

**Planning Commission
Regular Meeting Minutes
March 3, 2020**

Members Present

Chair Lee Edwards
Vice Chair Ron Reaves
Stanley Laskowski
John Mathis
Thomas Meyer
Chad Nolte
Jerry Sonier

Staff Present

Christopher J. Looney, Planning Director
Stacy Snell, Assistant Director
Frank Onion, Assistant City Attorney
Jean Drew, Senior Planner
Holly Mullins, Senior Planner
Matt Greene, Planner
Matthew Simmont, Planner
Sam Hunter, Planning Technician

Members Absent

Shaun Gibson
Creighton Tubb

The above meeting was called to order by Chair Edwards at 6:10 p.m. in the Council Chambers at City Hall.

ROLL CALL

Roll was called, and a quorum was declared.

APPROVAL OF MINUTES

Motion by Commissioner Laskowski, seconded by Vice Chair Reeves, to approve the regular meeting minutes of February 4th, 2020. Motion carried (7-0-0).

CITIZENS COMMUNICATION

None.

CONSENT AGENDA

- A) PP20-0024** Approval of the Vacation of Lot 1, Dierks Subdivision and the Final Plat for Legend Pond - Legend Meadow, Phase 5. *Applicant/Owner: New Leaf Homes, LLC (Fred Ghavidel); Engineer: Moy Tarin Ramirez Engineers, LLC (Paul Landa, P.E.).*
- B) FP20-0026** Approval of the final plat for Legend Pond Legend Point - Phase 8. *Applicant: Jacobs Engineering Group; Owner: KB Home Lone Star, Inc.*
- C) FP20-0025** Approval of the final plat for Water Lane Villa Subdivision. *Applicant: HMT Engineering & Surveying; Owner: Roberto Estrada.*

Motion by Commissioner Laskowski, seconded by Commissioner Sonier, to approve the consent agenda with Staff recommendations. Motion carried (7-0-0).

ITEMS FOR CONSIDERATION

Item A - PZ20-0010 Public hearing and recommendation to City Council regarding a proposed amendment to Chapter 144, Zoning, to establish Section 3.8-8, Wurstfest Special District; and the proposed rezoning of approximately 16 acres from M-2, Heavy Industrial, and R-2, Single Family and Two-Family District to Wurstfest Special District (WSD), located on the north side of Landa Street and extending along Landa Park Drive to Elizabeth Avenue, and currently addressed as 120 and 176 Landa Street, 192, 164, 180, and 178 Landa Park Drive, and 124 Elizabeth Avenue. (Applicant/Owner: City of New Braunfels, Wurstfest Association of New Braunfels; Case Manager: Maddison O'Kelley)

Ms. O'Kelley presented. Staff recommended approval of the rezoning and special district to maintain established uses.

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

No one spoke.

Chair Edwards asked if anyone wished to speak in opposition.

No one spoke.

Motion by Commissioner Laskowski, seconded by Commissioner Sonier, to close the public hearing. Motion carried (7-0-0).

Motion by Commissioner Laskowski, seconded by Commissioner Mathis to recommend approval to City Council regarding the proposed amendment to Chapter 144, Zoning, to establish Section 3.8-8, Wurstfest Special District; and the proposed rezoning of approximately 16 acres from M-2, Heavy Industrial, and R-2, Single Family and Two-Family District to Wurstfest Special District (WSD). Motion carried (7-0-0).

Chair Edwards requested that Item E be moved out of order.

Item E - SUP19-376 Public hearing and recommendation to City Council regarding a proposed rezoning to apply a Special Use Permit to allow outdoor music in the "C-1" Local Business District and adjacent to residential use, on Lot 1A, Grandview Addition, addressed at 1440 N. Walnut Avenue. (Applicant/Owner: Bob Rizk; Case Manager: Matt Greene)

Chair Edwards stated this item was requested to be postponed to the following April 7th Planning Commission meeting date.

Motion by Commissioner Laskowski to approve the requested postponement regarding a proposed rezoning to apply a Special Use Permit to allow outdoor music in the "C-1" Local Business District and adjacent to residential use.

Vice Chair Reeves requested to discuss the motion.

Vice Chair Reeves stated his discontent with repeat postponements; Commissioner Reeves asked if each postponement is given a new public notice mailing and updated public notice signage.

