

AGENDA
CITY OF FREDERICKSBURG
PLANNING & ZONING COMMISSION
Wednesday, October 5, 2011
12:00 NOON
CITY HALL, 126 W. MAIN ST.

PAGE REF.

1. Call to Order
2. Approve minutes from the August, 2011 Regular Meeting

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DISCUSSIONS

3. Discussion regarding conduct of public meetings, conflicts of interest, open meetings act. (Pat McGowan, City Attorney)
4. Receive an update on the City's proposed Capital Improvement Plan (Craig Wallendorf, PE, RPLS, Director of Public Works and Utilities).
5. Discussion regarding Non-Conforming Use provisions and review criteria (Brian Jordan, AICP, Director of Development Services).

ADJOURN

STATE OF TEXAS
COUNTY OF GILLESPIE
CITY OF FREDERICKSBURG

PLANNING & ZONING COMMISSION
August 3, 2011
5:30 PM

On this the 3rd day of August, 2011, the PLANNING AND ZONING COMMISSION convened in regular session at the Law Enforcement Center with the following members present to constitute a quorum:

JANICE MENKING - Chair
BRENDA SEGNER
CHARLIE KIEHNE
CHRIS KAISER
STEVE THOMAS
RON WOELLHOF
JASON HELFRICH
GUENTHER MAENIUS

ABSENT: FRITZ METZGER

ALSO PRESENT: BRIAN JORDAN - Director of Development Services
PAT MCGOWAN - City Attorney
TAMMIE LOTH - Development Coordinator

Janice Menking called the meeting to order at 5:30 PM.

PUBLIC HEARINGS

PUBLIC HEARING (Z-1104) BY THE ADMIRAL NIMITZ FOUNDATION TO:

A) CONSIDER A CHANGE IN THE LAND USE PLAN FROM LOW DENSITY RESIDENTIAL TO PUBLIC/SEMI-PUBLIC ON PROPERTY LOCATED AT 502 E. AUSTIN

B) CONSIDER A CHANGE IN ZONING FROM R-1, SINGLE FAMILY RESIDENTIAL, TO PF, PUBLIC FACILITIES, ON SUBJECT PROPERTY - It was moved by

Ron Woellhof and seconded by Jason Helfrich to open Public Hearing Z-1104 by The Admiral Nimitz Foundation to A) Consider a change in the Land Use Plan from Low Density Residential to Public/Semi-Public on property located at 502 E. Austin and B) Consider a change in zoning from R-1, Single Family Residential, to PF, Public Facilities, on subject property. General Mike Hagee, Vice-President and CEO of the Admiral Nimitz Foundation, presented the application and noted the Foundation owned the property until 1976 when they had to sell it for funding to buy the site where the current George Bush Gallery is, and then in February of this year it came up for sale and they were able to purchase it. Mr. Hagee stated they were very happy to have the property and commented there are three things they want to do with it. The first thing Mr. Hagee spoke about was to make it available to the community, especially for city and community events, which is what it was previously used for. Mr. Hagee also noted they are going to move their offices from Austin Street into the house that was built on the property in 1976, but not use the Ruff House so they can retain the historical character of that structure. Mr. Hagee stated the current offices will then be turned into another gallery that will show what it was like to live in a small German town during World War II. The last thing Mr. Hagee stated they would like to do with the

property is share the Ruff House with others by renting it out for various functions, such as weddings. Mr. Hagee then noted he was aware there is some concern from the neighbors about what is going on and apologized for not noticing the things that were pointed out, such as trash on the roadways after their re-enactments and parking along the easement during the re-enactments and stated they will take that on and come up with a solution for both. Mr. Hagee stated they will not rent the Ruff House during any times when there is a re-enactment scheduled because there is not enough parking for both events. Mr. Hagee stated he was raised in Fredericksburg and loves being a part of the community and promised he would work with neighbors and City Staff to insure they do the right thing with the property.

