



**CITY OF TYLER
CITY COUNCIL COMMUNICATION**

Agenda Number: Z-2

Date: August 22, 2007

Subject: **APPLICATION Z07-07-076B CAREY WOODS**
Request that the City Council consider a request to change the zoning from “R-1A” Single Family Residential District to “C-2” General Commercial District on a portion of Lot 15A of NCB 937 of the Willow Run Addition as recorded in Document Number R00021667 of the Plat Records of Smith County, Texas, a portion of the lot totaling approximately 0.08 acres located one lot north of the northeast intersection of Golden Road and East 5th Street (2316 East 5th Street).

Page: 1 of 2

Item Reference:

The applicant is requesting a zoning change to allow storage of trucks associated with his business and to provide consistent zoning on his lot.

Section 10-226, "C-2" General Commercial District, allows as permitted uses automobile garages and sales lots, hotels, restaurants, warehouses, offices, and retail establishments with outdoor display or storage of merchandise. The maximum building height allowed within the "C-2" District is three stories or 45 feet in height. Off-street parking for commercial-type uses is determined by the specific use proposed. Properties with a commercial designation are subject to the requirements of the Subdivision and Landscape Ordinances.

The adjacent properties to the east are currently zoned “C-1” Light Commercial District, and “R-1A” Single Family Residential District, properties to the north and west are currently zoned “R-1A” Single Family Residential District, and properties to the south are currently zoned “C-1” Light Commercial District and “C-2” General Commercial District. The C Woods Company is located to the south within the “C-1” Light Commercial District and “C-2” General Commercial District. The applicant also owns a rental house on the adjacent lot to the west. The commercial storage area is located in the back yard of the rental property.

Currently the applicant is storing commercial material and vehicles on the residential lot. By doing so, he is in violation of the Tyler Code of Ordinance Section 10-203 that does not allow for permanent or temporary outdoor storage in a residential district. The applicant has been working with Code Enforcement to comply with the City Ordinance. The applicant replatted to expand the commercial property. If approved, the applicant must comply with the “C-2” General Commercial District outdoor display of merchandise or storage of materials regulation, which permits outdoor storage only in an enclosed, visually screened area.

Agenda Number: Z-2

Page: 2 of 2

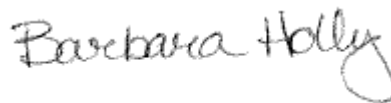
This request is consistent with the development pattern in the area and the rezoning of the property will be a continuation of the existing commercial zoning to the south. If approved, this would establish a commercial land use.

On July 17, 2007, the Planning and Zoning Commission held a public hearing on this request. Of the 15 notices mailed, one notice was returned in favor of the application and one notice was returned in opposition to the request comprising 6.00 percent protest. Jon Alexander spoke on behalf of the application. Mr. Alexander stated that there was a wooden fence installed on portions of the lot. The Commission reiterated that the owner would be required to visually screen the remaining portions.

All other departments have reviewed this request and anticipate no significant impact on services or facilities by the proposed change.

RECOMMENDATION:

