

**SPECIAL JOINT MEETING OF THE CITY OF STAFFORD
CITY COUNCIL AND PLANNING AND ZONING COMMISSION
TUESDAY, JANUARY 9, 2007**

The City of Stafford City Council and Planning and Zoning Commission met in special joint session on Tuesday, January 9, 2007, with the following in attendance:

City Council:

Leonard Scarcella, Mayor
Wen Guerra, Councilman
Ken Mathew, Councilman
John Rose, Councilman
Mike Sachs, Councilman
Jeff Smith, Councilman
Cecil Willis, Councilman

Planning and Zoning Commission:

Alma Birdwell, Chairman
Joe Rome, Secretary
Virginia Rosas
Felix Vega
Fred Woolridge

Absent:

Joseph Olickan, Vice Chairman
Christine Rector

City Staff:

Lawrence Vaccaro, Public Works Director
Pam Madrigal, City Engineer
Scott Bounds, City Attorney
Gene Bane, Zoning Administrator
Bonnie Baiamonte, City Secretary
Bill Springer, Television Production Supervisor

1. Call to order, roll call of City Council and Planning & Zoning Commission and Pledge of Allegiance.

The meeting was called to order at 7:30 p.m. by Mayor Scarcella and Ms. Birdwell. All City Council members were in attendance. Planning and Zoning Commission members Joseph Olickan and Christine Rector were absent. The Pledge of Allegiance was given.

- 2.(a) Discussion of the final plat of Greenbriar Southwest, Section 5 – Replat of Unrestricted Reserve “C4-B”.

Ms. Madrigal placed this plat on the screen and explained its location off of Greenland Drive and Greenbough Drive. It is a 5.0339 acre plat being subdivided into two reserves. C4-B2 is 3.2209 and C4-B1 is 1.8130 acres. The plat meets the subdivision requirements. The developer has been requested to provide a note on the face of the plat that the railroad spur on the property has been abandoned. There is an existing warehouse facility on the 3.2209 acres and a similar facility is proposed on the 1.8130 acres.

- 2.(b) Consideration of appropriate action on Item 2(a).

Mr. Vega made a motion to approve the final plat of Greenbriar Southwest, Section 5 – Replat of Unrestricted Reserve “C4-B” subject to the City’s letter of conditions and requirements. Mr. Rome seconded the motion, and it carried 5 – 0. Councilman Guerra made a motion to approve the final plat of Greenbriar Southwest, Section 5 – Replat of

Unrestricted Reserve "C4-B" subject to the City's letter of conditions and requirements. Councilman Mathew seconded the motion, and it carried 7 – 0.

- 3.(a) Discussion of approaches under zoning regulations to address development of new religious facilities and other A-3 occupancies within the City.
- 3.(b) Discussion of overall zoning approaches, concepts and potential revisions to zoning ordinance.

The Mayor said this matter has been before the City for quite some time and has received a tremendous amount of publicity from the media. Stafford has 51 religious facilities in the City. Council and P&Z are addressing this issue and looking at the overall concept of this situation while making certain that the City abides by the law. He noted that the City is not opposed to religious facilities but is trying to provide a balance for the best use of properties to protect the health, safety and welfare of the citizens and provide for the services of the citizens while respecting the religious facilities and their rights within the City.

Discussion has ensued at previous meetings with regard to what conditions might be imposed on religious facilities through the zoning ordinance and the specific use process such as requiring all assembly occupancies to be sprinkled with a fire system, revising the off street parking requirements for all A-3 occupancies, increasing certain fees, etc. Mr. Bane said that he has met with the City Attorney and Public Works Director to discuss different ways to address A-3 occupancies and the Island area as well. The building code specifically lists uses under A-3 occupancies as a building or structure used for gathering of persons for the purposes of worship, recreation, or amusement including, but not limited to, amusement arcades, art galleries, auditoriums, bowling alleys, community halls, courtrooms, dancehalls, exhibition halls, funeral parlors, gymnasiums, indoor swimming pools, indoor tennis courts, lecture halls, libraries, museums, passenger stations, pool and billiard parlors, religious facilities and other assembly uses.

Councilman Smith said we have also discussed other issues such as limiting the building size as a minimum as well as fencing requirements, landscaping issues and what is located on the site. In addition to looking at the compatibility of the surrounding property, consideration should be given to the use of the property during the week as some religious facilities are no longer used only on Sundays but all during the week for meeting places, daycares, etc. Mr. Bane commented that some of the mega churches have schools, daycare facilities, professional offices, meeting areas and other activities during the week. He briefly addressed ordinances adopted by other cities.

