



City of Pflugerville

Minutes - Final Planning and Zoning Commission

Monday, January 3, 2011

7:00 PM

100 E Main St., Suite 500

1 Call to Order

Mr. Blackburn called the meeting to order at 7pm.

Staff present: Brandon Wade, City Manager; Floyd Akers, City Attorney; Trey Fletcher, Managing Director of Operations/Interim Planning Director; Jeremy Frazzell, Senior Planner; Erin Sellers, Planner II; Hazel Sherrod, Planning Administrative Tech.

Present 5 - Chairman Najji Norder, Member Rodney Blackburn, Member Lisa Ely, Member Kathy Taylor, and Member Kirk Lowe

Absent 2 - Member Sam Storms, and Vice Chairman Thomas Anker

2 Citizens Communication

There were none.

3 Public Hearing

2010-0351 To receive public comment and consider an application to rezone approximately 26.6 acres of a 43.6-acre tract of land recorded in Document No. 2007122141 and 2008046183, generally located southwest of Olympic Dr. and Heatherwilde Blvd. intersection, from Alternative Land Use Regulation (ALUR) to a Single-Family Suburban (SF-S) District; and to provide associated amendments to the Wells Point Alternative Land Use Regulation District (ALUR) to address the proposed rezoning; to be known as the Reserve at Heatherwilde Rezoning (REZ1011-02).

As requested by the applicant this item was tabled.

ORD-0040

To receive public comment and consider an application for a Specific Use Permit for a proposed Body Art Studio in the Central Business District for Lots 10-12, Block A of the Pflugerville Subdivision, locally known as 101 E. Pecan St, generally located at the southeast corner of S. 1st St. and Pecan St; to be known as the Freedom Machine Tattoo Specific Use Permit (SUP1011-01).

Mr. Frazzell presented this item. The proposed location for the tattoo parlor is approximately 450 sq. ft. of space. There are no external structural modifications needed to the building or to the signage. The requirement for parking is met. The applicant's request for a Specific Use Permit meets the criteria for approval. The Text Amendment to allow for consideration of this use was approved in November 2010 by the City Council. The proposed sign for the business will be constructed of wood and be 4 feet tall by 14 inches wide.

The criteria for approval of a Specific Use Permit are as stated below:

- Whether the use is harmonious and compatible with its surrounding existing uses or proposed uses;
- Whether the activities requested by the applicant are normally associated with the requested use;
- Whether the nature of the use is reasonable; and
- Whether any impact on the surrounding area has been mitigated.

In granting the Specific Use Permit, the City Council may impose written conditions that the owner or grantee must comply with before a Certificate of Occupancy for the use can be issued.

Staff recommends approval.

Ryan Dodson at 1607 Old Tract Road spoke, thanking staff and the commissioners for the opportunity hear his case.

Ms. Taylor asked Mr. Dodson how he confirms that customers walking in his door to get tattoos are of legal age.

Mr. Dodson answered that there is a release form to be filled out and a photocopy of IDs are made and kept on file for the Texas Department of Health. There are two random inspections to such businesses yearly to ensure that the rules and regulations are followed.

Jason Budmon residing at 3332 Taylor Falls Drive spoke to allow the tattoo parlor. Mr. Budmon reviewed the staff report and presentation items and wanted to be represented as a character witness for the applicant.

Kevin Pakenham residing at 1101 Swenson Farms Blvd., spoke against the Tattoo Parlor. His concern is what will take the place of the tattoo parlor if Mr. Dodson vacates his business, the consequences of a specific use permit. Mr. Pakenham also stated that he believes there is a daycare facility within 1000 feet of the proposed tattoo parlor and the business is already in violation

Mr. Dodson spoke pertaining to this and he has a letter from the owner of the Ireland Kingdom childcare facility, stating that she is in approval of the tattoo parlors location. Mr. Dodson gave a copy of this letter to Hazel Sherrod.

