



**Public Hearing
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION**

AGENDA ITEM NO.: 64
AGENDA DATE: Thu 01/27/2005
PAGE: 1 of 1

SUBJECT: Conduct a public hearing to consider an ordinance amending Chapter 25-2-805 and 25-2-299 relating to fence height.

AMOUNT & SOURCE OF FUNDING: N/A

FISCAL NOTE: There is no unanticipated fiscal impact. A fiscal note is not required.

REQUESTING Watershed Protection and **DIRECTOR'S**
DEPARTMENT: Development Review **AUTHORIZATION:** Joe Pantalione

FOR MORE INFORMATION CONTACT:

PRIOR COUNCIL ACTION: Council initiated the code amendment on August 12, 2004

BOARD AND COMMISSION ACTION: Approved by Planning Commission.

PURCHASING: N/A

MBE / WBE: N/A

On August 12, 2004, the City Council directed staff to initiate an amendment to the Land Development Code to allow an eight-foot fence height between adjoining residential and commercial use properties. The attached draft amendment, Part 2 adds a new subsection (G) to Section 25-2-899 FENCES AS ACCESSORY USES of the Land Development Code, which provides for an eight-foot fence for residential uses adjacent to commercial or industrial uses or properties zoned as a commercial or industrial base district.

Part 1 of the attached draft amends the current requirements for Drop-Off Recycling Collection Facilities to allow these facilities to erect an eight-foot fence.

Currently, a residential use is restricted to a six-foot fence. A residential property owner wishing to erect a fence up to eight feet in height is required to obtain written consent from all adjoining property owners indicating they have no objection to the taller fence. In addition, the property owner must demonstrate that the taller fence is needed because of a change in grade of at least two feet within 50 feet of the boundary between adjoining properties, or that there is a structure that would enable a child to climb over a six-foot fence and gain access to a hazardous situation such as a swimming pool.

A property owner whose lot does not meet the requirements may seek a variance from these restrictions from the Board of Adjustment. The property owner must demonstrate to the Board that the taller fence is necessary due to a hardship that is unique to the property.

The proposed amendment would allow a residential property owner to erect a solid fence up to eight feet in height only if the lot is adjacent to commercial or industrial uses or zoning districts without having to meet the required restrictions or seeking a variance.

RCA Serial#: 7486 Date: 01/27/05 Original: Yes

Published:

Disposition:

Adjusted version published:

ORDINANCE NO.

AN ORDINANCE AMENDING SECTIONS 25-2-805 AND 25-2-899 OF THE CITY CODE RELATING TO FENCES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Section 25-2-805(A)(1) of the City Code is amended to read:

(1) A facility must be located in an enclosed structure or enclosable trailer, or be screened on three sides by a [~~six-foot tall~~] solid fence or wall not less than six feet high. This requirement does not apply to a single-feed reverse vending machine.

PART 2. Section 25-2-899 of the City Code is amended to add a new Subsection (G) to read:

(G) A solid fence may be constructed to a height of eight feet if the fence is located between a residential use and property:

- (1) zoned as a commercial or industrial base district; or
- (2) used for a commercial or industrial use.

PART 3. This ordinance takes effect on _____, 2005.

PASSED AND APPROVED

_____, 2005

§
§
§

Will Wynn
Mayor

APPROVED: _____
David Allan Smith
City Attorney

ATTEST: _____
Shirley A. Brown
City Clerk

CITY PLANNING COMMISSION

**January 11, 2005
One Texas Center
505 Barton Springs Road
Conference Room 325**

CALL TO ORDER – 6:00 P.M. ADJOURN 10:07PM

_____ John-Michael Cortez	_____ Matthew Moore, Secretary
_____ Cid Galindo	_____ Jay Reddy
_____ Matt Hollon, Asst. Secretary	_____ Chris Riley, Chair
_____ Cynthia Medlin, Vice-Chair	_____ Dave Sullivan, Parliamentarian

A. REGULAR AGENDA

EXECUTIVE SESSION (No public discussion)

The Planning Commission will announce it will go into Executive Session, if necessary, pursuant to Chapter 551 of the Texas Government Code, to receive advice from Legal Counsel on matters specifically listed on this agenda. The Planning Commission may also announce it will go into Executive Session, if necessary, to receive advice from Legal Counsel regarding any other item on this agenda.

