

CITY OF OLMOS OARK
PLANNING AND ZONING COMMISSION
MINUTES OF MEETING HELD
OCTOBER 28, 2014

The Planning and Zoning Commission for the City of Olmos Park, Texas held a meeting at 5:00 p.m. on Tuesday, October 28, 2014 at City Hall. Members present were Patricia Meier, James Griffin, George Williams, Sandra Ryan, Wade Giddens, Joseph Johnson and Blair Young. Administrative staff present was Diane Gonzales, City Secretary and Jim Raby, Building Official. Also present were City Attorney, Steve Pena and Deb Prost, 130 Stanford Drive.

Chairwoman Patricia Meier called the meeting to order and announced a quorum was present at 5:00 p.m.

Approve minutes from July 10, 2014, July 31, 2014, August 15, 2014, September 2, 2014 and September 4, 2014.

Wade Giddens moved to approve the minutes as submitted.

Sandra Ryan seconded the motion.

The vote in favor of the motion was unanimous.

George Williams joined the meeting at 5:20 p.m.

The City of Olmos Park Planning & Zoning Commission will conduct a public hearing to discuss and review an amendment to the Ordinance establishing the new Single Family Districts SD1, SD2, and SD3 of the City Code of Ordinances, Chapter 40, Art. VI. § 40-162. The commission will discuss the re-insertion of the phrase “continuous and adjacent” to the SD3 Single Family District.

Chairwoman Meier opened the public hearing at 5:12 p.m.

Chairwoman Meier closed the public hearing at 5:12 p.m.

Discuss and review an amendment to the Ordinance establishing the new Single Family Districts SD1, SD2, and SD3 of the City Code of Ordinances, Chapter 40, Art. VI. § 40-162. The commission will discuss the re-insertion of the phrase “continuous and adjacent” to the SD3 Single Family District and discuss front yard setback requirements for SD1, SD2 and SD3; take possible action

Chairwoman Meier stated the phrase “continuous and adjacent” had been in the last three versions, the first ordinance that Mr. Garza drew up was called a transitional residential and the scripture used was, contiguous and at that time I has asked Mr. Garza to change it to “continuous and adjacent” and understanding City Council’s direction was to describe this ordinance to follow the special use permit as closely as possible so that the building of these 30 foot properties would not be an occurrence throughout the apartment district.

Steve Pena stated where would that phrase “continuous and adjacent” be inserted?

Chairwoman Meier stated page 5 section 40-48 District SD3 and insert phrase between #2 and #3 -properties adjacent and continuous, reinserting without the 1.7 acres is what we originally had said under A. Applicability.

(1) Currently zoned AD; and

(2) Properties to be adjacent and continuous

(3) About a paved alley along the full rear width of all properties. Said alley shall be on a City Right of Way and shall intersect a City street at both its ends.

Steve Pena stated and you want to change it to “continuous and “adjacent and not contiguous?

Chairwoman Meier stated yes continuous.

Wade Giddens stated I thought we moved that phrase intentionally where on the September 4th minutes Frank Garza stated his concern was regarding section 40-48 A(2) consistent with a minimum of 1.7 acres of adjacent continuous property. There is no other property in Olmos Park that will qualify for this zoning; my concern is it would be spot zoning. Mr. Garza also stated its ok for SD2 to have one house but not SD3, so with that one provision there can be an argument or they can request a variance. Mr. Garza also said never create a zoning where there could be an argument. Mr. Giddens stated we specifically did not want to limit this to the PSW properties because that is potentially spot zoning and it was discussed that there were three other potential blocks. However, we did include that the alley must be paved and for any other block to have a change in zoning those alleyways would have to be paved and no individual property owner has the right to do that, therefore City action would have to take place in order to pave the alleys and the rezoning could never happen without City Council taking action. I would be reluctant to go against our Council’s legal advice.

Chairwoman Meier stated we did not know about the other two alleys which are right behind PSW’s property two apartment units that touch onto the corner of PSW’s property and these units are contiguous, they are on Thelma Drive and they are contiguous to PSW and without the limitations that we include “continuous and adjacent” and nobody would need any permission to create 30 foot lots where those apartments sit now.

Wade Giddens stated I would disagree with contiguous, because there is a City right-of-way between them. We also discussed several times that it would be economic unfeasible that it would happen.

Chairwoman Meier stated I would like to rule out the possibility and Mr. Garza may take exception but I would like to send this to City Council. I talked to the two City Council members it was their intention that the language be limited. Our concern is they would go in and create more 30 foot lots. The first document that Mr. Garza drafted had “adjacent and continuous”, which he put in himself. My feeling was if Mr. Garza inserted that phrase then that wasn’t spot zoning changing contiguous to continuous did not change the intent. Since we are only asking City Council to consider the insertion of the phrase.

