

Perry Estate Discussion – Hancock Neighborhood Association – 7/21/2010

PURPOSE

1. Organize a community response.
2. Hancock Zoning Committee to gather neighborhood concerns.
3. Communicate concerns and community values to the developer/property owner.
4. Solicit information from developer about how community concerns will be addressed.
5. Recognize situation of Perry Estate must be evaluated from a number of vantage points that may lead to conflicting solutions.
6. Recognize historic significance of the Perry Estate, the size of the lot/open space, and the need for responsible maintenance of the historic buildings.
7. Recognize the importance of buffering adjacent residential to current non-residential and any future non-residential uses on the Perry Estate site.
8. Zoning Committee goal that any proposal for redevelopment be well thought and serious about addressing concerns & values. (Prompting of a developer to make an earnest proposal is not meant to be an endorsement of a proposal. Zoning Committee gathers information for neighborhood association members to make an informed decision.)

PROCESS

1. Hear proposal (full neighborhood meeting #1)
2. Gather feedback, develop concerns (full neighborhood meeting #1)
3. Have developer respond to concerns
4. Developer & zoning committee present responses to concerns and analysis and determine if basic principles of project have merit and if project is worth negotiations (don't negotiate in meeting but present analysis and gather more input) (full neighborhood meeting #2) (A decision has to be made on moving forward before the developer and the Zoning Committee devote the time and serious commitment to working through some complex safeguards.)
5. If project is deemed worthy of negotiations, move forward. Zoning Committee to negotiate with developer
6. Progress of discussion with developer shared for discussion (full neighborhood meeting #3)
7. Negotiation brought to membership for approval/denial (full neighborhood meeting #4)
8. If developer moves forward with development applications, approval needed from Central Austin Combined Neighborhood Plan Contact Team (CANPAC) to file out of cycle for a Future Land Use Map change from Civic to Civic & Mixed-Use for the portion of the property used for hotel.
9. If developer applications submitted with city, then public hearings.

NEIGHBORHOOD MEETING HISTORY

FULL NEIGHBORHOOD MEETING #1 ADOPTED MOTION

That the Hancock Neighborhood Association (HNA) commit the HNA Zoning Committee to meet with the developer to evaluate and explore zoning categories, development regulations and alternative options that would address concerns of the neighborhood association. Development regulation discussion is not to be binding and is not to indicate endorsement of the proposed development. The HNA Zoning Committee is to convene a general membership neighborhood meeting, to be held in approximately 1 month, to report progress, make more detailed recommendations, and seek resident input.

FULL NEIGHBORHOOD MEETING #2 ADOPTED MOTION

That the HNA gives approval to the HNA Zoning Committee to begin formal zoning negotiations for the preservation and development of the Commodore Perry Estate proposed by Clark Lyda, developer, and in doing so gives approval to the project contingent on satisfactory agreement and safeguards on land use based on concerns and requirements identified by HNA members. Final approval to be voted on by membership in a future meeting.

CONCERNS LIST

1. Quantity of rooms and scale of buildings.
2. Adequacy of parking.
3. How much traffic and noise will a restaurant, amphitheater or wedding generate?
4. The integrity of original building should be maintained. Does the Austin Landmark Status ensure review of modifications to buildings and prevent demolition?
5. The wall is an important historic asset that should be preserved. Additional walls and/or screening will need to be added to buffer neighboring residents. Visual privacy and noise concerns.
6. How will service work and how will trash be handled? Concerns about noise.
7. Creek water quality and flood controls.
8. How could we ensure a quality hotel and hotel operator?
9. Who are other significant investors and what is their reputation?
10. 41st Street is not in an adequate condition to support more traffic and parking while allowing for safe pedestrian and bicycle movement.
11. How can we ensure compatibility between the school building and adjacent residents?
12. How can we be assured that any zoning changes won't allow other unanticipated uses, should this development not happen or go bankrupt?
13. Might zoning roll back with any change of use or abandonment of the project?
14. Red River is a dividing line between commercial development and single family areas. Would redevelopment of the Perry Estate encourage more commercial development west of Red River or discourage renovation of the Miller/Long House on the corner of Park Blvd. and Red River?
15. Light pollution.
16. Has the estate been marketed as a single family property or single family plus school property?
17. What assurances are there that the schematic site plan shown is indicative of how the project will be built?
18. If the developer is interested in green building and a botanical garden feel, how might this be incorporated as a development regulation?
19. How would development regulations differ if this were a bed and breakfast or a smaller 14 room boutique hotel, such as St. Cecelia?
20. Neighborhood safety and security

