

**MINUTES**  
**AUSTIN CITY PLANNING COMMISSION**  
**TUESDAY, August 14<sup>th</sup>, 2007**  
**5:30 P.M.**  
**AUSTIN CITY COUNCIL CHAMBERS**

**MEMBERS PRESENT:** Tony Bennett, Shawn Martin, Suzanne McCarthy, Elizabeth Bankes, Kathy Stutzman and Glen Mair

**MEMBERS ABSENT:** Lynn Spainhower, Jim Mino and Rich Bergstrom

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

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

Commission Member McCarthy made a motion to approve the July 10, 2007 Planning Commission minutes as written, seconded by Commission Member Martin. Motion passed unanimously.

**OPEN PUBLIC HEARING:** To consider a request from the City of Austin, 500 4<sup>th</sup> Ave NE for a conditional use permit for the construction of a flood berm which will consist of material in excess of 1,000 cubic yards. Said action is pursuant to City Code Section 12.06

Craig Hoium said before entering into the details on the first hearing there are two formal actions to be taken by the Planning Commission tonight, the first being a Conditional Use Permit which is an action taken by the Planning Commission with a fifteen day appeals period on any type of action taken. The action taken by the Planning Commission on the second public hearing would be a recommendation to the City Council. The next council meeting is August 20<sup>th</sup>, 2007. If anyone present would like an agenda for tonight's meeting they are on the table in the back of the council chambers.

This first action was petitioned by the City of Austin, the property in question is the land east of the Cedar River along the Packer arena extending south to 2<sup>nd</sup> Ave NE. The total project for this flood prevention measure would extend further along the Mill Pond area on the east end all the way around to the west side and would extend to the south right of way of Interstate 90. I would like to review some of the code provisions relating to this request and then turn things over to Jon Erichson our Public Works Director who has been very involved in the planning of this project. This work to be conducted is located within a flood fringe area. FEMA has designated specific areas in the community that Chapter 12 of our City Ordinance regulates all the development that may occur in those areas. There are multiple parcels of land involved in this project. If you chose to look at this project per parcel the amount of fill would not be in excess 1,000 cubic yards

per parcel, but we thought it would be in the best interest of both the Planning Commission and neighboring property owners what is being planned is reviewed with them during this public hearing. There is a typo in the back up material that states approximately 2,500 cubic yards would be placed within the scope of the work area, I believe it is closer to 1,200 cubic yards and Jon can go into more detail with that. There has been repetitive flood damage to various structures within the City of Austin and I think the ultimate goal of the City Council and staff is to work on minimizing or eliminate future damage to these structures. We have acquired over 250 parcels of land since the mid 70's and this is our first proposed structural solution to add to our mitigation efforts.

Jon Erichson said the City of Austin has adopted a mitigation program which was included in your backup material. That flood mitigation program involves property acquisition, structural programs and best management practices. The overall program was identified with a cost of about twenty-eight million dollars. Fifty percent of that cost would be funded by the local option sales tax which was implemented by the City of Austin in April of 2007. The part of the program we are talking about tonight involves a structural protection from 4<sup>th</sup> Avenue NE to I-90. As this project was developed we looked at a number of things, can this property be protected, what would the project consist of, the estimated cost of the project and the project impacts. The City of Austin hired a consulting firm (SEH) to help with this project. It was determined that the property could be protected. The project would consist of property acquisition, structural measures such as earth berms and structural walls. The estimated cost of the project is approximately twelve million dollars. The project impacts report is here and anyone is welcome to look at it, it is very lengthy and exhaustive. The biggest concerns were upstream. The impact is estimated at .16 feet in surface elevation which compares to what is allowed, .26 feet. Therefore this project has a condition that is less than what is required which is what we were looking for. Our project tonight is called Phase 8 and goes from 2<sup>nd</sup> Avenue NE to the railroad embankment behind Packer Arena. The project has been broken into a number of phases and the phases will be built based on funding available. We have secured a DNR grant to pay for fifty percent of this project cost which is estimated at 1-1.2 million dollars. This project would consist of a couple different components. The first would be to raise the pedestrian trail between 2<sup>nd</sup> and 4<sup>th</sup> Ave NE. From 4<sup>th</sup> Ave to the railroad embankment the project would consist of earthen berms and structural walls which would be around the lift station. We are trying to protect a major lift station that pumps wastewater from the Hormel Plant. Over two million gallons of Hormel wastewater is pumped through that lift station per day. In the 2002 and 2004 floods we had to build a dyke around that lift station to keep it in operation. The consequences of that lift station are significant; the wastewater from Hormel is high strength wastewater which would be an environment impact and also the economical impact. The economic impact of losing this lift station is over six hundred thousand dollars per day to shut down Hormel Plant and about three million dollars per day of hog sales that would go to surrounding farmers. The area from 2<sup>nd</sup> Ave to 4<sup>th</sup> Ave NE would consist of 940 cubic yards and the area from 4<sup>th</sup> Ave NE to the railroad would consist of 750 cubic yards. These projects separate would be under the required 1,000 cubic yards, but we put the projects together so there is about 1,700 cubic yards in this area. Based on the overall project accomplishments and project goals of protecting property the request for the conditional use permit meets the goals of the City of Austin and impacted properties and we have demonstrated based on the rules and regulations for the other permits that we are required to receive that the impacts are below the standards that are allowable.

