



**PLANNING & ZONING COMMISSION  
SPECIAL MEETING  
SEPTEMBER 12, 2006  
CITY HALL, 2610 SOUTH MAIN  
STAFFORD, TEXAS  
6:00 P.M.**

The Planning and Zoning Commission met in special session at Stafford City Hall at 6 p.m. on September 12, 2006.

**Present:**

Alma Birdwell, Chairman  
Joseph Olickan, Vice Chairman  
Christine Rector  
Joe Rome, Secretary  
Virginia Rosas  
Felix A. Vega  
Fred Woolridge

Mayor Leonard Scarcella  
Lawrence Vaccaro, Jr., Public Wks Director  
Pam Madrigal, City Engineer  
Gene Bane, Director of Bldg Permits & Nuisance  
Abatement/Zoning Administrator  
Jo Ann Holloway, P & Z Recording Secretary  
Cheryl Wilson, Attorney – Olson & Olson

**Absent:** N/A

**1. Roll Call.**

All commissioners were in attendance.

**2. Report and review by Mayor and Zoning Administrator and discussion of proper application of Assembly Group A-3 occupancies of zoning ordinance, including considerations pertaining to religious facilities.**

Mayor Scarcella welcomed the presence of the ABC Nightly News team, who has been touring the City all day. The Mayor stated that in view of the significant amount of national attention that this has generated, specifically, the number of Assembly Group A-3 occupancies, the City needs focus on this to give us some indication of why there has been so much attention given to this particular matter. "The City also hopes to redevelop some of its existing areas. The Planning & Zoning Commission and City Council have some important, as well as difficult decision to make in regards to these religious facilities. To put this discussion in context, there are some very simple facts that need to be addressed; (1) Within 7 sq miles, there are 51 diverse entities and out of these 7 sq miles, we have only ½ sq mile that remains undeveloped; we do hope to redevelop some of our existing areas. Among those entities; however, we do not have a Roman Catholic Church or a Jewish synagogue. This is quite a conglomeration of facilities, which are making a significant impact on this City. The Mayor emphasized that no religious facilities have been rejected or turned down. It is easy to understand why there is so much interest in Stafford. (2) Because of the diversity and the unique circumstances, the Planning & Zoning Commission and City Council have been very forthright in trying to discuss this issue as openly and candidly as possible. The media has been extremely fair in their coverage of the City regarding what we are attempting to do.

The impact on the future and vitality of this City is very important. The City has to look at the whole context in providing for the health, safety and growth of the City. There are a few questions that come up repeatedly; one being why do all these religious facilities want to come to Stafford?" The Mayor went on to say that the reasons boil down to this, Stafford is easy in that the City has:

- Limited bureaucracy
- The City attempts to expedite applications in contrast to some other cities that have lengthy processes.
- Few deed restrictions
- Excellent City services and it's very well located
- An ISO rating of "1" for the Fire Department
- A very good Police Department
- Excellent medical services

"Taking into consideration the logical impact of religious facilities coming into the City, the vitality of the City could be impeded. Ultimately, the value of private property would be reduced, City services could be diminished and there could be an exodus of businesses and residents from the City. The City has been very fortunate over its first 50 years and is now approaching \$2B in terms of valuation. If we are going to continue to grow and strive to attract people into our City, as well as businesses, we have got to implement the types of policies and procedures that will encourage those efforts. There is something that congress has put into effect, which was adopted in the year 2000, called the Religious Land Use and Institutionalized Persons Act (RLUIPA) that was signed by the President of the United States in September of 2000 and it is a very difficult standard to meet in terms of trying to apply the appropriate concerns of the community. It seems that the most important feature of RLUIPA is that the City must demonstrate a compelling governmental interest and if some approach is achieved of that nature, it has to be the least restrictive means that the City could impose upon a religious facility. In effect, what has happened is that the government has gone beyond interference and it could be argued that they are getting to the point of subsidizing religious institutions; a lot of people feel that is appropriate. There are two interesting facts that we need to keep in mind; first, although I have not been able to come up with what the Catholic, Jews, Muslims, Hindus and Buddhists get in contributions; in 2005, the Protestants, according to one authority, collected \$93B. The Protestants also built \$28B in facilities for their religious institutions. Secondly, the largest mega church in the nation (Lakewood Church) is just down the street and this church collects \$55M a year in contributions and spends \$12M a year in publicity; it is quite interesting how far this act goes; their pastor has a very nice home in a prestigious subdivision in Houston and it has a value of \$2.3M; while the taxes of his neighbors are in the range of \$50,000 per year, his is on the tax roles at \$58,000, but because it is considered a *parsonage*, there are no property taxes paid. Additionally, religious facilities virtually have exemptions for sales tax, franchise tax, and many other taxes. So the churches monetary contribution to government entities is quite limited. There are also some other interesting aspects worth noting; so much of what was in the federal legislation talked about churches, around here, we have the Muslim Mosque, Hindu temples and literally a Buddhist complex and I would suggest

