

CASE NO: Z2004020

Staff and Zoning Commission Recommendation - City Council

Zoning Commission Continuance from April 20, 2004, and Postponement from May 4, 2004, and Continuance from June 1 and July 6 2004

Date: August 26, 2004

Zoning Commission Meeting Date: July 20, 2004

Council District: 7

Ferguson Map: 579 E1

Appeal: Yes

Applicant: Owner

Bilmar Construction, LP

Rosin-Johnson, Inc.

Zoning Request: From I-1 General Industrial District to R-5 Residential Single-Family District on 32.7 acres, C-2 Commercial District on 6.7 acres, and MF-25 Multi-Family District on 5.2 acres out of NCB 18560

44.6 acres out of NCB 18560

Property Location: West of the intersection of Bandera & Eckhert Road

Proposal: To develop subject property for residential and commercial use

Neighborhood Association: None

Neighborhood Plan: Northwest Community Plan

TIA Statement: A traffic impact analysis is not required

Staff Recommendation:

Inconsistent. The Northwest Community Plan calls for industrial use at the location of subject property.

Denial. The subject tracts are undeveloped. Property to the north and south are currently zoned "I-1". Property along the east side of Bandera Road is currently zoned commercial. Given that the adjoining properties to the north and south are zoned industrial, the proposed residential zoning and uses would be inappropriate on the subject sites.

Zoning Commission Recommendation:

Denial

CASE MANAGER : Elvin J. Gant, Jr. 207-5876

VOTE

FOR	6
AGAINST	3
ABSTAIN	1
RECUSAL	0

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ZONING CASE NO. Z2004020 – April 20, 2004

Applicant: Bilmar Construction, LP

Zoning Request: "I-1" General Industrial District to "R-5" Residential Single-Family District on 34.77 acres, "C-2" Commercial District on 5.15 acres and "MF-25" Multi-Family District on 4.47 acres out of NCB 18560.

Roy Rosin, 11925 Starcrest, representing the applicant, stated their intent is to develop the subject property for residential and commercial uses. He stated they feel this request is appropriate for this area. He stated there are residential uses in this area. He further stated they would provide a buffer between the existing industrial uses and proposed residential use.

Nina Nixon-Mendez, Planning Manager, stated the proposed amendment to the Northwest Community Plan shows there is light industrial uses in the area that would remain. There is one area that has mixed use designation. They are considering high and low density residential and community commercial for the remaining parcels.

FAVOR

Mike McMahon, 999 E. Basse Rd., represent owner, stated this property has been zoned industrial use and there has been no industrial development. He stated this change would be suitable and feels the proposed development would enhance the community.

OPPOSE

Don Freiling, 5510 Brewster, stated he feels residential use would be an inappropriate for this area. He stated they are experiencing a high volume of vandalism and crime in this area. He also expressed concerns with how this zoning change may deteriorate the industrial properties.

Larry Bradford, 555 Panther Ridge, stated he owns property within this area and he was not notified of this change and would like more information on what they are proposing. He further stated residential homes in this area are inappropriate. He stated the future residents would complain of the heavy noise pollution as well as other heavy machinery that are used. He also stated he feels these homes would probably not sale due to the heavy industrial uses in this area.

Emmett Mikolaczyk, 5315 Verbena, stated he purchased property in this area with the intentions of continuing to operate a gravel pit. He stated he does not feel residential homes is inappropriate in this area. He also expressed concern with an increase in traffic.

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Ken Brown, 112 E. Pecan, representing a property owner in this area, stated his client operates an industrial business. There are cement-manufactured plants, gravel pits and a sand pit with outside storage and feels the proposed residential development is inappropriate for this area.

REBUTTAL

Roy Rosin, stated the Unified Development Code requires a buffer when an industrial use abuts a residential use, which they would provide. They are also proposing to provide a right of way widen to 86 feet, which would be a total buffer of 180 to 200 feet between the industrial and residential uses.

Staff stated there were 19 notices mailed out to the surrounding property owners, 2 returned in opposition and 1 returned in favor.

Everyone present, for and against having been heard and the results of the written notices having been received, the Chairman declared the public hearing closed.

FINDING OF CONSISTENCY OF THE MASTER PLAN

COMMISSION ACTION

The motion was made by Commissioner Dixon and seconded by Commissioner Dutmer to find inconsistency of the neighborhood plan.

AYES: Martinez, Grau, Dutmer, Dixon, Sherrill, McAden, Avila, Stribling, Peel

NAYS: None

THE MOTION CARRIED

RECOMMENDATION ON ZONING CASE REQUEST.

COMMISSION ACTION

The motion was made by Commissioner Sherrill and seconded by Commissioner Grau to recommend a continuance until May 4, 2004.

