

**MINUTES  
CITY OF GAINESVILLE  
PLANNING AND ZONING COMMISSION**

**2:00 p.m.  
Tuesday, March 1, 1994**

**Members Present:** Marge Clement, Debra Beavers (2:10 p.m.), Bill Williams, Jan Russell, Robyn Byars.

**Members Absent:** Roy Brewer and Joyce Rigler

**Staff Present:** Mike Land and Pat Payne

**Visitors Present:** List

The first item of business was calling the public hearing to order at 2:06 p.m. by Chairman Bill Williams.

The second item on the agenda was consideration and action on the minutes of the regular meeting of February 1, 1994. A motion was made by Marge Clement and seconded by Robyn Byars to approve the minutes as presented. Motion carried by the following votes: Ayes: Clement, Williams, Russell, Byars. Nays: None Absent: Rigler, Brewer, and Beavers. Abstentions: None.

The third item on the agenda was consideration and recommendation on a request by James Ray Polk and Ronny Ortowski to rezone 44.705 acres out of the A.C.C. Bailey Survey A-44, from Agricultural (A) to Single Family Estates (SF-E). Said tract is the proposed Phase I of the Ridge Subdivision and located within a 74 acre tract accepted for annexation into the corporate limits of the City of Gainesville, Texas, on February 21, 1994, by the City Council of the City of Gainesville.

Mr. Williams asked the Board if they had any comments regarding the rezoning request; there were none.

A motion was made by Jan Russell and seconded by Marge Clement to recommend approval of the request to rezone Phase I of the Ridge Subdivision from Agricultural (A) to Single Family Estates (SF-E). Motion carried by the following votes: Ayes: Clement, Williams, Russell, Byars. Nays: None Absent: Rigler, Brewer, and Beavers. Abstentions: None.

The fourth item on the agenda was consideration and recommendation on a request by C. R. Ford to renew a Specific Use Permit for a mobile home to be used for security purposes at the Gainesville Municipal Airport, more specifically being the area of the Hangar and Terminal buildings.

Mr. Williams began by asking if there were comments regarding the request. Mike Land said he would like to say that the Board should specify the number of years they want to recommend for duration of

the Specific Use Permit, if they should recommend to continue it. Marge Clement asked if the permit could be recommended for a longer length of time than the two years that had been imposed upon it before. Mr. Land said they could put any time limit on it they wanted to. Mr. Land also explained that on this same evening, the City Council will be considering the new contract extension for five years for the Fixed Base Operator, who is Mr. Ford. Jan Russell asked if the mobile home would be affected by any airport growth; she was told it probably would not because of where it is located.

After no further discussion, a motion was made by Jan Russell and seconded by Robyn Byars to recommend approval for renewal of a Specific Use Permit for a term of five  $\frac{1}{2}$  years [to coincide with terms of the FBO contract, renewal 9/04/94], after which time it will be reviewed for renewal upon application. Motion carried by the following votes: Ayes: Clement, Williams, Russell, Byars, and Beavers. Nays: None Absent: Rigler and Brewer. Abstentions: None.

The fifth item on the agenda was consideration and recommendation on a request by Lewis Pettigrew, property owner, and Faye Handley, agent, to rezone 1033 and 1035 N. Morris Street from Single Family Three (SF-3) to Commercial (C). Said property is also part of Lots 5 and 6, Block 12, Woodsmith Addition to the City of Gainesville.

Mr. Williams began by pointing out that the property in question is located within a Single Family zoning district, but lies across the street from a Commercially zoned piece of property which fronts both on Grand Avenue and Morris Street and is owned by the Central Baptist Church, located next to the main church structure.

Mr. Williams asked if anyone wanted to speak for the request. Faye Handley responded by saying that the adjoining neighbors did not know at first what was proposed to be built on that property, but she explained to them that she wants to build a brick real estate office there and they seemed receptive to the idea.

Mr. Williams then asked if anyone was present who wanted to speak in opposition to the request. The pastor of the Central Baptist Church, Rev. Fincher, said the church also owns property adjoining their property to the south which has been renovated for a parsonage, and they do not wish for anything other than a residential structure be put on Mr. Pettigrew's lots. They are opposed to any business being established in that area on Morris Street. He verified with Ms. Handley that Mr. Pettigrew still owns the lots and is very skeptical that "...anything he has anything to do with is deterioration of the neighborhood." \* Ms. Handley later stated that she has a signed contract with Mr. Pettigrew to purchase the property, contingent upon the rezoning. Mr. Fincher said he also speaks for the property owner directly behind Mr. Pettigrew's property in that she does not want the business there either.

Mr. Williams asked Mr. Land to depict the area in question on the

Zoning Map. Mr. Land pointed out the property and stated that it is surrounded on three sides by Single Family zoning and on one side by a Commercial zone. Off Grand Avenue, the remainder of the Commercial Zoning extends ½ block deep and Single Family zoning is typical of the west side of the block, facing Morris Street. All of Grand Avenue is typically either Commercial or Retail zoning.

Rev. Fincher said he felt the real estate office would cause much more traffic and would be dangerous to the children in their church school.

Bill Williams asked Rev. Fincher if any kind of revitalization in the neighborhood would help it at all. Rev. Fincher said just about anything in that neighborhood would help it, but as long as Mr. Pettigrew owns the property, he said he didn't feel it would be improved. He continued by saying he felt that this proposal is "...an iffy thing". He also said that Mr. Pettigrew could back out on selling the property [ref. \* above] and if the zoning is approved, Rev. Fincher said he "...had heard all kinds of rumors of what is going in there". Mr. Williams emphasized to Rev. Fincher that the only way Mr. Pettigrew can sell the property [at this time] is for it to be rezoned, and the neighborhood has to, at some point in time, make a change.

