

DATE: July 6, 2011
TO: Honorable Mayor & City Council
FROM: Chris Caso, Chairman, Planning & Zoning Commission
SUBJECT: Results of Planning & Zoning Commission Meeting of July 5, 2011

**AGENDA ITEM NO. 7 - PUBLIC HEARING
ZONING CASE 2011-16
APPLICANT: CITY OF PLANO**

Request to amend Section 1.600 (Definitions) of Article 1 (General Regulations) and related sections of the Zoning Ordinance regarding definitions for Community Center and Accessory Building or Use.

APPROVED: 6-1 **DENIED:** _____ **TABLED:** _____

STIPULATIONS:

Recommended that the definition for "Community Center" be changed to read as follows: (Additions are in underlined text, deletions are struck through)

Amend Section 1.600 (Definitions) of Article 1 (General Regulations), such definition to read as follows:

Community Center - A place, which may include a building, complex of buildings, indoor or outdoor athletic fields, or combination thereof, that provides for cultural, recreational, athletic, or entertainment activities facilities owned and/or operated by a governmental agency or private non-profit agency organization.

The Commissioner voting in opposition to the motion was in support of amending the Accessory Building or Use definition instead of the Community Center definition, in order to allow accessory uses associated with religious and other non-profit organizations to occur offsite.

The Commission was favorable to evaluating the districts in which Community Center uses are allowed within; however, they seek direction from the City Council first regarding the Community Center definition.

KP/dc

CITY OF PLANO
PLANNING & ZONING COMMISSION

July 5, 2011

Agenda Item No. 7

Public Hearing: Zoning Case 2011-16

Applicant: City of Plano

DESCRIPTION:

Request to amend Section 1.600 (Definitions) of Article 1 (General Regulations) and related sections of the Zoning Ordinance regarding definitions for Community Center and Accessory Building or Use.

REMARKS:

At the May 16, 2011, Planning & Zoning Commission meeting an appeal was made regarding the Director of Planning's interpretation of the appropriate use classification for outdoor athletic fields operated by a non-profit organization. At that meeting, the Commission, based on the current language in the Zoning Ordinance, did not uphold the Director of Planning's interpretation of the outdoor athletic fields as a Community Center. Additionally, the Commission provided further direction, requesting to consider amendments to the Community Center and Accessory Building or Use definitions and called a public hearing for this purpose. Below is information about each option for the Commission's consideration.

Community Center

A Community Center is currently defined as "A building or complex of buildings that house cultural, recreational, athletic, or entertainment facilities owned and/or operated by a governmental agency or private non-profit agency." Since this definition refers to a building or complex of buildings, the Commission requested that staff develop a revised definition for consideration that includes outdoor athletic fields: (additions are underlined, deletions are struck through)

"Community Center - A place, which may include a building, complex of buildings, indoor or outdoor athletic fields, or combination thereof, that provides for cultural, recreational, athletic, or entertainment activities ~~facilities~~ owned and/or operated by a governmental agency or private non-profit agency."

The Community Center use is presently allowed with a specific use permit (SUP) in all single-family and multifamily residential zoning districts and by right in all nonresidential districts. As the proposed definition expands the functions of the Community Center use, the proposed change does not create conflicts for existing Community Center uses.

The call for public hearing did not include amendments to the districts in which Community Center uses are allowed or prohibited within. However, if the Commission determines that they would also like to evaluate the zoning districts in which Community Center uses are allowed, then staff recommends calling a public hearing for that purpose. This may be done in conjunction with amendments to the Community Center definition at a future meeting date, or the Commission may evaluate the districts separately from the definition amendment.

Accessory Building and Use

The Commission also requested information regarding the possibility of amending the definition for Accessory Building and Use, specifically as it relates to religious facilities and other non-profit organizations and allowing for their accessory activities to occur offsite (i.e. not on the same platted lot). Accessory Building or Use is currently defined as:

“A building or use that is clearly subordinate to and functionally related to the primary building or use, which contributes to the comfort, convenience, or necessity of occupants of the primary building or use on the same platted lot. Accessory buildings shall be detached from the primary building and shall not be used for living quarters.”

Examples of common accessory uses include: a child or adult day care center use being accessory to a church use, a golf driving range use being accessory to a golf course use, the operation of a tattoo parlor use being accessory to a health spa use, and a home occupation use to a residence.

Per the Commission’s request, staff proposes the following amended definition for the Commission’s consideration:

“A building or use that is clearly subordinate to and functionally related to the primary building or use, which contributes to the comfort, convenience, or necessity of occupants of the primary building or use on the same platted lot. Accessory buildings shall be detached from the primary building and shall not be used for living quarters. Accessory uses to religious facilities and other non-profit organizations are not required to occur on the same platted lot.”