Private Consultation with Attorney – Section 551.071

CITIZEN COMMUNICATION:

1. The first four (4) speakers signed up to speak will each be allowed a three-minute allotment to address their concerns regarding items *not* posted on the agenda.

NO SPEAKERS

APPROVAL OF MINUTES

2. Approval of minutes from December 14, 2004.

MOTION: APPROVE BY CONSENT

VOTE: 6-0 (DS-1st, CG-2nd; JR-ABSTAIN; JMC-ARRIVED LATER)

Commissioner Riley and Sullivan requested a change to the December 14 meeting minutes to reflect discussion of not precluding pedestrian access from subdivision to school along the east property line. Commissioner Medlin said that may have not been included because it may be affected by school district issues.

ORDINANCE AMENDMENT

3. **Ordinance** **C2O-04-010 - Transit-Oriented Development Ordinance**
Amendment: **Amendments**

Facilitator: Katie Larsen, 974-6413

katie.larsen@ci.austin.tx.us

Request: Discussion and action on proposed amendments to Land Development Code Chapters 25-2 and 25-6, to establish Transit-Oriented Development (TOD) districts, and to adopt zoning and other regulations applicable in those districts.

Staff: Jana McCann, 974-6096, jana.mccann@ci.austin.tx.us
George Adams, 974-2146, george.adams@ci.austin.tx.us
Neighborhood Planning and Zoning

POSTPONEMENT REQUEST

Frank Fernandez with Austin CDC said that they request a postponement to review the TOD ordinance. There has not been much public input from housing groups. He would like it postponed for two weeks.

Commissioner Reddy asked about how the housing advocates were included in the process. Mr. Fernandez said that the City did focus groups and at the last minute put together a housing focus group. At the developer focus group there were 5-10 staff members. At the housing focus group only two. There wasn't a draft with affordable housing until recently.

Lydia Ortiz spoke in favor of a postponement. There were a group of 40-50 people that met today and the consensus was to have more time to discuss the ordinance.

AGAINST POSTPONEMENT

George Adams said that the City takes very seriously the inclusion of affordable housing in TODs. They have made attempts to include the affordable housing groups and they have had heard the concerns. No city employees were invited to the meeting (Lydia Ortiz referred to) that occurred today. It is somewhat unfair that this should be the grounds for the postponement. Staff does not have a problem with the postponement, but would like to have a public hearing held and continued to the next planning commission meeting. The next meeting would be very close to the council-mandated deadline.

Commissioner Sullivan asked about the review by other Boards and Commissions. Mr. Adams said that ZAP and Design Commission will provide recommendations next week. The UTC has already provided a recommendation.

Commissioner Sullivan said he sees the merit of the request, and he likes Mr. Adams' request to start it tonight and keep the public hearing open until the next meeting.

PUBLIC HEARING

George Adams presented the TOD public involvement process and the staff recommendation. He indicated the recent changes to the draft ordinance.

FOR

Bruce Shelton said he is very much in favor of this ordinance. He is a struggling businessman and a member of the Board of Adjustment. He has property in a TOD. They have been granted amnesty for the four lots at the northeast corner of Waller and 3rd Street. Last year they were granted amnesty so that they could add on to the building. He wants to be part of the

neighborhood. He has landscaping planned.

NEUTRAL

Gary Mefford will not oppose or embrace the TOD ordinance. He represents two landowners. Those properties are governed by the Leander Rehabilitation PUD. He seeks clarification of the phrase of replacement zoning because the property is governed by the PUD. He just seeks clarification that the zoning governed by the PUD is not replaced by the TOD ordinance.

Commissioner Sullivan asked where it falls in the TOD ordinance. Mr. Medford said that the property is to the west of where the railroad track is shown. It is roughly 420 acres falling within all the TOD zones.

Jennifer McPhail, representing ADAPT, said that they heard there were questions about visitability requirements. She explained what is required under a visitability ordinance, including such things as minimum door widths and no steps into the house. Other requirements include maximum heights for light switches and minimum heights for electric outlets. Visitability is required for all City homes.

Commissioner Sullivan asked if she is satisfied with what is in the TOD ordinance. She said that they just got it off the internet so have not had a chance to look at it in-depth, but if it requires visitability then a good thing.

