

**CITY OF RICHARDSON
CITY PLAN COMMISSION MINUTES – FEBRUARY 21, 2012**

The Richardson City Plan Commission met February 21, 2012, at 7:00 p.m. at City Hall in the Council Chambers, 411 W. Arapaho Road, Richardson, Texas.

MEMBERS PRESENT: David Gantt, Chairman
Bill Hammond, Vice Chair
Gerald Bright, Commissioner
Janet DePuy, Commissioner
Marilyn Frederick, Commissioner
Barry Hand, Commissioner
Thomas Maxwell, Commissioner
Don Bouvier, Alternate
Eron Linn, Alternate

CITY STAFF PRESENT: Michael Spicer, Director of Dev. Svcs.
Sam Chavez, Asst. Director of Dev. Svcs. – Planning
Susan Smith, Asst. Director of Dev. Svcs – Dev. & Eng.
Israel Roberts, Development Review Manager
Chris Shacklett, Planner
Pete Smith, City Attorney
Kathy Welp, Executive Secretary

BRIEFING SESSION

Prior to the regular business meeting, the City Plan Commission met with staff to receive a briefing on agenda items and staff reports. No action was taken.

REGULAR BUSINESS MEETING

Chairman Gantt advised that the order of the agenda items would be rearranged with Items 1, 4, and 5 going first; Items 2 and 3 next, and Item 6 last. He added that since Ms. Frederick was running a little late, he would assign one of the alternates to vote on the items until she was in attendance.

MINUTES

1. Approval of the minutes of the regular business meeting of February 7, 2012.

Motion: Commissioner DePuy made a motion to approve the minutes as presented; second by Commissioner Maxwell. Motion passed 7-0 (Commissioner Bouvier voted).

CONSENT AGENDA

All items listed under the Consent Agenda are considered to be routine by the City Plan Commission and will be enacted by one motion in the form listed below. There will be no separate discussion of these items unless desired, in which case any item(s) may be removed from the Consent Agenda for separate consideration.

2. **Site Plan, Landscape Plan, Building Elevations for Alta Creekside (companion to Item 4):** A request for approval of a site plan, landscape plan, and building elevations for a 162-unit multi-family complex. The 13.64-acre site is located at the southeast corner of President George Bush Turnpike and Custer Parkway.
3. **Site Plan, Landscape Plan for Chicken Express (companion to Item 5):** A request for approval of a site plan, landscape plan, and building elevations for development of a 3,182 square foot restaurant with a drive-thru. The 1.29-acre site is located at the northwest corner of Lake Park Way and Campbell Road.

Commissioner Bouvier asked to have Item 2 removed for separate consideration, and Chairman Gantt said each section of Item 2 would be voted on separately.

Motion: Commissioner Bright made a motion to approve Consent Agenda Item 3 as presented; second by Vice Chair Hammond. Motion passed 7-0 (Commissioner Linn voted).

Note: Commissioner Frederick entered the chamber and joined the Commission at 7:15 p.m. during staff's presentation of the item under separate consideration.

SEPARATE CONSIDERATION

Site Plan, Landscape Plan, Building Elevations for Alta Creekside (companion to Item 4): A request for approval of a site plan, landscape plan, and building elevations for a 162-unit multi-family complex. The 13.64-acre site is located at the southeast corner of President George Bush Turnpike and Custer Parkway

Mr. Roberts stated the applicant was requesting approval to develop a 162-unit, two story apartment complex located at the southeast corner of President George Bush Turnpike (PGBT) and Custer Parkway. He added that the proposal included 19, two story apartment buildings, a one story, 5,200 square foot leasing center/club house/fitness center, a pool, outdoor kitchens/fire pits, arbors, seating areas and water features.

Mr. Robert reported that there had been a number of revisions to the plans since they were delivered to the Commission and highlighted those changes:

- Site Plan - the removal of the secondary access at the northeast corner of the site, and the addition of an emergency access point along Custer Parkway.