1. Property is located on 44.39 acres out of NCB 18560 at west of the intersection of Bandera Road and Eckhert Road.
2. There were 19 notices mailed, 2 returned in opposition and 1 in favor.
3. Staff recommends denial.

AYES: Martinez, Grau, Dutmer, Dixon, Sherrill, McAden, Avila, Stribling, Peel

NAYS: None

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THE MOTION CARRIED.

Zoning Case Z2004020 was postponed on May 4, 2004 as per the applicant's request.

ZONING CASE NO. Z2004020 – June 1, 2004

Applicant: Bilmar Construction, L. P.

Zoning Request: "I-1" General Industrial District to "R-5" Residential Single Family District on 32.7 acres, "C-2" Commercial District on 6.7 acres, and "MF-25" Multi Family District on 5.2 acres out of NCB 18560.

Applicant/Representative not present.

OPPOSE

Ken Brown, 112 E. Pecan, stated this particular tract was continued for 30 day to meet with the Councilman and visit the site to determine how close the industrial use is close to the subject property and to see how appropriate the two uses are. He would like this case be continued for 30 days to continue to meet with the Councilman and stakeholders of this area.

Staff stated there were 19 notices mailed out to the surrounding property owners, 11 returned in opposition and 2 returned in favor.

Everyone present, for and against having been heard and the results of the written notices having been received, the Chairman declared the public hearing closed.

COMMISSION ACTION

The motion was made by Commissioner Peel and seconded by Commissioner Grau to recommend a continuance until July 6, 2004.

1. Property is located on 44.6 acres out of NCB 18560 at West of the intersection of Bandera and Eckhert Road.
2. There were 19 notices mailed, 11 returned in opposition and 2 in favor.
3. Staff recommends denial.

AYES: Martinez, Grau, Kissling, Dutmer, Dixon, Stribling, Peel

NAYS: None

ABSTAIN: McAden

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THE MOTION CARRIED

ZONING CASE NO. Z2004020 – July 6, 2004

Applicant: Bilmar Construction, L. P.

Zoning Request: "I-1" General Industrial District to "R-5" Residential Single Family District on 32.7 acres, "C-2" Commercial District on 6.7 acres and "MF-25" Multi-Family District on 5.2 acres out of NCB 18560.

Jerry Arredondo, 9901 IH 10 W., representing the applicant, stated he would like to request a continuance until July 20, 2004 to have more time to meet with the neighborhood association, Zoning Commissioner and City Council member to work on the neighborhood plan. He further stated they have already scheduled a meeting for July 14, 2004.

OPPOSE

Ken Brown, 112 E. Pecan, stated he is in support of the continuance so that Council staff may visit the site and further discuss this proposal.

Staff stated there were 45 notices mailed out to the surrounding property owners, 7 returned in opposition and 6 returned in favor.

Everyone present, for and against having been heard and the results of the written notices having been received, the Chairman declared the public hearing closed.

COMMISSION ACTION

The motion was made by Commissioner Sherrill and seconded by Commissioner Dutmer to recommend a continuance until July 20, 2004.

1. Property is located on 44.6 acres out of NCB 18560 at west of the intersection of Bandera & Eckhert Road.
2. There were 45 notices mailed, 7 returned in opposition and 6 in favor.
3. Staff recommends denial.

AYES: Martinez, Grau, Kissling, Dutmer, Dixon, Sherrill, McAden, Avila, Stribling, Peel

NAYS: None

THE MOTION CARRIED

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ZONING CASE NO. Z2004020 – July 20, 2004

Applicant: Bilmar Construction, L. P.

Zoning Request: "I-1" General Industrial District to "R-5" Residential Single Family District on 32.7 acres, "C-2" Commercial District on 6.7 acres and "MF-25" Multi-Family District on 5.2 acres out of NCB 18560.

Jerry Arredondo, 9901 IH 10 W., representing the applicant, stated the Northwest Neighborhood Association along with the business community in originally adopted the master plan. It was adopted by Planning Commission and was presented to City Council, which at that time City Council pulled this particular tract of land was pulled out of the Northwest Community Plan for further review. He further stated this zoning request would be a down zone from industrial to residential use, multi-family and commercial use. He also stated they have been in contact with several business owner in the immediate area who are in support of this request. He stated they have also collected a petition with 16 signatures of the surrounding property owner who would like to express their support.

FAVOR

Charles Black, 9245 Marymont Park, owner, stated he has owned the property for approximately 4 years and there has been no offers for industrial use and has come to the conclusion that it would not be suitable for industrial use. Therefore he would like to request this change in zoning to allow for development for residential and commercial use.

Mike McMahon, 999 E. Basse Rd., stated the North Valley Industrial Park was constructed about 30 years ago. This park consist of approximately 60 building of which are own by multiple property owners. There are roughly about 11 property owners. He contacted the property owners only not the tenants who expressed their support of this request. He stated this property is suitable for industrial use.

