

**MINUTES**  
**AUSTIN CITY PLANNING COMMISSION**  
**TUESDAY, OCTOBER 10th, 2006**  
**5:30 P.M.**  
**AUSTIN CITY COUNCIL CHAMBERS**

**MEMBERS PRESENT:** Suzanne McCarthy, Tony Bennett, Lynn Spainhower, Sue Grove, Brian D Johnson, Glen Mair and Gordon Kuehne

**MEMBERS ABSENT:** Rich Bergstrom, Elizabeth Bankes,

**OTHERS PRESENT:** Craig Hoium, Craig Byram, Council Member Dick Pacholl, media and public

The meeting was called to order by Commission Member Johnson at 5:30 P.M.

Commission Member Spainhower made a motion to approve the September 12<sup>th</sup>, 2006 Planning Commission minutes as written, seconded by Commission Member Kuehne. Motion passed unanimously.

**OPEN PUBLIC HEARING:** To consider a request from Eldon Hill (Taco Johns), 308 West Oakland Ave for a 5.5 percent variance from the minimum 20 percent greenspace to be provided for land development located within "B-2" Community Business Districts. Said action is pursuant to City Code Section 11.41, Subd.5

Craig Hoium pointed out that additional material had been submitted to his office in regards to this hearing and had been laid in front of each Commission Member. Mr. Hoium reviewed the request stating that the owner of Taco Johns has acquired the property to the east and would like to use the land for additional parking and drive thru area. He showed a graphic of the proposed plan. Mr. Hoium then read the email submitted to his office from a Mary John who owns the property at 307 1<sup>st</sup> Ave NW. There were also photos of the fencing between the two properties shown. Mr. Hoium stated that there is an ordinance referring to screening between Business and Residential Districts but as both properties are in a "B-2" District he did not know if you can legally enforce that a buffer be provided. This public hearing was published and mailings went out and Mrs. Johns was the only response addressing her concerns. If the Planning Commission chooses to make a recommendation for or against this project they should reference the statutory guidelines in regards to acting on variance requests.

Commission Member Kuehne asked who owns the fencing between the properties.

Mr. Hoium said he believes the chain link fencing is owned by the Multi-housing unit. The petitioner can maybe answer who owns the four foot fence.

Paul Johnson, architect on the project said due to the success of the Taco Johns property Mr. Hill is not happy with the minimal vehicle stack space for the drive up. It is causing a traffic hazard on West Oakland Avenue. He has gone to the expense of purchasing the property to the east where the house will either be moved or demolished if the proposed project is approved. The four foot fence on the north side was there when the property was purchased by Mr. Hill. I think something could be worked out between Mr. Hill and the Housing Unit owner to extend the fencing where there is open area.

Commission Member Kuehne asked if the problem was mainly because of the gap in the fencing.

Mr. Johnson said yes and pointed out the section on the photo. A fence could be put up there, it is not a big deal.

Commission Member Kuehne said he can understand the concern with the garbage because it seems people have trouble getting garbage in the garbage can.

Mr. Johnson said there is a garbage can there but what can you do if people do not use it.

Commission Member Grove asked if the intent is to have people come off of West Oakland Avenue and use a free standing order center and still pick up the order at the side of the building.

Mr. Johnson said yes, currently drive thru traffic and people parking come in the same drive. There is only room for about three stacked cars in the parking lot area and after turning the corner three more. With the proposed plan the stack space will increase by six or seven cars.

Mr. Kuehne asked if the traffic will still be able to drive thru the area where the drive thru is now.

Mr. Johnson said that will remain open for through traffic.

Commission Member Spainhower asked if there will be a problem there with cross traffic.

Mr. Johnson said there are parking lots like this all over and people just have to wait their turn.

Commission Member Kuehne said a little directional signage should alleviate any problem.

Mr. Hoium said if there is any direction given by the Planning Commission relating to fencing along the north property line one thing that could be considered with the six foot chain link fence would be to put solid slats to provide more of a solid screen to this adjacent residential property.

Commission Member Kuehne said we do not have any say on that, it would be between the two property owners. It was my understanding that we could not make conditions on fencing because they are both in a "B-2" District.

Mr. Hoium said he stated what the ordinance requires, he does not think it would be a problem if you want to make any conditions on the fencing.

Commission Member Grove asked if there will be any additional landscaping added.

Mr. Johnson pointed out the existing landscaping and that the new order center would also be landscaped.

Commission Member Mair asked about the fencing to the north and if things could be worked out between the owners.

Mr. Johnson said Mr. Hill is willing to work with those property owners for safety reasons.

Commission Member Spainhower asked who owns the four foot wood fence.

Mr. Johnson said they believe the property owner to the north owns it but are not sure, the fence was there when Mr. Hill purchased the property six years ago.

Commission Member McCarthy said the fences appear to be in good condition so where there are gaps in the fencing it would be nice if the same material is used.

Commission Member Spainhower said there is an area by the trash enclosure that is also open.

Mr. Johnson showed a graphic of the fencing and the one section he believes should be enclosed.

Commission Member Mair made a motion to recommend approval of the requested variance as it is reasonable, seconded by Commission Member Kuehne. Motion passed unanimously.

