

Sheridan Planning and Zoning Commission

**MEETING**

July 16, 2008

6:30 P.M.

**1. Call to Order**

Chairman Spishock called the Meeting to order at 7:00 p.m.

**2. Roll Call**

Present: Spishock, Hall, Benson, Budgell, Geurin, Hutcheson, Pierce, de Laguna

Absent: None

A Quorum was present

Also Present: Dave Williamson, City Attorney and Heidi McKelrath, Commission Clerk

**3. Review of Minutes from June 18, 2008**

Motion was presented by Commissioner Hall to approve Minutes; motion was seconded by Commissioner Geurin. Vote passed unanimously to approve Minutes for June 18, 2008.

**4. New Business**

Public Hearing on an application for re-zoning for the property located at 4095 South Federal Boulevard.

Chairman Spishock called the Public Hearing to order at 7:02 p.m. and explained the re-zoning request is to change the property zoning from C-Business to D-Commercial.

The Applicant, Oxford Investors for Calibre Engineering, and the City of Sheridan responded that they were ready to proceed.

The Applicant's Opening Statement was delivered by Jake Schroeder with Oxford Investors, LLC with an address of 7600 East Orchard Road, Suite 370, Greenwood Village, CO 80111. He stated that he knows there are strong feelings about the property and that the original plans were for a 9600 square foot inline retail building. The market has changed and they are now requesting the zoning change.

Dave Williamson, the City's attorney, was present to represent the Planning and Zoning Commission. The City's case will be presented through the documents that are in the packages provided. The Commission needs to compare the uses for a C-Business zoned property to a D-Commercial zoned property and determine if D-Commercial is an appropriate use for this property. The Commission's decision can only be based on the evidence presented at the hearing. It is up to the Applicant to establish the re-zoning is appropriate.

Commissioner Hutcheson read a letter from Frank "Ted" Blanchard, the Zoning Administrator for the City of Sheridan, addressed to the Commission dated July 11, 2008. A copy of this letter is attached to the Minutes.

Commissioner Spishock then read off the City's Evidence (mistakenly referred to as the Applicant's Evidence): Exhibit A- Application for Zoning Variance, Exhibit B- Proof of Publication, Exhibit C- Proof of Posting at City Hall, Exhibit D- Affidavit of Mailing, and Exhibit E- Affidavit of Posting at Property.

Andrew Ledger from Oxford Investors, LLC, 7600 East Orchard Road, Suite 370, Greenwood Village, CO 80111 delivered the Applicant's Evidence. It was their intention to build a 9600 square foot retail building comprised of approximately 8 retail bays. Property was bought based on the Comp Plan (City of Sheridan Comprehensive Plan, October 2004) because that gave them the flexibility to, if the market did change, eventually go to another type of use. The market did change so they are now requesting the zoning change.

Jake Schroeder (did not identify himself for the record) mentioned that they did go through the whole procedure with the 9600 square foot inline building with the intentions of doing that project. No "bait and switch" was ever intended. He stated that they wanted to address the traffic concerns on Federal, Oxford, and Grove. He then introduced John Aldridge, their traffic consultant.

John Aldridge, 1840 West Littleton Boulevard, Littleton, CO introduced himself as a licensed, registered, professional engineer who specializes in traffic engineering. He then proceeded to give a power point presentation regarding the traffic patterns in and around the site at 4095 South Federal Boulevard. A copy of the slides is attached to the Minutes. The Commission asked questions regarding how to dictate traffic patterns and what CDOT has approved along Federal Boulevard for property access.

Jake Schroeder (did not identify himself for the record) then addressed the traffic patterns for the site, including access points and buffering that were submitted

with their original development plans. He also answered questions from the Commission regarding deliveries to the site. He stated that they do not know as of this time how a building would lie on the property.

City Attorney Williamson did remind the Commission that the site plan example shown in the power point presentation was an example only, and that particular plan was not up for approval, rather a request for re-zoning of the property was.

Jake Schroeder then concluded their case by stating that the requested use is in compliance with the Comprehensive Plan, the 2004 Comprehensive Plan adopted by the City. All of the current C and D zoning, C-Business and D-Commercial are indicated as Commercial-C in the Comprehensive Plan. The request for re-zoning to D-Commercial would also be in harmony with existing adjacent uses according the current Zoning Map. All the uses across the street are D-Commercial, as well as McDonalds at Hampden and Federal. There are several places in the City where D-Commercial abuts directly to residential. Under the current allowed uses right now, they could do a banking facility with a drive-through. They also share the concern for the health, safety, and welfare of the citizens as well as the traffic patterns. He offered into evidence a letter (Exhibit F) from Oxford Investors to Michael Copp, City Manger and Ted Blanchard, Chief Building Official dated July 15, 2008. He also offered into evidence the Arapahoe County Tax Assessor information (Exhibit G) for the property at 4096 South Federal Boulevard where 7-Eleven is currently located.

