stated the point he wanted to get across is that there is a depth limit [for drilling].

Chairman Strother closed the public hearing for this item and opened the floor to the Commission for discussion.

A motion was made by Vice Chairman Rush to deny Case Number 08-58, as presented. The motion was seconded by Commissioner Saldana. The vote was as follows:

Ayes: 6 – Chairman Strother, Vice-Chairman Rush and Commissioners Brooks, Hinton, Saldana and Hamilton.

Nays: 0

Chairman Strother declared the motion carried.

VIII. Case No. 08-59 – CONDUCT A PUBLIC HEARING and consider a request for a change in zoning **FROM** “SF-E” Single Family Residential **TO** “C” Commercial on 4.017-acres of land out of Abstract 1111, generally located about 1,000 ft. south of Old Beltline Rd., adjacent to Cedar Hill State Park. *Requested by Martin Johnson of Chesapeake Energy.*

Chairman Strother opened the public hearing for this request.

1. Leslie Stark, 2050 W Beltline Rd., Cedar Hill, TX 75104
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Mr. Stark stated he was completely against drilling, especially on this tract, because it is close to his own property.

2. David Maxwell, 726 Chaparral Trail, Cedar Hill, TX 75104

Mr. Maxwell stated that he was opposed to this request for a change in zoning.

Ms. Jones thanked the Commission, City staff and the residents for their comments. She stated that they will continue to work with the City on the drafting of revised drilling ordinances. As for their timelines, they understand that this is an ongoing process and that this certainly is not the last time we will work on this matter. Additionally, she stated that they are willing to meet with the property owners in this area to answer questions and discuss ways to work together.

Chairman Strother closed the public hearing for this item and opened the floor to the Commission for discussion.

Commissioner Hinton asked the applicant if the average footprint for a drill site is 3-5 acres.

Ms. Jones stated yes, that is correct, some site may be smaller, but that limits the number of wells that can be placed on a site.

Commissioner Hinton asked approximately how long is a rig actually vertical and on site.

Ms. Jones said 2-3 weeks on average

Commissioner Hinton asked about fracing and how long that process takes.

Ms. Jones stated the time for fracing of one well is 3-5 days.

Commissioner Hinton asked, from one well site, in how many directions could they potentially drill.

Ms. Jones stated the preferred orientation in terms of drilling is northwest to southeast. The best production is obtained in this manner.

Commissioner Hinton commented that so within about 90 days, the rig and fracing process would be complete and removed from the site, leaving a couple of tanks and a fenced in area.

Ms. Jones stated 90 days is not a hard and fast timetable, and that often times they will drill multiple wells and simply would move a rig to another site 15 –ft away. This reduces truck traffic and it's easier since you already have the equipment onsite.

Commissioner Brooks thanked the citizens for their comments.

Commissioner Saldana also thanked the citizens for their comments. He also stated he agreed that a change in zoning isn't the best answer.

A motion was made by Vice Chairman Rush to deny Case Number 08-59, as presented. The motion was seconded by Commissioner Hinton. The vote was as follows:

Ayes: 6 – Chairman Strother, Vice-Chairman Rush and Commissioners Brooks, Hinton, Saldana and Hamilton.

Nays: 0

Chairman Strother declared the motion carried.

XI. Case No. 08-62 – CONDUCT A PUBLIC HEARING and consider proposed amendments to the text of the Comprehensive Zoning Ordinance (Ordinance No. 2001-64, as amended) regarding correction and formatting of Zoning District entries, additions and corrections to Use Regulations and Charts, and additions to Definitions.

Vice-Chairman Rush reminded City staff of the changes noted during the briefing session.

Chairman Strother opened the floor for anyone wishing to speak in favor of this request.

No one spoke.

Chairman Strother closed that portion of the public hearing and opened the floor for anyone wishing to speak in opposition to this request.

No one spoke.

Chairman Strother closed the public hearing for this item and opened the floor to the Commission for discussion.

There being no discussion amongst the Commission, a motion was made by Commissioner Brooks to approve Case Number 08-62, as presented. The motion was seconded by Commissioner Hamilton. The vote was as follows:

Ayes: 6 – Chairman Strother, Vice-Chairman Rush and Commissioners Brooks, Hinton, Saldana and Hamilton.

Nays: 0

Chairman Strother declared the motion carried.

X. Staff Reports and Discussion

1. Discussion on 2008 Comprehensive Plan Implementation

Don Gore, City Planner, stated that he'd like the Commission to assist him in coming up with categories or headings to group the Comprehensive Plan implementation strategies. The following are the immediate priorities outlined in the plan.

- Trail Plan
- Regional Rail
- Housing types
- Downtown TOD
- Escarpment Ord.

There was some general discussion amongst the Commission on what would be the best mechanism to achieve these goals.

2. Recent Submittals

Ms. Price reviewed with the Commission recent submittals and potential upcoming agenda items.

VI. Adjourn

A motion was made, followed by a second for adjournment. The meeting adjourned at 7:45 p.m.

Bill Strother
Chairman

Belinda L. Huff
Planning Secretary