Mr. Fletcher noted that the ordinance passed last year has the condition about the 1000 ft. reference to daycare and churches. There is also an exception added to that condition; unless otherwise approved by a specific use permit process.

W. C. Kolinek owner of the Prague Market spoke; he questions the location of the tattoo parlor on Pecan St. Where does the City stop with these types of permits and can the permit get specific enough? Mr. Kolinek spoke with the applicant and has nothing against him but speaks against the parlor. He would like to urge the Commissioner to not approve the Specific Use Permit.

Mara Kauff a resident of Pflugerville spoke. Ms. Kauff does not feel that it is a family oriented business where she can walk in with her children. Ms. Kauff does not feel that this use is a harmonious use to what Pflugerville is about. What happens when there are changes to the business or hours of operation? Where and when do we limit those changes? Ms. Kauff proposes not to allow this type of business into the city limits of Pflugerville.

Clark Meier residing at 1207 Mountain View Dr. spoke. Mr. Meier would like to speak against the recommendation and feels the nature of the business is not aligned with the Pflugerville 2030 Vision efforts. Mr. Meier believes that not all businesses downtown are in compatibility with all of the downtown businesses. Mr. Meier would not like to see an adult oriented business cluster in the downtown area.

Mr. Norder asked what Mr. Meier's vision for the downtown area is.

Mr. Meier answered that it is heart of Pflugerville and is compatible with the family values with the downtown area.

David Taylor residing at 403 S 3rd St., Mr. Taylor is speaking on his behalf and not the Old Town Neighborhood Association, which he is President of. Mr. Taylor and Mr. Dodson did meet with some residents who were not keen on the idea of a tattoo parlor. Mr. Taylor believes that tattoo is a matter of perception; everybody has the perception that a tattoo parlor will draw criminals and bikers. Mr. Taylor believes this will be good business for downtown. He believes the Commission should support the approval of the special use permit.

Ann Dodson residing at 1607 Old Tract Rd. spoke and wanted to rebut against the negativity spoken toward the tattoo parlor. Ms. Dodson points out that there are three bars in the downtown area; the tattoo business will be closed at 9pm so her husband, Mr. Dodson, can come home to his family.

Jeff Coleman residing at 19608 Mallard Pond Trl., spoke noting that he is not pro tattoo but has nothing against it. Mr. Coleman believes we have a viable business that wants to come into the city and asked that the Commission supports the Specific Use Permit.

Hazel Sherrod residing in the Swenson Farms subdivision spoke in favor of the tattoo parlor.

Mr. Norder made a motion to close the public hearing. Mr. Blackburn seconded that motion. Public hearing closed.

Mr. Norder questioned Mr. Akers, City Attorney, about setting the restrictions as of hours of operation.

Mr. Akers answered yes we can set such restrictions.

Ms. Taylor asked if a new owner comes and relocate to the location in question would they have to follow the same regulations as the previous owner of a specific use permit.

Mr. Frazzell answered that as long as the requirements are met yes. If Mr. Dodson wanted to relocate his business later he will have to go again apply for a Specific Use Permit. Mr. Fletcher noted that the Specific Use Permit will stay on the land.

Mr. Blackburn reiterated what he heard were concerns as to what type of business clientele would come to the area. Mr. Blackburn noted that he did some research as to the type of clientele that gets tattoos, naming a few television actors/singers, U.S. Ambassador, Prince Charles, and former presidents with tattoos to name a few.

Ms. Ely commented she would have less of an issue with this type of business if it was not located on a main street.

Mr. Norder said that part of the issue is what downtown is going to be? He is perfectly willing to limit the hours, especially closing time and what is proposed for signage seems to be allowable.

Mr. Blackburn has no problems with the hours of operation because the parlor will be close, not long after the bars are opened.

Mr. Norder wants to set the hours from Noon to 9pm for business operation.

Mr. Blackburn does not have a problem with the signage because it will be reviewed by the Building Official.

Mr. Fletcher commented about conditions imposed on such Specific Use Permit.

