

**CITY OF GAINESVILLE
PLANNING AND ZONING COMMISSION**

**Regular Meeting
2:00 p.m.
Wednesday, August 11, 1993**

Members Present: Marge Clement, Bill Williams, Jan Russell, Robyn Byars, Debra Beavers.

Members Absent: Joyce Rigler and Roy Brewer.

Staff Present: Mike Land and Pat Payne

Visitors Present: List

The first item of business was calling the public hearing to order at 2:04 p.m. by Chairman Bill Williams.

The second item of business was consideration and action on the minutes of the regular meeting of July 14, 1993. A motion was made by Marge Clement and seconded by Robyn Byars to approve the minutes as presented. Motion carried by the following vote: Ayes: Clement, Williams, Beavers, Byars, and Russell. Nays: None. Absent: Brewer and Rigler. Abstentions: None.

The next item of business and #5 on the agenda was consideration and recommendation on an ordinance creating standards and procedures for the orderly development and regulation of Bed and Breakfast businesses within the City of Gainesville. Mack Barnhart, City Attorney, spoke stating his opinion on the proposed Specific Use Permit designation to allow Bed and Breakfast businesses within residentially zoned districts.

Mike Land said that since the previous P & Z meeting, he and Mr. Barnhart had had an opportunity to converse regarding the Bed and Breakfast businesses and their relation to being allowed/not being allowed by Specific Use Permit, and Mr. Barnhart wished to state his position on the matter. Mr. Land said Mr. Barnhart does not believe that the Specific Use Permit is a legally defensible way to allow Bed and Breakfasts. Therefore, one of the ways to permit Bed and Breakfasts in residential areas is to allow them outright. According to Mr. Barnhart, that would be a more defensible way to go.

At that time, Mr. Barnhart explained his stance regarding the Bed and Breakfasts. He began by saying his objection to utilization of the Specific Use Permit in a residential zone is the defense regarding "spot zoning". At that time, Mr. Barnhart explained the comprehensive zoning plan adopted in the early '70's which set forth certain districts with allowable usages in those districts. Those allowable usages can only be changed by ordinance; one being a zone change and the other a Specific Use Permit. Under the Zoning Ordinance, according to Mr. Barnhart, if a single tract

within a residentially zoned district is singled out that is not compatible with the comprehensive zoning plan, without there occurring a substantial change in conditions to warrant the change, such as the tract's too small for any other use, complete disintegration of the neighborhood, spot zoning is almost indefensible. Since Bed and Breakfasts fall into the category of motels, hotels, inns, can the intended use be compatible with the old zoned use. Parking, signage and other matters have to be addressed; so, therefore, can a Specific Use Permit address those matters. Mr. Barnhart said he doesn't believe so, because it is singling out without a substantial change in condition of the zoning district or the tract being small enough to make it mandatory to change the use by ordinance. He also said he doesn't like Specific Use Permits anyway because it breaks up zoning areas and violates the comprehensive zoning plan.

Ordinarily, Bed and Breakfasts can be permitted in all other zoning districts except residential. Another approach that could be handled is to go in and amend the residential zoning (of the Zoning Ordinance) and make Bed and Breakfasts allowable uses in certain residential areas. Site Plan review, Mr. Barnhart continued, would constitute the same problem as a Specific Use Permit. So the only reasonable way, in his opinion, would be to amend the zoning in certain residential areas to allow the Bed and Breakfast businesses.

Bill Williams said the only houses he can recall that could be made into a quality Bed and Breakfast are in residential zones. Mr. Barnhart clarified that without a change in conditions or without the rezoning with an allowable use, that wouldn't be a permissible use. Essentially, a certain residential designation would have to be classified to allow the Bed and Breakfasts by Specific use Permit, and the Zoning Ordinance would have to be amended. The Site Plan Review would then address the signage, parking, etc., and the use would be compatible with residential use; it's the little islands of "Specific Use" that is hard to defend, continued Mr. Barnhart. Mr. Williams said he felt that the term "Specific Use Permit" is what this matter is all about--the designation of a tract for a different use and not changing several areas. The people that it would affect would be given the opportunity to express their opinions. Mr. Barnhart agreed, from the public side; however, there is the legal side if litigation is brought on because of a change in use, especially in residential areas.

Marge Clement asked "...what would be the worst thing that could happen if a Bed and Breakfast were to be challenged (in a residential neighborhood)?" Mr. Barnhart said the zoning would have to be set aside and stricken down.

Bill said he felt that common sense would prevail if this type of case were taken to the public for public hearing; no person buying that type of property would make changes until all information was in and the majority of the public was in agreement. Mr. Barnhart pointed out that the Board has to designate the areas where the zoning could be amended to allow Bed and Breakfast businesses as an

allowable use.

Betty Buttolph asked if the Board had certain areas in mind to designate; Mr. Williams said they do not. She also asked if the Board was considering only one area of Gainesville to possibly designate for Bed and Breakfasts; Mr. Williams said, no, they were not.