PUBLIC COMMENTS

Gary Brunner, who resides at 413 E. Schubert, stated he built his house in 2008 so he is new to the community and they are happy with what the Foundation has done, but his main concern is the traffic and since he understands the city is considering a bridge and crosswalk, he hopes they will follow through with plans to help with the congestion. Mr. Brunner noted he has two other concerns, one being wedding parties can get quite loud and rowdy and most of the neighbors bedrooms face the Ruff House and he asked they seriously consider the hours the house will be available for rent.

Sharon Brunner, who also resides at 413 E. Schubert and faces the subject property, noted her concern is the issue of noise during nighttime hours. Ms. Brunner stated there is an 80 year old woman who lives in the neighborhood and has her bedroom in the front of the house and she is concerned how late the noise will be going on. Ms. Brunner also noted they do not know the impact of parking and if it will occupy all of Elk St. Ms. Brunner stated a crosswalk may not be enough at the corner of Austin Street and Elk and suggested a 4-way stop be installed.

Pat Laughlin and Sherrie Hale who also live close by commented Ms. Brunner addressed the issues they are concerned with.

Gina Seracen from 209 N. Elk commented she does not have any problem with the requested use but has heard the house at 207 N. Elk is going to be torn down for a parking garage and that concerns her because she has small children.

Jason Helfrich moved to close Public Hearing Z-1104 and Brenda Segner seconded the motion. All voted in favor and the motion carried.

STAFF COMMENTS

Brian Jordan, Director of Development Services, noted he spoke to General Hagee when the Foundation was first considering this purchase and he felt the zoning and land use change was a natural extension of the current land use and zoning to the east. Mr. Jordan also provided the Commission with two letters City Staff received. Mr. Jordan stated he was not comfortable with the building being rented unless it was under the control of the Foundation, which works since the zoning request is for Public Facilities and not Commercial. Mr. Jordan stated he does not know what is going to happen with the Austin Street project and he realized there are many concerns about pedestrian traffic and vehicular traffic in the neighborhood. Mr. Jordan commented the requested zoning and land use change is consistent with the vision of the Comprehensive Plan. Mr. Jordan stated people are parking all along the street when a re-enactment takes place and that is only a few times a year, but it will be up to the Foundation to plan how the parking will work if the building is rented for events. Mr. Jordan also explained there is an ordinance that states historic properties are exempt from requiring parking, which means the Ruff House is exempt, but other uses on a property are not exempt, and that will be the Foundation's challenge to find additional parking. Mr. Jordan also noted he is aware the Foundation owns the property at 207 N. Elk and indicated as a member of City Staff he is not comfortable with the Public Facilities zoning going beyond the subject

property, which means he would not recommend changing the zoning of 207 N. Elk to allow more Public Facility uses for the Foundation. Mr. Jordan noted Staff recommendation of approval.

COMMISSION COMMENTS

Ron Woellhof noted the corner would benefit from having a 4-way stop sign because it is a very busy intersection, and commented it would be a good idea to have a set, reasonable stopping time for events in the contract that will be signed when renting the facility.

Charlie Kiehne questioned Mr. Jordan if what he was explaining about the required parking meant the Foundation would have to have to provide parking for the offices they are wanting to move onto the property. Mr. Jordan confirmed that was true, or they would have to get parking from somewhere else, such as on another nearby site.

Janice Menking asked if there were plans for parking for the offices and General Hagee noted there is a gate off Elk Street which opens to a parking area. Ms. Menking then asked if the adjacent property is zoned such as it would allow for parking and Mr. Jordan noted it is not zoned for parking.

Charlie Kiehne commented he senses the Foundation is turning the property into a commercial endeavor and he has some problems with that and what all will be involved and who will be able to rent the property. General Hagee stated it will not be a commercial facility where a third party will rent the property out, but someone on his Staff will be responsible and they will interview anyone who asks to rent the facility and also be very cognizant with what will be going on with the events, just as they do with the Nimitz Hotel and courtyard. General Hagee also noted they intend to fill in the pool that is at the Ruff House now.