Chairman Spishock then entered City Evidence, Exhibits A, B, C, D, and E into the record. He also entered a letter from the Police Chief, Fire Chief, and Public Works Superintendant, labeled City's Closing Argument, into the record for consideration.

Chairman Spishock then opened the hearing for Public Comment. He asked that everyone state their name and address for the record. Of the 21 members of the public attending, the following people spoke:

Floyd Bilderback, 3921 South Hazel Court  
Adrian Vigil, 4075 South Grove Street  
Ron Trujillo, 3910 South Grove Street  
Joe Romero, 3940 South Grove Street  
Donald Douglas, 3917 South Grove Street  
Miriam Vidas, 4045 South Grove Street  
Antonio Maez, 4055 South Grove Street  
Juanita Camacho, 4085 South Grove Street

The public comments and concerns centered on the pedestrian and auto traffic; pedestrian traffic to and from the schools and auto traffic in and around the property. It was pointed out that Sheridan schools have a closed campus so if any students went to the proposed development during the lunch hour, they would be doing so against school policy. There was concern about buffering Grove Street from the noise. Grove Street is not equipped to handle commercial traffic, school buses, and residents parking on the street. There is also concern about loitering, drug use, and trash around the property. Some of the public who spoke did not want to allow the zoning change specifically noting that it would set precedence for other areas.

Chairman Spishock then closed the public comment portion of the hearing.

Andrew Ledger, Oxford Investors LLC, 7600 East Orchard Road, Suite 370, Greenwood Village, CO, 80111 then delivered the Applicant's Rebuttal. While the citizens made good arguments, we are losing sight of two things. The City can control delivery hours, and the City, through the site plan process, has the ability to ask for certain things when they approve a site plan. The hearing today is for a zoning change. There is no retailer for the property at this time. Traffic patterns will change whether a retail building or drive-through restaurant is put in place. Jake Schroeder then addressed the concern from the public about drugs and trash. It should be a shared responsibility including the City. While there is interest in the property, they need to know that the zoning can change before a commitment is made. They are willing to work with the City to address concerns regarding the traffic.

Jake Schroeder then delivered the Applicant's Closing Argument. The Comprehensive Plan has allowed for zoning changes from C-Business to D-Commercial. Their requested use complies with the Comprehensive Plan. According to the Plan, the hierarchy of decision making should be the Comprehensive Plan, Zoning, and further down the line. The plan now is to put in a single-use retailer. The site is large enough to contain traffic.

City Attorney Williamson stated that the Commission's job will be to make a recommendation to City Council and City Council will hold their own Public Hearing. Chairman Spishock then read the letter labeled City's Closing Argument.

Chairman Spishock closed the Public Hearing at 8:40 p.m.

The Commission then discussed the Application in open forum. Any business will generate traffic. The issue of having or not having a drive-through is big- per the letter marked "City's Closing Argument", the City's police, fire, and public works departments are not in favor of a business having a drive-through. The Commission did express the need for the public safety departments: police, fire, and public works to have a representative, in person, at all public hearings. The property's proximity to a middle and high school is also of concern. The entire makeup of the neighborhood would change. The Commission has to weigh the health and safety impact to the neighborhood- increased traffic, drugs use, and graffiti with the rate of return on the investment for the neighborhood. It should be understood that the Comprehensive Plan (City of Sheridan Comprehensive Plan, October 2004) is a tool; it is not set in stone, and is currently being updated. While there has been a lot of discussion about drive-through versus no drive-through, the point of the hearing is to determine if the re-zoning request from the current C-Business to proposed D-Commercial will be granted, keeping in mind that any D-Commercial use could be allowed.

Commissioner Budgell motioned to recommend denial of the re-zoning request; Commissioner de Laguna seconded it and a verbal vote was taken. Commissioners Spishock, Hall, Budgell, Guerin, Hutcheson, Pierce, and de Laguna voted "yes" to denial the re-zoning request. Commissioner Benson voted "no".

**5. Old Business**

Continued review of the proposed Zoning Code Ordinance will be at the next meeting on Wednesday, August 6, 2008 at 6:30 p.m.

**6. Adjournment**

Meeting was adjourned at 9:05 p.m.

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Heidi McKelrath, Commission Clerk