Ms. Handley asked if there was another zoning classification that could be designated for the property other than Commercial. Mr. Williams replied that the Office zoning designation would apply [note: this is allowed for consideration because it is a more restrictive zoning classification]. A lady (unidentified) in the audience said she was all for the real estate office as long as she could know that it was definitely going in there, not something else.

Robyn Byars asked Rev. Fincher if the church had tried to buy the property in question. Rev. Fincher replied that Mr. Pettigrew wanted too much money for it, and that is why they chose not to purchase it.

A gentlemen in the audience (unidentified) said he owns rental property in the area. He said that he felt that the real estate office would only throw more traffic on the neighborhood.

Jan Russell asked for clarification on the Office zoning designation. Mr. Land replied with a listing of the land uses which could be used for Office zoning. He confirmed it is not "retail".

Mr. Land said the City Attorney may have comments regarding "spot zoning" if he feels this is questionable and the Board should know that. Jan Russell asked if this is a debatable issue and something that is setting precedent for future issues like this one. Mr. Land replied that since there has not been a proliferation of new rezoning/zoning, the precedent has not been set for spot zoning, but the door could be opened. He confirmed that the church's property that is zoned Commercial could be sold and turned into

almost anything else also.

Rev. Fincher concluded that he and the church want the property (Mr. Pettigrew's) to remain as it is.

Jan Russell said she feels that the neighborhood would benefit from the change in zoning to allow the real estate office because the property in its present condition is just awful. However, the consideration of crossing another land use barrier to extend a different zoning designation bothers her and she considers it spot zoning. She also said that she cannot see any continuity, but understands it would be an enhancement to the neighborhood and immediate benefit, but would it be in the long run.

Bill Williams said the long term could go either way, by either enhancing the area or downgrading it.

Ross Tamplin, former Director of Public Works for the City, pointed out that Mr. Pettigrew never carried out his responsibility that the City required him to do in cleaning up and leveling the property; therefore, that is why the property is still in bad shape with all kinds of debris on it along with an open cellar/basement.

After no further discussion, a motion was made by Jan Russell and seconded by Robyn Byars to **recommend denial of the request to rezone 1033 and 1035 N. Morris Street from SF-3 to C. Motion carried by the following votes:** Ayes: Clement, Williams, Russell, Byars, and Beavers. Nays: None Absent: Rigler and Brewer. Abstentions: None.

**NOTE:** Williams, Clement and Beavers were very unsettled about voting either way, with the concern for stifling progression of business and upgrading of a deteriorating neighborhood, opposed to 1) the spot zoning issue and 2) the issue of a business downgrading the neighborhood even more. Robyn Byars' concern was that Mr. Pettigrew will change his mind after the rezoning and build something that would be totally detrimental to the whole area.

The **sixth item on the agenda** was consideration and recommendation on an ordinance allowing Bed and Breakfast establishments within the City of Gainesville: a) by Specific Use Permit within all residential zoning districts except Agricultural, Single Family Estate and Single Family I; b) establishing development standards; c) requiring Site Plan Review prior to establishment of any Bed and Breakfast establishment located within a residentially zoned neighborhood; and, d) requiring public notice to all adjacent property owners and for notice to be published in the newspaper.

Mike Land said that at the beginning of much research, discussion and controversy in the deliberations of the Bed and Breakfast issue, the City Council didn't feel comfortable in allowing them in all zoning district as an allowed use, as listed by the P & Z. Therefore, their concern was that this did not give enough protection [from this use], and recommended that the matter be sent back to P & Z, knowing that the Board had at one time considered

this land use by Specific Use Permit and get another recommendation if the Specific Use Permit would be acceptable, and if so, it can be sent back to the City Council again. The City Council said they wanted to go with P & Z's original suggestion and recommendation and what had been talked about going forth with, more specifically being the Specific Use Permit route. They said they wanted the opportunity to consider the Specific Use Permit, if that's what P & Z recommends.

Bill Williams said the Board should review all the above listed issues for Bed and Breakfasts and then make their determination. The Board then proceeded to discuss the various points before concluding their determination and making a recommendation. Mr. Williams said he was thoroughly confused because every time the Board had considered a Specific Use Permit, they [the Board] had been told that they couldn't do that-it was illegal. He continued by saying that he knows for a fact that many other communities in Texas use this type of land use and by using this in specific cases, it gives control on a case by case basis for certain uses.

Betty Buttolph said if Specific Use Permits are allowed, it will again "...put us back in the pot, but leave out everybody else". Mr. Land corrected her by saying that was not the case-the whole city will be affected with the exception of A, SF-1 and SF-E zoning. Bill Williams said compliance with the ordinance will be difficult and will restrict Bed and Breakfast businesses to a minimum, and with those businesses that will be permitted, to be done tastefully.

Mr. Williams said, finally, that he did not have a problem with the proposed recommendation and asked for further comments from the Board. Jan Russell said she felt that the proposed ordinance regulating Bed and Breakfast businesses would protect surrounding neighborhoods. Mr. Williams then asked for action on the matter. A motion was made by Marge Clement and seconded by Jan Russell to **recommend approval of the Bed and Breakfast Ordinance. Motion carried by the following votes: Ayes: Clement, Williams, Russell, Byars, and Beavers. Nays: None Absent: Rigler and Brewer. Abstentions: None**

Mr. Williams asked if there were any other items for discussion prior to adjourning. Marge Clement said that there are rumors of several restaurants locating on the I-35 Corridor between the downtown area and the Factory Shops. She said she was very concerned about drive through restaurants. Pat Payne told her that the I-35 Development Standards Ordinance addresses that issue.

After no further business, the meeting was adjourned at 2:52 p.m.