Mrs. Snell clarified the commission postponing to another specific date is included in the continuity of the public notice.

Vice Chair Reeves stated his discontent of the lack of appropriately updated public notice for postponements.

Commissioner Mathis asked if there is a limit to the number of postponements and applicant can request.

Mr. Onion stated postponement is up to the discretion of the commission and requests can be denied.

Commissioner Meyer stated the applicant should follow up appropriately on the reason they had requested postponement during the extra time rather than repeatedly postponing with inaction.

Chair Edwards agreed postponements can be granted for outreach to the public but there must be a good-faith effort made during this postponement period if the effort is not made then future postponements may be reconsidered.

Commissioner Meyer stated with repeat postponements he is concerned with the public repeatedly showing up to find out an item had been postponed and this adding to public confusion and upset.

Motion carried (5-0-2) with Vice Chair Reeves and Commissioner Mathis opposed.

Chair Edwards restated the postponement was for April 7th.

Item B - PZ20-0017 Public hearing and recommendation to City Council regarding the proposed rezoning of approximately 49 acres out of the William H. Pate Survey No. 22, A-259, addressed as 2272 FM 1044, from "APD" Agricultural/Pre-Development to "ZH-A" Zero Lot Line Home District.
(Applicant/Owner: James Ingalls, Moeller & Associates; Case Manager: Holly Mullins)

Mrs. Mullins presented. Staff recommends approval.

Vice Chair Reeves asked for clarification on the argument of ZH-A providing workforce housing.

Mrs. Mullins explained that it is specified in the comprehensive plan to provide a variety of housing types.

Discussion followed.

Mrs. Mullins specified that the zoning may allow for a more affordable option, but it is at the discretion of the developer to work within the limitations of zoning.

Chair Edwards stated developers often seek out ZH-A rezoning since it is the only zoning that allows for a smaller minimum lot size than other residential zoning districts.

Commissioner Meyer expressed concern that the price points to justify ZH-A aren't being met.

Discussion followed.

James Ingalls, Moeller & Associates, stated that most homes will be the same size and cost the same material-wise, but lot size can vary and is the most variable piece in determining total cost; land itself can potentially increase a home value by \$50-70,000 alone.

Chair Edwards asked to confirm the price of frontage per linear foot as approximately \$800, and to confirm there is less impact on city maintenance and city utilities for smaller lots.

Mr. Ingalls stated this was correct.

Vice Chair Reeves asked if the smallest lot size for ZH-A is 40-feet.

Chair Edwards clarified within other residential zoning districts even 50 feet is not permitted.

Discussion followed.

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

No one spoke.

Chair Edwards asked if anyone wished to speak in opposition.

No one spoke.

Motion by Commissioner Laskowski, seconded by Commissioner Sonier, to close the public hearing.
Motion carried (7-0-0).

Motion by Commissioner Laskowski, seconded by Commissioner Sonier to recommend approval to City Council regarding the proposed rezoning of approximately 49 acres out of the William H. Pate Survey No. 22, A-259, addressed as 2272 FM 1044, from "APD" Agricultural/Pre-Development to "ZH-A" Zero Lot Line Home District with staff recommendations. Motion carried (6-1-0) with Commissioner Meyer opposed.

Item C - PZ20-0021 Public hearing and recommendation to City Council regarding the proposed rezoning of approximately 80.16 acres out of the A.M Esnaurizar Eleven League Grant, Abstract No. 20, located southeast of the 700 block of Saengerhalle Road, from "APD" Agricultural/Pre-Development District to "ZH-A" Zero Lot Line Home District. (Applicant: Tom Yantis; Owners: Tyler Timmermann and Sidney Timmermann; Case Manager: Matthew Simmont)

Commissioner Sonier left the dais at 7:53pm.

Mr. Simmont presented.

Commissioner Meyer asked for clarification on the definition of low density.

Mr. Simmont clarified anything less than 10 units per acre would be considered low density; ZH-A is considered low density but is the highest density option of the single-family zoning districts.

Nick Reynolds, 652 W Mill St., Applicant, stated there is a large drainage easement that runs through the property.

Vice Chair Reeves asked if any driveways will be along Saengerhalle Road.

Mr. Reynolds stated all driveways would be internal.

Commissioner Sonier returned to the dais at 7:59pm.

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

No one spoke.

