

CITY OF CASTLE HILLS
ZONING COMMISSION PUBLIC HEARING
JUNE 3, 2008

The Zoning Commission of the City of Castle Hills convened on the 3rd day of June, 2008, at 7:00 P.M. in the City of Castle Hills City Hall, 209 Lemonwood Drive, San Antonio, Texas.

Guests present were Clarence Dickinson, Father Thomas Coughlin, Derrick Elkins, Jocelyn and Andy Ronan, Bill Hamrick, Barbara Johnson, William T. Johnson, Luis Navarro, Ed Lisle, Betty Chandler, Leslie Tschoepe, Betty Zinn, Douglas Gregory, Ina Morris, Eunice Vandebos, Bill Martin, Judy Lynn, Lee Lanford, Robbie Casey, Andrew Sanchez, Brad Boeckner, William Beuhler, Willa Beuhler, Bob Jones, Luis A. Jimenez, LaVerne Japhet, Brother William Dooling, Merlene and Tony Wilson, Beverly Bihn, Joan Bihn, Jean Peffers, Charlie Barbera, Bill Schluter, Terry Carter, Gordon Hartman, Colin McDonald, Lowell Denton, Larry Crain, and Robert Ferrell.

I. CALL TO ORDER AND DETERMINATION OF QUORUM

Present and composing a quorum of the Zoning Commission were Chairman Marc Schnall, Tim Turner, Douglas Lewis, LaVerne Japhet, and Walter Beuhler.

Staff present included City Manager Mike Rietz, Assistant City Manager Rita Hoyl, City Secretary Linda Gill, and City Attorney Mike Brenan.

II. CONSIDER AND ACT UPON THE MINUTES OF THE MAY 6, 2008, MEETING.

Mr. Turner moved to approve the minutes of the May 6, 2008, meeting. Ms. Japhet seconded the motion. The motion carried with a unanimous vote.

III. CLOSED SESSION AS AUTHORIZED BY SECTION 551.071 OF THE TEXAS GOVERNMENT CODE TO CONSULT WITH THE ZONING COMMISSION'S ATTORNEYS CONCERNING CONTEMPLATED LITIGATION.

The Zoning Commission retired to Closed Session at 7:04 p.m. The commission reconvened at 7:38 p.m. and no action was taken.

IV. PUBLIC HEARING CONCERNING (1) THE REQUEST BY MARK SEVEN-DE PAUL HOUSE OF STUDIES FOR DEAF SEMINARIANS, INC. FOR RECONSIDERATION OF A SPECIAL USE PERMIT (SUP) FOR 143 HONEYSUCKLE LANE BECAUSE OF NEW, RELEVANT AND SUBSTANTIAL EVIDENCE WHICH COULD NOT HAVE BEEN SECURED AT THE TIME SET FOR AN ORIGINAL HEARING, AND (2) REVISED APPLICATION FOR SPECIAL USE PERMIT FOR 143 HONEYSUCKLE LANE.

Chairman Schnall explained the procedure that the meeting would follow. He said that, first; the request for reconsideration of the application for a Special Use Permit would be decided by the commission. If reconsideration of the application was approved by the commission, the merits of the application would then be considered.

Attorney Larry Crain, a representative of The American Center for Law and Justice, from Nashville, Tennessee, came forward to present the new, relevant and substantial evidence that would give cause for reconsideration of the application for a Special Use Permit (SUP). Mr. Crain began by stating that Father Coughlin was the first deaf ordained priest in the world. He said that Mark Seven-De Paul House of Studies provides a vital service to the deaf community. He said that the house at 143 Honeysuckle Lane is near the Oblate School of Technology where the deaf seminary students will study. The size of the house is well-suited for the students with its nine bedrooms and nine bathrooms. He explained that the men rise and pray and eat and support each other, operating as a nuclear family.

Mr. Crain referred to three laws, unknown to Father Coughlin at the time of the original application, constituting new, relevant, and substantial evidence that supports his request. He explained that any city in Texas or any city ordinance is superseded by the Fair Housing Act, the Religious Land Use and Institutionalized Persons Act, and the Texas Community Homes for Disabled Persons Location Act.