Commissioner Moore asked about the requirement for visitability for all ground floor residential units. Ms. McPhail said that if elevator access requires all units to be accessible.

Heather Way said she appreciates staff considering affordable housing but that she believes strongly putting off discussion of baseline of affordability to the phase 2 part of the ordinance. They want to see specific goals for affordable housing during this phase.

Annick Beaudet said that she was present at one of the two stakeholder meetings. She applauded staff for the process and notification. Her client's properties are located at 6301 Lamar and 720 Lamar Place. There are auto-oriented uses on those properties and are located in the transition of the Lamar TOD. Per the staff recommendation, the zone will break at a property line. She requested that the Lamar TOD district be broken to exclude 700 feet along the east side of Lamar to exclude his properties. She cannot speak for those property owners on the west side.

Commissioner Galindo said that it seems that since he can continue his uses and that the TOD provides additional entitlements, that this ordinance is a win/win situation. He asked for more explanation as to why the owner would oppose the ordinance and she said that the uses are service stations now but they could transition to become auto repair, a use that would not be permitted.

Commissioner Riley asked about the boundaries. George Adams said that they can look at the boundaries again during the station area planning phase.

Daniel Chapa, speaking on behalf of his parents, said that there are not enough commercial

businesses along Lamar. The rail will block traffic. They do not want the station located there. His parent's property is located at 624 Odell.

Janice Barnes has owned 7221 North Lamar and operated an auto repair shop for at least 50 years. She wants to make sure that the business that is her livelihood does not change. Lamar is an awful place to put a train station but she understands that it is a hub. She wants to be assured that she can continue the used car and repair business.

Tomas Patina, offices out of the Saltillo area, and said that he would like to delay the ordinance to see who is affected. He said the Houston rail did not work out and the new requirements in the ordinance would require expensive buildings.

DID NOT SPEAK

Helmut Barnett- neutral

Flora Turi- against

Rosalia Chapa- against

Nicolasa Chapa

In response to Commissioner Galindo's assertions that the ordinance provides additional entitlements, Mr. Patin said that it will take him longer to save the money to construct the buildings because there are more requirements. Mr. Patin said that Houston did not meet their ridership expectations. He does not know when his property will become valuable.

Commissioner Moore mentioned that during the second part, the station area planning, he can work to get what he wants. He understands the arguments Mr. Patin makes, but he said the other argument is that there is a huge public investment to support. Mr. Patin said he has not heard the deadline for the second step of this process and it would be like signing a blank check without knowing when that step will occur.

Commissioner Galindo brought up the land use and transportation principle and said that they have not addressed the 800 pound gorilla. He wants to make sure that there will be enough density around the stations to provide the ridership expected. Where is that ridership going to come from? And how will those users be coming to the stations. His specific question to staff is that as they were looking at the type of center, how much was ridership considered in determining the center. Mr. Adams said that that can be addressed during the station area planning process.

Commissioner Galindo asked if they are sure that there is enough density built into the current center classifications that they have planned appropriately. Mr. Adams said that the detailed analysis has not been done, and will be done during the station planning process. Second, ridership will not just be from the area directly around the station. So there is more analysis that needs to be done to see how ridership goals will be met. Commissioner Galindo asked about the percentage of riders expected from the transit centers and Mr. Adams said that he does not have that at this time.

Commissioner Sullivan asked if a planner from Capital Metro can come to the next PC meeting to describe ridership statistics around stations. Mr. Adams said that they will have someone present

from Capital Metro at the next meeting.

In responding to Commissioner Riley's question about Mr. Patin's concerns, Mr. Adams said that changes to ordinance are directly in response to concerns raised about applicability of requirements. He also said that the 15 foot height clearance now just applies to the gateway zone. To the extent possible, the 15 foot reinforces the building form to support pedestrian environment. It is expected that by 2008, when the rail will be operational, the station area planning will be completed but do not know yet the sequence of which plans will be done first. They will do a sequencing considering areas with development pressure and where Capital Metro owns property.

Commissioner Hollon said that he supports the TOD, but he would also like to see them along bus corridors. He asked what the process was to select stations.