Chair Edwards asked if anyone wished to speak in opposition.

Pam Timmermann, 1848 Saur Lane, stated her opposition due to traffic concerns along Saengerhalle Rd and asked for clarification of the approximate number of units that would be going into the development.

Mr. Reynolds clarified they would not be planning to do 10 units per acre.

Mrs. Timmerman asked approximately how many units would be developed.

Chair Edwards clarified the maximum number of units that could be on the lot per acreage is reduced by 20% due to drainage, driveways, and streets

Chair Edwards clarified what is being considered at this point by the commission is strictly the zoning of the property.

Mrs. Timmerman asked what would be done about the roads and traffic.

Chair Edwards stated the development would have to complete a Traffic Impact Analysis.

Discussion followed.

Mrs. Snell stated the subdivision ordinance has been revised and Master Plans no longer go through Planning Commission and are only administratively approved; the subdivision process is no longer discretionary as long as they are in full compliance.

Discussion followed.

Mr. Reynolds stated they are working with the school nearby to create a thoroughfare to Deborah Dr to alleviate traffic.

Charles Saur, 1618 Saur Ln, stated his concerns for drainage throughout the development as well as traffic.

Motion by Commissioner Laskowski, seconded by Commissioner Sonier, to close the public hearing. Motion carried (7-0-0).

Motion by Commissioner Laskowski, seconded by Commissioner Sonier to recommend approval to City Council regarding rezoning of approximately 80.16 acres out of the A.M Esnaurizar Eleven League Grant, Abstract No. 20, located southeast of the 700 block of Saengerhalle Road, from "APD" Agricultural/Pre-Development District to "ZH-A" Zero Lot Line Home District.

Commissioner Mathis asked for clarification if this would be the only time this development would be brought before the Commission.

Mrs. Snell stated this is correct as long as the development fully meets code it would not come before the Commission again.

Motion carried (5-2-0) with Commissioner Mathis and Commissioner Meyer opposed.

Item D - PZ20-0022 Public hearing and recommendation to City Council regarding the proposed rezoning of Lot 2 Block A, Tri City Subdivision, addressed at 451 FM 306, from "M-1" Light Industrial to "MU-B" High Intensity Mixed Use District. (Applicant: Moeller & Associates; Owner: Koontz McCombs 1 Ltd.; Case Manager: Holly Mullins)

Mrs. Mullins presented. Staff recommended approval.

James Ingalls, Moeller & Associates, representative for Koontz McCombs, stated that the plans and contract were already underway for a multi-family development in August before the change to the M-1 ordinance removing residential uses.

Vice Chair Reeves asked if they had met with TxDOT.

Mr. Ingalls stated this was correct.

Commissioner Meyer asked for clarification if the multi-family development will have a residential buffer wall requirement as there is for commercial properties.

Mrs. Snell stated this was correct.

Commissioner Meyer stated the railroad track separating the residential space from the development is sufficiently distanced and he has no objection.

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

No one spoke.

Chair Edwards asked if anyone wished to speak in opposition.

Juan Martinez, 581 Summer Sweet Road, asked if the development is strictly multifamily apartments.

Mr. Ingalls confirmed this is correct.

Mr. Martinez stated he has no objection.

Motion by Commissioner Sonier, seconded by Commissioner Nolte, to close the public hearing. Motion carried (7-0-0).

Motion by Commissioner Laskowski, seconded by Commissioner Sonier to recommend approval to City Council regarding the proposed rezoning of Lot 2 Block A, Tri City Subdivision, addressed at 451 FM 306, from "M-1" Light Industrial to "MU-B" High Intensity Mixed Use District. Motion carried (7-0-0).

Item F - SUP20-019 Public hearing and recommendation to City Council regarding a proposed rezoning to apply a Special Use Permit to allow the short term rental of a single-family dwelling in the "C-3" Commercial District on Lot 7 and the eastern 10 feet of Lot 8, City Block 1049, currently addressed at 191 East Faust Street. (Applicant/Owner: Jay Dudley/Derrell Dudley; Case Manager: Matt Greene)

Mr. Greene presented. Staff recommended conditional approval with the following restrictions: the residential character must be maintained, any significant changes will require a revision to the SUP, the property must meet all standards specified within the Code of Ordinances, and the driveway and parking areas shall be paved.