- Concept Plan – the proposed site plan generally conforms to the Concept Plan that was approved in November 2011.
- Landscape Plan -
 - Change to area along PGBT by removing shrubbery from the areas where there is no “head in” parking and used only the berms. This allows the applicant to take that savings and plant trees in other locations.
 - Removal of the secondary access point and three parking spaces allows the retention of 15 additional trees
 - Redesign of the drainage swale and revised grading of the channel along northern property line.
 - Creation of open amenity area with native stone benches from on-site excavated limestone massing.
 - Additional new trees planted through drainage channel
 - Addition of an emergency access point out onto Custer Parkway, which necessitated the removal of two parking spaces and revision of landscape material.
 - Revised grading throughout channel and along Custer Parkway allowed for the addition of trees as well as saving some of the existing trees.
- Tree Survey –
 - Original proposal proposed removal of 426 or 443 trees on site leaving 17 trees to be saved. Trees being removed were either damaged or being removed for drainage requirements.
 - Revised proposed proposes removal of 406 of 443 trees on site saving 37 trees, 28 of which are on the City’s preferred tree list.
 - Added 24 additional trees to be planted within the drainage channel and through the amenity area.

Mr. Roberts reported that the building elevations showed two-tone bricks, decorative bracketing, decorative garage doors, covered entryways, recessed balconies, and brick work over windows and brick window sills to break up the façade. He added that the leasing and clubhouse area would use the same materials as the proposed apartments.

Mr. Roberts closed his presentation by displaying the architectural drawings to illustrate the articulation in the buildings noting there was a 10-foot variation between the front and back of some of the façades, and on one of the longer buildings, there was approximately 22 feet of variation in the façade.

Commissioner DePuy asked if the Pradera Apartments were two or three story. She also wanted to confirm they were further off the PGBT than the proposed development.

Mr. Roberts replied he thought they were both two and three story buildings in the development, and acknowledged that the Pradera Apartments were located off Greenside Drive, adjacent to DART rail line.

Commissioner Hand asked staff how many apartments units were allowed per acre in the PD.

Mr. Roberts replied the PD allowed a maximum of 12 units per acre

With no further questions for staff, Chairman Gantt asked if there were questions for the applicant.

Commissioner Hand asked the applicant to talk about the history of the parent company that would be developing the site and about their business strategy as it pertained to transitioning the property.

Mr. Dallas Cothrum, representing Wood Partners, 900 Jackson Street, Dallas, Texas, replied giving a brief history of Wood Partners and Rosewood Partners, the owner of the property. He said that real estate tended to be very fluid so he could not say the companies would never sell their interest in the property, but he had worked with them on another project in Dallas that was comparable to the proposed project and they still own the same property.

Mr. Cothrum noted that 12 units to the acre made it a little more difficult to design a product that was not the typical garden style apartment, but he felt they had achieved a product that was more like a townhome with the use of masonry material, garages, increased articulation in the buildings, adding more trees, changing the nature of the creek, and rents at the top of the market.

Mr. Cothrum responded to a comment from the briefing session as to whether or not something else could be built on the property, and he said that another product could definitely be built there, but the developer would have the same problem that Wood Partners experienced with the creek dissecting the property. He added that it would not be very efficient for office space, and thought they were the only product that could turn the creek into a positive by making it a focal point.

Mr. Cothrum closed his comments by pointing out that the limestone in the rock outcropping would be harvested and used around the property on the berms for points of interest and as benches throughout the development. He reiterated that both Wood Partners and Rosewood Partners would do a quality product.

Commissioner Hand mentioned that the area in the City of Dallas mentioned by the applicant contained higher density properties with four and five stories. He also pointed out that along PGBT there were higher density projects with parking in the middle and wanted to know if the garden style apartments were not as productive, tax wise, as the higher density products.

Mr. Cothrum said the particular property they worked on was not the same density and the only item they requested from the City of Dallas was a parking space reduction to one per bedroom.

Regarding the higher density products with parking in the middle, Mr. Cothrum reported that in their discussions with staff and city management they were told a development of that density was not in the best interest of the surrounding residential neighborhoods. In addition, a development with more stories and interior parking would require a much larger product with more units to the acre.