Mr. Hodges said that the service planner can provide more explanation but he mentioned that the station locations are based on catchment or market area analysis. At open houses, also picked up areas that raw data did not suggest. This month the Board will approve a contract for a service planning consultant. The detail is not available until the study and planning. The 17,000 ridership figure was found using a FTA formula. Those assumptions used are based on how the world exists now, not on high-density development around the stations. The catchment area is much broader for the commuter rail. He mentioned that 10% of the park and ride users are "kiss and ride". Service planners will be able to elaborate much more at the next meeting.

Mr. Hodges said that the commuter rail is the spine. The bus routes will be redesigned to feed the UT and downtown areas. Commissioner Hollon said that it would be disappointing if traffic is increased around stations that results in pressure to expand area roadways. He would ask for language to promote the transit and not the automotive. Mr. Hodges said that a pedestrian connection improves the transit ridership. Commissioner Hollon would like to know by the next meeting how future stations and TODs will be added in the future. Mr. Hodges stressed the non-rail components that will be added as part of the bus rapid transit. The rubber-tired system will be redesigned to feed the rail. The service planners will provide more info. Lastly, Commissioner Hollon asked for a review of the national experience and of any patterns that may have been picked up.

Commissioner Cortez said he does not think they should be talking about ridership. There has already been an election, and so quite literally the train has left the station. They have a good idea of where the stations will be, and they need to focus on land use around the stations, not ridership estimates. He has taken the bus before and the ridership for transit is there. He thinks they are asking the wrong questions. They really need to be looking at whether the ordinance promotes the right development, not concern themselves with ridership.

***MOTION: POSTPONE TO JANUARY 25, 2005
(CONTINUE PUBLIC HEARING TO NEXT MEETING)
VOTE: 8-0 (DS-1st, JMC-2nd)***

DISCUSSION AND ACTION ON ZONING CASES

- 4. Rezoning: C14-04-0088 - U Auto Stop Used Tires**
 Location: 710 - 714 Pedernales Street, Town Lake Watershed, Govalle / Johnson Terrace NPA (Govalle) NPA
 Owner/Applicant: Cid Ciro Lopez
 Agent: Brown McCarroll, L.L.P. (Annick C. Beaudet)
 Request: SF-3-NP to GR-MU-NP
 Staff Rec.: **Recommendation Pending; Postponement request to 2-22-05 (staff)**
 Staff: Wendy Walsh, 974-7719, wendy.walsh@ci.austin.tx.us
 Neighborhood Planning and Zoning Department

***MOTION: POSTPONE TO FEBRUARY 22, 2005 (STAFF REQUEST) BY CONSENT
 VOTE: 6-0 (DS-1st, CG-2nd; JR-ABSTAIN; JMC-ARRIVED LATER)***

- 5. Rezoning: C14H-04-0027 - Brown-Ledel-Silverman House**
 Location: 609 West Lynn Street, Town Lake Watershed, Old West Austin NPA NPA
 Owner/Applicant: Historic Landmark Commission - applicant; William Dolph Dildy, owner
 Agent: Sarah Crocker (agent for owner)
 Request: MF-4-NP to MF-4-H-NP
 Staff Rec.: **RECOMMENDED**
 Staff: Steve Sadowsky, 974-6454, steve.sadowsky@ci.austin.tx.us
 Neighborhood Planning and Zoning

Steve presented the staff recommendation.

Commissioner Riley asked Mr. Sadowsky if there is any thing in the criteria that addresses the condition of the property and he replied no. Mr. Sadowsky said that it meets the criteria but preservation may be questionable.

The applicant is the Historic Landmark Commission.

Steve Colburn, chair of the Old West Austin zoning committee, said he is also a neighbor that lives three houses away from the house. This house meets enough criteria and there is no question about that. It is certainly a structure that is an integral part of the neighborhood. They recognize the owners rights to do what they want on the property however when you drive up West Lynn from 6th Street, it's the first thing you see. The Old West Austin Neighborhood Association has commissioned an engineering study to assess the condition of the house. They recognize that there are houses that are too far gone but on the other hand there are houses of historic value that can be saved.

Commissioner Reddy asked if anyone is interested in purchasing the house to restore the house

and Mr. Colburn said he does not think so at this point.