SUMMARY OF CURRENT PROPOSAL BY DEVELOPER

The proposal is to maintain current single family zoning dimensional standards (setbacks, impervious cover, building height), but change the zoning only to allow a different use. This is more of a use issue and less of an intensity of use issue. The main allowable uses desired are hotel, private primary/secondary education, and congregate living (retirement home). A retirement home is a backup development option. GR-MU zoning is the least intensive zoning category that allows a hotel. A MU (mixed-use) suffix would allow residential uses on the property. NO zoning is the least intensive zoning that allows a school use. The developer's intent is that with setbacks, impervious cover, and height restrictions that match single family zoning, the development will be more compatible with adjacent homes.

An escrow account will be set up to fund neighborhood enforcement of any private restrictive covenants. The developer will commit to completing the following items in the first phase of construction: 1) wall, service drive, vegetative buffer; 2) water quality control measures. Historic zoning will take place at the time of a re-zoning.

The Future Land Use Map (FLUM) of the adopted Neighborhood Plan would be revised from Civic to Mixed-Use for the hotel and related uses. The school site would remain Civic on the FLUM.

1928 structures and the formal gardens in the south east corner are to be zoned Historic with the city. This will limit exterior modifications or demolition.

The re-zoning would have a Conditional Overlay applied to further limit entitlements. These Conditional Overlays include:

1. Limit number of hotel units

2. Specify minimum room size
3. Limit footprint and heights of structures
4. Limit impervious cover to match single family allowable cover
5. Upgrade the sidewalk & landscaping in the public right-of-way along Red River & 41st.
6. Limit total number of vehicle trips per day to less than the number that requires a traffic impact analysis, however a traffic impact analysis will be conducted anyway.

A private restrictive covenant would be executed to restrict development items that the city will not restrict. These items include:

1. Buffering to adjacent single family beyond the standards required in the City Code
2. Maximum number of event attendees (capped and tied to available parking)
3. Restrictions on outdoor activities
4. Time limit on primary demolition and excavation construction activities
5. Service functions limited and trash containers to be swapped, not dumped
6. Hotel to include the following services associated with a higher-end hotel: Concierge, spa, and full service dining
7. School development and uses limited
8. No pole mounted lights
9. Signage limited
10. Building density and massing restricted to keep building scale small and to preserve green space

Items the Zoning Committee had the developer strike from the proposal (or add) in the interest of neighborhood concerns are:

1. Initially proposed uses seen as problematic: Off-site Accessory Parking, Outdoor Entertainment, Club or Lodge, Group Home uses.
2. Use a Mixed-Use Future Land Use Designation rather than Commercial and retain the current Civic Land Use Designation where allowable (in the school area).
3. Outdoor or tented amplified music is not allowed.
4. Any proposal must show adequate parking, including off-site parking.
5. Limit event attendees and employees to 350 people (350 people is the size of a “society wedding.”)
6. Prioritize historic zoning and construction of elements to provide buffering to adjacent single family.
7. Limit school size.

ZONING COMMITTEE ANALYSIS

Currently no zoning applications have been filed with the city. Good input has been received from neighbors, and concerns have been compiled into a list. Concerns about noise and parking are very valid. This parcel is large enough that specific characteristics of it become a larger neighborhood planning matter. The property is significant in its history, architectural design, and its amount of green space.

Surely the property is expensive to maintain and it seems likely that revenue from the current school is not enough to support the necessary maintenance of the building and grounds. Something needs to be done to secure the care and preservation the historic structures and green space need. The hotel idea offers a possible solution to a problematic situation.

SF-3 zoning cannot be continued for the school site as proposed, in that hotel parking cannot share the school parking lot. Commercial use parking cannot be accommodated on a residential site. The specific number of hotel rooms allowed has not been discussed with the developer, though a maximum number of units and minimum size of units has been designated. The Zoning Committee has been looking at how impervious cover limits, building setbacks, parking requirements, and building clustering requirements may already limit the number of allowable rooms.