Mr. Bounds said most zoning decisions that the City make are decided by state law. But zoning decisions that affect religious facilities implicate the U.S. Constitution. There are two constitutional provisions that address this. One is the free exercise clause of the First Amendment. As long as a city is regulating a religious facility or a church in a neutral way, its action will be judged under the rational basis test, which is simply can the government articulate a reasonable basis for what it is doing. If it can, it will prevail. The exception under the free exercise clause is that if it is shown that the government's interest was intended to discriminate against religion or if the purpose of the governmental action was to place a substantial burden on the person's free exercise of religion, then the judicial standard for reviewing the governmental action changes and a compelling test or strict scrutiny test is

used in which the government has to show there was a compelling reason for its action. The end result is generally that a government may regulate a religious facility unless its reason to regulate is disingenuous, illogical or unsupported by sound planning principals and it discriminates against a particular religion. Another constitutional provision is the equal protection clause of the Fourteenth Amendment. Under that is the same test as the free exercise clause. Religious facilities on occasion do have unique consideration regarding how they use the property and would have special rules as long as the action is based on sound planning principals, and it will probably be upheld. Mr. Bounds said he has discussed with staff determining where the City should go with regard to regulation of churches and religious institutions independent of what the City wants to accomplish otherwise. The first area they discussed is what the City wants to see accomplished in the Island area, what does Council want to see accomplished in various areas of town and what do we do from a sound planning purpose to accomplish that and then write the rules appropriately. Councilman Smith remarked anything that is done to tighten the rules for the A-3 occupancies will not just affect religious facilities but any category in that group which would seem to complicate this discussion. Mr. Bounds said it may make it more complicated but from a planning prospective you will end up with a better product if you take a more global approach rather than just addressing religious facilities. He referred to a checklist previously provided to Council and P&Z members with things the City could and couldn't do regarding the development of new religious facilities, or any A-3 facilities within the City.

Mayor Scarcella said we need to enhance the entire situation in the City and should look at the total concept in terms of zoning. He referred to the zoning map indicating the location of the religious facilities in the City. As long as the City is neutral and reasonable, there is a basis for having Council's decisions upheld. He emphasized that the religious facilities should not control or be the dictating factor in deciding the future of the whole City.

Councilman Rose addressed parking stating he felt that the parking regulations in the City are inadequate and should be considered not just for religious facilities but other commercial and assembly type structures. Mr. Bounds said that off street parking should be accessible without having to cross a major thoroughfare to get to the facility. Councilman Rose stated his reasons why a four lane highway would be desirable and would alleviate traffic congestion. Councilman Smith said the City should certainly have the option to look at both the traffic congestion caused by that property use as well as the current traffic flow – which are two separate issues – and determine if a two lane road would or would not be appropriate. The Mayor agreed that parking is a critical factor and that many church facilities are used during the week and not only on Sunday for worship services. Mr. Bounds said sometimes churches are unique in that they have three worship services on Sunday which could affect the traffic going in and out at one time. Mr. Bane said that parking for churches is one space for every four seats but it doesn't address the other uses in that facility such as day care, school, offices, etc. He would propose to restrict the parking to one space per two occupants and then 100% of the parking requirements as addressed in the zoning ordinance for the other uses at a religious facility. The parking concerns, he said, could be alleviated very easily by an amendment to the ordinance.

Councilman Willis asked if the City could designate a certain area and say all A-3 occupancies can exist only in that area. Mr. Bound said yes. Councilman Willis asked what if the areas designated had no available property to build a facility on. Mr. Bounds said that

would be a substantial burden on anybody wanting to build an assembly occupancy in that area.

Councilman Smith said it would seem you would have to narrow an area down to where you would want A-3 occupancies in. He feels taking a global approach rather than keying in on the eight or nine items in the City's Attorney's list (which actually are fairly straight forward and not too complicated) would be the best route to go. If you took the City and drew it into quadrants, there would be a church, maybe ten, in each quarter. The churches are scattered throughout the City and from a global approach you would now have to narrow the areas you wanted A-3 occupancies to be located in. He feels the two bodies tonight would be better served not talking about the specific eight or nine issues mentioned and setting parameters but taking on a global view. Mr. Bounds said there may be some areas where you would want churches to locate and other areas where churches would not be incompatible.