There are several issues to consider related to this proposed definition for Accessory Building or Use.

Use Relationship

Accessory uses are intended to be subordinate to and functionally related to the primary building or use; they should be customarily related to the primary use and dependant on the primary use. Once a use exceeds these parameters, it should be regulated as a primary use.

The requirements that the accessory use be on the same platted lot prevents accessory uses from occurring on satellite properties which could be quite some distance away and may have different zoning from the primary use site. The same platted lot requirement helps insure that the accessory use is subordinate to and functionally related to the primary building or use.

Staff surveyed other cities and found that while the exact language varies, definitions for accessory use almost universally include a restriction that the use occur on the same platted lot.

Zoning

If an accessory use were to be allowed offsite, situations could occur where the zoning for the parcel with the primary use is different than the zoning on a parcel where the accessory use would be located. Should a situation arise where the accessory use is essentially functioning as the primary use on the property which is located in a zoning district that prohibits the use, the use should be prohibited. Allowing an accessory use on a property to function as an otherwise prohibited primary use, results in inconsistent zoning regulations, and potentially inappropriate land uses being juxtaposed. Land use conflicts could arise from this.

Religious facilities are allowed by right in all zoning districts. Therefore, careful consideration should be given to whether offsite accessory uses should also be allowed by right in all districts. For example, if there is a restaurant on a property that is owned by a religious facility, but the place of worship is not on that same property, the use of the property would be a restaurant.

Regulation Consistency

It is important to have consistency in the way accessory uses are regulated so that non-profit organizations and religious entities are not treated differently than other entities that may have accessory uses. Other entities within the city may question why they are not being provided the same flexibility and benefit regarding how their accessory uses are regulated when compared to religious facilities and non-profit organizations.

For these reasons, staff believes that the city's current definition for Accessory Building and Use is sufficient for regulating accessory uses associated with religious facilities and non-profit organizations.

RECOMMENDATION:

Recommended that the definition for "Community Center" be changed to read as follows: (Additions are in underlined text, deletions are struck through)

Amend Section 1.600 (Definitions) of Article 1 (General Regulations), such definition to read as follows:

Community Center - A place, which may include a building, complex of buildings, indoor or outdoor athletic fields, or combination thereof, that provides for cultural, recreational, athletic, or entertainment activities ~~facilities~~ owned and/or operated by a governmental agency or private non-profit agency.

ZC 2011-16

An Ordinance of the City of Plano, Texas, amending Section 1.600 (Definitions) of Article 1 (General Regulations) and related sections of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, to amend the definition of Community Center; and providing a publication clause, a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date.

WHEREAS, the City Secretary of Plano, Texas, directed that notices of a hearing be issued, as required by the Zoning Ordinance of the City of Plano and laws of the State of Texas, at a meeting of the City Council, to be held on the 25th day of July, 2011, for the purpose of considering a change in the Zoning Ordinance; and

WHEREAS, the City Secretary of the said City accordingly caused to be issued and published the notices required by its Zoning Ordinance and laws of the State of Texas applicable thereto, the same having been published in a paper of general circulation in the City of Plano, Texas, at least fifteen (15) days prior to the time set for such hearing; and

WHEREAS, the City Council of said City, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the aforesaid change in the Zoning Ordinance, on the 25th day of July, 2011; and

WHEREAS, the City Council is of the opinion and finds that such change would not be detrimental to the public health, safety, or general welfare, and will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Plano, and as well, the owners and occupants thereof, and the City generally.

IT IS, THEREFORE, ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. Section 1.600 (Definitions) of Article 1 (General Regulations) of the Comprehensive Zoning Ordinance No. 2006-4-24, as the same has been heretofore amended, is hereby further amended to amend the definition of Community Center, such portion of the section to read as follows:

1.600 Definitions

Community Center - A place, which may include a building, complex of buildings, indoor or outdoor athletic fields, or combination thereof, that provides for cultural, recreational, athletic, or entertainment activities owned and/or operated by a governmental agency or private non-profit organization.

Section II. All provisions of the ordinances of the City of Plano in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

Section III. The repeal of any ordinance or part of ordinances affected by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

Section IV. Any person, firm or corporation found to be violating any term or provision of this Ordinance, shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

Section V. It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable and the invalidity or partial invalidity of any section, clause or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

Section VI. This Ordinance shall become effective immediately upon its passage and publication as required by law.

PASSED AND APPROVED THIS THE 25TH DAY OF JULY, 2011.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY