

**Planning Commission
Regular Meeting Minutes
June 7, 2022**

Members Present

Chair Lee Edwards
Ron Reaves
Chad Nolte
Jerry Sonier
Creighton Tubb
Kurt Andersen-Vie
Angela Allen
Taylor Chafin
Bernard Miedema

Staff Present

Christopher J. Looney, Director of Planning and Development Services
Jean Drew, Assistant Director of Planning and Development Services
Frank Onion, Assistant City Attorney
Stacy Snell, Planning Manager
Matthew Simmont, Senior Planner
Maddison O'Kelley, Planner
Laure Middleton, Planner
Kaitlyn Buck, Assistant Planner
Colton Barker, Planning Technician

1. CALL TO ORDER

The above meeting was called to order by Chair Edwards at 6:00 p.m.

2. ROLL CALL

Roll was called and a quorum was declared.

3. APPROVAL OF MINUTES

Motion by Commissioner Sonier, seconded by Commissioner Nolte, to approve the Regular Meeting Minutes of May 11, 2022 as presented. Motion carried (9-0-0).

4. CITIZENS COMMUNICATION

No one spoke.

5. BRIEFINGS

No items.

6. CONSENT AGENDA

- A) FP22-0202 Approval of the final plat for Spring Valley Subdivision, Unit 2, with conditions.**
(Applicant: INK Civil; James Ingalls, P.E.; Owner: Stephen Lieux; Case Manager: Laure Middleton)

Motion by Commissioner Reaves, seconded by Commissioner Sonier, to approve the final plat for Spring Valley Subdivision, Unit 2, with conditions. Motion carried (9-0-0).

7. INDIVIDUAL ITEMS FOR CONSIDERATION

- A) SUP22-165 Public hearing and recommendation to City Council regarding a proposed rezoning to apply a Special Use Permit to allow short term rental of a residential structure in the R-3L Multifamily Low Density District on approximately 1.7 acres, addressed at 586 Granada Drive.**
(Owners/Applicants: Rebecca and Mark Sacco; Case Manager: Matthew Simmont)

Mr. Simmont presented and recommended approval with conditions as stated in staff report.

Chair Edwards asked if there were any questions for staff.

Commissioner Reaves requested clarification of the request and the impact of the Planning Commission's decision on this item.

Mr. Simmont stated the Planning Commission made a recommendation of approval to City Council at the May 11, 2022 Planning Commission meeting regarding the rezoning of 586 Granada Drive to R-3L, and that request is scheduled to go before City Council for its second reading on June 13, 2022. Mr. Simmont clarified that this item is to request the SUP required to operate a short-term rental on the property.

Commissioner Reaves asked Mr. Onion if it was appropriate to take action on an item that has yet to be finalized.

Mr. Onion stated that it would be appropriate in this case, because if the rezoning request does not receive final approval by City Council, then this SUP request would fail, as the zoning for the property would revert back to R-2.

Chair Edwards invited the applicant to speak.

No one spoke.

Chair Edwards opened the public hearing and asked if anyone wished to speak.

No one spoke.

Chair Edwards closed the public hearing.

Chair Edwards asked if there were further discussion or a motion.

Motion by Commissioner Anderson-Vie, seconded by Commissioner Nolte, to recommend approval with staff's recommended conditions to City Council regarding the proposed rezoning to apply a Special Use Permit to allow short term rental of a residential structure in the R-3L Multifamily Low Density District on approximately 1.7 acres, addressed at 586 Granada Drive. Motion carried (9-0-0).

B) PZ22-0167 Public hearing and recommendation to City Council regarding a proposed rezoning from "R-1 AH" Single-family Residential District to "C-1B AH" General Business District on approximately 6.2 acres out of the Francis Fry Survey No. 5, Abstract No. 164 and the Orilla Russell Survey No. 2, Abstract No. 485, addressed at 3642 FM 306. (Owner/Applicant: GMM Realty Co., LLC No. 6 (Gary Granzin); Case Manager: Matthew Simmont)

Mr. Simmont presented and recommended approval as stated in staff report.

Chair Edwards asked if there were any questions for staff.

Discussion followed on night sky lighting regulations and standards.

Chair Edwards invited the applicant to speak.

No one spoke.

Chair Edwards opened the public hearing and asked if anyone wished to speak.