Mr. Blackburn made a motion to approve 2010-0366 as read with the condition of hours of operation from noon to 9pm and the signage that meets the city's criteria. Mr. Lowe seconded the motion.

Mr. Blackburn voted Aye

Ms. Ely voted Nay

Ms. Taylor voted Aye

Mr. Lowe voted Aye

Mr. Norder voted Aye

Motion passes with a vote of 4 to 1

Aye: 4 - Chairman Naji Norder, Member Rodney Blackburn, Member Kathy Taylor, and Member Kirk Lowe

Nay: 1 - Member Lisa Ely

ORD-0041 To receive public comment and consider an application to change the zoning from Agriculture/Conservation (A) to General Business 1 (GB1) for a 5-acre tract out of the J. Davis Survey No 13, Abstract No. 231, within Pflugerville, TX to be known as the Blackhawk Commercial Rezoning. The property is generally located at 2711 Kelly La., east of Falcon Pointe Blvd. (REZ1011-03).

Trey Fletcher spoke on this item. The building is approximately 1500 sq. ft. Mr. Fletcher gave a history of the property including its annexation into the city of Pflugerville in 1996. The building was built in 1986. This zoning is in compliance with the Comprehensive Plan. Staff recommends Retail zoning instead of General Business-1, which is too intense. The balance of the property in question is that the maintenance building is on is not developed.

Mr. Norder asked about accessing the proposed business.

Mr. Fletcher noted that this will be a right in and right out for traffic only onto Kelly Lane.

Mr. Norder is concerned about the use of traffic coming in and out of the business upon the widening of Kelly Lane.

The applicant, Paul Linehan with Land Strategies spoke. The golf course has changed hands and with the widening of the street would make the use of the building, which is owned by the golf use, and is difficult to access. He would like the ability to make this location a nursery or such type of business. There is sufficient buffer and the business will not encroach on the residential neighborhood. Mr. Linehan gave a hard copy of maps to the commissioners to view in order to show compatibility use to the surrounding properties. Mr. Linehan meet with Mr. Fletcher earlier today and came to an agreement to go with the Retail zoning on the east side of the property, with existing structure, and General Business-1 zoning on the west side of the property. Mr. Linehan intends to be a good neighbor.

Mike Ussery, owner of the property spoke. Mr. Ussery reiterated what Mr. Linehan said and would like the zoning approved.

Mr. Blackburn asked if the applicant has an intended use for that building now.

Mr. Ussery answered no.

Mr. Blackburn asked Mr. Ussery if he would be willing to dress up the building and do a masonry facade if the zoning was approved.

Mr. Ussery noted that the building is used for storage of several chemicals used to maintain the golf course and the golf course facilities. Also there is an office for the maintenance supervisor and a break room for the staff to use.

Mark Klonower residing at 19217 Luedtke Lane, also the president of the Fairways of Blackhawk HOA, spoke against the rezoning. Mr. Klonower noted that he did get about 20 emails from the Fairways resident and they are against the rezoning also.

Christine Armstrong residing at 19020 Wandering Vine Cove spoke against the rezoning.

Lori Burck residing at 19012 Wandering Vine Cv., spoke, and reiterates what Mr. Klonower and Ms. Armstrong said. She too is against the rezoning.

Mr. Norder motioned to close the public hearing. Mr. Blackburn seconded. Public Hearing closed.

Mr. Norder made a motion to approve Retail zoning to the entire 5+ acres Tract of property known as Blackhawk Commercial. Mr. Blackburn seconded that motion. All in favor. Motion carried unanimously.

ORD-0042

To receive public comment on code amendments to Chapter 157: Unified Development Code; Amending Subchapter 2 Administration; (A)(B) and (D) by reassigning the authority of the Architectural Review Board (ARB) to the Planning and Zoning Commission and removing any references of the Architectural Review Board; Amending Subchapter 9; (F)(5) and (G)(5) by reassigning the responsibilities of the Architectural Review Board (ARB) to the Planning and Zoning Commission; and Amending Subchapter 20 (C) to remove the definition of Preliminary Architectural Plan.