that it brings up some very interesting things; especially in respect to President Bush talking quite recently about Islamic fanatics, and those are his terms, not mine. But we have tried to be very receptive. After 9/11, which just had an observance of its 5<sup>th</sup> anniversary, I was called by the Muslim Mosque representatives because of concerns on the part of the Muslims that there might be intimidation, retribution and some sort of harassment. I went to their Mosque and assured them at one of their prayer meetings that nothing like that would happen and in the event that they thought any of it was happening, to please call the police chief (Bonny Krahn) and if they were not satisfied with his response, to please call me. Fortunately, they were quite pleased with that answer. I would like to speak in regards to one area that ABC News must recognize; that is regarding US 90A improvements around the City and the significant amount of enhancements to have a very hometown and small town atmosphere. If the City was totally developed as religious facilities, it would seriously impact what the City is proposing, the millions of dollars that the City has spent, as well as the \$100M the state has spent on this project, which is a good example of some of the things the City is concerned about. Finally, it must be emphasized that the City's goal is not to ban religious facilities; somehow, the indications or implications have been to the contrary. The Planning & Zoning Commission and City Council are attempting, as best we can, to provide for the growth, welfare, vibrancy and vitality of the City. It has been commented that if you cannot get religion in Stafford, you probably cannot get it anywhere. These are facts that we must take into consideration as we go through this process."

Gene Bane noted that zoning is new to Stafford and that it was adopted April 2, 1997 so that the City could provide orderly growth, development and redevelopment to promote a healthy balance between residential & nonresidential land uses; at that time a lot of surrounding cities had already adopted zoning ordinances. Mr. Bane made the following comments: "Currently there are 51 religious facilities; too many of anything is probably not a good thing. Stafford has the reputation of having a lot of good restaurants. There are only 33 full-service restaurants, two large grocery stores to serve 18,000 residents and approximately a dozen gas stations. The zoning ordinance placed special provisions applicable to the Island area and encourages economic development to preserve, protect and reinforce the Island's historical significance and to also provide an identity for the City. The Island area is located in the Mixed Use zoning district. The permitted uses include, but are not limited to office, residential, retail, public facilities and entertainment. Five religious facilities reside within the Island area. In the future, a recommendation will be made to City Council to adopt stricter off-street parking requirements for A-3 assembly occupancies. The need for fire sprinkler systems for all A-3 assembly occupancies is being investigated. In 2003, the Mayor and City Council saw the need to address the A-3 assembly occupancies and the City held public meetings and hearings to discuss requirements for all A-3 occupancies and it was identified in the International Building Code that an SUP must be acquired before a Building Permit could be obtained; in early 2004, an ordinance was adopted. There are 63 A-3 assembly uses in the City, 51 of those being religious facilities. Of the remaining twelve, 6 are public buildings. One of the main reasons for adopting an SUP was to prevent A-3 occupancies from locating in an area that was not compatible with the surrounding uses. Other reasons were to

address off-street parking, noise, lights, traffic, etc. that could affect neighboring properties. The Permit Department reviews all these issues so that additional problems aren't created. It is difficult to turn them down and they are protected by the constitution. The Permits Department mainly wants to make sure that religious facilities don't go into an area where they are not compatible and keep our emotions out of it."

Felix Vega asked if Day Care Centers that are part of a church count as Assembly Group A-3 occupancies.

Gene Bane explained that the particular Day Care in question, had their name so appeared as though they were part of the church, but actually was not a part of that church.

Virginia Rosas asked if the ordinance could be changed to reflect a more stringent process since the City has so little undeveloped land left.

Gene Bane gave a few examples of the how stringent the process currently is now and noted that it was open for discussion of ideas for additional items to add to the process.

Felix Vega noted that currently there is no limit as to how much acreage a religious facility could acquire.

Mayor Scarcella noted that the International Buddhist Progress Society currently has 75 acres of undeveloped land, which is proposed for further development in the future. "Obviously, there is going to be a lot more than just one facility connected to some of these religious institutions; they are going to have an assortment of various facilities within them and you get into some interesting discussion within the law when attempting to, in anyway, limit those ancillary facilities. It is a much broader picture than just the church."

Felix Vega stated that RLUIPA did not take into consideration a City of our small size when the law was imposed and asked if there was any way the City could get a percentage of where we stand apposed to a larger city.

Cheryl Wilson stated that any regulations that the Commission would want to impose on religious facilities would also have to be imposed on like non-religious facilities. Ms. Wilson noted that if the acreage is limited, it will include many desirable applicants that the Commission may not want to limit out of the City or districts; so the Commissioners would need to be very careful regarding the limiting of acreage.

Mayor Scarcella indicated that it may be one of the reasons why applicants are taking a close look at Stafford. The Mayor mentioned a case in New London, CT, which is almost the same size as Stafford, where the US Supreme Court in a decision of 5-4, said it was appropriate for New London to limit acreage.

Joe Rome asked what the national average for Assembly Group A-3 occupancies is and what it is for Fort Bend County.

Gene Bane noted that he had contacted other cities and although Stafford has an accurate count, other cities did not know.

