

**MINUTES OF THE PLANNING AND ZONING COMMISSION
OF THE CITY OF GLENN HEIGHTS, TEXAS**

March 14, 2011

**STATE OF TEXAS
COUNTY OF DALLAS AND ELLIS
CITY OF GLENN HEIGHTS**

On the 14th day of March 2011 the Planning and Zoning Commission of the City of Glenn Heights, Texas convened in a regular meeting at the City Hall, in the Council Chambers at 1938 S. Hampton Road, Glenn Heights Texas to consider the following items, with these members in attendance:

PLANNING AND ZONING COMMISSION:

Lori Berman	*	Chairman
Austin Kelley	*	Board Member
Dorothy Loney	*	Board Member
Matt Graska	*	Board Member
Tammy Garr	*	Board Member
Janice King	*	Board Member

STAFF:

Judy Bell	*	Assistant City Manager
Othel Murphree	*	City Secretary
Joe Goodman	*	Director of Public Works

CONSULTANT:

Monte Akers	*	City Attorney
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ABSENT:

Jesus Humphrey	*	Board Member
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Chairman Berman called the meeting to order at 7:30 p.m.

INVOCATION: Commissioner Kelley gave the invocation.

CONSENT AGENDA: All matters listed in Item 1, Consent Agenda, are to be considered routine by the Commission will be enacted by one motion. There will not be separate discussion on these items. If discussion is desired, that item will be removed from the consent agenda and will be considered separately.

1. Consider and approve the minutes of February 14, 2011.

Commissioner Austin moved to approve the minutes of December 13, 2010 and December 20, 2010. Commissioner King made the second. The motion carried with following vote:

VOTE: 6 Ayes – Kelley, Austin, Berman, Loney, Graska, and King

2. Consider and approve Preliminary Plat for 1201 and 1205 E. Bear Creek Road approximately 2.78 acres of land described as Tract 31 (2.230 acres) and Tract 30 (0.550 acres) out of the James Porter Survey, Abstract 1129, Glenn Heights, Dallas County, Texas.

A Plat was filed with the City by the Applicant, Athletes Helping Kids, by its representative, Dennis DeVaughn, for 1201 and 1205 E. Bear Creek Rd. on Monday, March 7, 2011. The required application and fees have been completed and submitted. A Preliminary Plat and a Final Plat have been submitted for consideration

A review of the Plat submittal reveals that all City requirements have been met. Staff's review also revealed that this location is almost entirely located in the floodplain. The Glenn Heights Code of Ordinances, Section 3.1208, requires a development permit be required if there are flooding concerns on project sites. Research has determined that the residences at this site were built in 1967 and that the current owners purchased them in 1983. Since 1967 there has been no known flooding of the property or improvements. This information supports a determination that no development permit should be required.

This submittal is for compliance only and not in preparation of new construction, a Preliminary and Final Plat are being submitted and requested for approval. Staff recommends the approval of the Preliminary Plat and Final Plat as submitted with this application.

Commissioner Graska advised the Commission and the City Attorney that he worked for the DeSoto School District and the District owned property within 200 feet of the subject property and was concerned if that posed a conflict of interest for him. The City Attorney advised Commissioner Graska that in his opinion he (Commissioner Graska) did not have a conflict of interest and could participate and vote on the application for platting and the application for re-zoning.

There was discussion on possible improvement to the egress easement to the property.

Commissioner Loney moved to approve the Preliminary Plat Athletes Helping Kids. The motion died for the lack of a second.

3. Consider and approve Final Plat for 1201 and 1205 E. Bear Creek Road approximately 2.78 acres of land described as Tract 31 (2.230 acres) and Tract 30 (0.550 acres) out of the James Porter Survey, Abstract 1129, Glenn Heights, Dallas County, Texas.

Chairman Loney moved to approve the Final Plat of Athletes Helping Kids. Chairman Graska made the second. The motion carried with the following vote:

VOTE 6 Ayes – Kelley, Austin, Berman, Loney, Graska, and King

The Commission returned to Item 2. for reconsideration - Consider and approve Preliminary Plat for 1201 and 1205 E. Bear Creek Road approximately 2.78 acres of land described as Tract 31 (2.230 acres) and Tract 30 (0.550 acres) out of the James Porter Survey, Abstract 1129, Glenn Heights, Dallas County, Texas.

Commissioner Loney moved to approve the Preliminary Plat of Athletes Helping Kids. Commissioner King made the second. The motion carried with the following vote:

VOTE 6 Ayes – Kelley, Austin, Berman, Loney, Graska, and King

4. Consider and approve a request for an amendment to the City's Zoning Ordinance, Ordinance No. O-03-09, by changing the zoning classification on approximately 2.78 acres of land described as Tract 31 (2.230 acres) and Tract 30 (0.550 acres) out of the James Porter Survey, Abstract 1129, Glenn Heights, Dallas County, Texas, recorded DRDCT, Page 390 from Single Family Residential "SF-1" to Planned Development "PD" with a Specific Use Permit at the properties located at 1201 and 1205 E Bear Creek Road.