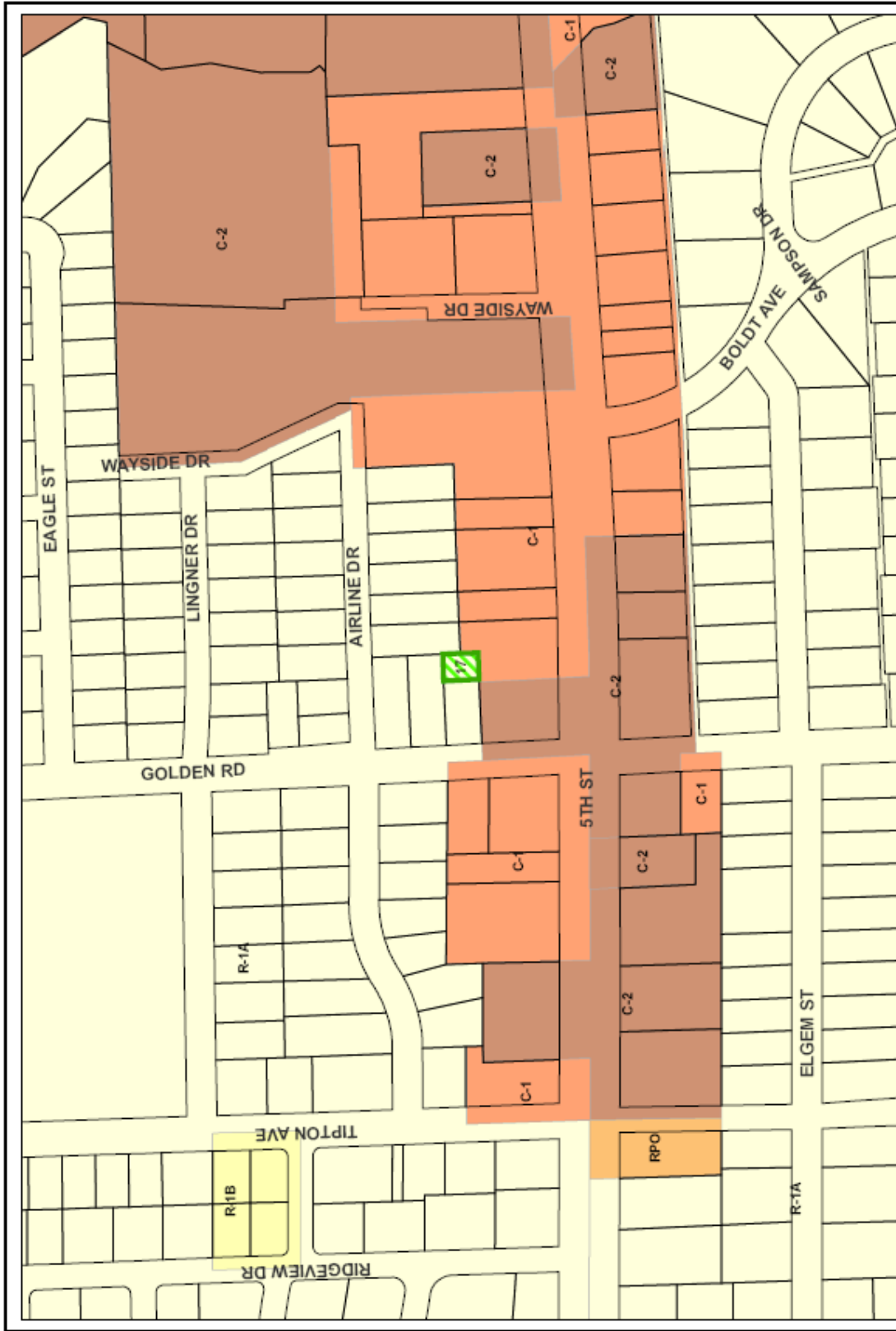
The Planning Commission, by a vote of 6-0, recommends approval of the request to change the zoning from "R-1A" Single Family Residential District to "C-2" General Commercial District.