Commissioner Hand asked if the developer would prefer a higher density.

Mr. Cothrum replied that because of the direction received from the City, they had focused their efforts on the proposed product and they and their lender were committed to the plan. He added that increasing the density by possibly adding a third floor would not help the product because they had found that third floor apartments do not really rent well in the market.

Commissioner Bouvier noted the Commission had been reviewing urban style, higher density projects over the past year and stated the amount of detail that was presented with the current application was lacking when compared to the previous submittals. He added that although the proposal was not unpleasant, he wanted to see more detail including who the targeted customers would be; cut through sections for the creek; and the construction material that would be used.

Commissioner Bouvier acknowledged that he was absent at the November 2011 meeting when the Concept Plan was approved, but said if he had been present he would have voiced a strong objection to what he considered to be garden style apartments. He added that if the Commission was satisfied with 12 units per acre, garden style apartments, then the applicant should provide the type of detail that would show that the final product will make a statement, especially at this gateway to the City.

Mr. Cothrum replied that Mr. Bouvier had some valid points, but they were developing a product under the existing zoning and the proposed design was not typical of a garden style apartment. He added that their pro-forma was showing a higher rent than their urban style project in Dallas and thought Mr. Bouvier's suggestions about more density and more urban design were philosophical in nature.

Commissioner Bouvier stated he was not suggesting a more urban design, but pointed out that this request was coming on the heels of the Commission working on an urban style development just a mile east of this location and how they were told urban design would equal higher rents. He agreed that this location would probably not be suitable for an urban style density because of the topography, but suggested the applicant should provide more detail to ensure the product would be a top of the line and confirmed what the Commission was agreeing to.

Mr. Cothrum replied that Wood Partners and Rosewood Partners could be judged by their previous projects.

Commissioner Bouvier stated that the application was not specific to the applicant and could be used by any developer.

Mr. Cothrum replied the design was predicated at 12 units per acre and the lender was ready to fund the project and move forward. In addition, they had taken into consideration the existing zoning when making the revisions requested by staff.

Vice Chair Hammond stated he thought the product was a good use of the land and complimented the applicant on their plan and the efforts to save more trees and increase the amenities. He felt the proposed development was not a Transit Oriented and did not need to be designed in an urban style.

Commissioner DePuy said she thought the development was designed more like townhomes as opposed to garden style apartments, and agreed with the comments about not having three story apartments. She added that more detail would be nice, but did not have a problem with the elevations presented.

Commissioner Bouvier said he was not advocating an urban style development, but was simply pointing out that in previous cases before the Commission urban design had been presented as the type that would drive rents and get the type of tenant that everyone thought was appropriate for the area. However, in the absence of that option, Mr. Bouvier thought more detail was needed, including samples of the materials, and suggested the applicant come back before the Commission made a decision that would impact an important piece of real estate in the city.

Chairman Gantt asked if Mr. Bouvier had any issues with the landscape plan, or just with the building elevations.

Commissioner Bouvier replied that if the applicant was committed to doing a garden style apartment complex there was not much that could be done with regard to the juxtaposition of the buildings; however, he would prefer that the garages not face out toward PGBT.

In regard to the landscaping, Mr. Bouvier applauded the applicant for saving as many trees as they could, but felt there was insufficient information to determine whether the changes to the creek and the other items listed as amenities had received the proper treatment to truly be considered a true amenity.

Chairman Gantt agreed there were other Planned Developments in the City where the Commission had spent a large amount of time reviewing details, and thought the placement of the apartments seems strangely placed up against PGBT, but wanted to know if Mr. Bouvier could be specific about the type of detail he would like to see from the applicant other than the sample boards and paint.

Commissioner Bouvier replied that he would like to see what the actual materials looked like, to see what was up under eaves, and all the small details that drive the quality and guarantee that the product will be top line. As an example, he cited the lack of detail in the wrought iron fence as well as the lack of information for the creek, pool and other amenities. Mr. Bouvier stated that the Commission could not ensure a quality product would be built based on the material presented.