On February 14, 2011, the Planning and Zoning Commission (P&Z) held a properly noticed Public Hearing to receive public testimony in favor of or opposed to the zoning request for 1201 and 1205 E. Bear Creek Rd. This Zoning Application (Application) is for a Planned Development (PD) and Specific Use Permit (SUP), as required by the City's Zoning Ordinance, for the location and operation of a Residential Treatment Center (RTC). No citizen appeared to testify for or against this Application. However, the Applicant presented several signed letters supporting the project which he received from the owners of surrounding properties.

During the February 28, 2011 P&Z meeting no action was requested, but the P&Z members received testimony from the AHK representative, Dennis DeVaughn, relative to the Application. It was expressed by the P&Z that the presence of a representative of New Horizon or Chief Executive Officer (CEO) of Athletes Helping Kids (AHK) at the next P&Z meeting would be helpful; a determination was needed of whether the facility will be considered a residence or business; and what other similar facilities have or are required to have for compliance by their governing entities.

As requested by P&Z, the following was provided:

Representative of New Horizon or AHK CEO - Since the February 14, 2011 meeting arrangements were made through Mr. DeVaughn to have the following people present:

Frank Harris – Mr. Harris is currently employed by the New Horizons organization and runs the Audrey Grace Residential Treatment Center and Youth Ranch facilities in Abilene, Texas. He will be the **Executive Director** and will oversee the operations of all Athletes Helping Kids programs and will be responsible for the

overall management of the organization and implementation of policy. He has a Master's Degree in Social Work and was a Drug and Alcohol Counselor with the Dallas County Probation Department.

Dennis Winston – Mr. Winston is licensed by the Texas Department of Family and Protective Services (DFPS) as a child care administrator and will be the **Administrator** of the Residential Treatment Center. He will oversee the entire staff and will ensure the daily care and treatment of the children. His background is with the Dallas Juvenile Justice Education Program as an Administrator and Case Manager. The license for this house will be granted by DFPS through him.

Maureen Murphy - Representative of Murphy II, LLC., the investment group that will be purchase the house in Glenn Heights.

Judge William (Bill) Mazur – Judge Mazur is the presiding judge of the 304th District Court in the Dallas County Juvenile Department. AHK is honored that he will come to support this venture. He should be able to answer many of the questions from the zoning commission.

Marion McBryde and Carl McBryde - Owner/Seller of the property in Glenn Heights.

Will AHK be considered a residence or business – The City Attorney indicates that these facilities are considered residential, as they not only provide rehabilitative services but are the residential location for all patients. Were it not for the fact that the facility will have more than six residents and two supervisors living there at any given time, the facility would qualify as a community home pursuant to Ch. 123, Human Resources Code which provides a statutory right for it to be located in a residential district.

What similar facilities have or are required to have for compliance in other cities – A conversation was had with a licensing agent with the Texas Family and Protective Services (TFPS), the licensing-issuing agency. Although TFPS has certain minimum standards, it will depend on local Health and Fire Inspectors to ensure that all local Building and Fire Codes are imposed and met. I read over the list of issues City Staff observed and was informed that as long as these regulations apply to all others in the City, the regulations can be imposed on the Residential Treatment Center (RTC) also.

Site Visit Results

A site visit was conducted on Wednesday, February 16, 2011, and the Applicant was informed of all City concerns on February 24, 2011. Following are those concerns and the Applicant's preliminary responses:

City - Install a minimum 6" water line adequate to support a fire hydrant at facilities (nearest fire hydrant is more than 500'; these houses are relatively isolated); this would have to be a dedicated water line for fire suppression water supply line as provided in the Fire Code; well water is all that is on-site.

Applicant - *Although not in use, there is a 4" water line installed from the facilities to E. Bear Creek Rd. Applicant is requesting the City allow the use of this line.*

City - Connect to City sewer (currently on septic; probably sized for single-family as it is about 25+ years old).

Applicant – *Will consider connecting to City sewer line. The closest line has been identified west of facilities on private property belonging to Don Valk.*

City - If well water and septic are to be used they should be analyzed for water quality and sewer system sizing.

Applicant – *Applicant will commission a water quality and septic inspection.*

City - Provide floor plan, to scale, of all structures which indicate housing / sleeping accommodations for all occupants.

Applicant - *No plans have been received at this time.*

City - Improve driveway - old asphalt, not in good repair; may hinder Fire and Police response.