Sarah Crocker, representing the property owner, stated they are opposed to the rezoning request. She looked at the priority index. There had been a case filed on this property. There is obvious damage to the house. She contacted Jerry Garcia, a structural engineer and a supporter of historic preservation. She mentioned that he had worked pro bono for another neighborhood wanting to save a house on a case she had. This should have been a lovely house. There has not been a cent put into this house probably since 1910. Underneath the house there is evidence of brick columns crumbling. There is extensive termite damage. Mr. Garcia said that the house is not fit for occupancy. Once hearing that, she filed for the demolition permit. There are two tenants living in the house and the bathrooms have not functioned for 45 days. The pipes have snapped. There are no plans for redevelopment.

Commissioner Moore asked if there is documentation of the termite damage. Ms. Crocker said they do have a report but did not provide to staff.

Hunter Goodwin said he is in the process of moving to Austin. He wants to purchase the property. There are family dynamics which make it difficult for the current owner to maintain the house. He intended to have the house restored as his house, but the engineers said that it is beyond repair. He has fallen through the second story twice. There are tenants in the building. They sometimes pay rent, sometimes not. The owner is in poor health and condition. He is frustrated because he does not know the next steps. He is closing on this project next week. The tenants have been showering outside.

Commissioner Sullivan said if there is enough room to build another house. Mr. Colburn said that he has not looked into that. Most of the exterior of the house is not the original structure so he does not know what is the original and what is the original. The additions have been done by the owner without permits.

Commissioner Riley asked what it is that makes it impossible to restore the house. He mentioned that plumbing can be replaced and still have the house. Mr. Colburn said that most of the house is supported by hand-laid brick columns. There are some areas without interior beams. There is termite and water damage. He asked the engineers if the house can be disassembled and then rebuilt and they said no because the wood is in poor condition.

Commissioner Medlin said that it cannot be renovated and it cannot be lived in, then would she assume that he would build a house on other part of the lot and then not be able to restore the house. Mr. Colburn said yes. He does not want to be held liable and the owner has been sent certified letters saying the tenant must be out of the house at the date of close.

Commissioner Reddy asked Mr. Sadowsky his opinion of restoring the house. He said that he does not know since he is not a structural engineer, and he did meet with Ms. Crocker and Mr. Garcia and did see obvious problems but he has to rely on professional as to whether they can be repaired. He has seen structures saved. This will be an expensive restoration. The cost would outweigh the value of the property. He depends on Mr. Garcia to make those evaluations.

Commissioner Moore asked about how he reviews exterior deterioration. Additions are deteriorating more than original. Mr. Sadowsky said that the additions are accelerating the deterioration. The house is being pulled from original piers because of the additions. Mr. Sadowsky said that there is obvious roof leaks and water damage to ceilings and walls.

Commissioner Sullivan asked what is the remedy if their house is zoned historic but the building decays to the point that it cannot be lived in. Mr. Sadowsky said that the Building and Standards Commission would issue a repair order. There would be fines imposed if repairs not done. Commissioner Sullivan asked if the case goes to court. Mr. Sadowsky said that his understanding is that a council decision can be appealed to a district court. Outside of assessing fines, there is nothing the City can do. The City offers a generous incentive to restore a historic home and maintain it with property tax reductions.

Mr. Colburn said at this point that they have only seen one structural engineer's report. It may be reliable and may be not. That is why OWANA has hired their own engineering report. He thinks it would be unwise to deny historic zoning until more information is provided, another opinion. They are putting their money where their mouth is. They will hopefully find out next week. If the Commission must make a decision today, then vote in favor of historic zoning. Otherwise, suggest postponing decision until have another report.

Commissioner Medlin said that a neighborhood that really wants to preserve a house finds grants and does fundraising to create a contingency fund to help with repairs. Mr. Colburn said that it would be something the neighborhood would consider. Commissioner Moore asked why it took awhile to get the second engineer report commissioned and Mr. Colburn said that it takes awhile for neighborhoods to organize and collect money, especially over the holidays.

MOTION: CLOSE PUBLIC HEARING.

VOTE: 7-0 (DS-1st, JR-2nd JMC- arrived later)

Sarah Crocker said that the case is scheduled for Council next week and they would not support a postponement. She does not have a problem granting access for the neighborhood's engineer. Commissioner Riley said that the back-up indicates a Council date of January 27.