Commissioner Hand thanked the applicant for their investment in the City, but asked the Commission to take a step back and recognize that even with garages or Texas prairie style design, the development was still garden style apartments. He added that he lives in an area that is battling the end of life on garden style apartment and felt that looking forward this development would present the same type of problems and challenges.

Mr. Hand wanted to make sure the Commission understood he was not against multi-family developments and felt that some of the redevelopment corridors in the City would be best suited for this product, but pointed out that no matter how much had been invested by the applicant, it was the Commission's charge to determine the best and highest use of the land, especially at this gateway to the City.

Chairman Gantt called for any further discussion or a motion on the site plan.

Motion: Vice Chair Hammond made a motion to approve the site plan for Item 2 as presented; second by Commissioner Bright. Motion passed 4-3 with Chairman Gantt and Commissioners Hand and Maxwell opposed.

Chairman Gantt called for any further discussion or a motion on the landscape plan.

Motion: Vice Chair Hammond made a motion to approve the landscape plan for Item 2 as presented; second by Commissioner DePuy. Motion passed 4-3 with Chairman Gantt and Commissioners Hand and Maxwell opposed.

Chairman Gantt called for any further discussion or a motion on the building elevations.

Commissioner Bouvier asked once more for the Commission to take note of the items mentioned in the discussion to add more quality and not make a decision without a guarantee beyond what had been currently presented.

Motion: Vice Chair Hammond made a motion to approve the building elevations for Item 2 as presented.

Commissioner DePuy asked if the Commission could request the applicant bring in building materials if the item was passed, and what would be the repercussions of that request.

Chairman Gantt replied that the item could be continued and a request made to have the applicant bring in samples of building materials.

Regarding the repercussions of the request, Mr. Gantt said it would delay the applicant's ability to start construction, and Ms. Smith replied it did not cause a problem for the City, but suggested asking the applicant what the impact would be for them.

Commissioner DePuy asked that applicant to comment on her request.

Mr. Cothrum replied that they would not be able to close on the deal, which they were expecting to do by the end of the week. He stated that having materials board present would not provide any more detail and said he would be happy to answer any additional questions. In addition, Mr. Cothrum restated that their research predicted the product would lease for the highest amount in the City including the more urban design developments.

Commissioner DePuy said she did not have the same level of concern as that of Mr. Bouvier as far as quality, but was trying to offer a compromise regarding the materials.

Mr. Cothrum replied that waiting on a project was usually fine, but in this instance it was the lender that was requesting to close. He reiterated that they had worked closely with staff to make all the requested changes and improvements which demonstrated their commitment to do a quality product.

Chairman Gantt called for a second on the motion and Commissioner Bright seconded the motion.

Vice Chair Hammond said he thought the applicant had been very specific about the materials to be used and in his opinion having the materials would not make a difference.

Commissioner Bouvier stated he liked the earth tones and dark mortar proposed on the elevations, but wanted to know if the staff had seen and verified that the graphics accurately portrayed the colors.

Mr. Robert replied that the colors of the materials are the same the applicant has been proposing since the beginning and was an accurate depiction.

Commissioner Frederick pointed out there is a difference between a 30 year and a 50 year shingled roof, and both were listed as materials for the project, but said a 50 year roof would be preferable.

Mr. Cothrum replied that the leasing office would be roofed with 50 year shingles, and the apartment buildings would have 30 year shingles.

Chairman Gantt called for any further discussion, and with none called for the vote.

The motion passed 4-3 with Chairman Gantt and Commissioners Hand and Maxwell opposed.

PUBLIC HEARINGS

4. **Replat Lot 2B and 5, Block A of the Custer Court Addition (companion to Item 2):** Consider and take necessary action for a request for approval of a replat of Lot 2A, Block A of the Custer Court Addition and an unplatted tract of land into two (2) lots for the development of a 162-unit multi-family complex on proposed Lot 5, Block A. The 14.87-acre site is located at the southeast corner of President George Bush Turnpike and Custer Parkway.

Mr. Roberts advised the replat Lot 2A, Block A and an additional 6.6-acre of unplatted land was to dedicate the easements necessary for the development of a proposed 162-unit apartment complex. He added that the replat complied with all the City's subdivision and zoning regulations.