**Drafted/Recommended By:
Department Leader**

**Barbara Holly
Director of Planning**

**Edited/Submitted By:
City Manager**

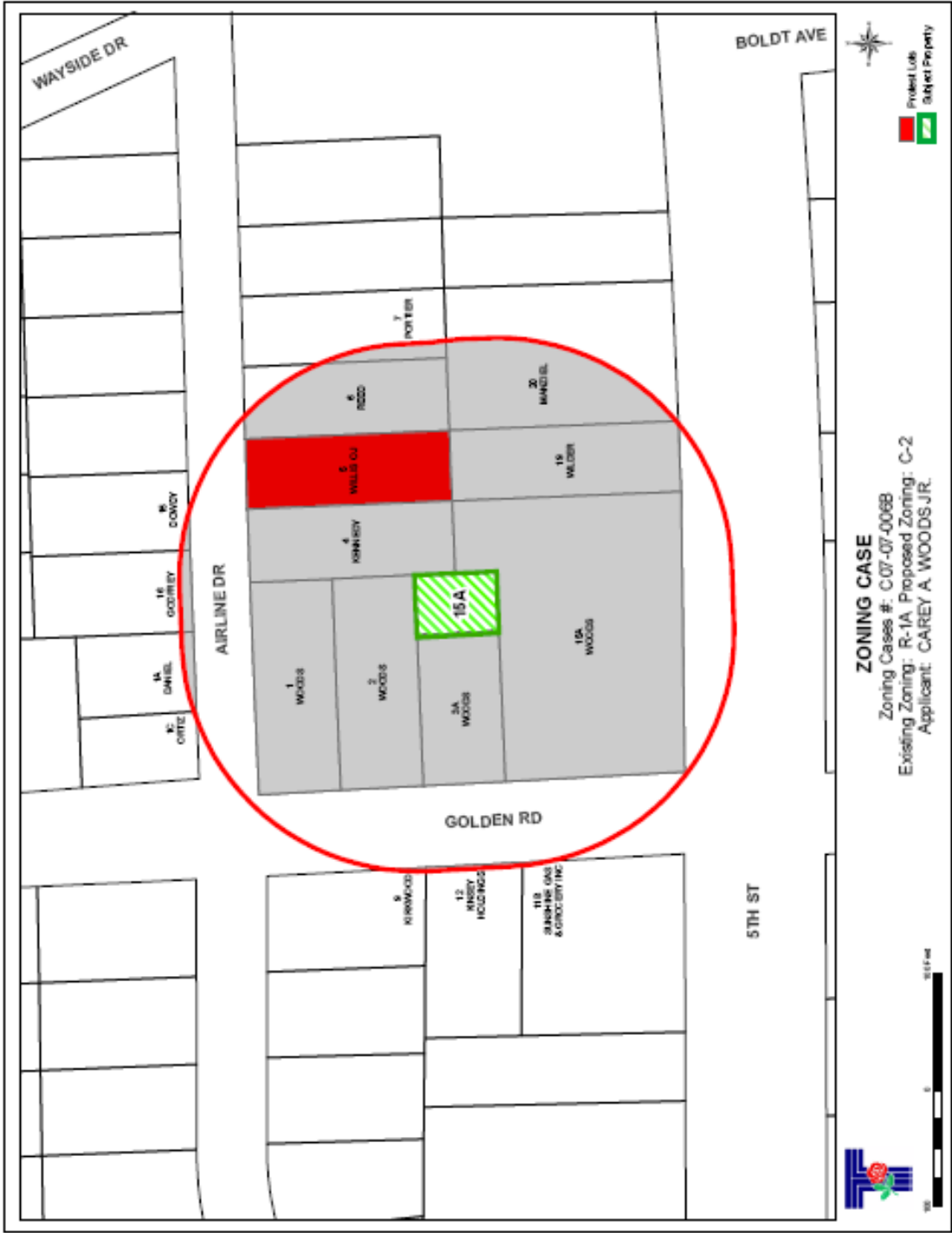


ZONING CASE

Zoning Cases #: Z07-07-076B
 Existing Zoning: R-1A Proposed Zoning: C-2
 Applicant: CAREY A. WOODS JR.



Subject Property



ZONING CASE
 Zoning Cases #: C-07-07-0068
 Existing Zoning: R-1A Proposed Zoning: C-2
 Applicant: CAREY A. WOODS JR.





**CITY OF TYLER
CITY COUNCIL COMMUNICATION**

Agenda Number: Z-3

Date: August 22, 2007

Subject: **APPLICATION S07-07-073A MARLIN BEAL**
Request that the City Council consider a request for a Special Use Permit to allow for an in-home day care for up to 12 children on Lot 15 of NCB 661A of the Butler College Subdivision as recorded in Book 5567, Page 21 of the Deed Records of Smith County, Texas, one lot totaling approximately 7,280 square feet located four lots north of the northeast intersection of S. Lyons Avenue and W. 2nd St. (1310 S. Lyons Avenue). This property is currently zoned "R-1B" Single Family Residential District.

Page: 1 of 3

Item Reference:

Section 10-245, "Special Use Regulations", states that the governing body may, by ordinance, grant a special permit for special uses in any district as herein qualified, which uses are otherwise prohibited by this ordinance and shall impose appropriate conditions and safeguards, including a specified period of time for the permit. No Special Use Permit shall be issued unless the governing body determines the proposed building or use will not (a) substantially increase traffic hazards or congestion; (b) substantially increase fire hazards; (c) adversely affect the character of the neighborhood; (d) adversely affect the general welfare of the community; or (e) overtax public utilities.

The purpose of a day care home is to provide for home-based day care operations, licensed by the State which provides day care, for four or more children or adults who are apart from their own family or relatives during a part of the day. A Special Use Permit shall not be issued unless the following required conditions are met: (a) Day Care Home should not detract from the residential character of the neighborhood and should be compatible with existing residential usage; (b) shall be incidental to the use of a dwelling unit for residential purposes and be limited in extent; (c) only members of the immediate family permanently residing at the premises shall be employed in the Day Care Home; (d) in no case shall a day care home be open to the public at times earlier than 6:00 a.m. nor later than 10:00 p.m.; (e) a solid wall or fence a minimum of four feet high shall be provided around play areas; (f) all passenger loading and unloading areas and outdoor play areas shall be so located as to avoid conflict with vehicular traffic; and (g) copies of any state registration or applications for registration shall accompany all SUP applications.