Wade Giddens stated it is important that we not expose ourselves to liability or a potential lawsuit or exposure to spot zoning and if we limit this, it is my understanding that it would only

apply to PSW, then we are matching the definition if spot zoning.

Chairwoman Meier stated if we limit by saying 1.7 acres then we have been specific but to simply say that these homes that are 30 foot properties must be “adjacent and continuous” which is what the special use permit says and is what City Council wants. To keep this district looking like as it’s described, I think it is important to say next to one another and not contiguous. I had not planned on Mr. Garza taking these two words out which existed in three other documents.

Steve Pena stated it is my understanding that the PSW owners of that property have agreed to allow that the property to be re-zoned. After rezoning, it will no longer be able to be turned into an apartment, so in the future, once you follow through with the re-zoning process, in this case the City would be the applicant and you could designate that whole area as an SD3. The effect on the Special Use Permit would be of no consequence because the existing use would be permitted and the existing use would be in conformity of re-zoning anyway. There is also a concern that the “continuous and adjacent” would stop the ability to perhaps have others go in and create a similar type of development that would not necessarily be a “Garden Home District (SD3)”. What you have now is multifamily is that correct?

Chairwoman Meier stated we also created SD2 (single family 2) district with property fronts of 45 feet. The concern is they (developers) could create more 30 foot lots but there would be no more than 2 or possibly 4 lots.

Steve Pena stated the advice you received from Mr. Garza is you need to try to follow what was in the Special Use Permit, at least for that parcel so there is no issue that what they plan to build there would be in conformity with what will be your new zoning, SD3. Typically when you create a “spot zone”, it is by definition a zoning classification that is out of conformity with your comprehensive plan. If you have residential, residential and residential and in the middle you put an industrial site, then you have residential, residential and that by definition is a “spot zone”. I can see the concern because perhaps somebody would come forth and say; well the only one that could ever meet that is that development.

Chairwoman Meier stated the first (ordinance) option that Frank Garza gave us was the descriptor “adjacent and contiguous” and I changed the wording to “adjacent and continuous”

Wade Giddens stated I agree with that.

Chairwoman Meier stated we need a motion on the table to discuss sending this re-insertion to City Council.

James Griffin moved that we discuss and take appropriate action.

George Williams seconded the motion.

Chairwoman Meier stated my feeling was if Mr. Garza inserted the language that at the time it was not “spot zoning”. Changing contiguous to continuous didn’t change the intent.

Steve Pena stated it is currently zoned apartment district. There would be nothing to stop that owner from this other property from coming in and saying I want to do the same they did.

Chairwoman Meier stated the only thing that “continuous and adjacent” will prevent is that you can’t have a jigsaw or checker board effect. So these properties on Thelma which abut to PSW would not be able to subdivide their (60 foot) properties into 30 foot lots just because they border on or are contiguous to PSW. Adding these conditions just puts another restriction. You are correct, if they (a developer) comes in and negotiates to pave an alley even though we created SD2 (single family district 2) with 45 lots, I don’t see why anybody would come for a Special Use Permit for 45 foot wide lots. If people come and develop the alleyway and pave it as PSW did they are going to want 30 feet lots. All I am proposing is that we give this an extra restriction, which as I said Frank Garza introduced himself which is where the language came from originally. I am proposing that we send this to City Council to look at to see what they wish to do.

GROUP DISCUSSION THAT THE TERMS ‘ADJACENT AND CONTINUOUS’ MEANINGLESS WITH OUT A SPECIFIC DISTANCE

Steve Pena stated without having had a chance to visit with Mr. Garza I can say the fact that something may or may not only apply to a particular property does not by itself mean, well we’re talking a very small city. I don’t know your total square miles. If you took a much larger city and said this is the only place we’re going to allow this, I think that this would bring up more objections. The whole purpose of zoning is to facilitate all of those land developing policies as consistent with the orderly, peaceful development of the City in compliance with the comprehensive plan. As I understand it, those areas have historically been multifamily. The fact that you are simply changing what we call something or restricting it to some extent, you’re not re-zoning, you can’t “spot zone” if you’re not rezoning.

GROUP DISCUSSION OF SEMANTIC AND CLARITY OF CONTINUITY, CONINUOUS, ADJACENT AND CONTINUOUS

Chairwoman Meier stated all we can do tonight is to send this to City Council and say there is some ambiguity and we recommend you look at this, because I think the reason the phrase was taken out is not relevant to “spot zoning.”

Steve Pena stated I don’t think it is either and from the stand point of what you’re asked to do, I agree that whatever you do Council still has the last say.