M. Marq Hughes, 8040 Rolling Acres Trail, stated he is in support of this request. He feels this tract would be suitable for residential use. He stated the infrastructure is already in place. There are churches, schools, banks, shopping centers, utilities, water, cable and electricity, which is important for the development to succeed. He further stated this tract also has trees and a natural buffer between the industrial and commercial area for the proposed planned residential use.

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Roy Rosin, 11925 Starcrest, Engineer of this project, stated the surrounding uses are neighborhood commercial. The only industrial uses lies approximately 1,000 feet from the subject property. He stated they would provide an 86-foot right a way across the property. He feels this area is suitable for the intend use.

Magdaleno Aries, 9103 Grinslem, stated he lives within this area for 19 years strongly support this request. He feels this development would enhance the appearance of the community. This development would be beneficial to the area and the surrounding businesses.

Samuel Smith, 6614 Spring Hurst, stated he is in support of this request. He feels residential homes to this area would enhance the community. He stated this area is currently zoned for industrial use and rather have this area developed for residential use.

Tony Currie, 9470 Tranquil Park, stated he also would like to express his support for this development. He stated like to encourage more residential use in this area. He feels a residential community would serve their purpose much more than industrial.

Patrick Mucci, 7688 Bandera Road, stated he feels this development would impact the local business tremendously. He feels this development would be good for the community.

Frank Whitley, 7400 Bandera, stated they strongly support this development. He stated this development would have a positive impact on the community.

Frances Bustos, 7607 Bandera, stated she is in support of this zoning change. She stated this would greatly enhance the community.

OPPOSE

Ken Brown, 112 E. Pecan, stated his clients property is a heavy industrial yard that have excavating equipment stored outside and they also have a gravel pit. He stated the surrounding properties area zoned for industrial uses and feels mixed residential use is inappropriate for this area. He further stated they are not compatible uses. He also stated the applicant or representatives have not been in contact with his client.

Russell Frieling, stated the subject property is surrounding by industrial uses. These businesses use heavy machinery that would cause noise pollution. He further stated the traffic is horrific and would increase more in this area with this development. He expressed concerns for the safety and well being of the future residents for this proposed development.

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Emmett Nicolaski, 5315 Verbena, stated they applicant/representative has not met with them to present their proposal. He feels this development is not appropriate for this area. The surrounding uses are industrial.

Clint Patti, 7581 Bandera Road, stated he collected a petition with 26 signatures that express their opposition. He stated this area is heavy industrial use and these operations would be disruptive to the residents in the proposed development. These businesses create noise and dust pollution as well as heavy traffic flow.

Don Frieling, 7215 Eckert Rd. stated he also would like to express his opposition. He feels this area inappropriate for residential use. The surrounding properties area industrial uses with light, noise and dust pollution. He expressed concerns for the safety for the future residents for this proposed development.

REBUTTAL

Jerry Arredondo, 9901 IH 10 W., representing the applicant, stated he has contacted the surrounding property owners who are in support of the proposed development. The subject property is surrounding natural buffers. He stated this development would enhance the community.

Staff stated there were 45 notices mailed out to the surrounding property owners, 7 returned in opposition and 6 returned in favor.

Everyone present, for and against having been heard and the results of the written notices having been received, the Chairman declared the public hearing closed.

FINDING OF CONSISTENCY OF THE MASTER PLAN

COMMISSION ACTION

The motion was made by Commissioner Sherrill and seconded by Commissioner Dutmer to find inconsistency of the neighborhood plan.

**AYES: Martinez, Grau, Cardenas-Gamez, Dutmer, Dixson, Sherrill, McAden,
Avila, Stribling, Peel**

NAYS: None

THE MOTION CARRIED

RECOMMENDATION ON ZONING CASE REQUEST

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COMMISSION ACTION

The motion was made by Commissioner Sherrill and seconded by Commissioner Dutmer to recommend approval.

AYES: Martinez, Cardenas-Gamez, Dutmer, Dixon, Sherrill,

NAYS: Grau, McAden, Avila, Stribling, Peel

THE MOTION FAILED.

COMMISSION ACTION

The motion was made by Commissioner McAden and seconded by Commissioner Stribling to recommend denial.

1. Property is located on 44.6 acres out of NCB 18560 at Bandera & Eckhert Road.
2. There were 45 notices mailed, 7 returned in opposition and 6 in favor.
3. Staff recommends denial.

AYES: Grau, Dixon, McAden, Avila, Stribling, Peel

NAYS: Martinez, Cardenas-Gamez, Sherrill

ABSTAIN: Dutmer

THE MOTION CARRIED

RESULTS OF COUNCIL HEARING August 12, 2004

City Council granted a continuance until August 26, 2004

RESULTS OF NOTICE FOR COUNCIL HEARING

To be provided at Council hearing.