The adjacent properties to the south and west are zoned "R-1B" Single-Family Residential District, while properties to the north and east are zoned "R-2" Two-Family Residential District. All of the surrounding properties are zoned and used as single family homes or two family homes.

Agenda Number: Z-3

Page: 2 of 3

This request is in the middle of an established residential area that does not currently have any transitional uses.

An on-site inspection of the property revealed a play area in the rear yard surrounded by a chain-link fence and a small drive way which meets the minimum off-street parking requirement of two spaces per dwelling unit. The applicant provided a site plan which depicted a proposed circle drive. The Development Review Committee reviewed the site plan and has determined that the lot can not accommodate a circle drive as the lot is too narrow and the house is within the front 25 foot setback. The applicant stated that she pursued a shared drive-way agreement with their neighbor, but was unsuccessful. Because the use is on a busy street, the applicant must demonstrate adequate passenger loading and unloading areas for the 12 children for which she cares.

The applicant has placed a banner announcing a second location as well as a large wooden sign identifying the day care business in the front yard. The placement of the business sign was submitted as a code compliant prior to the application submittal and the banner was placed in the yard after the Special Use Permit application was submitted. We have spoken to the applicant and have requested that the signs be removed. As of August 14, 2007, both the business sign and banner were removed from the property. If approved the applicant is limited to one sign not to exceed one square foot in area.

In adhering to the required conditions of a day care home Special Use Permit, the day care home shall be incidental to the use of a dwelling unit for residential purposes and only members of the immediate family permanently residing at the premises shall be employed in the day care home.

There is evidence of recent reinvestment into this area and more reinvestment is warranted in this 1940's neighborhood. While a home day care is needed in the area, and the applicant appears to run an exemplary facility, this lot has physical constraints which are detrimental to the area by increased congestion and traffic.

On August 7, 2007, the Planning and Zoning Commission held a public hearing on this request. Of the 21 notices mailed, one notice was returned undeliverable, one notice was returned in favor of the application, and one notice was returned in opposition to the request comprising .10 percent protest. No one spoke in opposition to the request. Marlin Beal and Lakisha Jones spoke on behalf of the application. Ms. Jones said she has kept children for two years and she said that the parents agreed to specific drop off and pick up times for their children. Hester Sparks, Herbert Washington, and Tamika Hill also spoke on behalf of the application. They said Ms. Jones is a good neighbor and the daycare is an asset to the neighborhood.

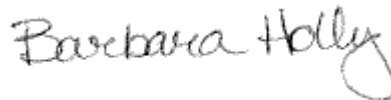
Agenda Number: Z-3

Page: 3 of 3

Planning Director Barbara Holly said the Commission could grant Ms. Jones a permit for one year, allowing staff to evaluate how she manages the traffic situation. Staff also stated that if approved, the signage would be limited to one square foot in area. If the Commission approved the request for 12 months, Commissioner Kelldorf asked Ms. Jones if she would use that time to look for a larger residence to accommodate her daycare. Ms. Jones said she would look for a larger lot.

