

**MINUTES**  
**AUSTIN CITY PLANNING COMMISSION**  
**TUESDAY, DECEMBER 14, 2010**  
**5:30 P.M.**  
**AUSTIN CITY COUNCIL CHAMBERS**

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

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

The meeting was called to order at 5:30 P.M. by Commissioner Spainhower with no corrections to the agenda.

Commissioner Bennett made a motion to approve the November 9, 2010 Planning Commission Minutes as written, seconded by Commissioner Mino. Motion passed unanimously.

**Open Public Hearing:** To consider a request from Leo & Joanne Hansen, 1407 7<sup>th</sup> St SE, and Joy Maryanha, 1501 7<sup>th</sup> St SE, for a conditional use permit for the operation of a home occupation (massage therapy) at 1501 7<sup>th</sup> St SE. This action is pursuant to City Code Section 11.30, Subd.3, D for this property located in an "R-1" Single-Family Residence District.

Mr. Hoium made a clarification on the public hearing notice that went out on the home occupation or CUP request by Leo & Joanne Hansen that live at 1407 7<sup>th</sup> Street SE and own the property where this home occupation is to be located. The property is located at 1501 7<sup>th</sup> Street SE and in the public hearing notice, the property legal description was correct, the mailings went out to the correct adjacent properties, but the address listed on the notice was listed as 1407 and it should have been 1501. It doesn't nullify the notice or the legal process as there are provisions in our State Statute that allow for minor errors and omissions in hearing notices.

The property in question is located in the R-1 District. If you look at the surrounding land uses and zoning classifications they are all of a single family residential nature and the core provisions that this relates to are in City Code Section 11.30 Subd. 3. D. The proposed land use is a message therapy salon and in Subd. 3 there are actually a list of eight different conditions that in considering home occupations you must comply with. These are not elective items; you must comply with all the eight provisions.

Another code section that applies to this as with all conditional use permits requests are in City Code Section 11.56 which the planning commission should take into consideration when acting on a conditional use permit request and those items are Subd. A thru H, along with items in Subd. 5.

Referencing the monitor of a digital photo showing the proposed home occupation location, Mr. Hoium explained that the petitioner provided the floor plan of the main level and it appears the salon

business area in the front right hand side of the dwelling. The staff report includes three suggested conditions that should be taken into consideration by the planning commission when acting on the matter. 1) Only two customers allowed on the property at one time; 2) The requested hours of operation are limited to 9:00 am to 6:00 pm Monday thru Saturday; 3) Building code improvements must be complied with. Notices were sent out to adjacent properties owners and no calls or questions were received regarding the requested action.

Commissioner Skalicky asked about off street parking availability. Mr. Hoium pointed out the property does have a substantial hard surface driveway located along the north side of the residence which could easily have two vehicles parked on the driveway or parked in front which should not create any obstruction. Commissioner Skalicky questioned how long the treatments take? The petitioner was not at the hearing and was unable to answer, Mr. Hoium stated generally ½ -1 hour.

Commissioner Spainhower felt that questions could be answer better if the petitioner was in attendance of the meeting. Like, how many therapists will be working at one time? If she is planning to use one-third of the home area, what else is she planning to use for a waiting area, check out and payment? How much of the living room area is being used? Stress that Section 11.30 Subd. 3 all need to be in compliance. Mr. Hoium went over reason for limitation on home occupations to a maximum of two customers. Stating her parents own the property being reviewed but, do not live at the property.

Commissioner Mino questioned if under a conditional use permit that if once the CUP is issued does it stay with the property as well as the restrictions they put on the residence such as business hours, even if the property is sold. Mr. Hoium replied that the hours were requested by the applicant. If the petitioner wants to change the hours, they would have to request for an amendment to their conditional use permit and there is a fee of \$225.

A motion was made by Commissioner Skalicky to approve the conditional use permit subject to complying the eight conditions being meet under Section 11.30 Subd.3. Commissioner Bednar seconded and the motion was passed unanimously.

Commissioner Spainhower wanted clarification on if this recommendation goes to council or if there would be a waiting period. Mr. Hoium indicated there would be a 15 day appeal period and if no appeal was received, this action taken would be final.