Ms. Menking asked if there was a limit to the number of people that could be at a function at the Ruff House. General Hagee stated he has that information in his office but assured the Commission it is not a large structure and therefore, a large number of people will not be allowed. General Hagee also noted they have time limits on when they rent the courtyard and he believes that is about until 10:00 p.m., but he needs to confirm that with his staff and stated the Ruff House will not be allowed to be rented as late as the city's limit of midnight.

Ron Woellhof moved to approve Public Hearing Z-1104 with the following conditions:

- 1) City consider a 4-way stop at the intersection of Elk and Austin
- 2) The Nimitz Foundation be good neighbors and limit the time that amplified music be allowed
- 3) City look at installing a crosswalk.

Jason Helfrich seconded the motion. All voted in favor and the motion carried.

PUBLIC HEARING (Z-1105) BY THE CITY OF FREDERICKSBURG TO CONSIDER AMENDING THE DEFINITION OF CONVENIENCE STORE / SELF-SERVICE GASOLINE AS DEFINED IN THE ZONING ORDINANCE. - It was moved by Jason Helfrich and seconded by Chris Kaiser to open Public Hearing Z-1105 by the City of Fredericksburg to consider amending the definition of Convenience Store/Self-Service Gasoline as defined in the Zoning Ordinance. Brian Jordan, Director of Development Services, presented the application. Mr. Jordan noted this subject

was discussed at the previous meeting and after he visited with City Council it was decided the Commission should make a formal recommendation to the Council. Mr. Jordan also noted City Staff sent a letter to each owner of a property that falls within the definition of Convenience Store / Self-Service Gasoline. Mr. Jordan then noted in 2008 - 2009, Murphy Oil applied for a fueling station with 6 pumps under a single canopy on two islands and the application was not approved. At that time there was a discussion about changing the ordinance and the Planning and Zoning Commission voted to leave it as it was and City Council agreed. Mr. Jordan then noted recently HEB has made application to add a diesel pump at the existing station by amending their PUD. Again, the Commission recommended denying the application because it did not seem fair to allow them to add more pumps than allowed in the definition if other business owners were not afforded the same possibility. HEB removed that portion from their application and requested the Council send the consideration of changing the definition back to the Commission. Mr. Jordan looked back at zoning ordinances to determine if some of the owners who now have more pumps than allowed were in compliance at the time of installation. In 1968, there was only a definition of a service station and it is basically the same as it is today, with no mention to the number of dispensers, and he also indicated it was intended for the old type full service stations. In 1986, the zoning ordinance was updated but the definition was still only a service station. In 1998, which is the current ordinance, the definition of Convenience Store / Self-Service Gasoline, was included. Mr. Jordan then noted he investigated each station in town to see who was in compliance and who was not and presented that information to the Commission. Mr. Jordan stated he has not had time to determine which stations installed their pumps prior to 1998, but feels confident some of the pumps have been in place prior to that time. Some of the owners of the properties were present and confirmed installation was prior to 1998. Mr. Jordan stated he does not have any major objection to eliminating the number limitation at all because the stations cannot be put in the Historic District or C-1 Zoning District, which protects a lot of the core area of town. Mr. Jordan noted it will not limit large stations from being built on the highways coming into town, but there are many other ordinances and requirements in place that would help put some limitations on new stations. Mr. Jordan noted during the last discussion, Mr. Kiehne recommended the definition include 6 multiple dispensers and up to 2 fueling islands under 1 or 2 canopies, as the owner sees appropriate, and Mr. Jordan noted he believes that is reasonable.

PUBLIC COMMENTS

Kenneth Crenwelge noted he grew up in the gasoline business and he didn't realize there was a limitation on the number of pumps allowed until 2007. Mr. Crenwelge noted he has the most dispensers in town but they were installed a very long time ago. Mr. Crenwelge noted in 2007 he bought all new dispensers and planned to put in more, which is when he was told of the limitations. Mr. Crenwelge stated he put in the new dispensers but did not expand and in 2008 there were some people that wanted to buy his station but when he told them of our ordinance they decided against the purchase. Mr. Crenwelge stated people do not come to Fredericksburg to see huge pump areas and he doesn't see a need to change the definition. Mr. Crenwelge commented we have an unique town and if we start chipping away at the ordinances, we don't know where it will stop.