Commissioner Bouvier asked if the replat was approved, but Item 2 did not pass, what would happen to the replat.

Mr. Roberts replied that once a plat is approved it can be filed, and Ms. Smith added that the approval of the plat did not give the applicant any development rights.

Chairman Gantt stated it was his understanding that if a replat complied with the City's ordinances, the Commission was obligated to pass the replat.

Mr. Roberts replied that was correct.

With no further questions for staff, Chairman Gantt opened the public hearing.

No statements were made in favor or opposed and Chairman Gantt closed the public hearing.

Motion: Commissioner Bright made a motion to approve Item 4 as presented; second by Vice Chair Hammond. Motion passed 7-0 (Commissioner Linn voted).

5. **Replat Lot 3A, Block 2 of the University World Addition (companion to Item 3):** Consider and take necessary action for a request for approval of a replat of Lot 3, Block 2 of the University World Addition to dedicate easements for the development of a restaurant with a drive-thru. The 1.29-acre site is located on the northwest corner of Lake Park Way and Campbell Road.

Mr. Roberts reported that the replat dedicated water line and electric easements for the development of a proposed 3,100 square foot drive-thru restaurant.

Commissioner Hand asked if the replat complied with all the City's subdivision and zoning regulations and Mr. Roberts replied that it did.

With no further questions for staff, Chairman Gantt opened the public hearing.

Mr. Eric Sealey, Pogue Engineering, 1512 Bray Central Drive, McKinney, Texas, stated he was available for any questions the Commission might have. No questions were asked.

No other statements were made in favor or opposed and Chairman Gantt closed the public hearing.

Motion: Commissioner DePuy made a motion to approve Item 5 as presented; second by Commissioner Bouvier. Motion passed 7-0 (Commissioner Bouvier voted).

6. **Zoning File 12-02:** Consider and take necessary action for a request by Howard L. Lawson, representing the Lawson Company, for a change in zoning from C-M Commercial with special conditions to C-M Commercial with special conditions and I-M(1) Industrial with a Special Permit for an indoor self-service warehouse with special conditions for a portion of 528 W. Arapaho Road, north side of Arapaho Road, west of Custer Road.

Mr. Shacklett advised that the applicant was requesting to rezone 4.7 acres located at the northwest corner of Arapaho and Custer Roads. The rezoning would cover the northeastern 3.49-acres from C-M Commercial to I-M(1) Industrial with a Special Permit for a self-service warehouse leaving the remaining 1.2 acres to be rezoned back to C-M Commercial and developed and used in accordance with the regulations for C-M Commercial District.

Mr. Shacklett gave a brief history of the site noting that in November 2011, the Commission reviewed a similar request with a change from C-M Commercial to IM-1 Industrial with a Special Permit for a self-service warehouse that included outdoor storage of motor vehicles. The Commission recommended approved the request, but the City Council denied the request, without prejudice, stating they did not think the outdoor vehicles storage was appropriate for the site.

Mr. Shacklett noted that the applicant was requesting the same self-service warehouse with 422 units located within the existing 65,000-square foot building; however, they had removed the outdoor vehicle storage on the east side of the property and were asking for a 6,000-square foot future building expansion that would accommodate an additional 60 units. He added that if the expansion was built, additional landscape areas would be added to ensure the site met or exceeded the City's requirements.

In addition, Mr. Shacklett pointed out that the applicant was providing a fire lane on the east side of the building, and the 1.2 acres on the southwest portion of the lot would remain under C-M Commercial zoning.

Mr. Shacklett concluded his presentation stating that should the Commission approve the request, the motion should include the conditions noted in their case packet.

Commissioner Maxwell asked how the 20-foot setback affected the proposed expansion and would it apply to all four sides of the building.

Mr. Shacklett replied the special condition granted a 20-foot setback along the north property line for the existing 65,000-square foot building, which validated only just the portion of the building that currently encroached into the normal 60-foot setback.