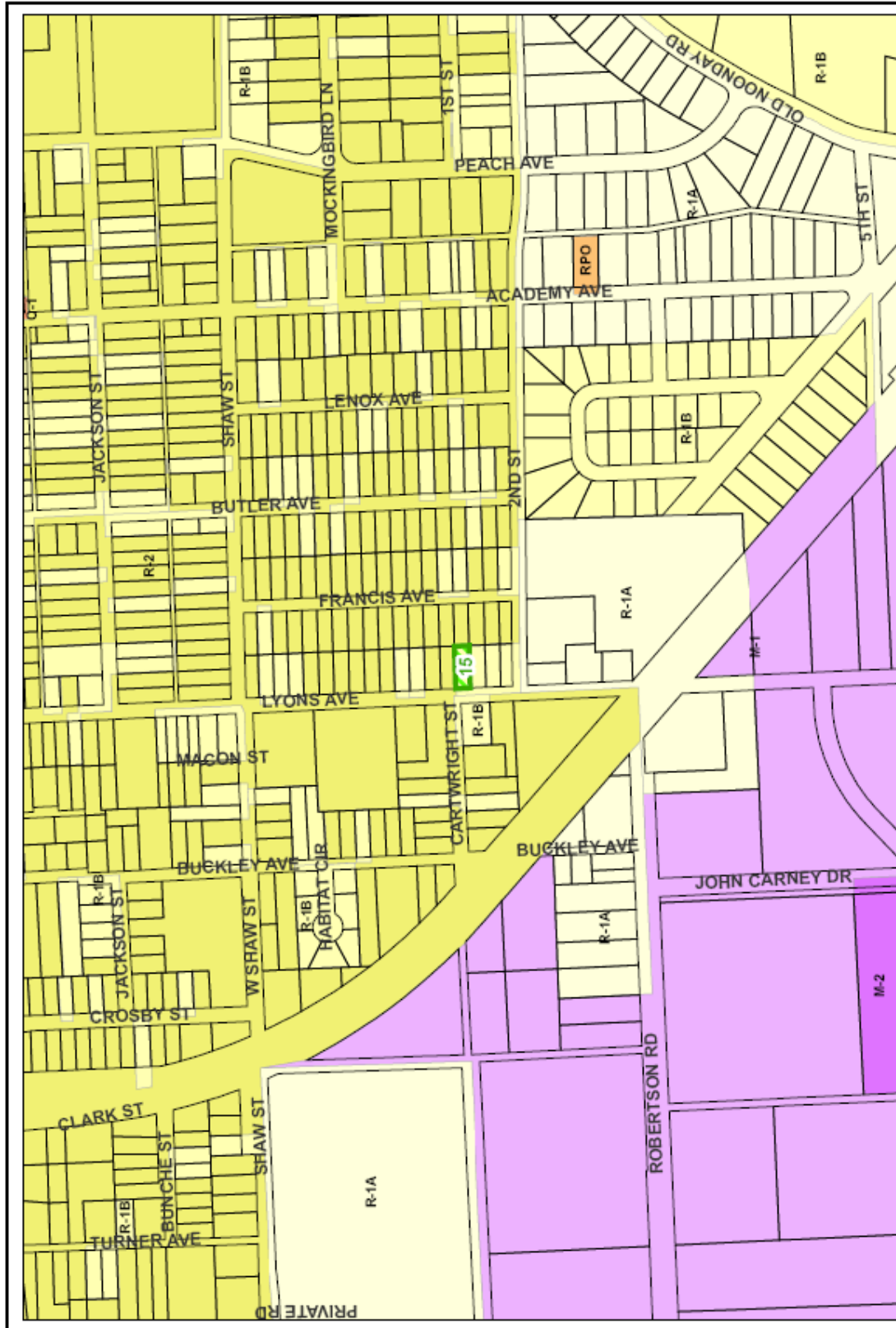
RECOMMENDATION:

The Planning and Zoning Commission, by a vote of 7-0, recommends approval of the request for a Special Use Permit for a period of one year to allow for in-home day care for up to 12 children and requested the applicant find a large site to accommodate her home daycare.

A handwritten signature in cursive script that reads "Barbara Holly".

Drafted/Recommended By: Barbara Holly
Department Leader Director of Planning

Edited/Submitted By:
City Manager



Subject Property

ZONING CASE
 Zoning Cases #: S07-07-073A
 SUP FOR IN HOME DAYCARE UP TO 12 CHILDREN
 Applicant: MARLIN BEAL



200 0 200 Feet



ZONING CASE
 Zoning Cases #: S07-07-073A
 SUP FOR IN HOME DAYCARE UP TO 12 CHILDREN
 Applicant: MARLIN BEAL





**CITY OF TYLER
CITY COUNCIL COMMUNICATION**

Agenda Number: Z-4

Date: August 22, 2007

Subject: APPLICATION S08-07-084A ST. FRANCIS EPISCOPAL CHURCH
Request that the City Council consider a request for the renewal of a Special Use Permit (S05-04-044) to allow for two temporary buildings for the operation of church offices on Lot 1A of NCB 885C of the Green Acres Subdivision, as recorded in Volume 2, Page 240 of the Plat Records of Smith County, Texas, one lot totaling approximately 2.9 acres of land located at the southeast intersection of DeCharles Street and Jan Avenue (3232 Jan Avenue).

Page: 1 of 2

Item Reference:

The church is requesting a one year renewal on two portable buildings originally authorized for three years in 2001. In 2004, a second extension was granted “for no more than three years”. This is the third requested extension.

Section 10-245, “Special Use Regulations”, states that the governing body may, by ordinance, grant a special permit for special listed uses for enumerated districts that are otherwise not allowed. These approvals are subject to additional safeguards such as time limits, that protect adjacent properties. Special permits may only be authorized that do not substantially increase traffic hazards, congestion, or fire hazards, adversely affect the character of neighborhoods or the community’s general welfare, or overtax public utilities.