Discussion ensued regarding:

- Limiting Assembly Group A-3 occupancy acreage and RLUIPA stipulations
- Individual district approaches to best fit requirements
- Possible review of current ordinance requirements
- Limited space development options
- Active businesses in the City
- Non-profit and non-revenue facilities in the City

Joseph Olickan noted that there are other cities that are controlling prime properties and there must be something in place allowing them to legally do that.

Cheryl Wilson noted that control of prime properties is where communities have come together and created certain business districts; Houston does not have zoning. "Other cities are limiting what can go into certain districts. These cities have gone through and very carefully looked at each area that they want to develop a certain way and imposed the restrictions and regulations on that area that will attract those types of businesses they want in those particular areas and have adopted various forms of deed restrictions; very few of them have a district this large that is this wide open."

Virginia Rosas asked if these religious facilities are kept track of as far as closing and moving off the property.

Gene Bane stated that if the occupant has not been gone for more than 90 days, they can move back without applying for an SUP; the City has lost a few, but they come right back. "So, at the rate of this type of movement, nothing is really changing the count...we have a lot that changed hands. When the process is explained to an applicant along with the obstacles they would have to overcome, some of them are discouraged. Before the Commission started addressing this issue, I would have the applicant tour areas that are residential, commercial and technical sites, which were heavy on commercial thinking they would get discouraged. It is our opinion that churches should locate in and around the neighborhoods they service. We have a lot of Assembly Group A-3 occupancies that do not reflect Stafford's name in their listings, but they do reflect other cities' names and there are not many that live in Stafford. Why they don't locate elsewhere is because there was probably something in place where their application was denied. When an applicant comes to Stafford, there are only two areas involved in the process, the Planning & Zoning Commission and City Council. In the City of Houston, there are approximately twelve (12) departments involved in the process, with a review time of one year; in the City of Austin, the review time is fourteen (14) months. Stafford tries to encourage multiple pre-submittals so that when they do submit their final documents, it is pretty much a cursory review for expeditious processing of their permit."

Joseph Olickan asked if there was a timeline of religious facilities' growth from zero to 51 or the largest growth spurt period.

Gene Bane noted that the growth was slow and steady.

Mayor Scarcella noted that between 2000 and 2003, when the SUP ordinance was in place, quite a few religious facilities were approved and has escalated over the past few years.

Joseph Olickan stated that politics needs to be taken out of the picture and that for 26 years he has witnessed property being purchased and rented out as neighboring properties decrease in value due to property neglect by renters.

Fred Woolridge emphasized that it may be time to take another look at the City's zoning ordinance policies.

Mayor Scarcella noted that in reference to items 3, 4 and 5 on the agenda, the right concept and approach is important along with abiding by the law while properly administering the law. Where the City is and what should be done to address this issue is very important. The City needs to look at the whole picture and come up with the best recommendation. The Mayor emphasized that thru this entire process, it is very important to recognize where we are, what we are facing and what we are going to do to address this issue that concerns many things. "The Commission has started a very provocative and open dialog, which was triggered by this discussion of religious facilities." The Mayor stated that the Planning & Zoning Commission deserves a commendation for what they are attempting to do and that City Council anticipates guidance from the Commissioners, as well as a provocative final report, which the Mayor feels the Commission is right on target to do.

Joe Rome noted that the City administration's meetings with the Stafford Municipal School Board, which may include annexation, will have an extreme bearing on the direction the Commissioners go.

**3. Discussion and possible action to adopt a form checklist to be used when considering an application for a Specific Use Permit.**

Alma Birdwell asked if the checklist presented should be something more thorough.

Cheryl Wilson noted that the checklist was itemized directly from the zoning ordinance, but that the section regarding Matters That are Irrelevant was added to assist the Commissioners in their discussions. Ms. Wilson noted that regarding responses during Public Hearings, it appears that personal emotions are involved and not the basis for the opposition or why they are in favor.

**Joe Rome made a motion to recess at 7:23 p.m. Christine Rector seconded the motion with all present voting in favor.**

**4. Discussion and possible action to adopt an introductory statement to be made prior to opening public hearings on Specific Use Permits and any other proposed amendment to a zoning regulation or district boundary under the provisions of the zoning ordinance.**

Tabled per item 7's motion.

5. **Discussion and possible action to adopt a preliminary and final report and recommendation to City Council on the matters discussed in Items 2, 3 and 4 above.**

Tabled per item 7's motion.

6. **Discussion and consideration of the August 22, 2006 Planning & Zoning Commission special meeting minutes.**

Tabled per item 7's motion.

7. **Recess at 7:30, if necessary, and call meeting back to order or reschedule to another date and time at conclusion of Regular Planning & Zoning Commission Meeting also being held on September 12, 2006.**

The meeting reconvened at 10:30 p.m.

**Joe Rome made a motion to adjourn and discuss when to reschedule a special meeting at the next regular Planning & Zoning Commission meeting. Felix Vega seconded the motion and it was unanimously approved to adjourn.**

8. **Adjournment.**

Tabled per item 7's motion to adjourn.

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Alma Birdwell, Chairman

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Jo Ann Holloway, Recording Secretary