

**MINUTES
OF THE MEETING OF THE
CITY OF BENBROOK
PLANNING & ZONING COMMISSION
THURSDAY, OCTOBER 11, 2007**

The regular monthly meeting of the Planning & Zoning Commission of the City of Benbrook was held on Thursday, October 11, 2007, at 7:30 p.m. in the Council Chambers at 911 Winscott Road with the following members present:

Bret Early
Dian Price
Jay Morrill
Joe Hughes
John Dawson
Sanjiv Shah
Larry Marshall

Also Present:

Ed Gallagher, City Planner
Leslie Harris, Recording Secretary
Bob Rowley, City Engineer
Rose Key
And approximately four others

I. CALL TO ORDER

Chairman Bret Early called the meeting to order at 7:30 p.m.

II. CONSIDERATION OF MINUTES

Regular Meeting – September 13, 2007

Motion by Mr. Shah to approve the minutes of the September 13, 2007 regular meeting of the Planning and Zoning Commission as presented. Second by Ms Price with the correction of the vote on SP – 07 – 01. The Chair called the question.

Vote on the Motion:

Ayes: Ms. Price, Mr. Early, Mr. Hughes, Mr. Dawson, Dr. Marshall, and Mr. Shah

Noes: None

Abstain: Mr. Morrill

Motion carried 6 – 0 - 1

III. REPORTS OF CITY STAFF

A. COMPREHENSIVE PLAN AMENDMENTS

None

B. ZONING

Z – 07 – 08 Consider Conditional Use Application for a Subsidiary Dwelling as provided for in Section 9 – B – b – 8 and Section 22 of Ordinance Number 808, as amended, on a 4.95-acre tract of land (Tract 1B6) in the J.W. Smith Survey Abstract Number 1406 (4612 Williams Road)

The Chair introduced the item and asked for a presentation from the applicant.

Rose Key, 4612 Williams Road, said she is the applicant and is requesting approval for a subsidiary dwelling unit on her 4.95-acre property. Ms. Key said, even with a second dwelling unit, she is still well below the density requirements for the “A” One Family District zoning that allows 2.89 dwelling units per acre. Ms. Key said the second dwelling unit would be compatible and beneficial to the neighborhood. She said her handicapped 21-year-old son would be living in the subsidiary dwelling unit.

The Chair asked for any comments or questions from the Commission.

Joe Hughes asked if Ms. Key’s son receives SSI and would he be required to pay her rent. Ms. Key said her son does receive SSI but not the housing portion and he will not be paying rent.

The Chair asked for any further comments or questions from the Commission. There being none, the Chair asked for a report from Staff.

Ed Gallagher, City Planner, said the Z-07-08 conditional use application is presented by Rose Marie Key for a subsidiary dwelling on her property located at 4612 Williams Road. The proposed subsidiary dwelling would be a second dwelling unit on the “A” One Family District zoned, 4.95-acre tract of land in the J.W. Smith Survey Abstract 1406.

A subsidiary dwelling is a separate living quarters with separate kitchen facilities which is in addition to the principal dwelling unit on a single-family zoned lot. Most typically a subsidiary dwelling is a garage apartment or guest house. A conditional use is a use that would not routinely be permitted in a particular district, but upon specific evaluation by the Commission, can be approved if determined to be compatible with other permitted uses in the area.

Mr. Gallagher said the proposed subsidiary dwelling is an approximately 775-square-foot garage apartment as a second floor above a three-car detached garage accessory building. The proposed structure is indicated to be behind the existing single-family house and utility building on the property. The application indicates vehicular access through the existing driveway from Williams Road and the purpose of the subsidiary dwelling is to better accommodate the applicant’s disabled son.

Mr. Gallagher said Staff reviewed the application in accordance with the review and evaluation criteria specified in the Zoning Ordinance for compatibility with existing and permitted uses in the area. Regarding Criteria 1, the application proposes to conform with applicable regulations and standards of the Zoning Ordinance and off-street parking provisions are provided for the proposed conditional use as well as the existing one-family dwelling on the property.