No one spoke.

Chair Edwards closed the public hearing.

Chair Edwards asked if there were further discussion or a motion.

Motion by Commissioner Reaves, seconded by Commissioner Nolte, to recommend approval to City Council regarding the proposed rezoning from "R-1 AH" Single-family Residential District to "C-1B AH" General Business District on approximately 6.2 acres out of the Francis Fry Survey No. 5, Abstract No. 164

and the Orilla Russell Survey No. 2, Abstract No. 485, addressed at 3642 FM 306. Motion carried (9-0-0).

C) PZ22-0173 Public hearing and recommendation to City Council regarding a proposed rezoning from “M-1” Light Industrial District to “R-2A” Single-Family and Two-Family District on approximately 0.44 of an acre being a portion of Lots 8, 9 & 10, New City Block 5102, addressed at 243 E. Torrey Street. (Owner/Applicant: Larry Mills; Case Manager: Matthew Simmont)

Commissioner Nolte recused himself and left the dais at 6:16pm.

Mr. Simmont presented and recommended approval as stated in staff report.

Chair Edwards asked if there were any questions for staff.

Commissioner Meidema commented that the property seems to be located in an area largely zoned as M-1 light industrial and that he doesn't see this area becoming residential unless the whole area is rezoned.

Mr. Simmont explained that residential uses were originally allowed in M-1 zoning but have since been removed as an allowed use in recent years to protect valuable M-1 land from becoming entirely residential. Mr. Simmont stated that this circumstance is not limited to this area but can also be found throughout many of the older neighborhoods in the city that have retained that M-1 zoning and has created difficulties for residents looking to further develop their residential neighborhoods.

Discussion followed on appropriate locations for industrial use in M-1 zones.

Jean Drew provided further clarification and indicated the removal of residential uses in industrial zoning was done at the request of City Council and that most industry looking to develop industrial uses tend to avoid areas used primarily as residential since residential use would not be appropriate for their development. Mrs. Drew continued that once the residential uses were removed from the M-1 district, any existing residences became legally non-conforming uses, which makes it difficult to rebuild a home that may have suffered from damage. Mrs. Drew further stated that this issue was being addressed in the Land Development Ordinance rewrite and would likely result in these areas being changed to residential zoning in the future

Chair Edwards invited the applicant to speak.

Larry Mills, 515 W Edgewater, stated intent of the request is to be allowed to build a residence on the property.

Chair Edwards opened the public hearing and asked if anyone wished to speak.

No one spoke.

Chair Edwards closed the public hearing.

Greg Meyer, 1029 Chicago Ave, owner of neighboring property 255 Torrey St, stated he went through the rezoning process to develop three duplex residences and is in favor of the request stating the zoning requested is appropriate for the area.

Pam Carpenter, 245 Mary Louise Dr, stated they were with the applicant and elaborated on the request and condition of the subject property.

Chair Edwards asked if there was further discussion or a motion.

Motion by Commissioner Sonier, seconded by Commissioner Tubb, to recommend approval to City Council regarding the proposed rezoning from “M-1” Light Industrial District to “R-2A” Single-Family and Two-Family District on approximately 0.44 of an acre being a portion of Lots 8, 9 & 10, New City Block 5102, addressed

at 243 E. Torrey Street. Motion carried (8-0-0).

Commissioner Nolte returned to the dais at 6:28pm.

D) PZ22-0174 Public hearing and recommendation to City Council regarding a proposed rezoning from “APD” Agricultural Predevelopment District to “C-O” Commercial Office District of approximately 25.097 acres out of the R. Ximinez Survey, Abstract No. 347, addressed at 409 Franks Road. (Applicant: James Mahan III; Owner: Ruth Franks; Case Manager: Laure Middleton)

Mrs. Middleton presented and recommended approval as stated in staff report.

Chair Edwards asked if there were any questions for staff.

Discussion followed on Traffic Impact Analysis’ and a lack of sewer service in the area.

Chair Edwards invited the applicant to speak.

Burt Wellmann, KFW Engineers 162 W Mill St, elaborated on the intent for a mixed-use commercial development, and addressed the proposed throughfares surrounding the property as well as the submitted TIA form.

Discussion followed on the undetermined plan for the development and the existing runway located on the property.