Commission Member Stutzman asked if contaminated fill would be used in the berm.

Mr. Erichson said he is not sure what contaminated fill referred to but the fill used to construct a berm is a very special soil. It is an impervious clay and there are very tight specifications for

that to prevent water from seeping through the earthen berms. The standards for earth berms are very rigorous and FEMA looks at these berms as similar to the Red River Valley berms or the New Orleans berms.

Commission Member McCarthy said it was stated that Dobbins Creek would only raise 1.66' upstream. My concern is with what is going to happen downstream.

Mr. Erichson said the concern is not downstream, we are not increasing the amount of water going downstream.

Commission Member McCarthy said the properties north of the 4<sup>th</sup> Avenue bridge would be protected but what happens after the bridge. I am picturing Riverside Arena and the Vineyard church being flooded.

Mr. Erichson said the velocity and amount of water remains the same. If the 4<sup>th</sup> Avenue NE bridge previously acted as a dam that could happen. An example of that would be the bridge before Pizza Hut. Pizza Hut in 2004 did not flood because the bridge upstream acted as a diversion to protect Pizza Hut. We are not enlarging the bridge opening at all or increasing the amount of water by changing the size of any storm sewer openings.

Commission Member McCarthy asked if the berms and walls would just make the water higher.

Mr. Hoium pointed out on a graphic the I-90 bridge and how it is a bottleneck where the flow of waters are restricted. Having the berms downstream is not going to affect the amount of water coming through the I-90 bridge.

Mr. Erichson said in 2004 the I-90 bridge was not a limiting factor. What we are trying to do is address how much water is coming into Austin, we cannot change that amount of water. We are forced with the issue of protecting the structures within the City of Austin.

Pastor from The Vineyard Church in Austin stated his concern that the water is going to flow faster to the south and would hit the houses on the east side of the river and the three churches on the west side of the river. My second comment is as an outdoorsman it is nearly impossible to run a canoe down the river. We used to be able to go from Mill Pond to the dam and back. We cannot do that anymore because of sandbars and down trees in the river. Years ago I read an article in the paper that said the City was going to work the DNR to make sure this river was a recreational river. It seems the cart is going before the horse by not maintaining the river. There have got to be simpler and cheaper ways to do this. You are looking at saving Hormel but what about the people who live on the east side of the river and these three churches how about the building we are in now.

Don Hoban, 702 2<sup>nd</sup> Ave NE stated 2004 was the first time his property flooded. Have you ever thought about dredging the river? The river used to be a lot deeper. There is a low spot in my back yard where the water goes now. If you build a berm there the water in my back yard is going to end up in my house.

Commission Member Banks asked Mr. Erichson if dredging had been researched.

Mr. Erichson said yes there have been a variety of studies and typically the benefit of a project has to be greater than the cost of the project in order to get funding. The condition of the river is a concern to a lot of people. There has been a great effort made to create the Cedar Watershed District which was formed in 2007 and involves four counties and eleven different

cities. There are efforts being made to address such concerns but a lot of those issues are outside the City of Austin. In the meantime we have to do what we can to protect the structures in Austin against flooding. If you look back in 1908 a flood event happened that was as large as the flood in 2004 before any changes to the land had been made. There was a lot more water in 2004 than in any previous flood. There are a lot efforts being made to address concerns about the river. Should we go dredge the river because the agricultural practices and continuing erosion the river would fill right back up.

Commission Member McCarthy said you are spending twenty-eight million dollars, that to me looks like it is being thrown away. You have the boat on the Mill Pond trying to bring in tourists and there are buoys all over because it is so low. I don't think you have looked at dredging. There is a lot of talk and not a lot of action.

Mr. Erichson said yes we have and that is why we have commissioned \$100,000 study to look at that. We have answered those questions with those studies for meetings such as this and we have done that.

Commission Member Bankes said there is rock along areas of the river to stabilize. All of the other practices add sediment to the river, first you have to control the water before you can dredge that sediment.

Mr. Erichson said that is correct.

