

**MINUTES  
AUSTIN CITY PLANNING COMMISSION  
TUESDAY, JULY 11, 2017  
5:30 P.M.  
AUSTIN CITY COUNCIL CHAMBERS**

**MEMBERS PRESENT:** Rick Bremner, Megan Burroughs, Steve Kime, Jay Lutz, Jim Mino, Troy Nelson, Michael Postma, Greg Siems and Aaron Stewart

**OTHERS PRESENT:** Holly Wallace, Craig Byram, Jon Erichson, Susan Strandberg and public

Commissioner Kime called the meeting to order at 5:30 p.m. Commissioner Nelson made a motion to approve the June 13, 2017 Planning Commission Meeting minutes with the removal of a sentence in all capital letters in item number 4 on page two. Commissioner Bremner seconded the motion. All were in favor and the motion was carried.

**SIGN APPEAL:** To consider an appeal to place signs on behalf of a charitable organization at various off-premise locations, including the public right of way.

The petitioner, Austin Area Commission for the Arts (AACA), a charitable organization, is requesting to keep the signs at various locations in the city. They have existing 4' x 8' signs that do not meet the size restrictions of City Ordinance. The placement of signs in the public right of way also require specific permitting. There have not been complaints about the signs. AACA is making the request to ensure compliance.

The AACA has permission from the property owners to place the signs in their current locations. Locations include: Kwik Trip (Oakland Ave), Cedars, 18th Ave NW (Hy-Vee Gas), Arts Center (sidewalk) and former Park and Rec Building (sidewalk).

**Holly Wallace reviewed City Ordinances applicable to this request and Planning Commission considerations.**

**Austin City Code Section 4.50, Schedule I (9)** allows in any zoning district: "[S]igns giving the name or a simple announcement for any public, charitable, education or religious institution and not exceeding 24 square feet in area; (Ground-mounted signs shall not exceed eight feet in height. Building mounted signs shall be placed flat against a wall and shall not extend above the parapet.)."

The dimensions of the signs are 4' x 8' which exceeds the allowed 24 sq. ft. limit for charitable signs.

**Austin City Code Section 4.50, Schedule IV (1)(e)** – sandwich board signs. Ordinance parameters include size, location, time and condition of the sidewalk.

The Arts Center has a permit for sandwich boards, however it applies only to the side walk adjacent to the Center and the size limit is 12 sq. ft. The boards must be removed when the business is closed.

If the non-sidewalk signs met the size requirement, they would be exempt from permitting requirements.

The intent of the sandwich board ordinance is to protect pedestrians from hazards in the public right of way, while allowing flexibility in advertising to the adjacent property owner. The general size limit for charitable signs limits traffic visibility concerns.

This is a recommendation to council, the Commission may grant, deny or add conditions to the request.

The Planning Commission should consider whether:

1. The sign request is due to unusual conditions pertaining to sign needs for a specific building or lot.
2. The sign would not create a hazard.
3. The sign would not violate Minnesota Statutes or rules and regulations developed pursuant hereto.
4. The sign would not be objectionable to adjacent property owners.
5. The sign would not adversely affect residential property.
6. The sign would be in keeping with the general character of the surrounding area.

**Ms. Wallace also reviewed findings required for all types of variances. This information is in the meeting materials.**

Economic considerations alone do not constitute practical difficulties. Changing the size of the signs could present a practical difficulty because it would change the nature of the sign. AACA Board member Jeff Baldus commented that the signs could possibly be adjusted vertically and the signs may change in the future because the Utility building, which is scheduled for redevelopment, is featured in the design.

Commissioner Bremner questioned why the size was set at 24 square feet and if the Commission could allow the signs to be placed without having to amend the ordinance.

Craig Byram informed the Commission they could review the guidelines and determine whether or not this specific circumstance met the spirit of the ordinance without necessarily adhering to the strict parameters of the ordinance. Their recommendation would go to City Council and would not set a precedent for future requests for different signs for different events at different locations.

He also informed that the ordinance allows for temporary banner signs for 30 days. Although the signs are not made of cloth attached to wooden frames, the Commission could determine that the signs are similar to banner signs because they are temporary and movable. AACA would not need to make another request in following years unless they located signs in different locations.

Commissioner Bremner made a motion to accept the appeal for this year, bearing in mind the six considerations set forth by staff. Motion was seconded by Commissioner Mino. Commissioner Postma offered an amendment to the motion to make the locations permanent and the duration of placement from May to September on an annual basis. Commissioner Burroughs seconded the amendment to the motion. Commissioners Postma, Burroughs and Siems voted in favor of the amendment, the rest of the Commission did not. The original motion was voted upon and was unanimously passed.

**OPEN PUBLIC HEARING:** To consider a petition from Pro-Growth Bank, Austin HRA and Fox Pointe Townhomes LP for approval of a final plat of their property in NW Austin, South of 24<sup>th</sup> Ave NW and West of 7<sup>th</sup> Street NW. Said action is pursuant to Austin City Code Section 13.10.