Chair Edwards called attention to the surrounding residential uses.

Chair Edwards opened the public hearing and asked if anyone wished to speak.

Debbie Williams, 111 Cottontail Lane, expressed concern for the uncertainty regarding the proposed development and cited concerns for a commercial development on septic system as well as the potential for a multifamily development.

Mrs. Snell stated that ultimately the type of development will be dependent on the utilities and infrastructure regulated by the city’s platting and building permit processes.

Chair Edwards closed the public hearing.

Chair Edwards asked if there were further discussion or a motion.

Motion by Commissioner Anderson-Vie, seconded by Commissioner Sonier, to recommend approval to City Council regarding the proposed rezoning from “APD” Agricultural Predevelopment District to “C-O” Commercial Office District of approximately 25.097 acres out of the R. Ximinez Survey, Abstract No. 347, addressed at 409 Franks Road. Motion carried (8-1-0) with Chair Edwards in opposition.

E) SUP22-166 Public hearing and recommendation to City Council regarding a proposed rezoning to apply a Special Use Permit to allow a martial arts school in the C-O Commercial Office District on Lot 9, Block 2, Green Valley Estates, addressed at 104 Melody Lane. (Applicant: James Ingalls, P.E., INK Civil; Owners: Jack Whitworth III & Cynthia Whitworth; Case Manager: Matthew Simmont)

Mr. Simmont presented and recommended approval with conditions as stated in staff report.

Chair Edwards asked if there were any questions for staff.

Commissioner Reaves asked if the SUP for this martial arts school would be removed from the property if the school were to close.

Mr. Simmont stated the SUP would remain on the property unless removed by City Council in the same manner of approving it. He also clarified that the SUP request to allow for a martial arts school could be used by another martial arts school in the future or any of the other C-O allowed uses.

Discussion followed on the land use of the subject property and surrounding properties, as well as potential traffic impact.

Chair Edwards invited the applicant to speak.

James Ingalls, INK-Civil, 2021 State Highway 46, elaborated on the request.

Michael Heinz, 1818 Strawberry Field, provided additional context regarding the proposed martial arts studio and what can be expected should this request be approved.

Chair Edwards opened the public hearing and asked if anyone wished to speak.

No one spoke.

Chair Edwards closed the public hearing.

Chair Edwards asked if there were further discussion or a motion.

Motion by Commissioner Reaves, seconded by Commissioner Sonier, to recommend approval with staff recommendations to City Council regarding the proposed rezoning to apply a Special Use Permit to allow a martial arts school in the C-O Commercial Office District on Lot 9, Block 2, Green Valley Estates, addressed at 104 Melody Lane. Motion carried (9-0-0).

F) SUP22-169 Public hearing and recommendation to City Council regarding a proposed rezoning to apply a Special Use Permit to allow short term rental of a residence in the "C-3" Commercial District addressed at 229 W. Merriweather Street. (Applicant/Owner: Evelyn Joyce Orr; Case Manager: Laure Middleton)

Mrs. Middleton presented and recommended approval with conditions as stated in staff report.

Chair Edwards asked if there were any questions for staff.

Chair Edwards invited the applicant to speak.

Evelyn Orr, 9320 Muskberry Cove, elaborated further on the request.

Chair Edwards opened the public hearing and asked if anyone wished to speak.

No one spoke.

Chair Edwards closed the public hearing.

Chair Edwards asked if there were further discussion or a motion.

Motion by Commissioner Sonier, seconded by Commissioner Nolte, to recommend approval with staff recommendations to City Council regarding the proposed rezoning to apply a Special Use Permit to allow short term rental of a residence in the "C-3" Commercial District addressed at 229 W. Merriweather Street. Motion carried (9-0-0).

G) SUP22-170 Public hearing and recommendation to City Council regarding a proposed rezoning to apply a Special Use Permit to allow short-term rental of a single-family residence in the "C-3" Commercial District addressed at 730 S. Mesquite Avenue. (Applicant/Owner: Patricia Yang; Case

Manager: Maddison O'Kelley)

Ms. O'Kelley presented and recommended approval with conditions as stated in staff report.

Chair Edwards asked if there were any questions for staff.

Chair Edwards invited the applicant to speak.

Chair Edwards opened the public hearing and asked if anyone wished to speak.

No one spoke.

