

BUILDING PERMIT APPEAL

APPLICANT: Amy Tiemann, Bella Consulting, Inc.

PROJECT NAME: EZ Pawn – Portable Building

ADDRESS: 1900 East 7th Street

PROPOSED USE: Temporary use for pawn shop operations while permanent building is under construction.

APPELLANTS: Rudolph Williams, Larry Earvin

STAFF SUMMARY

On July 6, 2009, the Watershed Protection and Development Review Department approved a building permit (Permit No. 2009-072395 BP) for the placement of a new prefabricated portable building. The applicant stated that the structure was to be used as a temporary building for pawn shop operations while the permanent building was under construction. The final building inspection was completed on July 15, 2009 and the Certificate of Occupancy (CO) was issued for the structure.

On July 20, 2009 an appeal of the CO, the electric permit, the building permit and the determination of the Site Plan Exemption request was filed by Rudolph Williams, representing the Blackshear Prospect Hill Neighborhood Association (Blackshear). Larry Earvin, representing Huston-Tillotson University (HTU), filed a similar appeal on July 22, 2009.

After staff review, a Suspension Order for the building permit and the CO was issued on July 24, 2009. Based on additional information provided by the applicant, the Suspension Order was rescinded on August 11, 2009.

In accordance with City Code Section 25-11-93, the appeal by Mr. Williams and Mr. Earvin was presented to the Building and Fire Code Board of Appeals (Board). A hearing was conducted on September 3, 2009 and the Board voted to continue the hearing on September 9, 2009. At the September 3rd meeting, the Board determined that they only had standing to hear the appeal on the building permit. At the September 9th meeting the Board voted (4-2) to deny the appeal filed by Mr. Williams and Mr. Earvin.

REQUEST:

Blackshear and HTU request City Council to reverse the decision of the Board and revoke the site plan exemption and the related building permit based on the following:

1. City staff improperly interpreted Ch 25-5-(D)(1) of the Land Development in granting the Site Development Exemption Request submitted on behalf of EZ Pawn on June 15, 2009, and in issuing the building permit on July 6, 2009, without an approved site plan as required by Ch 25-5-1 of the Land Development Code;
2. The area of new construction at 1900 East 7th Street exceeded 1000 s.f. and included the temporary building at not less than 517 s.f., the accessible ramp at not less than 370 s.f., the parking regrade at not less than 306 s.f., and utility trenching at not less than 290 s.f.;
3. The limits of construction at 1900 East 7th Street exceeded 3000 s.f.
4. The site was not 100% impervious cover when the trailer was placed on 1900 East 7th Street and construction activities were undertaken; and
5. Application of the current asphalt was new construction or re-construction, not mere maintenance.

STAFF RECOMMENDATION:

Staff recommends denial of the appeal.

1. A site plan is not required. As provided under the Site Plan Exemption, Ch. 25-5-2(D)(1), the new construction did not exceed 1000 s.f. and the limits of construction did not exceed 3000 s.f.
2. New construction = 900 s.f. (portable building and ramp)
3. Limits of construction = 900 s.f. (portable building) + 300 s.f. (trenching) + 500 s.f. (accessible parking area build up) = 1700 s.f.
4. A 1984 aerial map shows that the site had 100% impervious cover.
5. The asphalt overlay of the existing impervious cover is considered maintenance and is not included as new construction nor within the limits of construction.

DEPARTMENT COMMENTS:

November 19, 2009 – Council set a hearing for December 17, 2009.

CITY COUNCIL DATE: December 17, 2009

CITY COUNCIL ACTION:

ASSIGNED STAFF: Leon Barba, 974-7254