MOTION: POSTPONE TO JANUARY 25, 2005 (PC MEETING WILL BE HELD AT NEW CITY HALL)

VOTE: 5-1 (MH-1st, CM-2nd; CG, MH-OPPOSED, JMC- ARRIVED LATE)

Commissioner Hollon said that at this point he would not support historic zoning based on the condition of the house, but if new information provided about the condition of house, would reconsider.

Commissioner Medlin is in agreement with what Commissioner Hollon said. She thinks that if there is something that should be preserved that perhaps the neighborhood can help out.

Commissioner Galindo said there is overwhelming evidence that the house cannot be restored and would like to take action tonight.

Commissioner Moore said that he would like to see the house saved but even if there is a report provided that says the house can be saved, there is a big difference between can and will be.

- 6. Rezoning: C14-04-0169 - The Vortex**
 Location: 2206 Maple, Boggy Creek Watershed, Upper Boggy Creek NPA
 Owner/Applicant: Brooks Albert Co. LLC
 Agent: The Vortex Bonnie Cullum
 Request: Rezone from CS-MU-CO-NP to CS-1-MU-CO-NP
 Staff Rec.: **NOT RECOMMENDED**
 Staff: Thomas Bolt, 974-2755, Thomas.Bolt@ci.austin.tx.us
 Neighborhood Planning and Zoning Department

Tom Bolt presented the staff recommendation.

Commissioner Cortez asked about other similar land uses and their zoning. Mr. Bolt said that the Paramount has CBD zoning and that Zach Scott is in the Waterfront Overlay, which permits cocktail lounges.

Bonnie Cullum, co-founder of Vortex, said this is a non-profit tax exempt organization founded in 1988. They have done over 200 productions. They have had cultural contracts with the City. They have been at the current location on Manor since 1994. They own the three lots that they are requesting the zoning. They also own the property in front, along Manor Road. More money is needed to improve the facility. They want to generate money for the theatre. The arts have been hit hard the past few years. Last year they applied for the certificate by TABC. The TABC rejected the permit because it was not considered a restaurant but a theatre. She approached the neighborhood association and has been working with them since June. She said that there is a legal agreement between the Upper Boggy Creek neighborhood and the owners that addresses the concern brought to them. Other theatres in town, such as Bass Concert Hall, Paramount and State, also serve alcohol. They want to become like those theatres. They have an agreement to restrict noise. She concluded that she wants to improve their business. There are members from the neighborhood planning team that are to speak in favor. Mr. Wilbur has removed his objection.

James Cullum is a professional musician and understands the difficulty in developing an organization. Usually these types of theatres go under in 6 months. She has been able to do it for 16 years. He called to attention page 3 of the handout. There are no neighbors in opposition to the request.

Lavon Marshall lives at 2508 Gibbons. She lives four blocks away from the theatre. Initially they were opposed to the zoning because they were concerned about the noise. About a year ago the theatre did have an event that was very noisy. They expressed their concerns with Bonnie and with the Upper Boggy Creek neighborhood planning team. She is with the Rogers Washington Holy Cross neighborhood association.

Bo McCarver, member of Upper Boggy Creek neighborhood and member of Blackland

Development Corp said they appreciate the work Rogers Washington Holy Cross neighborhood did with Vortex. It seems like a win/win. Artists are kind of canaries for gentrification. The area is being highly gentrified. This property is not going to flip. It will remain local and community oriented. He suggested that the Code should be revised to foster and support local community based uses.

Steven Kreger, chair of the Upper Boggy Creek Planning Team, said that this represents a better story of neighborhood planning. As mentioned, there were initially objections. The Planning Team asked Bonnie to work with the neighborhood. He is disappointed that the City did not recommend it. This is what neighborhood planning is about- compromising to create an agreement that works for both parties.

Jay Velgos, president of Delwood Neighborhood Association and member of Upper Boggy Creek Neighborhood Planning Team, said that the neighborhood planning process was long and tortuous. Proud of work to come to resolution for the Vortex theatre. He supports the zoning change and asked for them to disregard what city staff says.