Commissioner Maxwell asked if the turnaround for the fire lane was necessary because a normal fire lane was 24 feet and the fire trucks would have a problem getting around the building.

Mr. Chavez replied that it was necessary because the fire trucks needed to be within 200 feet of any point in the building for coverage and the turnaround made that possible.

Commissioner Maxwell asked for clarification of the 20 year guaranteed term versus what rights the City would have as far as recalling or revoking the Special Permit.

Mr. Chavez replied the applicant was requesting an initial 20 year Special Permit with two five year extension; however, it did not limit the City's ability to reconsider the permit at any time. In addition, the applicant had originally requested the City keep track of the redevelopment in the area and at the time the permits for construction reached 50%, the City would notify the applicant so they could begin their exit strategy, however, this requirement would create an administrative burden.

Commissioner DePuy stated that the 20 year limit on the Special Permit seemed excessive, and wanted to know if removing the section referring to the City keeping track of the redevelopment in the area would decrease the burden on the City.

Mr. Chavez replied that it was not the normal time frame and stated the typical time frame was from a five to seven year time limit and suggested the applicant may be able to answer why the 20 year limit was important to them.

Mr. Shacklett added what was being removed by staff from the applicant's proposed language was the requirement to track all development in what could be the W. Arapaho Redevelopment and Reinvestment study area.

Commissioner DePuy asked if the expansion took place, would there be sufficient parking to meet the City's requirements.

Mr. Shacklett replied the applicant was required to have 28 parking spaces, and since the entirety of the lot counts towards the building and they have over 200 with 88 of those within the 3.47 acres.

Commissioner Hand asked staff to define redevelopment and if it was explained in the application.

Mr. Shacklett replied the applicant requested the use of the word, but the staff's proposed special conditions would remove that term.

Commissioner Hand suggested it was not realistic to assume that 45 acres of the 80-90 acres in the Redevelopment/Reinvestment area would have to redevelop to make the plan viable, though the application had been written to totally favor the applicant and discouraged redevelopment on Arapaho Road. He felt it was counter-intuitive when the City had been working so hard to redevelop property to approve an item like this.

Mr. Hand added that he had been the lone dissenting vote the last time the project was before the Commission and he would vote against it again.

Mr. Chavez noted that the language referenced to by Mr. Hand was contained in the applicant's request, but had been removed in staff's recommendations to the Commission.

Commissioner Hand said it would help to define it a little better not to be dealing with the redevelopment language.

With no further questions for staff, Chairman Gantt opened the public hearing.

Mr. Bill Dahlstrom, representing The Lawson Company, 901 Main Street, Dallas, Texas, stated he thought the proposal was an opportunity to make good use of a vacant building, and highlighted some of changes made in the current application from the previous submittal including a time limit, limit of I-M(1) uses to C-M Commercial uses, removal of all outdoor storage and display, and landscaping that exceeds the City's requirement.

Mr. Dahlstrom explained the language referenced by Mr. Hand was proposed to accommodate redevelopment and thought that redevelopment would be good for the area. He added that they thought if sufficient redevelopment took place in the future, and it was at a point that allowed redevelopment of all the properties, it could be taken into consideration at the time of the five year extension request.

Mr. Dahlstrom concluded his presentation by pointing out they had addressed comments from the City Council and added four items that made the application more restrictive and were requesting approval.

Chairman Gantt asked why the applicant was requesting 20 years for their Special Permit considering that most permits are granted for five or seven, especially with the applicant stating they were in favor of redevelopment along Arapaho Road.

Mr. Dahlstrom replied that their original request was for 30 years, but they had reduced to 20 years with two 5 year extensions so it would help recoup their investment. He added that the investment in the structure would be significant and he did not think 20 years was out of the question for the type of facility.

Commissioner Linn asked if the sale of the property was contingent upon approval of the Special Permit, as it was in the November 2011 submittal.

Mr. Dahlstrom said he assumed it was the same.

Mr. Richard Ferrara, 405 N. Waterview, Richardson, Texas, explained he was a consultant working with the owner of the property, Legacy Texas Bank, and advised the bank and the new owner that they had an obligation to be aware of the redevelopment in the area and not be a hindrance, at which point the owner said they would only be in the area as long as they were not in the way.

