

**MINUTES**  
**AUSTIN CITY PLANNING COMMISSION**  
**TUESDAY, FEBRUARY 9, 2010**  
**5:30 P.M.**  
**AUSTIN CITY COUNCIL CHAMBERS**

**MEMBERS PRESENT:** Lonnie Skalicky, Jodi Krueger, Jim Mino, Tony Bennett, Jeff Bednar, Shawn Martin, and Steve Kime

**MEMBERS ABSENT:** Lynn Spainhower, and Kathy Stutzman

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

Commission Member Skalicky made a motion to approve the January 12, 2009 Planning Commission Minutes as written, seconded by Commission Member Mino. Motion passed unanimously.

**OPEN PUBLIC HEARING:** To consider a request from Gary T. Corcoran, 203 10<sup>th</sup> Ave NW, for the rezoning of property located at 300 2<sup>nd</sup> St SW from an "R-1" Single-Family Residence District to an "R-2" Multi-Family Residence District. This requested action relates to the expanded use to an existing adult care facility and is pursuant to City Code Section 11.30, Subd.2 (D), 11.31, Subd.2, and 11.02.

Craig Byram reviewed the request referring to the staff report. There was a discussion between Mr. Hoium and the petitioner prior to the purchase of this property that there would be a limit of six individuals as it is an "R-1" Single Family District. From a legal standpoint it is imperative that we identify the area in question in our comprehensive plan. The comprehensive plan is a well thought out assumed to be an accurate view of the intention of the city regarding the development of different areas in the city. Rezoning this property from an "R-1" to an "R-2" would take the property out of compliance with our comprehensive plan. This rezoning would create a conflict between the comprehensive plan designating the property as a low density residential and the proposed change which is an "R-2" high density development. Mr. Byram showed a graphic of the site pointing out that it is surrounded on all sides by low density "R-1" properties. He then read information on how to determine issues such as this regarding zoning. The current zoning classifications are presumed to be well planned and intended to be more or less permanent. It is the city's public policy with regard to future development and land use as laid out in the comprehensive plan is a useful tool. The burden is on the petitioner to describe why the zoning of this property does not make sense or fit into the neighborhood or some other major reason why it should be rezoned.

Commission Member Skalicky asked how many properties this would effect.

Mr. Byram said this will only rezone the single property.

Commission Member Skalicky asked if this property were to be rezoned could other properties also ask to be rezoned.

Mr. Byram said that is a concern when you create an island like this. There are properties in this neighborhood that are used as multi-family structures but they are non-conforming. We hope to eliminate

the number of non-conforming properties over time and keep the character of the neighborhood as an “R-1” District. To rezone this property would endorse a use we are trying to move out of this neighborhood.

Commission Member Skalicky asked if letters were sent out to neighbors.

Mr. Byram said yes and Mr. Hoium said there was no response for or against the request.

Commission Member Bennett asked what the maximum number of people allowed would be if the property were rezoned.

Mr. Byram said it would go from 6 to 16 people.

Commission Member Bennett asked if the comprehensive plan should be amended if this request were to be approved.

Mr. Byram said he would like to make sure the comprehensive plan is looked at before making a zoning change. More importantly is to know why this area of town is labeled as a low density residential.

Commission Member Martin asked if an increase of people would create an issue with parking.

Mr. Byram said he does not know but if the property were to be rezoned and the current business failed, any high density residential use would be allowed at this property.

Commission Member Mino asked if conditions can be placed on this rezoning.

Mr. Byram said no conditions can be placed, only a yes or no to rezoning the property.

Gary Corcoran, 203 10<sup>th</sup> Ave NW, said he purchased the property in July of 2007 with the intent of opening an assisted living home specializing in mental disabilities. We were aware that there was a limit of six residents with the indication that there could be more. Mr. Corcoran wants the expansion for financial reasons and he believes they provide a great service for the community. They would only be licensed for ten residents with the intention of having eight residents. Parking is not an issue. There are multi-family homes in every direction of this property. Mr. Corcoran showed a thirty second commercial to show what Reflections is and what they represent.

Michaell Bednar, 505 4<sup>th</sup> St SW, said she lives a couple blocks from this property and has lived in the neighborhood for forty years. This property is only one block from commercial properties and as I have been in the neighborhood for forty years I have seen the single family homes turned into multi-family homes whether they are legal or not, they are there. Gary employs people 24 hours a day and his payroll just at this property is around \$100,000. He has done all this without help; everything has been out of his own pocket. I think you should keep these things in mind when looking at this request.

Commission Member Martin asked about the non-conforming properties and can they be brought back into compliance.

Mr. Byram said Mr. Hoium’s office would have to take a look at the properties. If the use existed at the time the zoning classification was created the property is grandfathered in. Grandfathered properties cannot be forcibly changed by the city unless they are vacant for twelve months or are destroyed by some kind of calamity. If any change is made to these properties it must be towards compliance.

Commission Member Mino asked if this area has always been zoned “R-1”.

Mr. Byram said he does not have that history but can say it has been as long as our comprehensive plan has been in place.

Commission Member Skalicky asked if The Kingsland house is also assisted living.

Mrs. Bednar said it is assisted living.

Commission Member Bennett said other properties would not be going against the comprehensive plan but the proposed property would be.

Mr. Byram said each individual property has to be looked at individually. His comments on the comprehensive plan are that you are being asked to change the zoning of this parcel to an island of one "R-2" property in a sea of "R-1" properties when we have a comprehensive plan that has designated this area to be an "R-1" District.

Commission Member Bennett said he does not believe we should look at other properties and their compliance with the comprehensive plan when making a decision on this property.

Commission Member Martin asked when the comprehensive plan is up for review.

Commission Member Bennett said he is not sure but does not believe that would affect how this property is zoned.

Dick Pacholl, 815 10<sup>th</sup> Ave SW asked what could happen if this property was to be rezoned.

Mr. Byram said if the property is rezoned it would make more sense if the city were to see the entire neighborhood as high density residential versus a single property. He pointed out in the back up material regarding spot zoning and concerns about that.

Commission Member Skalicky asked if there is anyway to change the figure of 16 residents allowed.

Mr. Byram said that would require an ordinance change.

Commission Member Krueger asked how often this type of request happens where an island like this is created.

Mr. Byram said most of the time we see property rezoning because a property has been annexed into the city. Property is automatically zoned "R-1" when annexed into the city and have to be rezoned for anything else. That is fairly common. It is not common to rezone a property that does fit into the comprehensive plan to a district that would not be in compliance.

Commission Member Bednar made a motion to deny this request as it goes against our comprehensive plan and would create an island district, seconded by Commission Member Kime. Motion passed unanimously.

Commission Member Skalicky made a motion to adjourn the Planning Commission meeting at 6:00 P.M., seconded by Commission Member Martin. Motion passed unanimously