Roger Renwick said he owns two houses across the street from the Vortex. They are rental houses. That is what initially moved him to write the objection letter. He could not make up his mind whether to be for or against. It is hard to be against the Vortex theater because it is a creative, non profit arts venue, however after some thought decided to oppose it and wrote to Mr. Bolt. The two main reasons why he decided to oppose. The first is that the theatre is squarely in a residential area. In a general sense, concerned that this would be a thin edge and that the owners, once with the zoning, could be free to change to another use. Ms. Cullum explained to him that there would be an agreement that if the theatre ceases to exist, the zoning would revert. He found that out after he wrote the letter. Second, the theatre has generated noise. Two of his tenants mentioned the noise on one instance. Once again, talking with Ms. Cullum she said that it would not happen again. So he changed his position to neutral. He cannot support it because he is a little concerned about the qualifications of the 10pm limit. He really wanted to emphasize how much he is concerned the potential for noise on the main road. There was a summer of absolutely misery created by a restaurant called Kalabesh that held concerts that made living at the house difficult.

Bonnie Cullum said that they want goodwill with the neighbors. Some of the events that were too loud were rentals. It is no longer to their advantage to rent the facility. In addition, with a permit from TABC, cannot rent out, so it does protect the neighborhood.

FOR, DID NOT SPEAK

Guoping Mao
Girard Kinney
Chad Salvata

MOTION: CLOSE PUBLIC HEARING

VOTE: 8-0 (MH-1st, JR-2nd)

MOTION: APPROVE APPLICANT'S REQUEST FOR CS-1-MU-CO-NP ZONING.

VOTE: 8-0 (MH-1st, JR-2nd)

Commissioner Hollon said this is a win/win situation. He is disappointed with the city staff position. He suggested that possibly the Codes and Ordinances Committee explore ways to support the arts and nonprofits in general.

Commissioner Sullivan reminded the Commission that they review requests not to reward good businesses but for land use planning reasons. He said he will support the request because he supports mixed use and provides a development in an area needing economic support.

Tom Bolt reminded the Commission that since this is a cocktail lounge, a conditional use permit will be before the Commission.

Commissioner Riley said he would support the motion and requested that the codes and ordinances committee consider amendments. He expressed the concern that a commercial use is not permitted by code in residential areas. One thing he learned from Envision Central Texas is that the perception of urban areas is changing. The Code does not acknowledge the possibility that some commercial uses may be welcome within neighborhoods and may become assets. Land use definitions do need to be updated. For instance have a carriage stable land use but do not have one for theater that serves alcohol.

Tom Bolt said that the restrictive covenant is a private one that will be enforced by the neighborhood association.

DISCUSSION AND ACTION ON SITE PLAN CASES

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| 7. Site Plan
(Conditional Use): | SPC-04-0045A - Sherlock's Baker Street Pub and Grill |
| Location: | 9012 Research Blvd., Little Walnut Creek Watershed,
Wooten/Crestview Neighborhood Plan NPA |
| Owner/Applicant: | Austin Home Center Associates (David Mills) |
| Agent: | Crocker Consultants (Sarah Crocker) |
| Request: | Approval of Conditional Use Permit |
| Staff Rec.: | Recommended |
| Staff: | Kathy Haught, 974-2724, kathy.haught@ci.austin.tx.us
Watershed Protection & Development Review |

MOTION: APPROVE BY CONSENT

VOTE: 6-0 (DS-1st, CG-2nd; JR-ABSTAIN; JMC-ARRIVED LATER)

DISCUSSION AND ACTION ON SUBDIVISION CASES**PRELIMINARY**

- 8. Preliminary (Subdivision): C8-04-0194.SH - BAKER SUBDIVISION (S.M.A.R.T. HOUSING)**
 Location: 5007 Baker Street, Fort Branch Watershed, MLK-183 NP NPA
 Owner/Applicant: Davenport Real Estate Holdings: Bret Vance
 Agent: Professional Strucivil Engineers, Inc. (Miza Tahir)
 Request: Statutory Disapproval
 Staff Rec.: **RECOMMENDED**
 Staff: Javier V. Delgado, 974-7648, javier.delgado@ci.austin.tx.us
 Bill Andrews, 974-7649, bill.andrews@ci.austin.tx.us
 Watershed Protection & Development Review

MOTION: DISAPPROVE BY CONSENT

VOTE: 6-0 (DS-1st, CG-2nd; JR-ABSTAIN; JMC-ARRIVED LATER)

FINAL WITH A PRELIMINARY

- 9. Final Plat (Subdivision): C8-04-0123.1A.SH - FRONTIER AT MONTANA, PHASE ONE SUBDIVISION (S.M.A.R.T. HOUSING)**
 Location: Frontier Valley Dr., Carson Creek Watershed, Montopolis NPA NPA
 Owner/Applicant: Austin Housing Finance Corp. (Richard Frasier)
 Agent: Longaro & Clarke (Danny Miller)
 Request: Approval of the Final Plat
 Staff Rec.: **RECOMMENDED**
 Staff: Javier V. Delgado, 974-7648, javier.delgado@ci.austin.tx.us
 Bill Andrews, 974-7649, bill.andrews@ci.austin.tx.us
 Watershed Protection & Development Review

PULLED. NO ACTION TAKEN.