The area is developed with large lot single family homes, zoned R-1A. In February 2001, the church was issued its first permit for the temporary structures that were to serve as church and office space while the church prepared a new location for relocating the church home. The permit was renewed in 2004 for no more than three years to provide the church with more time for construction.

While we are sympathetic to the church in their building program planning, the purpose of authorizing the temporary structures is to provide a short term solution. As this is now entering year seven that the portable buildings have been on the property, staff can not continue to support the request. The church agrees and is working on making these temporary buildings into permanent structures. At the August 7, 2007 Planning Commission meeting, Michael D. Barham, architect, spoke on behalf of the church. The church’s earlier plans to relocate by the Grande extension have been discarded in favor of investing in their current location.

Agenda Number: Z-4

Page: 2 of 2

The church intends to sell the Grande property and use the proceeds to transform the temporary buildings into permanent structures with a complementary façade to the main church. The church will need to seek a variance to the minimum setbacks as the temporary structures minimally encroach into the street yard setback.

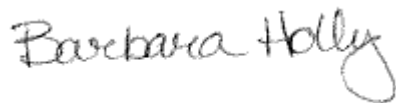
With the church's assurance that they are transitioning away from using the temporary structures, and to provide sufficient time for the foregoing to be completed, the Planning Commission voted unanimously to grant a one year extension of the special use permit.

Of the 41 notices mailed, four notices were returned in favor of the request. No notices were returned in opposition to the request.

All other departments have reviewed this request and anticipate no significant impact on services or facilities by the proposed change.

RECOMMENDATION:

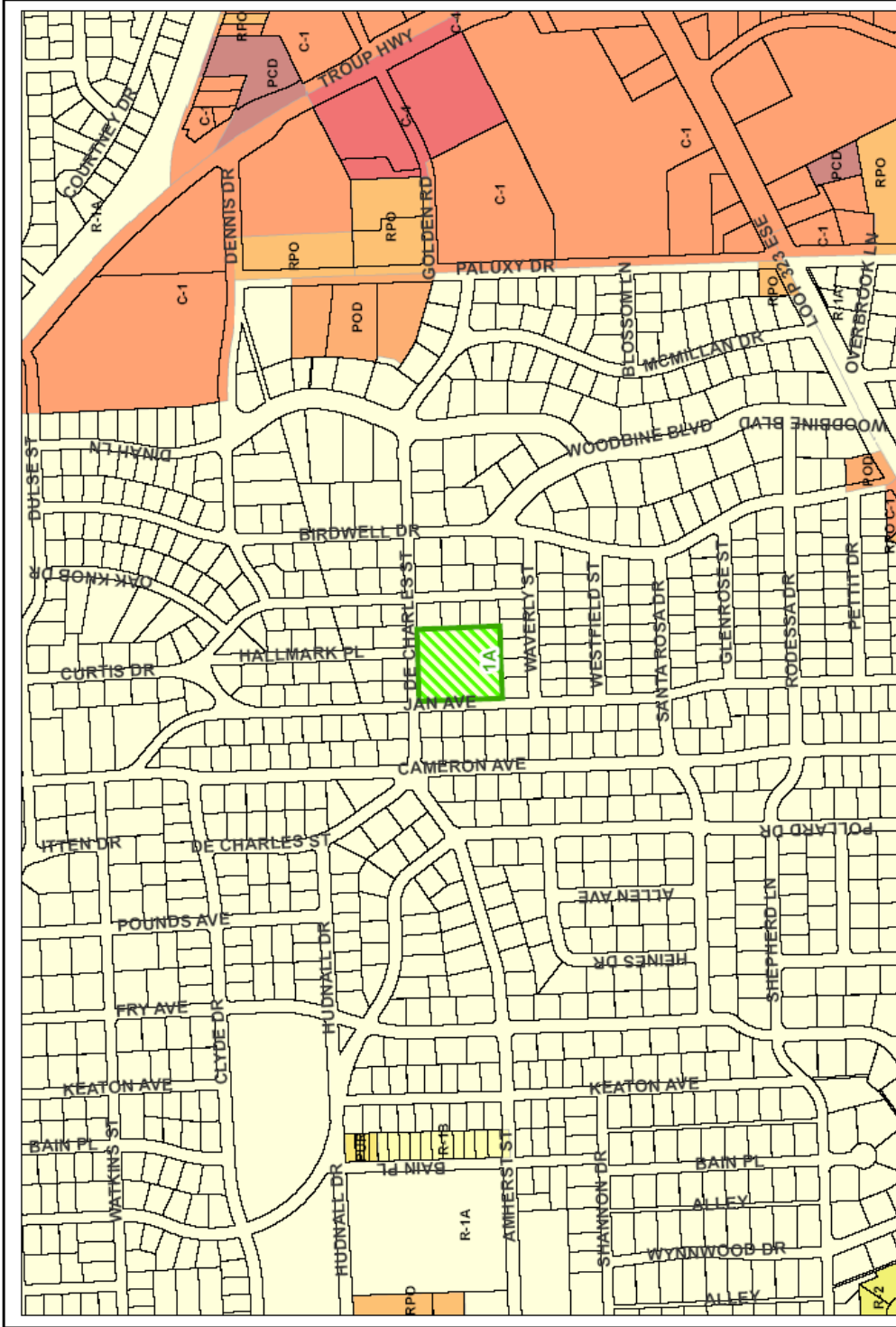
The Planning Commission, by a 7-0 vote, recommends approval of a one year extension of the Special Use Permit to allow the church time to transform the temporary structures into permanent church buildings.

