

**State of Texas
County of Denton
City of Lake Dallas**

The Planning and Zoning Commission of the City of Lake Dallas met on November 20, 2014 at 7:00 p.m. in the Lake Dallas City Hall located at 212 Main Street, Lake Dallas, Texas with notice of the meeting posted as required by Title 5, Chapter 551.041 of the Texas Government Code.

A. Call to Order

B. Roll Call

Present: Chairperson Ben Gilbert, Commissioners Peggy Shelton, Clyde Fisher and Jenny Warmbrodt

C. Pledge of Allegiance

Chairperson Gilbert led the Pledge of Allegiance.

D. Citizen's Agenda

No one came forward and Chairperson Gilbert closed the citizen's agenda.

E. Business:

1. Consideration and Action to recommend approval of an ordinance rezoning of the property A1163a J.W. Simmons, Tract 5, located at 400 N. Stemmons, from M-1 Light Industrial to C-1 Retail District.

Char DuPree, Community Development Director, gave a presentation regarding the zoning change of Andrews Distributing. She gave a brief history of the ownership of the property and any remodel and additions made. She also outlined the difference between M-1 and C-1 zoning uses and presented pictures depicting what the City does and does not want at the location. A copy of the PowerPoint presentation outline will be included in the minutes.

Commissioner Fisher asked if Andrews was the only property currently zoned M-1. Ms. DuPree answered that the properties next door, Comco and Silestone, are also M-1 as well as Hundley Boat Yard. She also pointed out that the vehicle storage facility on Swisher is currently zoned C-1, but the use of storing vehicles is a legal nonconforming use. Clyde Fisher asked Ms. DuPree if the new owners of Andrews could also request a zoning change and she answered yes. The concern is, if it is left M-1, the City would have no choice but to allow the M-1 usage. Clyde Fisher asked if there are stipulations that could be put on M-1 zoning to prohibit outside storage and Ms. DuPree answered no. Jenny Warmbrodt also asked if Andrews could have an agreement with the City not to sell to someone that was not in accordance with what the City wants and Ms. DuPree answered it must be between Andrews and their prospective buyer.

Joe Jernigan, CFO of Andrews Distributing at 2730 Irving Blvd, Dallas, TX 75207, spoke in regards to the zoning change. Mr. Jernigan stated it really bothers him that his property is being looked at negatively. He referenced 85 acres of land that they bought in Allen, TX and how a portion of that land was bought to build Cabela's currently located on highway 75. Andrews Distributing and City officials of Allen, TX have an "understanding" to work together on who purchases the land and how it is to be used. Allen also has a vision just like the City of Lake Dallas of what types of businesses will be in their City. Mr. Jernigan feels there has to be a way for the City and Andrews to work together and have an agreement, either in writing or just word, to make sure the land is used based on the City's vision. He is willing to sit down with the City Manager, City Attorney, or City Council. He feels that he understands where the City is coming from, but he doesn't see the need to kick Andrews out of the City.

Clyde Fisher asked the City Attorney, David Berman, if there is any way they could make an agreement to screen any prospective buyers. Mr. Jernigan said they have an informal agreement with Allen, TX but nothing in writing. The City Attorney said there really isn't any way except with a site plan but that wouldn't pertain to this situation since the building is already built. Mr. Jernigan said they currently have three prospective buyers. He referenced the unofficial agreement with the City of Allen again and how they do not do anything with their property in that city unless there is an agreement with the City of Allen. The City Attorney said it isn't that they don't want Andrews there, it is more their concern with who will buy the property. He said another option would be to change it to C-1 and then let the prospective buyers know that the City Council is not opposed to changing it back to M-1 if the usage is something the City agrees with. Mr. Jernigan said he has never heard of such a situation before and that it isn't good from a developer's standpoint. Mr. Berman said it has been done many times and even though it isn't the best option from Andrews's standpoint, it protects the City and the buyer. The most significant concern the City Attorney has right now is this issue not be tabled again by the Planning and Zoning Commission. It needs to go to the City Council as planned. In terms of being creative, it really is the City Council's decision, no matter what Planning and Zoning recommends.

Clyde Fisher said he doesn't feel right with the rezoning. Jenny Warmbrodt mentioned that in her opinion she didn't feel the fact the property has been vacant for sixteen months should be a motivating factor in changing the zoning district. There are still other areas of the City that are either vacant or have yet to be developed. She is concerned that it was the City initiating the rezoning and not the actual business owner, which is usually the case. She asked the City Attorney if the property taxes would be the same no matter the zoning district and he answered that, yes, in theory it would be the same. Clyde Fisher asked if the prospective buyers would be using all the acreage and Mr. Jernigan said they will. Commissioner Warmbrodt said she understands that the property could look bad as shown in the pictures from the presentation by Ms. DuPree, however, she feels no one, even Andrews, wants it to look like that. Peggy Shelton said she isn't comfortable with it being M-1 and doesn't want that kind of junk yard usage being at that location. Jenny Warmbrodt asked to confirm where the entrance is located and they said it is off of Overly Drive, so the side of the building is what will be seen off the I-35 service road.

Motion to not recommend the approval of an ordinance rezoning of the property A1163a J.W. Simmons, Tract 5, located at 400 N. Stemmons, from M-1 Light Industrial to C-1 Retail District was made by Clyde Fisher; second by Jenny Warmbrodt.

Ayes: Fisher, Warmbrodt, Gilbert, Shelton
Noes: None

F. Future Agenda Items

No new agenda items at this time.

G. Adjournment

Motion to adjourn was made by Jenny Warmbrodt; second by Clyde Fisher.

The meeting adjourned at 7:37 PM.

Ben Gilbert, Chair

Khara Sherrill, Planning and Zoning Secretary