Mr. Vega said from the zoning code the primary area we were concerned with was the Island area and the areas in close proximity to it. It is a MU area now. There is not much land to be developed and we have been talking about making the Island beautiful, expanding it, making it retail, etc. One of the purposes is to keep the balance between residential and nonresidential uses and to keep the revenue stream coming in and the zero property tax. He is wondering if the City could rezone the Island area as a MU-2 and limit any A-3 occupancy and just allow revenue producing facilities. The Mayor made further comments with regard to the Island area. \$100 million is being spent on the US 90-A project. At one time the Island area generated more income than those areas north of the Island. If you did an analysis now it is probably less than 10% of what is generated. The SEDC sold \$8 million in bonds literally for the economic development of the Island area which required approval from the Attorney General. Mr. Vaccaro and Ms. Madrigal have been to TxDOT to try to get some grant money for enhancement of the Island area with the City matching funds. He feels if we are going to predicate everything in the Island area based on economic development then it has to produce a strong economy. A barber shop or nail salon will not pay back the City's expenses to put in all the enhancements. The Island area needs to be zoned in a way that it is for economic development and quality development and is the showpiece for our City. With the completion of the US 90A project, the P&Z and City Council has the obligation to make the Island into whatever they believe the future of Stafford holds. We need to determine what we want in the Island and that its ultimate development be quality development. Mr. Bane said when we talk about the Island, everyone visualizes it as the area between North and South Main but he feels we need to expand it to include the area directly south of US 90A and west of FM 1092.

More discussion followed. It was the consensus that the meeting tonight was so everybody could express their views and then P&Z would come back to Council with a recommendation. Mr. Bane suggested the employment of a planner that is familiar with the uses. Councilman Sachs referred to the eight items listed by the City Attorney. He feels a planner is going to be critical prior to the adoption of changes to the zoning ordinance as he would hate for Council to approve changes that are not realistic. He would hope that all proposed changes would apply equally to A-3 uses.

More discussion followed with regard to SUPs. Mr. Bounds said he felt a SUP can be specific to the individual but there are some special exceptions that run with the land. He

feels an SUP could be made specific to the user and if the ownership changes, it would have to come back before Council for consideration.

Ms. Rosas asked if the City could acquire an A-3 facility for use during a natural disaster or state of emergency and could the City require that A-3 occupancies be built to a higher standard as far as their structure because it would be used for a shelter. Mr. Bounds said the City may be able to use an A-3 facility for a shelter but there would be a compensation issue for use of that facility. And he also felt if the City required the facility to be built to a higher standard, the City would have to compensate in advance.

Discussion followed with regard to matters to be taken into consideration in increasing the requirements for the development of new religious facilities and A -3 occupancies including: surrounding property use, layout of the street for traffic flow and to avoid traffic congestion, parking issues, land size, fencing issues, building code issues, compatibility of the use of the property, capabilities of the drainage and sanitary sewer system and lighting. Mr. Rome said the City should have these items addressed in written standards along with any additional items deemed appropriate. The Mayor commented it is one thing to have these items in a checklist but another thing to have them incorporated into the ordinance.

Mayor Scarcella said consideration should be given as to what portion of the expenses for a consultant or planner can be assigned to the Stafford Economic Development Corporation and what would be a City expense. P&Z has heard the comments and recommendations made tonight and based on those should make its recommendations to City Council. At that point City Council could decide if it needs to have a consultant or planner involved and the best approach and allocation of funds for that person. Both Mr. Bane and Mr. Bounds felt they could come back with a simple proposal for P&Z to address.

3.(c) Consideration of appropriate action on Items 3(a) and 3(b).

Mr. Vega made a motion that the Zoning Administrator in conjunction with the City Attorney present the Planning and Zoning Commission with their recommendations of approaches under zoning regulations to address development of new religious facilities and other A-3 occupancies within the City as well as overall zoning approaches, concepts and potential revisions to zoning ordinance that could be incorporated into both the zoning ordinance and a checklist, and that these recommendations, after discussion by P&Z, be forwarded to City Council. Mr. Woolridge seconded the motion, and it carried 5 – 0. This will be discussed at the P&Z Meeting in February. City Council commended the P&Z Commission.

4. City Engineer's report and discussion of engineering matters including:

Ms. Madrigal presented the City Engineer's report.

(a) US 90A Improvement Project including construction activities, current mobility situations and status of Wayside Horn funding and installation;

The partnering meetings with the two contractors was held on January 2 and 3 at each contractor's field office and the quarterly Railroad Coordination meeting was held at City Hall on January 2. Progress on the project is being delayed due to various issues including

drainage, weather and holidays. Ms. Madrigal reported on the progress of the project as well as the major work items scheduled for January and the traffic impacts. TxDOT will be checking into the City’s concerns regarding the traffic signals synchronization. Members of both bodies expressed their concerns regarding the project including the driveway entrances and problems businesses have encountered. With regard to the landscape enhancement project, Ms. Madrigal and Mr. Vaccaro met with a TxDOT landscape architect to discuss additional sources of funding available for the project. There are two programs the City is eligible to receive funding for landscape enhancements – the Green Ribbon Program and a Landscape Cost Sharing Program. They will continue to look at alternatives to determine the best approach for the City with regard to the funding of additional landscape enhancements not included in the project.