Chairwomen Meier stated what we propose is that we send this to City Council; the motion was that they reinsert the words “continuous and adjacent”. Can we also add to the motion that they look at the appropriateness of these words in terms of, does it need to be a specific area? I can look at Frank Garza’s original statement and I am pretty sure it read “properties adjacent and contiguous” for 2 or 3 City blocks. They can look at if there’s efficacy or if it realizes the intent of what the City Council wanted in order to limit the proliferation of these 30 foot lots.

James Griffin stated Frank Garza and I did not agree on whether these words “adjacent and continuous” were spot zoning. I did not think it was, but we took it out. We were reassured that practically speaking that this SD3 couldn’t happen in another area.

Steve Pena stated you do not have that much land in the City to develop. The fact you only have a few parcels that meet these requirements and this might mean something in a larger area. But in a small City like Olmos Park that can be used to affect that argument.

Wade Giddens stated so it’s your opinion that creating a zone that can only apply to one owner, one developer’s property, is not a concern? I think that runs counter to what Frank Garza said.

Steve Pena stated first of all you're not zoning here tonight.

Wade Giddens stated but the City has every intention of taking action to zone.

Steve Pena stated if the intent of the commission is to bring something forward for further discussion by the Council, then what you're doing here is an advisory capacity and allows them to really dive into this and to understand that if they are accused at some point of creating an area that can only be used by one particular developer. I think certainly there are plenty of areas in cities that are zoned many different zones/classifications where the property is owned by one guy. That is not necessarily "spot zoning". I don't want to take a position contrary to Mr. Garza, that's not my intent. I certainly have not spoken with him about this and I will. But I think from the stand point of what you do here tonight should represent your best attempt at trying to convey to the Council what it is you would like to see and let them make the final decision. Nothing you do here is chiseled in stone.

Wade Giddens stated I am a little confused, I thought that it was our job to work out the subtleties, they give us intent.

Steve Pena stated I think it is. I think this a little less obvious than maybe some changes. I think when you want to resolve something from one zone to another it is pretty clear. I think here what we're looking at is more overall. This is more a planning issue. You are a Planning and Zoning Commission these two functions that you are doing at this point are really overlapping because you're looking 10 years, 20 years and 30 years down the road. What is it you expect and what will your vision be. You are appointed by the City Council to serve on this Board. You are their representatives. Presumably they picked people that they think are capable of fulfilling that, at least generally, what their vision of what things ought to be. Because they are so involved in all these other things such as budgets and police departments and they are really kind of specializing in giving you the opportunity to really dive into this stuff and decide what you want to see, however the final accountability is theirs. I think whatever it is you decide tonight they can take it up and it has gone through the process.

Chairwoman Meier stated can we call for a vote on the motion?

Wade Giddens stated do we want to at least correct it and make it make sense? Right now "continuous and adjacent" doesn't apply to anything. It's just two words, do we want to change the language to say that it is only one "continuous and adjacent" section of Olmos Park can ever be SD3? I think that is what we are trying to say.

James Griffin stated I agree with Wade Giddens saying without the acreage minimum the words "adjacent and continuous" really have no meaning.

Chairwoman Meier stated I think what needs to follow is a specific two blocks, well actually PSW owns 621 feet frontage. If I look at the blocks off of Hildebrand, these small lots are approximately 314 and 316, so if that is a block anything between Judson and Shook is like two blocks, so we could refer to it as at least 321 feet that would be just one half of the PSW property and would not look like "spot zoning."

Steve Pena stated you are not zoning. You are amending the zoning ordinance.

Chairwoman Meier stated so we can say the frontage has to be a minimum of 300 feet?
Steve Pena stated I think that is permissible. Cities identify setbacks and identify minimum lots all the time.

sizes; they do this all the time.

DISCUSSION OF CONCERNS AND CONSEQUENCES IF PSW DOES NOT FINISH OUT THEIR PROJECT; OPTIONS AVAILABLE TO RETAIN SINGLE FAMILY STATUS OF THE PROPERTIES VIA APPEAL TO THE BOARD OF ADJUSTMENTS, SEEKING A VARIANCE, ETC.

Steve Pena stated I think I hear the chairwoman's concern is that somebody with a lot (60 feet wide) says I'm going to chop this up; my understanding is if the requirement is 300 minimum frontages you could only do that if you had that much land.

Wade Giddens stated I understand that, I think we are creating some underserved consequences.

Blair Young stated when PSW came to us to approve the re-platting which we did that then we had to create a designation for PSW with the setbacks for PSW to apply for so they could get a building permit is that correct?

Wade Giddens stated no they can get a building permit right now; they have a Special Use Permit that allows them for a building permit. What we are trying to do is create a zone, Council asked us to create that a single family zone fits their property so they can come in and re-zone or when they tear down the building then the City can imitate re-zoning and change it to single family.