DISCUSSION AND ACTION ON SUBDIVISION CASES

SUBDIVISION: DISAPPROVAL CASES

- 10. Resubdivision: C8-04-0187.0A - Tuttle Addition; Resubdivision of Lot 8 and portions of Lots 7, 9, 10, 11, 12 and 13, Raymond Subdivision**
 Location: 608 Baylor St. and W. 7th St., Town Lake / Shoal Creek Watershed, Old West Austin NPA
 Owner/Applicant: Tyson & Nicole Tuttle
 Agent: Crocker Consultants (Sarah Crocker)
 Request: Approval of the Tuttle Addition; Resubdivision of Lot 8 and portions of Lots 7, 9, 10, 11, 12 and 13, Raymond Subdivision composed of 3 lots on 0.898 acres.
 Staff Rec.: **Disapproval**
 Staff: David Wahlgren, 974-6455, david.wahlgren@ci.austin.tx.us
 Watershed Protection & Development Review

MOTION: DISAPPROVE BY CONSENT

VOTE: 6-0 (DS-1st, CG-2nd; JR-ABSTAIN; JMC-ARRIVED LATER)

B. OTHER BUSINESS

ITEMS FROM THE COMMISSION

Report from the Committee Chairs

Periodic Reports from Zoning and Platting Commission

TRAINING SESSIONS

1st and 3rd Thursdays have one hour training sessions.

Commissioner Cortez asked that either the full Commission or the Comp Plan Committee should receive a briefing about the selection of a downtown library site.

A D D E N D U M
PLANNING COMMISSION
JANUARY 11, 2005
ONE TEXAS CENTER
505 Barton Springs Road, Room 325
3rd Floor Conference Room

THE FOLLOWING ITEM WAS INADVERTENTLY LEFT OFF THE AGENDA

A. REGULAR AGENDA

ORDINANCE AMENDMENT

- 3a. C20-04-007 – Amendment to Chapter 25-2 of the Land Development Code; to allow an eight foot fence height for residential uses adjacent to commercial or industrial uses or properties zoned as a commercial or industrial base district. The amendment would also allow an increase of up to eight feet for fences for Drop-off Recycling Collection Facilities. **City Staff: Luci Gallahan, Watershed Protection and Development Review Department, 974-2669; luci.gallahan@ci.austin.tx.us**

MOTION: APPROVE BY CONSENT

VOTE: 6-0 (DS-1st, CG-2nd; JR-ABSTAIN; JMC-ARRIVED LATER)

DISCUSSION AND ACTION ON ZONING CASES

- 6a. C14H-04-0028 / C14-04-0200 - WILLIE AND JESSIE CHAPMAN HOUSE, By: Urban Renewal Agency of the City of Austin (Greg L. Smith), 901 E. 12th Street. **FROM SF-3-NP TO GR-H-NP. RECOMMENDED. City Staff: Robert Heil, Neighborhood Planning & Zoning Department, 974-2330.**

Robert Heil presented the staff recommendation.

Commissioner Sullivan asked why MU is not applied to the GR. Mr. Heil said that the size of the building will not really allow for a mixed-use. Commissioner Riley asked if there was room to add another unit on the lot. Mr. Smith said that the parking will be added along the back, so probably will not add a residential unit in the back. Greg Smith said that the Urban Renewal Plan, though not a zoning overlay, does identify uses acceptable by the community. Commissioner Sullivan added that without MU, one residential unit can be included.

MOTION: CLOSE PUBLIC HEARING

VOTE: 8-0 (DS-1st, JR-2nd)

MOTION: APPROVE STAFF RECOMMENDATION

VOTE: 8-0 (JMC-1st, DS-2nd)