

District 10 Land Use Plan

Advisory Committee Meeting – April 14, 2004

Committee Members present:

As staff forgot a sign in sheet, no record of members present was recorded for this meeting.

Meeting Notes

The meeting began with a discussion of the existence of the previous District 10 Land Use Plan that was conducted in 1994 and 1995. It was suggested that this document be used as a basis for grounding the current effort, giving historical perspective on the issues identified to date, and providing evidence of the need for real change. A copy of the previous plan is being provided to the committee.

Zoning

The purpose of this meeting was to educate all members of the committee on zoning and some of its implications. Zoning was explained as the basic rules that govern development, including land uses, heights and densities, building locations, landscaping requirements, and others. A comparison of two areas of Dallas was used to show how complicated or simple zoning can be. During this comparison, the question of SUP's and Deed Restrictions was brought up. SUP's, or Specific Use Permits, are uses allowed only after special review and permission from City Council. A good example is a child care facility in a residential area. Due to traffic and other concerns, City Council must give special permission to a child care facility to ensure neighborhood protection. Deed Restrictions are similar, in that they are an agreement to voluntarily limit the allowable uses to minimize the concerns a community might have.

Some specific questions arose in regards to the legal recourse the City has in certain situations. One question is whether an SUP issued originally for a permanent time period can be revoked. A related question is whether a use that is violating the Deed Restrictions it is operating under is non-conforming, or whether it is simply violating City Code and needs to be cited by the Code Compliance Department. Staff will get an opinion from the City Attorney on both these questions for the next meeting.

Following the discussion of the types of controls zoning can contain, the implications of zoning, both on a city as well as other entities like school districts was discussed. Finally, the implications of zoning from a legal point of view were discussed. Several key concepts bear repeating.

Non conformity, the status given to land uses that were allowed under previous zoning but not under current zoning, was explained. Non-conformity is important as any rezoning that takes place during this process may result in land uses being made non-conforming. Non-conforming uses can operate indefinitely unless a property owner in the City of Dallas takes that use to the Board of Adjustment, shows that the use is harming the neighborhood (usually through crime statistics or code violations), and convinces the Board to give the use a compliance date. A compliance date is the date the use must cease operating, and includes the time necessary for the owner to recoup the investment made in the use.

A "taking" is the other important legal concept related to zoning. A taking occurs when a City takes an action, typically a rezoning, that reduces property value without a justifiable public purpose. Cities have the right to change zoning, but they must do it for a justifiable public purpose or they must recompense property

owners for any reduction in value they suffer due to the rezoning. The committee will need to keep this concept in mind as we move forward into the recommendations phase of the Land Use Plan.

Questions arose as to what constituted a justifiable public purpose. Staff offered examples such as crime statistics and repeated code violations. Rezoning property to reduce crime or improve building conditions fall within the City's rights to "protect the health, safety, and welfare" of its citizens. Additionally, staff explained that rezoning to redress the imbalance in ownership vs. rental rates in an area, or changing zoning to encourage different types of retail or residential development in order to resolve issues identified as problems by a community can also be shown as protecting the health, safety, and welfare of a City's citizens.

A suggestion was made to investigate Chapter 54 (simply legal proceedings against violators of City codes) cases as another potential piece of evidence to use to identify those uses that have been particularly problematic over time.

Final Comments

There is one more meeting planned for the research and analysis phase of the plan. Staff will present the results of research into code violations, crime statistics, and summarize the issues and propose goals to take forward to the public meeting and into the recommendations phase of the plan. The first public meeting is planned sometime mid June, though this meeting is being coordinated with Councilmember Blaydes office and is subject to change.

The committee will hold its next meeting on May 12, 2004, at 3 pm, at the Lake Highlands Recreation Center.