Mr. Crain said that he had met with attorneys Mike Brenan and Lowell Denton to work on a compromise. He said that they had agreed on a format of understanding, which is indicated in the affidavit signed by Father Coughlin. Mr. Crain went over the following conditions and restrictions included in the revised application:

1. The SUP will not include a “church” use of the property.
2. If the property is sold, transferred, or leased to any other individual, person, group, organization, or other user, the SUP will automatically expire.
3. No more than four vehicles will be regularly parked or stored on the property.
4. The property owner will maintain beginning and ending dates of each individual who resides at the property; and the city, with reasonable notice, will be entitled to inspect the premises and records for compliance.
5. The annual average number of unrelated individuals who will occupy the property will be eight (8).
6. The SUP may be cancelled by the city after a hearing if a pattern of violations occur after notice has been given with an opportunity to cure same.

Mr. Crain emphasized that Mark Seven-De Paul House of Studies for Deaf Seminarians would like the opportunity to reveal itself as a model citizen and comes before the commission with the hope that the application will be approved.

Chairman Schnall asked commission members if they had any questions. He said he did not have an affidavit from the owner of the property and asked Mr. Crain to confirm that Father Coughlin is the owner of record. Ms. Japhet asked if the property would go back on the tax rolls. Mr. Beuhler asked if the owner was Coughlin or Mark Seven-De Paul House of Studies for Deaf Seminarians, Inc. Mr. Crain said that the organization is a

corporation and is the owner of record. Father Coughlin formed the corporation, which is non-profit. Ms. Japhet asked what keeps the corporation from going on and on if Father Coughlin goes away. Mr. Crain said the property cannot have any other use. The SUP does not run with the land and will terminate when the owner leaves.

Mr. Turner had Chairman Schnall confirm that the item before the commission was about reconsideration of the application and not the merits of the application.

Robbie Casey of 144 Cas Hills questioned whether Father Coughlin knew the house was a single family dwelling. She asked why he should be able to get special privileges, and why Gordon Hartman was present when he is not even a resident of Castle Hills. Ms. Casey commented to Mr. Turner that he should recuse himself because he was biased. She repeated that Castle Hills is a community of single family dwellings.

William Beuhler of 124 Cas Hills remarked that he did not hear any new information than he did before, except for the average of eight (8) residents. He said that could be as many as sixteen (16) at one time. He added that he thought the city code of five (5) was generous.

Barbara Johnson of 203 Honeysuckle said she spoke in January, but would like to present a petition with more signatures. She said, out of 35 residents, 27 were supportive of the SUP, 2 chose not to participate, and 6 were opposed.

Former mayor, Bill Martin of 113 Cobblestone said he used to write insurance on 143 Honeysuckle. He said Father Coughlin showed him the house, which they have spent thousands on. Mr. Martin stated that the seminarians will be excellent neighbors. If they move and the property becomes a single family residence again, he said he approved of the SUP.

Terry Carter of 125 Winston Lane explained that she supported Father Coughlin's mission, but the commission should support its own zoning ordinance.

Merline Wilson of 104 Wickford Way, a resident since 1967, said if Father Coughlin got permission to make changes, why is the commission doing this now? She said she doesn't think the seminarians should be in a residential property.

Chairman Schnall again asked commission members if they had questions. Mr. Beuhler inquired what would happen to the corporation if ownership changes. Mr. Crain explained that the corporation has no shareholders. It is non-profit and operates as a ministry. If Father Coughlin goes away, the corporation could not continue to function.

Chairman Schnall asked for final comments regarding reconsideration of the application. Mr. Crain responded that none of the legal issues addressed tonight were brought up previously.

Ms. Japhet said it sounded like the commission is making up an ordinance just for Father Coughlin.

Chairman Schnall closed the Public Hearing at 8:20 p.m.

Motion: Mr. Lewis moved to approve reconsideration of the application of Mark Seven-De Paul House of Studies for Deaf Seminarians for a Special Use Permit for 143 Honeysuckle. Chairman Schnall seconded the motion. The motion carried 4 to 1, with Chairman Schnall, Mr. Turner, Mr. Lewis, and Mr. Beuhler voting in favor of the motion and Ms. Japhet voting against the motion.