Commissioner Bright asked if the property had changed ownership from the bank to the new owner.

Mr. Ferrara replied that it had not and the sale was subject to approval of the rezoning and Special Permit.

Mr. Richard Ramey, representing Legacy Texas Bank, 707 E. Arapaho Road, Richardson, Texas, pointed out that many of the surrounding lots had recently sold to multiple parties for retail and restaurant uses and felt it was unlikely the property would be redeveloped for at least 10 to 15 years.

Chairman Gantt asked if Mr. Ramey could comments on the 20 year term request.

Mr. Ramey explained that the bank was giving a 25 year amortization on the property, but was willing to accept the risk of 20 years if the applicant had to repurpose the property at that time. He added that 20 years presented the bank with a reasonable amount of time to recoup their investment.

Mr. David Beatty, representing Northrich Baptist Church, 201 Mistletoe, Richardson, Texas, stated the church was in favor of the original submittal and they were continuing their support with the new submittal.

No other comments were made in favor or opposed and Chairman Gantt closed the public hearing.

Commissioner Maxwell asked for clarification on staff's recommendation regarding the 20 year term. If item 1.b. was removed from the conditions and no time limit was imposed, would the Special Permit run indefinitely, or if item 1.b. remained and expired at the end of the 20 year time period, would the applicant have to request a five year extension.

Mr. Shacklett replied without a time limit the Special Permit would run indefinitely; however, the City could reconsider the special permit at any time. As conditioned, the Special Permit expires, unless an application was submitted to request a five year extension.

Commissioner Hand asked why the site was being rezoned to I-M(1) Industrial. He also wanted to know if the property was no longer used as a warehouse, would it have to be rezoned to another zoning district.

Mr. Shacklett replied that the Comprehensive Zoning Ordinance only allows self-service warehouses by Special Permit in an Industrial District; therefore, the zoning change was necessary.

Regarding rezoning the property if it was no longer a self-service warehouse, Mr. Shacklett replied that the property would retain its right to the Special Permit unless it was revoked, but and it would retain its right to uses allowed in the C-M Commercial District.

Chairman Gantt asked for confirmation that the use rights only applied if they were awarded a Special Permit, and that the zoning would remain with the property even if the current applicant was no longer in business.

Mr. Shacklett replied that the current request was not tied to a specific entity, and would remain with the property for the specified time frame.

Commissioner Hand asked if the City had ever reconsidered a Special Permit.

Mr. Shacklett and Mr. Chavez replied that they did not know of that happening in the time they had been with the City.

Commissioner Hand reiterated that he thought the submittal was counter-intuitive to redevelopment.

Mr. Smith suggested a change to the wording of the special condition to ensure that the renewal process would require the owner to go back through the zoning process should the Commission choose to approve the request. He stated item 1.b should read: "The Special Permit may be renewed for two additional time periods for five (5) years each upon submittal of a new application by the property owner representative," and insert "in compliance with the procedure for a change in zoning district classification," which means the owner would have all the underlying uses in an Industrial District.

Chairman Gantt disagreed and said that the uses would be allowed in accordance with the zoning regulations for the C-M District.

Mr. Smith replied that if the Commission granted a change in zoning from C-M Commercial to I-M(1) Industrial with a Special Permit for self-service warehouse, then the base zoning had been changed from Commercial to Industrial, which includes all the underlying uses.

Mr. Chavez reported that the language in the conditions was taken from approved and adopted language of a previous zoning case where it was zoned to a district to allow a use, but developed under the special uses of the desired district. He added that the request did rezone the property to industrial, but restricted the uses and the development standards to C-M Commercial.

Mr. Smith stated that the developer had offered to make the zoning change from C-M Commercial to I-M(1) Industrial that would terminate at 20 years so the Commission could conditionally grant the change in zoning for the Special Permit. He added that during the 20 year term, the underlying I-M(1) Industrial District uses would remain.

Commissioner Hand asked if it was possible to tie the Special Permit to the owner.