A handwritten signature in cursive script that reads "Barbara Holly".

Drafted/Recommended By: Barbara Holly

Department Leader

**Edited/Submitted By:
City Manager**



ZONING CASE

Zoning Cases #: S08-07-084A
 SUP FOR TEMPORARY TRAILERS
 Applicant: ST. FRANCIS EPISCOPAL CHURCH



Subject Property





ZONING CASE

Zoning Cases #: S08-07-084A
 SUP FOR TEMPORARY TRAILERS
 Applicant: ST. FRANCIS EPISCOPAL CHURCH



Subject Property
 200' Notification Buffer



ORDINANCE NO. O-2007-96

AN ORDINANCE AMENDING THE CITY OF TYLER ZONING ORDINANCE OF THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS; DIRECTING THE AMENDMENT OF THE ZONING MAP; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission of the City of Tyler, Texas, and the City Council of the City of Tyler, Texas, in compliance with the Charter and the State law with reference to the zoning ordinance of the City of Tyler, Texas, and zoning map, have given requisite notices by publication and otherwise and after holding a due hearing and affording a full and fair hearing to all the property owners, generally and to the persons interested, situated in the affected area and in the vicinity thereof, the City Council is of the opinion that the zoning change and special uses should be made as set forth herein;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS:

PART 1: That the following zone change and special uses are hereby approved as follows:

I. APPLICATION Z07-07-076B

That the following described property, which has heretofore been zoned "R-1A" Single-Family Residential District, shall hereafter bear the zoning classification of "C-2" General Commercial District to-wit:

A portion of Lot 15A of NCB 937 of the Willow Run Addition as recorded in Document Number R00021667 of the Plat Records of Smith County, Texas, a portion of the lot totaling approximately 0.08 acres located one lot north of the northeast intersection of Golden Road and East 5th Street (2316 East 5th Street), and as shown in Exhibit "A".

II. APPLICATION S07-07-073A

That the following described property, which is currently zoned "R-1B", shall hereafter be used under a new special use permit to allow for the operation of a day care home for up to 12 children, to wit:

Lot 15 of NCB 661A of the Butler College Subdivision as recorded in Book 5567, Page 21 of the Deed Records of Smith County, Texas, one lot totaling approximately 7,280 square feet located four lots north of the northeast intersection of S. Lyons Avenue and W. 2nd St. (1310 S. Lyons Avenue),

for a period of one year.

III. APPLICATION S08-07-084A

That the following described property, which is currently zoned "R-1A", shall hereafter be used under a special use permit to allow for two temporary buildings for the operation of church offices, to wit:

Lot 1A of NCB 885C of the Green Acres Subdivision, as recorded in Volume 2, Page 240 of the Plat Records of Smith County, Texas, one lot totaling approximately 2.9 acres of land located at the southeast intersection of DeCharles Street and Jan Avenue (3232 Jan Avenue),

for a period of one year subject to the Church submitting an architectural plan to the Planning Department.

PART 2: That the City Manager is hereby ordered and directed to cause the zoning map to be amended to reflect the above described zoning change.

PART 3: Should any section, subsection, sentence, provision, clause or phrase be held to be invalid for any reason, such holding shall not render invalid any other section, subsection, sentence, provision, clause or phrase of this ordinance and same are deemed severable for this purpose.