Chairman Schnall stated that the second portion of item IV, consideration of the merits of the application, would be considered by the commission. He asked Mr. Crain to make his presentation.

Mr. Crain said that there were compelling reasons why the SUP should be granted, and it is important to realize the contribution of the Mark Seven-De Paul House of Studies ministry. He urged the commission to realize that the organization has a far-reaching benefit to the community. He asked them to consider the track record of the seminarians since January. He pointed out that their closest neighbors support the ministry, and the house has all the earmarks and characteristics of a home. Mr. Crain encouraged the commission to consider the organization a proud citizen of Castle Hills.

Chairman Schnall asked for questions from the commission members. Ms. Japhet asked if Mr. Crain was aware that there is another house of the disabled within one-half mile of the property, and that there cannot be another. Mr. Crain answered that it cannot be excluded if it impedes religious use of the property.

Mr. Beuhler asked for clarification of non-church use and religious use. Mr. Crain said that there will be no outside congregants coming to church or mass. The seminarians are a very closed group that participates in religious activity.

Chairman Schnall opened the Public Hearing regarding the revised application for the SUP at 8:37 p.m.

Brother William Dooling of 201 Gladiola asked if the application is the same one considered in January. Chairman Schnall said it was his understanding that the original application has been revised to include the six conditions on page one. He read the conditions to the public. Brother Dooling said no one has addressed the average of eight (8) residents that Mr. Bueler, Sr. raised. He said he also would like legal papers to be presented to the city manager or the commission regarding ownership.

Mr. Turner asked Mr. Crain to clarify issues Brother Dooling mentioned. Mr. Crain said that the applicant is a 501C-3 corporation and was incorporated in San Francisco, California with ecclesiastical sanction. He added that the program is not answerable to the bishop in New York or San Antonio.

Father Coughlin, through an interpreter for the deaf, said that the organization was founded in New York and grew. He moved to California and incorporated the organization in San Francisco. It is sanctioned by the Catholic Church, but there is no ownership by the church. Father Coughlin explained that he looked for a house that

would accommodate their needs near the Oblate School of Theology and informed the realtor of that. He said before he signed the title to the house, it was researched and no restrictions were found.

Chairman Schnall invited questions from the commission members.

Robbie Casey interrupted with a question concerning the realtor who found no restrictions on the property. She remarked that the realtor could lose her license. The house was listed as a single family dwelling.

Mr. Beuhler asked why an average number was used for residents rather than an exact number. Mr. Crain said there could be more than eight when the students are in transition. He added that, in the summer, there are only two or three people living there.

Mr. Crain confirmed for Ms. Japhet that two people will live there other than students.

Chairman Schnall commented that, if the applicant agreed to a maximum number of eight (8) at any one time, it would be good for the commission to know.

The chairman closed the Public Hearing at 9:02 p.m.

V. DISCUSSION AN POSSIBLE ACTION ON RECOMMENDATION TO CITY COUNCIL REGARDING ISSUANCE OF A SPECIAL USE PERMIT FOR 143 HONEYSUCKLE.

In answer to a question from Ms. Japhet, Chairman Schall explained that the applicant didn't need a license because they are not making an application under the Health and Safety Code.

Mr. Beuhler confirmed with Mr. Crain that, regarding the eight (8) unrelated persons, there would be eight seminarians and Father Coughlin and his mother.

Ms. Japhet commented that the applicant is making his own Code. Mr. Beuhler said that is what an SUP does. Chairman Schnall read the City Code regarding an SUP.

Motion: Mr. Lewis moved to recommend to City Council approval of the Special Use Permit incorporating all six items as written in the re-application. Mr. Turner seconded the motion with the revision to change the number of unrelated persons to a maximum of eight (8) plus two (2) supervisors. The motion carried 4 to 1 with Chairman Schnall, Mr. Turner, Mr. Lewis, and Mr. Beuhler voting in favor of the motion and Ms. Japhet voting against the motion.

Chairman Schnall announced that the SUP will be considered at the City Council meeting on June 10, 2008, at 6:00 p.m.

V. ADJOURNMENT

Chairman Schnall adjourned the meeting at 9:14 p.m.

Marc Schnall, Chairman

Attest:

Linda Gill, City Secretary