Mary Rohrer, who lives in Fredericksburg and was representing HEB, asked how you put a handle on what is right for Fredericksburg. Ms. Rohrer noted the community has kept large trucks that need to be serviced and filled away from the community and HEB also wants to keep the larger trucks away from others fueling their vehicles to insure safety. Ms Rohrer also noted figuring out the constraints of a fuel station takes a lot of time and noted it normally takes longer to figure that than it does the whole layout of a grocery store. Ms. Rohrer stated she looked at new HEB developments in surrounding communities, at Mr. Jordan's request, and noted no other town has a limitation on the number of pumps allowed. Ms Rohrer stated by limiting the number of pumps to three, it causes large vehicles to mix with smaller

vehicles and asked the Commission to come up with some criteria that allows more elbow room for a second canopy or an additional pump. Ms. Rohrer noted the fueling stations do work well but she would like to see a more reasonable set of rules for all stations to work under.

Edward Stroehler, representing Stroehler & Olfers Properties, spoke about their stations that are not in compliance and explained their pumps are only one-sided, versus the two-sided pumps most other stations have in town. Mr. Stroehler stated he agrees with Mr. Crenwelge's statement that once you start chipping away at an ordinance, where does that stop. Mr. Stroehler stated he believes the definition should stay as it is.

Mary Penick, who also has a station that is not in compliance, noted she believes her latest pump was installed in 1996, so it will also be grandfathered. Ms. Penick noted if the definition is changed it could potentially lead to a lot of gasoline pumps. Charlie Kiehne noted the location and size of the property will determine how many pumps could fit. Ms. Penick noted she spoke to some of the other owners and does not believe more pumps are needed. Ms. Penick also commented she read the Chamber of Commerce surveys and no where in those surveys did someone suggest we need more gas pumps. Ms. Penick stated we should not let the genie out of the bottle which would allow large retailers to install many pumps and hurt the local business owners.

Brenda Segner moved to close Public Hearing Z-1105. Ron Woellhof seconded the motion. All voted in favor and the motion carried.

Mr. Jordan added if the definition is left the same, there are three facilities that will be considered non-compliant that City Staff will get with to work out a plan to bring them into compliance. The others that are non-conforming will continue to be grandfathered.

Ron Woellhof stated Mr. Crenwelge made some very good comments about Fredericksburg and Ms. Penick has confirmed there is not a complaint from visitors that we need more pumps and recommended we leave the definition as it currently is.

Charlie Kiehne commented he is a firm believer of free enterprise and thinks competition is good for pricing. Mr. Kiehne stated it would take a very large amount of money for someone to come into town and open a large station so that, in itself, is a control as to what will be built. Mr. Kiehne stated we can't be stagnant. Mr. Kiehne also noted he believes to clean this up a number should be established that will put everyone on the same playing field and also allow what is currently in place and then put in more stringent controls so a pump cannot be added without anyone knowing it was done. Mr. Kiehne recommended the Commission look at increasing the number of pumps to six and canopies to two.

Steve Thomas noted everyone has made good points and he agrees with all those points but essentially one-half of our stations are non-compliant. Mr. Thomas stated he believes the worst violator of the current ordinance should be the norm, and we should work from that, but doesn't believe that can be decided tonight.

Mr. Woellhof restated his motion which is to keep the ordinance as it is now. Jason Helfrich seconded the motion. Jason Helfrich, Brenda Segner, Ron Woellhof and Steve Thomas voted in favor. Charlie Kiehne and Chris Kaiser voted in opposition. The motion carried.

MINUTES

Charlie Kiehne moved to approve the minutes from the July 2011 meeting as presented. Ron Woellhof seconded the motion. All voted in favor and the motion carried.

ADJOURN

With nothing further to come before the Commission, Ron Woellhof moved to adjourn. Jason Helfrich seconded the motion and the meeting was adjourned at 7:02 p.m.

PASSED AND APPROVED this the 5th day of October, 2011.

SHELLEY BRITTON, City Secretary

JANICE MENKING, Chairman