Applicant - *Does not own the private driveway but has an easement for its use. Applicant does not want to consider assuming the cost to make those improvements.*

City - Clean up debris

Applicant – *Agrees this will be addressed after final ownership occurs.*

City - ADA compliance

Applicant – *Per Department of Child Protective Services standards, Applicant will not provide treatment services to youth with primary care needs.*

City - Permission for PD patrol down private driveway.

Applicant – *Applicant will pursue gaining permission from owner of private driveway for PD patrol.*

City - IFC requirements such as marked exits, fire alarms, carbon monoxide.

Applicant - *All these issues will be addressed.*

Although it was not included in the list of site visit requirements, the Interim Director of Public Safety has requested consideration for reimbursement of additional call activity from this facility for Police and Fire assistance.

All necessary background information was provided to the P&Z for the February 14, 2011 meeting. However, as requested by the Chair, an aerial map is being provided of the immediately surrounding area.

Additionally, on February 24, 2011, a letter from the DeSoto IDS Superintendent, Lloyd Treadwell, and Chief Financial Officer, Bobby LaBorde, was forwarded regarding the District's concerns about the approval of this project.

The Comprehensive Plan Updates call for this property to be used as retail in the future. A copy of the Future Land Use Plan was provided for the Commission.

Some of the concerns discussed by the Commission were:

- staffing levels
- letter from the DeSoto ISD stating their concerns
- location of the property in relationship to the DART Park & Ride and a local retail store that sold alcoholic beverages.
- Cities Future Land Use Map showed the property to be for retail development
- on-site infrastructure – water/septic system.

Commissioner Graska moved to table the request for an amendment to the City's Zoning Ordinance, Ordinance No. O-03-09, by changing the zoning classification on approximately 2.78 acres of land described as Tract 31 (2.230 acres) and Tract 30 (0.550 acres) out of the James Porter Survey, Abstract 1129, Glenn Heights, Dallas County, Texas, recorded DRDCT, Page 390 from Single Family Residential "SF-1" to Planned Development "PD" with a Specific Use Permit at the properties located at 1201 and 1205 E Bear Creek Road. Commissioner Garr made the second. The motion carried with the following vote:

VOTE 6 Ayes – Kelley, Austin, Berman, Loney, Graska, and King

The City Attorney, Monte Akers advised the Commission that the proper motion should have been to postpone instead of table.

Chairman Berman moved to deny the application for rezoning. Chairman Berman withdrew her motion to deny.

Commissioner Garr moved to go into a closed session pursuant to Chapter §551 Government Code V.T.C.S. (OPEN MEETINGS LAW), in accordance with the authority contained in §551.071 – Consultations with Attorney. Commissioner Graska made the second. The motion carried with the following vote:

VOTE 6 Ayes – Kelley, Austin, Berman, Loney, Graska, and King

The Commission convened into Closed Session at 9:20 p.m.

Commissioner Loney moved to come out of Closed Session. Commissioner Garr made the second. The motion carried with the following vote:

VOTE 6 Ayes – Kelley, Austin, Berman, Loney, Graska, and King

Chairman Berman called the meeting back to order at 9:31p.m.

Chairman Berman moved to deny the request for an amendment to the City's Zoning Ordinance, Ordinance No. O-03-09, by changing the zoning classification on approximately 2.78 acres of land described as Tract 31 (2.230 acres) and Tract 30 (0.550 acres) out of the James Porter Survey, Abstract 1129 from Single Family Residential "SF-1" to Planned Development "PD" with a Specific Use Permit at the properties located at 1201 and 1205 E Bear Creek Road because the requested zoning does not comply with the Future Use Plan of City as described in the 2010 Comprehensive Plan. Commissioner Garr made the second. The motion carried with the following vote:

VOTE 4 Ayes – Kelley, Austin, Berman, Loney, Graska, and King
1 Nay – Loney
1 Abstain - Graska

5. Approve any absences per Ordinance O-28-10.

Commissioner Graska was absent February 14, 2011 because he is required by his job to attend the DeSoto ISD Board meetings and there was a scheduled meeting on February 14 for the DeSoto ISD Board.

Chairman Berman moved to excuse his absence for February 14, 2011. Commissioner Garr made the second. The motion carried with the following vote:

VOTE 5 Ayes – Kelley, Austin, Berman, Loney, Graska, and King
1 Abstain - Graska

6. Adjournment.

Commissioner Graska moved to adjourn. Commissioner Garr made the second. The motion carried with following vote:

VOTE: 6 Ayes – Kelley, Berman, Loney, Graska, Garr, and King

Chairman Berman adjourned the meeting at 9:33 p.m.

Lori Berman, Chairman

ATTEST:

Othel Murphree, City Secretary

Passed and approved the 28th day of March, 2011.