Mr. Chavez replied that it was possible and had to be included in the motion.

Chairman Gantt asked if the Commission had any other questions regarding the application besides the question of the underlying zoning.

Commissioner Bouvier asked what would happen if the self-service warehouse left the property before the end of the 20 year term; would it revert to C-M commercial standards.

Mr. Dahlstrom stated that he and Mr. Smith had come to a compromise and that as the special conditions were written, there is only one additional use allowed and that is of the storage and C-M uses under the Industrial District. He suggested the applicant would be agreeable to allow the C-M restrictions to survive the 20 year term and after that term the only uses allowed would be C-M Commercial.

Chairman Gantt explained that Mr. Bouvier was asking if the Commission allowed the zoning, as proposed, during the Special Permit period, and the Commission ever recalled the permit, would the zoning revert back to straight C-M Commercial.

Mr. Smith replied that if the Council ever directed the Commission to rezone the property back to straight commercial, or to eliminate the Special Permit, the Commission could change the zoning classification. He added that the Commission could add to the proposed language that the only use allowed would be self-service warehouse and the C-M Commercial uses allowed in the Industrial District, which should give the City adequate protection against the applicant or a subsequent owner trying to bring in some other industrial uses.

Commissioner Hand asked if the suggested condition of tying the Special Permit to the applicant would be included.

Chairman Gantt concurred that the Special Permit should be tied to the applicant, but said if the zoning was changed to I-M there was still the risk that if the applicant left the property the zoning would allow Industrial uses. He noted that Mr. Smith's wording would help restrict that possibility.

Mr. Shacklett explained that the staff was stating in special condition number one that not just the stated C-M uses would be allowed in I-M(1) Industrial, but all C-M Commercial uses (i.e., building, height and area regulations).

Mr. Smith suggested some additional language should be added: "The use of the property shall be limited to a self-service warehouse and all non-industrial uses allowed in the C-M Commercial District."

Mr. Ferrara said he thought the way to word the condition was that the Special Permit allowed all the uses of the C-M Commercial District, and in granting the Industrial zoning, it is exclusive to only self-service warehouse and exclusive of any additional uses that occur in light industrial zoning that do not occur in the commercial zoning.

Mr. Smith stated that the intent was to allow C-M Commercial District uses and also the self-service warehouse for a period of 20 years. So the additional condition should state: "the use of the property shall be limited to a self-service warehouse and other uses allowed in the C-M Commercial District."

Commissioner Hand stated he was not going to vote in favor of the application, but thought it was worth saying he appreciated the malleability the applicant had shown with their new request.

Motion: Commissioner Bright made a motion to recommend approval of Item 6 as presented in the revised pages 4 and 5 handed out by staff in the briefing session with the addition of the word "Permit" on item 1B; second by Commissioner Bouvier.

Mr. Smith asked if the motion should include "in compliance with the procedure for a change in zoning district classification" after the word representative.

Mr. Bright concurred with that change.

Commissioner Frederick seconded the motion.

Mr. Smith asked if the special conditions should include “that the use of the property shall be limited to self-service warehouse and uses allowed in the C-M Commercial District.”

Commissioner Bright replied that he thought that issue was already included in item 1B.

Mr. Shacklett replied that was the question as to whether or not special condition number one that states “shall be zoned I-M(1) with a Special Permit for self-service warehouse and shall be developed and used in accordance with the zoning regulations for the C-M Commercial District. He felt that statement covered the fact that there was a Special Permit and everything else was per the C-M District regulations.

Mr. Smith said he preferred the language that “The use of the property shall be restricted to a self-service warehouse and uses allowed in the C-M Commercial District.” so there is no question as to the intent.

Commissioner Bright said he was open to Mr. Smith’s revision and suggested it should be listed as item 1F, and Commercial Frederick concurred with the revision.

Motion passed 5-2 with Chairman Gantt and Commissioner Hand opposed.

ADJOURN

With no further business before the Commission, Chairman Gantt adjourned the regular business meeting at 9:17 p.m.



David Gantt, Chairman
City Plan Commission