Chair Edwards closed the public hearing.

Chair Edwards asked if there were further discussion or a motion.

Motion by Commissioner Sonier, seconded by Commissioner Nolte, to recommend approval with staff recommendations to City Council regarding the proposed rezoning to apply a Special Use Permit to allow short-term rental of a single-family residence in the "C-3" Commercial District addressed at 730 S. Mesquite Avenue. Motion carried (9-0-0).

H) SUP22-171 Public hearing and recommendation to City Council regarding a proposed rezoning to apply a Special Use Permit to allow short term rental of a residence in the "C-1" Local Business District addressed at 188 S. Union Avenue. (Applicant: Denise Orr & Ashley Evans; Owner: Lawrence Herring; Case Manager: Laure Middleton)

Mrs. Middleton presented and recommended approval with conditions as stated in staff report.

Chair Edwards asked if there were any questions for staff.

Chair Edwards invited the applicant to speak.

Chair Edwards opened the public hearing and asked if anyone wished to speak.

No one spoke.

Chair Edwards closed the public hearing.

Chair Edwards asked if there were further discussion or a motion.

Motion by Commissioner Sonier, seconded by Commissioner Nolte, to recommend approval to City Council with staff recommendations regarding the proposed rezoning to apply a Special Use Permit to allow short term rental of a residence in the "C-1" Local Business District addressed at 188 S. Union Avenue. Motion carried (9-0-0).

I) SUP22-172 Public hearing and recommendation to City Council regarding a proposed rezoning from "R-2" Single and Two-Family District to "M-2A" Heavy Industrial District with a Special Use to allow outdoor music adjacent to residential zoning and land uses on approximately 7.74 acres out of the J M Veramendi Survey No. 1, Abstract No. 2, addressed at 624 Krueger Canyon. (Applicants/Owners: Walter and Robin Golden; Case Manager: Maddison O'Kelley)

Ms. O'Kelley presented and recommended approval with conditions as stated in staff report.

Chair Edwards asked if there were any questions for staff.

Chair Edwards invited the applicant to speak.

Walter Golden, 624 Krueger Canyon, elaborated on the request and addressed potential concerns regarding outdoor music and noise levels, proximity to neighboring residences, traffic, and drainage.

Commissioner Reaves asked Mr. Golden if he was aware of City's recommendations that outside music shall not exceed 75 decibels and occur in a timeframe of 10 am to 10 pm.

Mr. Golden stated there was no intention to conflict with the recommended decibel levels or timeframe and addressed plans to communicate with residents regarding a residential buffer wall.

Chair Edwards opened the public hearing and asked if anyone wished to speak.

John Holland, 732 Krueger Canyon, expressed concern regarding the floodplain, a lack of sewer service in the area, potential noise level, and a request from the applicant for a liquor license.

Chair Edwards closed the public hearing.

Chair Edwards asked if there were further discussion or a motion.

Discussion followed on liquor licensing, traffic impacts, and the location of the subject property in relation to New Braunfels City Limits.

Motion by Commissioner Reaves, seconded by Commissioner Sonier, to recommend approval to City Council with staff recommendations regarding the proposed rezoning from "R-2" Single and Two-Family District to "M-2A" Heavy Industrial District with a Special Use to allow outdoor music adjacent to residential zoning and land uses on approximately 7.74 acres out of the J M Veramendi Survey No. 1, Abstract No. 2, addressed at 624 Krueger Canyon. Motion carried (9-0-0).

J) AMD22-186 Amend W. Merriweather St. abandonment ordinance No. 2017-26 to close the pedestrian access. (*Applicant: H-E-B, LP; Kathy Strimple, PE; Case Manager: Stacy Snell*)

Mrs. Snell presented the report.

Chair Edwards asked if there were any questions for staff.

Commissioner Reaves asked if there had been any discussions with HEB or residents concerning the implementation of a gated access.

Mrs. Snell stated that the suggestion for gated access as an alternative to closure was discussed with the applicant, HEB representative Kathy Strimple, and that they were present to respond to any questions.

Commissioner Nolte asked if there were any police reports generated as a result of the alleged vagrancy and negative activity at the access point.

Mrs. Snell stated that calls have been made to the police regarding vagrancy in the area, but that no documentation had been provided to staff.