PART 4: That this ordinance shall be effective on and after its date of passage and approval by the City Council.

PASSED AND APPROVED this the 22nd day of August, A.D., 2007.

JOSEPH O. SEEBER, MAYOR
OF THE CITY OF TYLER, TEXAS

A T T E S T:

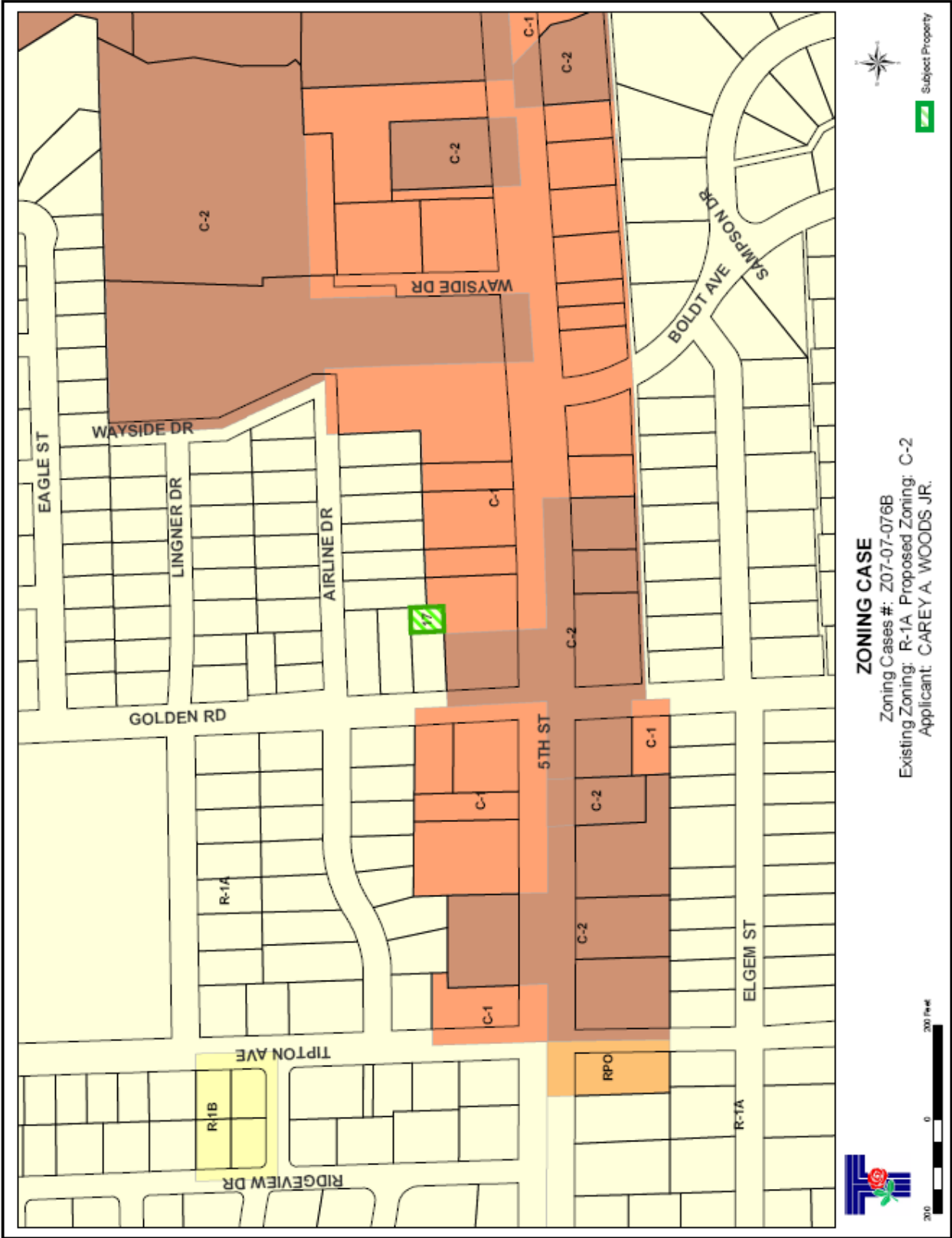
APPROVED:

CASSANDRA BRAGER, CITY CLERK

CITY ATTORNEY

ORDINANCE NO. 0-2007-96

EXHIBIT "A"



ZONING CASE
Zoning Cases #: Z07-07-076B
Existing Zoning: R-1A Proposed Zoning: C-2
Applicant: CAREY A. WOODS JR.