The petitioner is requesting approval of a final plat, now called North Pointe, a rezone and confirmation that this project conforms to the general plans for development and redevelopment of the City as a whole. The requested actions are required for residential redevelopment of the property. A previous residential development was partially completed but ultimately failed and was foreclosed. The site is approximately 8.05 acres. There are 10 lots consisting of two separately-owned sections.

- Lots 1-9 for proposed future single family development (3.25 acres, approximately 3 units/acre)
- Lot 10 for a pending townhome project, to be known as Fox Pointe Townhomes, covering a gross area of approximately 4.8 acres with 38 townhomes, (approximately 10 units/acre).

The property is located South of Murphy Creek along 24<sup>th</sup> Avenue NW and West of 7<sup>th</sup> Street NW. The partnership and efforts of Three Rivers, HRA, City of Austin and tax credit partner make this housing project economically feasible. The property will be managed by an additional entity, Lloyd Management.

**Ms. Wallace presented an Analysis and Conditions of Approval for Plat Plan found in the meeting materials and reviewed Staff Recommendations for Final Plat.**

**Staff Recommendation for Plat:**

The final plat is consistent with applicable provisions of Chapter 13, Subdivision Regulation, and could be compatible with the topography and adjacent property. Should the Planning Commission recommend approval of the final plat staff recommends the following conditions:

1. A development agreement shall be completed detailing utilities and minimum standards required for the pending project prior to recording the document.
2. The platted property shall conform to the future land use map and be rezoned from "Single-family with a High Density Planned Unit Overlay" to "R-2" Multi-Family.
3. Access/public utility easements and right-of-way vacation shall be substantially complete before the final plat is recorded.
4. No parking in the cul-de-sac. Fire hydrants shall be located as required by the Fire Chief/Fire Department.
5. Stormwater detention/retention shall be provided per city requirements and shall be owned by the developer.
6. A landscape plan shall be submitted with the final plat improvement plans.
7. All applicable provisions of the Subdivision code and permitting agencies shall be met.
8. Development agreements shall be completed prior to recording the document.

Jon Erichson from Austin HRA explained the plat had been reduced by one lot from the preliminary plat due to a neighbor's request to maintain play area for neighborhood children. The neighbor will maintain this area. Mr. Erichson also questioned rezoning the R-1 area to R-2 since the intent is to construct single family homes. Ms. Wallace explained it was easier to rezone the entire plat and the single-family lots, due their small size, would likely need to be replatted should a developer want to construct multi-family housing on lots one through nine.

Mr. Erichson also informed that an initial discussion with Village Co-Op for a connecting trail had taken place. He requested plat approval be contingent on the agreement for development and removal of the original Lot One.

Ms. Wallace added that two separate development agreements will be executed; one for the single-family homes owned by HRA, the other with Three Rivers Community Action for the townhomes.

The single family homes will have driveway access to the North on 24<sup>th</sup> Street and there will still be access to the original Lot One. It is Public Right of Way.

Commissioner Bremner moved to approve the final plat of property in NW Austin, South of 24<sup>th</sup> Ave NW and West of 7<sup>th</sup> Street NW subject to the eight conditions listed in Staff Recommendations. Commissioner Siems seconded the motion. Motion was passed.

**OPEN PUBLIC HEARING:** To consider a petition from Pro-Growth Bank, Austin HRA and Fox Pointe Townhomes LP to rezone the platted area “R-1” Single Family district to an “R-2” Multi-Family Residential District. This action is in conformity with the Comprehensive Plan.

The area around the proposed platted parcel is undeveloped, zoned R-1 Single Family and R-1 Single Family with a Planned Development Overlay, which also includes a High-Density PUD (Village Co-op).

The rezoned area will include the entire North Pointe Plat. The requested action is compatible with provisions in our Comprehensive Plan that regulate future development in this area of the community and the Future Land Use Map.

**Ms. Wallace reviewed the parameters for an R-2, Multi-Family District found in the meeting materials.**

The townhome development is committed to multi-family because of the funding source and the single-family lots are committed to single-family residential primarily due to lot size. However, any of the permitted uses in an R-2 district would be allowed.

The Commission questioned if, per Jon Erichson’s comment, the R-1 Single Family section should remain R-1 to honor the use description Austin HRA provided the neighborhood. A separate legal description would be necessary to maintain the R-1 designation, but it would be possible. Ms. Wallace stated that the neighbors had received notice of the change to an R-2 designation and she had not received any comments.

Jon Erichson informed that the intent to sell properties one through nine would be as single family and could be conditions of the sale. The lots at 7,000 square feet are relatively small and would not likely accommodate other R-2 uses.