Mike Land explained how several cities from which information was gleaned regarding Bed and Breakfast businesses allowed those establishments, whether by right, by Specific Use Permit, or simply out right.

Mr. Byars asked how many (Bed and Breakfasts) Gainesville is planning to have; he was told that it depends on the market, popularity and growth.

Jan Russell asked how this concept will fit into the Master Plan. Mr. Barnhart said since it has been twenty years since the present Master Plan was done, it may be time for a new one and a citizens' committee may be needed to assist in updating the plan.

Mr. Williams asked for the Board's input as to what their thoughts were on the proposed ordinance for the regulation of Bed and Breakfasts businesses. He said he personally doesn't see any problems with using Specific Use Permits to allow Bed and Breakfasts.

Mr. Byars asked if these businesses would benefit the whole town or will they only benefit one part. Mr. Barnhart said it depends on where they are put and how people feel about them. Mr. Byars also asked what would happen if someone wants these businesses and don't get the zoning designation; Mr. Barnhart said they can ask to be added to the (proposed) ordinance, and then others may want to be removed from the (proposed) ordinance. It would have to be done for a large area, not just a single lot.

Jan Russell said her feelings on the issue are to designate an area for that zoning use. She said the whole issue is what is for the good of the community and where the community is going. She referred to the Community Image Enhancement Program.

Mr. Williams suggested that an ordinance be proposed that would allow the setting aside of certain area(s) which can be designated to allow Bed and Breakfasts. The different zoning districts were discussed at that time. Mr. Barnhart said the site plan review would still control compliance. Mr. Williams said the Board needs to come together to discuss what area they should propose to designate as such and discuss that at the next meeting.

The third item on the agenda was consideration and recommendation on a request by Joyce Fletcher for renewal of a Specific Use Permit to allow a mobile home as a fixed dwelling at 405 N. Chestnut Street, which site is zoned Commercial.

Mr. Williams said he hoped the Board members took time to drive by and look at the site. He said he feels that they are using the mobile home as a type of "security". He asked for comments at that time. Marge Clement said her only concern is fire and the ability to be able to get out of the structure. She said she knew the Fire Marshal is "...not to crazy about the idea", but she (Ms. Fletcher) is willing to take the risk. Mr. Williams said he had no objections. Mrs. Clement said she had no objections either.

At that time, a motion was made by Robyn Byars and seconded by Marge Clement to **recommend approval for renewal of the Specific Use Permit for the mobile home at 405 N. Chestnut Street for a two year period.** Motion carried by the following votes: Ayes: Clement, Williams, Beavers, Byars, and Russell. Nays: None. Absent: Brewer and Rigler. Abstentions: None.

The **fourth item on the agenda** was consideration and discussion on signage and billboards along the I-35 Corridor. A map of the Corridor depicting appropriate areas for possible off-premises signs in that area was included with the Board's packets.

Mr. Land explained the different portions of the map and also explained the State's position of signage on the Interstate. He said that there is a possibility for ten new signs within the allowable areas for new signage in the Corridor. He said the Factory Shops are the main catalyst for the request of additional signage along the Corridor and the demand is great. He also gave various options for allowing and not allowing off-premises signs throughout the Corridor. He said if we take care of "sign clutter", maybe billboards, or off-premises signs, won't be such an issue.

Jan Russell said she understood the possibility for ten additional off-premises signs; however, could the minimum distance between them be lengthened from 1500 feet to 3000 feet. Mr. Land said they can recommend any distance they want to, even 1000 feet.

Bill Williams asked what they should do. Mr. Land replied that he needs direction for exactly what they want, such as distances between signs; then staff can write the ordinance with counsel from the City Attorney and have it ready for the September 9 meeting.

Ronnie Brooks of Future Signs was present and also presented discussion for additional signage.

The **sixth item on the agenda** was discussion on the Community Image Enhancement Program. Mr. Land said that the Texas Department of Transportation has money that the City can apply for, but it has to be a fifty/fifty commitment. He said that I-35, Hwy 82, Grand Avenue, California Street are all State roads, so they all qualify for the program which should be taken advantage of. He explained other programs through the State that Gainesville can participate in.

Bill Williams said that a concern he has is that the interchange of

I-35 and Highway 82 is not mowed often enough to leave a good image for travelers through the City. Mike Land explained that through the "participation" in this program, the City can assume responsibility for maintenance of such areas as that. However, right now the City does not have the manpower to take care of that problem. Bill said he thought that the money the City would put into this program would be money well spent; the smartest thing to do is "plan".

Mike Land said he would have further information at the next meeting for discussion. This plan will include plantings and color schemes. He also updated the Board on the current project of the downtown paver project for repaving the sidewalks in certain areas. He asked that the Board present their input also.

Jan Russell expressed her concern regarding the overhead wires in the downtown area. Mr. Land said that would be extremely expensive to alleviate.

The Board agreed that the Enhancement Program is a good program and should be pursued.

After no further discussion, the meeting was adjourned at 3:16 p.m.