(b) Fifth Street Improvement Project:

Fort Bend County has awarded the bid for the Fifth Street Project (between FM 1092 and FM 2234) to Triple B Services in the amount of \$10,224,806. Construction is anticipated to begin in February with a 550 day completion. There will be significant traffic impacts during the course of this project.

(c) Stafford/Staffordshire Road project including right-of-way parcel mapping:

Turner Collie & Braden continue to make progress on the right-of-way mapping for this project. The H-GAC 2008-2011 Transportation Improvement Program draft, which ranks projects, should be available around January 26. The Stafford/Stafford Road project has been submitted for this program.

(d) Fort Bend County Mobility Projects including Brand Lane, Dulles Avenue and Kirkwood Boulevard improvement projects:

Ms. Madrigal and Mr. Vaccaro continue to attend monthly meetings of the Fort Bend County Mobility Planning Committee. Two projects in Stafford which have been submitted for consideration in the bond program are Brand Lane and Staffordshire Road from Fifth Street to FM 2234.

(e) Local street and drainage improvements:

(f) Missouri City Estates Drainage Project including Change Order No. 1 in the amount of \$8,225.00 and Change Order No. 2 in the amount of \$53,051.00;

The contractor has completed the installation of the storm sewer lines along Flaxseed Way and has moved to Folkcrest Way. The project is scheduled for completion by the end of January 2007. The contractor has submitted two change orders related to conflicts with Fort Bend County WC&ID No. 2’s utilities. Ms. Madrigal explained the description and reason for the changes. The cost for each change order is-

<u>Change Order No.</u>	<u>Stafford’s Share</u>	<u>District’s Share</u>	<u>Total Change Order Amount</u>
1	\$ 4,025	\$ 4,200	\$ 8,225
2		<u>\$ 53,051</u>	<u>\$ 53,051</u>
TOTAL	\$ 4,025	\$ 57,251	\$ 61,276

The change orders have been discussed with Mr. Owen Matherne, General Manager for the District, and he is in agreement with the proposed changes. The Board of Directors will be considering these change orders at the next District meeting.

- (g) Cash Road alignment and negotiations with local property owners including regional detention pond;

A meeting is scheduled with the property owner who has a detention pond on his site to clarify outstanding drainage issues associated with the extension of Cash Road. Once those issues have been clarified and resolved, the City should be able to move forward with negotiations with the local property owners.

- (h) Major Thoroughfare Plan updates; and

The Public Works Department will have an updated draft map of the major thoroughfare plan for review at the Planning and Zoning and City Council Meetings in February which will include comments received at the December meetings.

- (i) Consideration of appropriate action on Items 4(a) - 4(h).

Councilman Sachs made a motion to approve Change Order No. 1 in the amount of \$8,225.00 and Change Order No. 2 in the amount of \$53,051.00 for the Missouri City Estates Drainage Project as presented subject to approval by the Fort Bend WC&ID No. 2's Board of Directors. Councilman Guerra seconded the motion, and it carried 7 – 0.

5. Adjournment of City Council Meeting.

Councilman Guerra made a motion to adjourn the City Council Meeting. Councilman Smith seconded the motion, and it carried 7 – 0. The meeting adjourned at 9:45 p.m.

6. Discussion and consideration of the December 12, 2006 Planning & Zoning Commission regular meeting minutes.

Mr. Rome made a motion to approve the regular meeting minutes of the December 12, 2006 Planning & Zoning Commission Meeting as presented. Mr. Vega seconded the motion, and it carried 5 – 0.

7. Discussion and possible action to determine whether Commissioners Joseph Olickan's absence on November 7, 2006 and Christine Rector's absence on December 12, 2006 is excused or unexcused.

Mr. Woolridge made a motion to approve the absence of Commissioner Joseph Olickan on November 7, 2006 and to approve the absence of Commissioner Christine Rector on December 12, 2006 Mr. Vega seconded the motion, and it carried 5 – 0.

8. Adjournment.

Mr. Rome made a motion to adjourn. Mr. Woolridge seconded the motion, and it carried 5 – 0. The meeting adjourned at 9:47 p.m.

Alma Birdwell, Chairman

Jo Ann Holloway, Recording Secretary