Compared with Criteria 2, the proposed subsidiary dwelling is compatible with existing and permitted uses on abutting sites regarding building height, bulk, scale, setbacks and open space for the conditional use. Regarding Criteria 3, the proposed conditional use is a residential activity and does not appear to have an unfavorable effect on existing or permitted uses on adjoining sites. Mr. Gallagher said the proposed subsidiary dwelling, when combined with the existing one-family house on the 4.95-acre site, provides a compatible or lower density than surrounding sites and a lower density than typical residential developments meeting density standards of the Zoning Ordinance.

Mr. Gallagher said Criteria 4 addresses signs and none are proposed with the application. Criteria 5 addresses the safety and convenience of vehicular and pedestrian circulation expected with the conditional use. The property has frontage on Williams Road, a two-lane, 42-foot-wide collector street. Traffic generated by the proposed conditional use, combined with the existing single-family use, will not generate traffic that would be detrimental to area traffic and will not exceed the capacity of the roadway serving the site.

In addition to the review and evaluation criteria specified in the Zoning Ordinance, the staff notes that prior to the issuance of a building permit for the proposed structure, the property must be platted in accordance with provisions of the Subdivision Ordinance, and all construction must comply with all Building Codes, the Zoning Ordinance, and other applicable codes and regulations.

Mr. Gallagher said together, the proposed subsidiary dwelling and the existing single-family house will result in a density of 0.4 dwelling units per acre on the site compared with a typical "A" District density of approximately 3.89 dwelling units per acre.

The Zoning Ordinance provides that a Conditional Use Permit automatically expire with a change of ownership of the land unless the approval includes the determination that it is in the best interest of the City that the approval transfer to subsequent landowners. More typically a conditional use involves a use in an existing structure or a new structure that has other permitted use potential. In cases where a structure is built to house a conditional use, it is not unusual that the use be transferable, or run with the land, rather than demolish or substantially alter the structure with a change in ownership. It appears that with the construction of a new building, the transfer of the conditional use to future owners would be appropriate and in the best interest of the City.

Mr. Gallagher said Staff recommends that the Planning and Zoning Commission approve Conditional Use Application Z-07-08, presented by Rose Key, to authorize the proposed subsidiary dwelling (garage apartment) in accordance with the application on Tract 1B6 in the J.W. Smith Survey Abstract Number 1406 (4612 Williams Road) subject to:

1. conformance with all elements of the Conditional Use Application,
2. conformance with all "A" District regulations with the exception of the Conditional Use and conformance with all other applicable codes, regulations, and ordinances,
3. completion of platting of the subject property into a single lot of record in conformance with the Subdivision Ordinance, and
4. the Conditional Use is to run with the land.

Mr. Gallagher said the Commission may want to consider additional conditions to approval, as it may deem appropriate.

The Chair asked for any comments or questions from the Commission. There being none, the Chair opened the public hearing at 7:48 p.m. and asked if anyone wished to speak for or against the item. There being none, the Chair closed the public hearing at 7:49 p.m. and asked for any comments, questions, or a motion from the Commission.

Motion by Mr. Shah to approve the Z – 07 – 08 Conditional Use application as recommended by Staff. Second by Mr. Dawson. The Chair called the question.

Vote on the Motion:

Ayes: Mr. Early, Ms. Price, Mr. Morrill, Mr. Hughes, Mr. Dawson, Dr. Marshall, and Mr. Shah

Noes: None

Motion carried 7 – 0

C. SUBDIVISION PLATS

None

D. PD SITE PLANS

None

E. GENERAL

None

IV. PRESENTATIONS BY PLANNING AND ZONING COMMISSION MEMBERS

None

V. CITIZEN PRESENTATIONS

None

VI. ADJOURNMENT

The Chair noted there were no additional matters of business on the regular Commission agenda and declared the Commission regular meeting adjourned at 7:55 p.m.

APPROVED: Jan. 10 2008

/S/ Larry Marshall Chair