Commission Member Bankes asked if the berms have any impact on the sediment in the river.

Mr. Erichson said the berms will not change the surface level elevation.

Commission Member Stutzman asked how many people were notified of this hearing and how many people would be affected by the proposed berm.

Mr. Hoium said he is not sure of the exact numbers but notices are sent to anyone within 350 feet of this phase of the proposed project. Concerning the silt and erosion problem we have tried to address that with storm water retention.

Mr. Erichson said the goals of this project is the number of parcels that fall within the flood plain. Anytime someone takes out a loan on a parcel in the flood plain they are required to purchase flood insurance. One of our goals was to reduce the number of parcels that require flood insurance.

Commission Member McCarthy mentioned that this request is for Phase 8, have 1-7 been done.

Mr. Erichson stated in the original study the phases were numbered starting at I-90 and worked down the river and up the other side. This phase is first because the lift station needs to be protected to prevent the environmental danger and also it has the greatest benefit for the cost. The DNR gave us a grant to cover 50% of the cost of this project.

Commission Member McCarthy asked if property owners are aware that Phase 8 is the first phase?

Mr. Erichson said you have to start somewhere. The grant we received also provides for the detailed design for the rest of the project. It is our intent to build Phase 8 and do the remaining

design work for the entire north main project, on the shelf and ready to go as funding is available.

Commission Member McCarthy asked if berms would be on the west side of the river.

Mr. Erichson said this project is all on the east side of the river.

Commission Member Stutzman asked if any adjacent property owners would be assessed anything for this project.

Mr. Erichson said no, there are three components for the funding of this project, a DNR grant, \$100,000 from Hormel and the remaining portion through the half cent sales tax.

Pastor from Vineyard Church said you have not addressed getting the trees out of the river. Floods are God's way of cleaning out rivers to make them safe again.

Mr. Erichson said we support moving the trees within the City of Austin and we can work with the Cedar River Watershed to see what can be done.

Commission Member Mair said it is time to get to a motion.

Commission Member Bennett made a motion to approve a conditional use permit for approximately 1,700 cubic yards of material for a berm with Phase 8 of this project, seconded by Commission Member Bankes. Motion passed with 5 ayes and 1 nay. The nay being Commission Member McCarthy.

Mr. Hoium said there is a 15 day appeal period for this motion.

**OPEN PUBLIC HEARING:** To consider a request from Derrick Investments LLC for the amendment to a Planned Development District known as Fox Pointe Addition. The amendment would include building footprint location revisions and the construction of an additional private access road. Said action is pursuant to City Code Section 11.07 Subd.2 and 11.65 Subd.13

Mr. Hoium reviewed the request stating the history of the development and that there would not be a change in the number of structures and the design would also remain the same. Only the location of the structures would change to provide an additional access road to the site. Mr. Hoium showed a graphic of the road with the proposed changes. The building exterior finishes would remain the same with permanent siding and brick finishes. If any action is taken regarding this request I would ask the Planning Commission to consider the following conditions:

- 1) Phase I of development shall be completed prior to construction beginning on Phase II
- 2) Written access easement shall be provided from Real Estate Equities (Cooperative Housing) for connection of the proposed new access road to the Cooperative Housing private roadway
- 3) Developer shall enter into a Development Agreement with the City of Austin for Phase II of the project
- 4) Email from Keven Maxa relating to vacating the easement and the relocation of new utilities easements

There were no calls from the public speaking for or against the project after notification.

Roger Derrick representing Derrick Investments, showed a map overview of the area and adjacent properties. In feed back from current owners and future buyers one complaint is access to the development. There would be a gate to the proposed private road. We are currently in dealings with Cooperative Housing to pay for a portion of the public road extension which would also benefit our development. The number of the structures is remaining the same, just the location is changing. A question I have for Craig is on condition number one when you say to complete Phase I do you mean land development.

Mr. Hoium said yes, the public infrastructure requirements.

Commission Member McCarthy made a motion to recommend approval of this amendment to the Planned Development District with the four conditions, seconded by Commission Member Bennett. Motion passed unanimously.

**NEW BUSINESS:** Proposal from Yaggy Colby Assoc for a Comprehensive Plan Update

Mr. Hoium reviewed the four areas of the Comprehensive Plan that need updating. On August 6<sup>th</sup>, 2007 I reviewed the proposal at a work session with the City Council. A motion was approved to take the proposal to the City Council meeting on August 20<sup>th</sup>, 2007. Because of budget purposes they recommended that number one and number four be in the budget for this year and the other two in the budget for 2008.

Commission Member Bennett made a motion to adjourn the Planning Commission Meeting at 6:45 P.M., seconded by Commission Member Martin. Motion passed unanimously.