**SIGN APPEAL:** To consider the appeal from Lisa Granle of Granle's Custom Art & Framing, 421 North Main Street for the denial of the issuance of a sign permit for the proposed placement of an awning which would encroach the public right of way 7 feet. City Code Section 4.50 Schedule VI Subd.5,(B),(1) limits awning encroachment over public right of way to 4 feet for this property located in a "B-3" Central Business District.

Mr. Hoium reviewed the request. He showed a graphic of the proposed awning and pointed out the hardship to the owner which is to protect artwork coming and going from the business to the adjacent parking space.

Commission Member Mair asked how far it would be from the edge of the proposed awning to the curb.

Mr. Hoium said he was not sure of exact distance but city sidewalks on Main Street range from 8' to 10' wide.

Commission Member Mair said most of the down town businesses have access at the rear of the building. This awning would look nice but is that a good enough reason to approve this request?

Mr. Hoium said he believes the back of the business is storage and not used for customers to access the business.

Commission Member Spainhower said unless you can park directly in front of the awning it is not going to help you.

Commission Member Grove asked if the existing awning on the adjacent building that was Leuthold's would remain the same and if it is eight feet.

Mr. Hoium said it is to stay in place as far as he knows but the Main Street Project would like to eventually be involved with as many of the store front changes as possible.

Commission Member Spainhower said with a lot of businesses taking down there awnings we should have a standard that we stick to. To deviate from our standard when we are trying to unify the downtown area does not make a lot of sense.

Commission Member Kuehne said the awning over the Paramount sticks out way over eight feet.

Mr. Hoium said the proposed design is very similar to what was approved for the Brick Furniture store for the same purpose of loading merchandise.

Commission Member Grove said the awning would provide shelter for people shopping downtown.

Commission Member Kuehne made a motion to recommend approval of the three foot encroachment variance, seconded by Commission Member McCarthy. Motion carries with 5 ayes and 2 nayes, the nayes being Commission Members Bennett and Mair.

**ORDINANCE REVIEW:** Ordinance to provide definitions consistent application and interpretations to essential services located within all zoning districts.

Mr. Hoium said the Planning Commission has a revision of an ordinance to review which provides clarification of essential services. If you look at the two sections of the amendment; Subd.101 actually defines essential services as follows: **Subd.101. Essential Services.** Overhead or underground electrical, gas, stormwater retention ponds, designated wetlands, steam or water distribution systems, structures or collection, communications, supply or disposal systems and structures used by public utilities or governmental departments or commissions or as are required for the protection of the public health; safety or general welfare, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes and accessories in connection therewith but not including buildings.

To summarize all of that with the Planning Commission Mr. Hoium asked them to take a look at the zoning map for the City of Austin. When looking at the City of Austin there are a number of land uses that show the various zoning districts. Within all of those areas there is public infrastructure that relates to all of the items that were just defined in the ordinance. Past practices and interpretations within various developments in the community those services actually service a multiple number of land uses, he then gave some examples. About one year ago the Planning Commission and Council had before them a request to construct a storm water retention pond in SE Austin. That area is southwest of Ellis Middle School and is located in an "R-1" District. If you look at the area the storm water retention pond serves there are residential areas to the east and the north, it services the industrial and commercial district west of the airport and also the airport. There are three types of land uses that are draining to a storm water retention pond in an "R-1" District. If you look to the north of the "R-1" district there is an electrical substation, Mr. Hoium did not know the boundaries of where that substation services but he would guess that it is probably the same land-uses as was just reviewed. Another example would be water towers. In that same SE residential area there is a water tower that services the entire SE quadrant and maybe the NE quadrant also. In the SW part of the community located south of the Carriage Homes development there is a water retention pond that is actually located in Austin Township. The pond services the whole SW part of the

community which consists of residential properties, multi-family residential properties and commercial properties adjacent to Oakland Avenue. In the NW there are approximately 80 acres of wetland located north of Kmart in an "R-1" District. A wetland is typically in a low area that services as storm water retention for surrounding land uses. That 80 acres of designated wetland services commercial properties to the south, residential properties to the south and residential properties to the north. The proposed ordinance would just clarify what our past practices and interpretations have been of our zoning ordinance and would state as follows:

**Sub.8. Essential Services.** Essential services shall be permitted use in all zoning districts as authorized and regulated by state law and the City of Austin.

This ordinance draft was introduced to the City Council at a work session and a motion was made by the City Council to bring this to the Planning Commission for review and recommendation.

Commission Member Johnson said this would be a recommendation to the council and should have findings with it also.

Mr. Hoium said yes there should be findings. Or make reference to past practices and how the community has grown over the years.

Craig Byram said as city staff we have been implementing our ordinance in this fashion for a long time. It has come to our attention that our ordinance does not state what we thought was implicit. In order to make sure there is no confusion on whether it is in the code or not the council has moved forward to make this clarification made. So the findings would be that consistent with our past practices this makes it express in the ordinance that our past practice is valid with regard to the ordinance.

Commission Member Kuehne made a motion to recommend putting this portion of code into law as it has been practice for years and we are making it clear for the future, seconded by Commission Member Mair. Motion passed unanimously.

Commission Member Spainhower made a motion to adjourn the Planning Commission Meeting at 6:13 P.M, seconded by Commission Member Bennett. Motion passed unanimously.