The 2004 Central Austin Combined Neighborhood Plan showed existing land uses of primarily single family, with a small amount of commercial/office west of Red River along Red River and along Duval. Other commercial/office uses line IH-35 and extend to Red River between 43rd and 40th Streets. Civic is sprinkled throughout the neighborhood at school and church sites. The Plan changed all of the Commercial on Duval to

Mixed Use. A priority of the plan is to limit Commercial incursion into residential areas, however, the Plan changed 6 sites along the west side of Red River to Commercial. Goal 1 of the plan is to preserve the integrity and character of the single-family neighborhoods. This suggests that developments adjacent to single-family must be compatible and/or properly buffered. Goal 2 of the plan is to preserve the historic character and resources of the Central Austin Combined Neighborhood Planning Area neighborhoods. Goal 3 is to allow mixed-use development along the existing commercial corridors that is pedestrian oriented, neighborhood friendly, neighborhood scaled, and serves neighborhood needs. Red River is a residential corridor and a commercial corridor in places. Goal 6 of the plan is to enhance and preserve existing open space, parks, and the natural environment. This could suggest that natural open space along Waller Creek should be preserved at the Perry Estate. A separate list of Plan priorities lists both stopping the incursion of new commercial and office uses into residential areas, and looking for areas where mixed use would enhance the livability of the neighborhoods. The Plan also notes that pedestrian and traffic safety should be increased on 41st Street between Duval and Red River.

Discussion has focused on if change at this site can help in meeting neighborhood goals of preserving history & character of the area, or if change is a threat to the adjacent single family. Use of the site is a concern, but preservation of the historic structures and the green space is also a concern. Any proposed new use for the site needs to ensure a sympathetic compatibility with adjacent homes.

The 10 acre property is zoned SF-3 and it could be legally subdivided into smaller lots without needing a re-zoning. If one were to stay out of the flood plain and tear down the mansion, one could make around 37 homesites, each being large enough (7000sf) to allow a duplex use (74 total dwelling units). There may be potential for someone to preserve the mansion and develop the rest of the lot as single family or townhomes. It would still be a lot of new units and potentially duplex units. A developer could always ask for a rezoning to allow townhomes.

Other developers may have an interest in the following uses for this site: School (private, ACC, UT), church/convent, condominiums, assisted care living facility, medical use, office, retail.

Any use of this site by a public entity, or especially a State entity, poses risks for us as State entities do not have to follow local zoning regulations. If UT were to buy the site, there is no defined process for community input or community protections.

QUESTIONS/ANSWERS

1. Currently the city does not endorse or often utilize roll-back zoning, where a down-zoning on a private parcel is initiated by the city. If it is a use that can particularly harm a neighborhood like CS-1 (bars and strip clubs), then the city, while reluctant, has at times initiated roll-back zoning changes.
2. Accessory uses are allowed for each Use category. For example, a hotel could have a wedding or have a restaurant or have meeting space with just a hotel use and not have to have specific uses for indoor entertainment, outdoor entertainment, restaurant, etc.
3. Group Home Use (which can allow halfway houses) is referred to as mandatory, b/c not including it would be discriminatory. However, making Group Home a conditional use (and thus requiring a public hearing) is not considered excluding group home. It is legally okay to make group home a conditional use and not a permitted use. Also, there has been some opinion that if there are no other residential uses, then group home can be a prohibited use. The logic is that if no other housing is allowed, then not allowing group home use is not discriminating. Some group homes aren't bad, but one version of it allows halfway houses.
4. Future land use map (FLUM). Developer wants to change the entire site from Civic to Civic/Mixed-Use. There is a lot of concern with Commercial pushing west of Red River. The city would most likely want to only change the FLUM to Mixed-Use for the area that actually needed it. A school use would not be labeled as Commercial/Mixed-Use on the FLUM. So, we should look at having a mix of uses on the FLUM and have Mixed-Use only over the hotel building area.

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AGREEMENT TOOLS

Potential tool to secure agreement

zoning conditional overlay
city code, restrictive covenant
zoning, city code, restrictive covenant
federal, state & local historic designations
zoning uses, city code, restrictive covenant
restrictive covenant
city code
restrictive covenant
restrictive covenant
zoning
city code, restrictive covenant
zoning, conditional overlays, restrictive covenant
city code, restrictive covenant

Item to negotiate

quantity of rooms, scale of buildings
parking
noise
historic integrity
buffers (walls, vegetation), compatibility
service and trash
water quality & flood control
ensure a quality hotel
improvements to 41st or Red River
what if developer goes bankrupt
light pollution
assure that concept shown is built
construction noise & environmental impacts