Erin Sellers presented items 2010-0372 and 2010-0373 before the commissioners.

Erin Sellers pointed out the existing duties of the ARB and the redistribution of those duties.

Mr. Norder motioned to close the public hearing; no one signed up to speak.

Mr. Blackburn seconded all in favor. Public hearing closed.

Mr. Blackburn made a motion to approve both items as read. Mr. Norder seconded. All in favor. Motion carried unanimously.

ORD-0043 To receive public comment on code amendments to Chapter 155, Subchapter B: Central Business District; Amending Subsections 155.1202 Site Access and Circulation (E)(3); 155.1206 Landscaping and Screening (C) (1)(f); 155.1207 Site Lighting (D)(3)(d); 155.1305 Signs (O)(2)(j) by reassigning the responsibilities of the Architectural Review Board (ARB) to the Administrator; Amending Subsection 155.1306 Public Art by reassigning the responsibilities of the Architectural Review Board (ARB) to the Planning and Zoning Commission; Amending Subsections 155.1501 Review Bodies; 155.1502 General Review Provisions; 155.1504 Major Permit Review; 155.1505 Criteria for Approval; 155.1507 Modifications to Approved Permits by reestablishing general processes and procedures for plan approval; and Amending Subsection 155.1601 Defined Terms, Preliminary Architectural Plan.

Erin Sellers presented items 2010-0372 and 2010-0373 before the commissioners.

Erin Sellers pointed out the existing duties of the ARB and the redistribution of those duties.

Mr. Norder motioned to close the public hearing; no one signed up to speak.

Mr. Blackburn seconded all in favor. Public hearing closed.

Mr. Blackburn made a motion to approve both items as read. Mr. Norder seconded. All in favor. Motion carried unanimously.

4 Consent Agenda

2010-0289 Consider a Subdivision Variance and associated Preliminary Plan for Falcon Pointe #4A; a 62.37-acre tract of land out of the John Beckham Survey No. 16, Abstract No. 55, in Pflugerville, Texas. (PP1009-01)

This matter was Approved on the Consent Agenda.

2010-0365 Consider a Final Plat for Spring Trails Ph. 3 a 10.69-acre tract of land out of the John Van Winkle Survey No. 70, Abstract 787, in Pflugerville, Texas. (FP1011-01)

This matter was Approved on the Consent Agenda

2010-0370 Approve the minutes for the December 6, 2010 Planning and Zoning Commission meeting.

This matter was Approved on the Consent Agenda

2010-0374 Consider the 2011 meeting schedules for Preliminary Plats, Final Plats, Rezonings, and the Board of Adjustment included within the Supplemental Schedule.

This matter was Approved on the Consent Agenda

Discuss Only

2010-0376 Discuss the resolution approved by City Council concerning Council, Board, Commission, Committee expenses and reimbursements.
Mr. Fletcher presented this item.

Discuss and Consider

2010-0377 Appoint Chair, Vice Chair and Secretary to the Planning and Zoning Commission.
Mr. Blackburn nominated Mr. Norder to fill the position of Planning and Zoning Chair. Ms. Taylor seconded that motion. All in favor. Motion carried unanimously.
Mr. Norder nominated Mr. Anker for Vice-Chair of the Planning and Zoning Commission. Mr. Blackburn seconded that motion. All in favor. Motion carried unanimously.
The Secretary position will not be filled.

6 Council Action Update

2010-0375 City Council Updates
Mr. Fletcher presented this item.

7 Future Agenda Items

None at this time.

8 Adjourn

Mr. Blackburn motioned to adjourn. Mr. Norder seconded. Meeting adjourned at 9:08 pm.

Respectfully submitted by _____ on the ____ day of _____, 2011.

**Naji Norder, Chairman
Planning and Zoning Commission**