Blair Young stated when PSW comes to apply for this designation or to apply to use the zoning we were going to insert language that they are also going to be asked at the same time to be re-zoned residential.

Wade Giddens stated that did not go into the Special Use Permit, they are not compelled to re-zone.

Chairwoman Meier stated PWS didn't have to come in and apply they just indicated they would.

Steve Pena stated my understanding is that PSW has agreed to re-zoning if the City ever wants it re-zoned.

Blair Young stated is there no way in our entire permit process that we can say when you are applying for this designation to have these setbacks that you are also asked to be re-zoned residential?

Wade Giddens stated unless we wanted to prohibit a higher development in a lower zone, in other words prohibit single family in an apartment district.

Chairwoman Meier stated we need a motion to discuss sending the phrase "continuous and adjacent" as a reinsertion to City Council and recommend for consideration of City Council and Mr. Garza to review the language and propose to insert the phrase "continuous and adjacent" for a minimum of 300 feet that is based on a small City block.

AYES: Johnson, Williams, Griffin, Ryan, Meier
NAYS: Giddens, Young
The motion passes

FOOTNOTE [contiguous - definition of contiguous by The Free Dictionary](http://www.thefreedictionary.com/contiguous)
www.thefreedictionary.com/contiguous [Cached](#) con-tig-u-ous (k n-t g y-s) adj. **1. Sharing an edge or boundary; touching. 2. Neighboring; adjacent. 3. a. Connecting without a break: the 48 contiguous states.**

Consider what reforms are needed to assure that the “Character” of Olmos Park is sustained as future development is proposed and what measures could be taken to accomplish the goal; take possible action on the following items:

Tabled item for next month.

Discuss establishing a minimum front lot width for properties within the residential SD-1 Single Family District; take possible action

Chairwoman Meier stated we have some properties in Olmos Park that are 45 feet wide and one ordinance. Please refer to handout on section 31.800 which was all we had before Municode which talks about subdivisions.

Jim Raby stated 31.800 from the old ordinance talks about subdivisions each zoning district and if somebody decides to subdivide properties no matter which zoning district it is, then it must be the minimum requirements set forth for that district in the zoning chapter. There was a restriction in the single family district for minimum size and street frontage minimum of 100 feet. Before Municode, single family residential it mentions any subdivision plan affecting land which had been zoned single family residential district shall provide that each lot shall contain not less than 15,000 feet and have a frontage of not less than 100 feet. When we re-wrote that whole section it was left out when Municode posted it so we had nothing to refer to for the subdivision ordinance that stated you have to meet the minimum requirements set forth in that zoning chapter. Celia and I consulted with Frank Garza and he stated the missing section could be re-instated with a simple memo to Municode, which has been done. In Municode Chapter 32 section 69 which refers that the minimum lots shall be determined by what is set forth in each of the zoning districts in their zoning classification.

Chairwoman Meier stated is there a minimum width in the apartment district?

Jim Raby stated there is no minimum in the apartment district and no minimum in the retail district. There is 100 feet frontage and 15,000 square feet in the single family district.

Wade Giddens stated in the ordinance it states that a cul-de-sac can have 30 feet of frontage.

Jim Raby stated that the cul-de-sac requirement also applies to only lots that are being proposed for development outside the city limits of Olmos Park. If you have a cul-de-sac in the family residential district within the city limits it would still require 100 feet of frontage. I proposed to the Board of Adjustment that when you are looking at establishing your side yard setbacks you look at the property as a whole and if somebody brings you a survey and is 125

feet wide and is a portion of 3 lots, and the way our ordinance reads now is each one of those lots has a side yard setback and if you change the wording that the platted property be looked at as a whole instead of lot and now you can eliminate that requirement.

Chairwoman Meier stated City Council wrote an ordinance that got passed that if you are going to build across property lines you have to replat and your setback is altered. There is no action taken on this item so let's put this back on the agenda to look further into later.

Jim Raby stated you need to review the side yard setback verbiage and look at the wording under the single family residential district where it states building across lots lines and you have to obtain variances.

Discuss implementing a review of the City's ordinances relating to Olmos Park's commercial district; take possible action

Schedule and discuss a workshop session for landscaping.

Receive presentation on the McCullough Project by Deb Prost, Chairman, EDC.

Deb Prost gave an overview on an update on the McCullough Project and the TAP Grant.

Discuss changing the date and time for the Planning and Zoning meetings.

Board Members discussed and agreed to keep same meeting time at 5:00 p.m. on scheduled dates.

Next meeting is scheduled for November 13th at 5:00 p.m.

There was no other business and the meeting adjourned at 7:12 p.m.

Adjourn

Patricia Meier
Chair

ATTEST:

Diane Gonzales
City Secretary