**Open Public Hearing:** To consider a request from Shirley Thielman, 1913 4<sup>th</sup> Ave SE, and Shelly Thielman, 403 15<sup>th</sup> St SE for a conditional use permit for the operation of a home occupation (massage therapy) at 403 15<sup>th</sup> St SE. This action is pursuant to City Code Section 11.30, Subd.3, D for this property located in an "R-1" Single-Family Residence District.

Mr. Hoium explained this requested action as being similar to the previous conditional use permit and also a jointly owned property. The home owner resides at 1913 4<sup>th</sup> Avenue SE and the home occupation would take place at 403 15<sup>th</sup> Street SE. The property is located in an R-1 District and surrounding land usage is of a residential nature. Section 11.30 Subd. 3 provisions are not optional as they need to be complied with. The planning commission needs to reference Section 11.56 Subd. 1 items A thru H and the five bullet points in Subd. 5. The staff report summarized details of this home occupation.

Mr. Hoium referred to the overhead monitor of the home location and the hard surface driveway on the north side of the dwelling. The drawing shows the massage therapy business operation would

take place in the southeast corner of the residence in a room that is 9' x 11' in dimensions. The petitioner is here for any questions regarding this public hearing.

Commissioner Spainhower asked the petitioner to approach the podium for questions. Shelly Thielman stated her name and address as being 403 15<sup>th</sup> Street SE. Commissioner Spainhower asked who is living in the household, who is going to be the message therapist and how many therapists will be working at any given time? Ms. Thielman stated she was the only person. Commissioner Spainhower asked about the owner engaging in any massage therapy and Ms. Thielman answer that it would only be her and not Shirley Thielman, the home owner. Commissioner Spainhower asked if there would be any products sales and Ms. Theilman indicated there would be no product sales. Commissioner Spainhower asked for clarification on the entry of the home occupation. Ms. Thielman indicated entry would be through the side entry into the kitchen and the bathroom.

Commissioner Skalicky questioned adequate parking for the home occupation and how long the treatments would be. Ms. Thielman stated she has a long driveway and treatments were usually one hour as she does not due back-to-back appointments; maybe one every couple hours or one a day. She did not feel there would be any congestion in traffic. Commission Spainhower asked about another client showing up and Ms. Thielman stated the doors are locked when she is with a client.

Commissioner Mino made a motion to grant the conditional use permit to Shelly Thielman after studying the Section 11.56 code and feel that it meets all those standards as well as Subd. 1 and Subd. 5. The eight elements of Section 11.30 Subd 3 should be noted as required as well as the three points from the Staff Report be part of the conditional use permit. Commission Martin seconded and the motion was passed unanimously.

#### **Other Business:**

Mr. Hoium addressed that there would be three planning commission members leaving; two current planning commission members whose terms are expiring and one who was elected to a county commissioner's position. They are Tony Bennett, Shawn Martin and Kathy Stutzman. He expressed on behalf of the city staff, the city council and the citizens of the community the sincere appreciation for their commitment to the community. Each individual has been an excellent planning commission member, involved with public hearings and conducted themselves in very professional matter. They have all treated both staff and petitioners with respect and have always had good questions, thoughts, ideas during the public hearings. This is a very important aspect of city government and these parting members have been involved with a wide range of issues that have come in front of the planning commission. Some may have been more critical, controversial than others but no matter what the subject matter all three have done a great job. Mr. Hoium wished the best to each of them, their families and to their future endeavors. Before the January Planning Commission meeting we will have a short social event in the lobby to recognize each member and to also introduce the three new planning commission members. A notice will be sent out regarding this and Mr. Hoium, again, expressed a sincere thank you for the parting members' time and efforts.

Commission Spainhower expressed what a pleasure it had been working with the members and how they made her job easier by asking such good questions and attending meetings fully prepared. They knew the issues and it make the process easier and more effective. She thanked them for everything they had contributed to the Planning Commission.

Commissioner Bennett made a motion to adjourn the Planning Commission Meeting at 5:50 pm, seconded by Commissioner Stutzman. Motion passed unanimously.