Commissioner Tubb asked if calls to the police regarding vagrancy were directly related to the pedestrian access from Merriweather St.

Mrs. Snell indicated the area had limited visibility and some foliage that had proven to be an attractive area for vagrancy.

Commissioner Miedema stated that a gated access would be better solution than full closure and asked who would be responsible for locking and unlocking the gate.

Mrs. Snell recommended the responsibility be with HEB.

Chair Edwards asked whether HEB or the neighborhood residents were pursuing the closure of the pedestrian access.

Mrs. Snell stated staff had received only two calls in favor of the closure.

Chair Edwards invited the applicant to speak.

HEB Representative Kathy Strimple, 646 S Flores St, stated the application to close the pedestrian access was at the request of residents adjacent to the wall and stated that HEB would be in favor closing the access or keeping it open, but cannot manage the risk of locking and unlocking any proposed gate.

Commissioner Reaves asked Strimple if they had considered a key punch gate system.

Strimple reiterated that HEB cannot offer to manage the operation of a gate, and that the application was primarily on the behave of the residents near the access point.

Commissioner Miedema and Commissioner Tubb inquired into the placement of security cameras at the access.

Strimple stated a security camera system could be installed at the access, but that the primary evidence of negative activity in the area can be found in an enclosed dumpster area that is routinely checked by the property's security guard during store hours.

Commissioner Tubb asked if the police would have access to the data captured by a security camera.

Mr. Onion clarified the police may request access to this data, but consent would need to be granted from HEB.

Chair Edwards expressed concern regarding the quality of security footage and discussed crime levels near the interstate.

Commissioner Sonier asked for clarification, that HEB holds no strong stance on whether the access should remain open or be closed, but also does not want responsibility for managing any proposed gate.

Strimple noted HEB typically restricts public access to its facilities to the front of the building to curb theft and avoid situations like this. Strimple mentioned that it was a special circumstance to install the pedestrian access on Merriweather St.

Discussion followed on the original request for pedestrian access from Merriweather St., and the complications with gated access.

Chair Edwards announced the Commission was willing to hear anyone willing to comment.

Christina Smith, 954 Merriweather, elaborated on their experience living next to the pedestrian access point, and noted that with the construction of the new HEB facility, now would be the perfect time to consider the closure of the pedestrian access from Merriweather St. and suggested a new access could be created behind the parking lot by Huisache Ave. Smith added that a gated access point from Merriweather St. would not be ideal and that the existing access should be closed to prevent vagrancy in the area.

Jason Wenzel, 463 Perryman St., stated there has been a slight increase in vagrancy but noted that there were other means for vagrants to traverse the area, not just the pedestrian access. Mr. Wenzel noted that he has lived in the neighborhood for 30 years and that another access would be great, but no access would ultimately be more dangerous.

Paula Molina, 953 W Merriweather St., requested the access be closed citing concerns for safety as a result of vagrants who use the access.

Kayla Wenzel, 463 Perryman St., stated they were not aware of the neighbors' concerns and was present to oppose the closure of the access point. Wenzel stated that a safe access is needed for disabled and elderly residents, as alternate routes along IH-35 were too dangerous. Wenzel noted that they had been using the access in the evenings and had not noticed any clear signs of vagrancy but did not want to diminish other residents negative experiences with the access, and stated that if this access were to be closed then a different similar access would be needed to replace it.

Commissioner Miedema commented that if the old HEB is to be developed into a parking lot, then perhaps a different access point could be created there.

Mrs. Snell responded that the location mentioned by Commissioner Miedema is not HEB owned property and is actually owned by the bowling alley.

Strimple reiterated that HEB cannot implement anything on property they do not own, and noted they hear the concerns of the residents regarding the closure of the access.

Chair Edwards asked if there were further discussion or a motion.

Motion by Commissioner Sonier, seconded by Commissioner Nolte, to recommend amending the W. Merriweather St. abandonment ordinance No. 2017-26 to close the pedestrian access. Motion carried (8-1-0) with Commissioner Tubb in opposition.

Commissioner Sonier left the dais at 7:50pm.

K) WVR22-191 Discuss and consider a waiver from Section 118-45(b), to not require a proposed lot to have frontage on an existing improved public street for the proposed replat of Lots 5E-1 & 5E-2, Huisache Hills Subdivision. (*Applicant: Heather Steed, Sherwood Surveying & SUE; Owner: Jeffrey Hansen; Case Manager: Matthew Simmont*)

Mr. Simmont presented and stated staff was not opposed to the request.