Commissioner Bremner moved to approve the rezone of the platted area “R-1” Single Family district to an “R-2” Multi-Family Residential District per recommendation of staff. Commissioner Mino seconded the motion. Motion was passed.

(Note: later in the meeting citizen Chuck Larson, who resides next to the platted area, stated he and some of his neighbors are concerned about junk accumulation, animal noise and other possible problems once the property is developed. He also had a concern about a stake with a flag on his property.

Mr. Byram reminded the Commission and Mr. Larson that the land directly in front of Mr. Larson's property has buried debris and it will be difficult to develop this area. Ms. Wallace stated that the stake will eventually be removed. Mr. Larson was satisfied with the answers he received.)

**RESOLUTION:** To determine that the Fox Pointe Townhome project within the Tax Increment Finance (TIF) District conforms to the general plans for development of the City as a whole.

A TIF District is a way to subsidize a redevelopment, infrastructure or other community improvement projects by removing a tax liability to the area. This proposed plan would be over a 25-year span and would be approved by the City, County and school district. Planning Commission's role is to determine if the TIF plan conforms to the general plans for development of the City as a whole. The Commission should consider the goals and policies discussed earlier in the meeting and the meeting materials. A resolution needs a majority vote.

Commissioner Mino moved that it be resolved by the Commission that the TIF Plan conforms to the general plans for the development and redevelopment of the City as a whole. Commissioner Postma seconded the motion. Motion was passed.

**OPEN PUBLIC HEARING:** To consider a request from David Olson, o/b/o Sunbelt Motors, LLC, to continue auto sales at its current location in a "B-2" Community Business Zone. This request is pursuant to City Code Section 11.56, Subdivision 1

Sunbelt Motors, LLC, located at 904 Oakland Avenue West, is an existing used car sales business, recently sold to David Olson. No Conditional Use Permit was obtained by the original owner. Parcel is approximately 4700 sq. ft. The building is approximately 1200 sq. ft. Current zoning of surrounding property is North – "R-2" Multi-Family; East, West and South- Commercial Business-"B-2" District.

**Ms. Wallace reviewed the applicable code, Section 11.56, Subdivision 1 of Code Section 11.41, Subd. 3 Conditional Uses, as well Subdivision 5, Other Uses and Subdivision 2, found in the meeting materials.**

**Staff Recommendations:**

If the Planning Commission should choose to approve this requested conditional use permit, consideration should be given to include the following conditions with this approval:

- a) Off street parking compliant with building code and local zoning ordinances. 1 space/500 sq ft gross floor area. Minimum two spaces required.
- b) 20% greenspace required. Requirement met.
- c) No more than 4-5 cars for sale at one time.
- d) Hours of business shall be clarified.
- e) On-site lighting shall be downward designed to minimize any adverse effects to adjacent residential properties.

The Owner spoke to the insurance business owner to the East of the property and there were no concerns. Notices were sent to approximately 40 surrounding property owners. Ms. Wallace has not received any comments about the CUP. Commissioner Burroughs spoke to John Howe, owner of many surrounding properties. Mr. Howe has an objection to the CUP stating it violates state laws regarding car sales on car sales lots. He contends that there are set hours and maximum number of cars on the lot restrictions.

Ms. Wallace stated that through the state licensing process the owner must conform to state law. Mr. Byram directed the Commission to focus on land use and zoning, not state licensing law.

Commissioner Kime requested a motion. Commissioner Bremner moved to continue the request to the August 15, 2017 meeting since the owner was not present to represent himself. Commissioner Nelson seconded the motion. Motion was carried.

**OTHER BUSINESS:** Review proposed fence ordinance revisions.

The attention of public officials and city staff has been drawn to safety concerns in areas where industrial uses or industrial districts are located in close proximity to residential areas, parks, trails or are generally accessible. In I-1 Industrial districts, fencing is required for outdoor storage of materials in specific circumstances. Ms. Wallace proposed that similar language apply to I-2 Industrial areas. The type of fencing, placement, height and other details should also be clarified in the fence ordinance. The ordinance, with proposed changes, was provided with the meeting materials.

Commissioner Bremner suggested a minor change to state that seasonally installed fences for snow can be installed *without a permit*. Ms. Wallace noted that City Engineer Steven Lang thought the height limitation for fences should not be changed from 30 inches to 36 inches. There is not conclusive evidence that the six inches would make a significant difference in sight lines for drivers.

Commissioner Mino moved to recommend to City Council the proposed changes to the fence ordinance to make I-1 and I-2 ordinance language consistent. Commissioner Steward seconded the motion. Motion was carried. Commissioner Bremner moved to accept Staff's recommended changes to the fence ordinance, including the snow fence permit change. Commissioner Nelson seconded the motion. Motion carried.

## **ADJOURN**

Commissioner Nelson made a motion to adjourn the meeting and Commissioner Bremner seconded the motion. The motion passed and the meeting was adjourned at 7:00 pm.