Commissioner Sonier returned to the dais at 7:53pm.

Chair Edwards asked if there were any questions for staff.

Chair Edwards invited the applicant to speak.

No one spoke.

Chair Edwards opened the floor for public comment.

No one spoke.

Chair Edwards closed the floor from public comment.

Chair Edwards asked if there were further discussion or a motion.

Motion by Commissioner Tubb, seconded by Commissioner Miedema, to approve the proposed waiver from Section 118-45(b), to not require a proposed lot to have frontage on an existing improved public street for the proposed replat of Lots 5E-1 & 5E-2, Huisache Hills Subdivision. Motion carried (9-0-0).

L) WVR22-192 Discuss and consider waivers from: Section 118-11(a) to allow an exemption from platting approximately 1.996 acres in the A.M. Esnaurizar Survey, Abstract No. 20, Guadalupe

County, Texas, recorded in Document No. 202199027363 Official Public Records of Guadalupe County, Texas, addressed at 4040 SH 46 N. (Applicant & Owner: Steven L. Glover; Case Manager: Laure Middleton)

Mrs. Middleton presented and recommended denial as stated in the staff report.

Discussion followed on platting requirements for the development of properties in the City's ETJ.

Chair Edwards invited the applicant to speak.

Steven Glover, 131 Flora St, elaborated on the request and discussed the financial cost needed to provide engineered drainage documents required by the platting process. Mr. Glover also discussed efforts to follow recommendations provided by city staff during the predevelopment process, as well other financial challenges citing recent health issues.

Chair Edwards opened the public hearing and asked if anyone wished to speak.

No one spoke.

Chair Edwards closed the public hearing.

Chair Edwards asked if there were further discussion or a motion.

Commissioner Chafin stated that at some point in the development process some form of stormwater or drainage design will need to be produced.

Mr. Glover clarified that the impact of the proposed use of the property would be minimal, with a total of four employees, a fence, and one small building.

The request was denied for lack of a motion.

M) WVR22-193 Discuss and consider a waiver to Section 118-45(b) to not require lot frontage to a public street for three proposed residential lots in the proposed replat of Culver Subdivision addressed at 883 Rock St. (Applicant/Owner: Dr. William Culver; Case Manager: Maddison O'Kelley)

Ms. O'Kelley presented and recommended denial as stated in staff report.

Chair Edwards asked if there were any questions for staff.

Chair Edwards invited the applicant to speak.

Dr. William Culver, 883 Rock St, stated the intent of the request was for the subdivided property to be given to his three daughters, discussed difficulties in accessing TX Loop 337, and addressed fire safety concerns.

Discussion followed on the possible extension of the access to 883 Rock St. through the three proposed lots as an access easement.

Chair Edwards opened the public hearing and asked if anyone wished to speak.

No one spoke.

Chair Edwards closed the public hearing.

Chair Edwards asked if there were further discussion or a motion.

Motion by Commissioner Anderson-Vie, seconded by Commissioner Sonier, to approve the proposed

waiver to Section 118-45(b) to not require lot frontage to a public street for three proposed residential lots in the proposed replat of Culver Subdivision addressed at 883 Rock St. with the condition that the access to the three proposed residential lots be provided as an access easement on the plat. Motion carried (9-0-0).

N) Appointment of a Planning Commission representative to the Land Development Ordinance Citizens Advisory Committee. (*Christopher J. Looney, AICP, Planning & Development Services Director*)

Mr. Looney presented a recap of the Land Development Ordinance process and requested a commissioner be named as representative to the Land Development Ordinance Citizens Advisory Committee.

The commission selected Chair Edwards as Planning Commission representative to the Land Development Ordinance Citizens Advisory Committee.

Motion by Commissioner Anderson-Vie, seconded by Commissioner Reaves, to appoint Chair Edwards as Planning Commission representative to the Land Development Ordinance Citizens Advisory Committee. Motion carried (9-0-0).

8. STAFF REPORT

No items.

9. ADJOURNMENT

There being no further business, Chair Edwards adjourned the meeting at 8:26 pm.

Chair

Date