Commissioner Meyer asked if the applicant understands he will be required to pave in order to meet standards.

Mr. Greene stated he will not have to pave if the SUP is granted as requested.

Commissioner Meyer asked if the owners will be required to pave if that condition is included in their approved recommendation.

Mr. Greene confirmed this is true.

Commissioner Meyer asked Mr. Onion if the commission is able to include a recommendation of conditional approval that specifies only a certain number of adults over the age of 3.

Mr. Onion stated the commission is able to make this recommendation but there would need to be further analysis referencing Chapter 245 of Texas Local Government Code, in order to see if it qualifies.

Mr. Onion stated the commission is able to set the number of maximum occupancy or the applicant is able to adjust the number himself.

Commissioner Meyer clarified if the commission is able to set a modified definition of adult from any adult over the age of 17 to any adult over the age of three.

Mrs. Snell stated the commission has previously included this condition with approval.

Discussion followed.

Commissioner Sonier asked for clarification as to the reasoning for the sign being removed.

Mr. Greene stated this was in order to maintain the residential character of the property.

Discussion followed.

Jay Dudley, the applicant, stated he is fine with the conditional approval language specifying adults over three for maximum occupancy requirements and getting rid of the sign; the applicant stated the high property taxes were the reasoning for requesting a short-term rental SUP for this location and that most surrounding uses are commercial rather than residential; the applicant stated he is able to pave the lot but would prefer not to for drainage.

Commissioner Meyer stated he does not have any objections.

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

No one spoke.

Chair Edwards asked if anyone wished to speak in opposition.

No one spoke.

Motion by Commissioner Laskowski, seconded by Commissioner Sonier, to close the public hearing. Motion carried (7-0-0).

Motion by Commissioner Laskowski, seconded by Commissioner Sonier to recommend approval to City Council regarding the proposed rezoning to apply a Special Use Permit to allow the short-term rental of a single-family dwelling in the "C-3" Commercial District with an amendment to allow for a maximum occupancy of 10 adults over the age of 3 and to enforce staff recommendations. Motion carried (7-0-0).

Item G - ORD19-249 Public hearing and recommendation of an ordinance amending Chapter 144, Zoning, Section 144-3.4 Zoning districts and regulations for property zoned subsequent to June 22, 1987-, and Section 4.2, Land Use Matrix, with the creation of an additional single family residential zoning district; 3.4-2 R-1A-5.5, Single Family Residential District. (Case Manager: Jean Drew)

Commissioner Meyer asked if the commission is handling both Item G and Item H together.

Mrs. Drew stated she will be presenting on both items, but each will require individual action.

Mrs. Drew presented Item G and Item H; Item G, R-1A-5.5 Single Family Residential District will require a 5,500 square foot lot minimum, 50-foot lot width, 110-foot minimum depth, and a front setback of 25 feet; Item H, R-1A-4 Small Lot Single Family District will require a 4,000 square foot lot minimum, 45-foot standard lot width, 40-foot width option with rear alley access, no minimum depth, and a front setback of 15 feet with a reduced setback option for alleys.

Chair Edwards asked for clarification on the 20-foot garage setback and 25-foot front setback.

Mrs. Drew stated that the garage structure can be setback only 20 feet while the primary structure must be setback 25 feet.

Chair Edwards noted that in the R-1A-4 zoning corner lots must maintain a 50-foot lot size.

Mrs. Drew clarified this was so there could be a commonality between lots and setbacks.

Chair Edwards asked for clarification on the width requirements of the alley street.

Mrs. Drew stated she believed the measurement was 22 feet.

Chair Edwards stated he is wary of new requirements increasing the cost of development which offsets the aim of smaller lots to reduce the price of development.

Chair Edwards asked if the utility providers will enforce any easement requirements outside of the bounds of the reduced required setbacks.

Mrs. Drew specified NBU had stated it can vary depending on the circumstances of the lot, but broadly they would have the ability to place utility easements within the reduced required setbacks as specified in each ordinance, and the alleyway provided in R-1A-4 zoning would provide an opportunity to place this easement within the alleyway rather than on the lot.

Discussion followed.

Commissioner Meyer stated affordability needed to be expressed in a variation of housing types and not just variations on single-family zoning.

Mrs. Drew stated one of the goals of the new zoning ordinances was to provide a starting point for an affordable single-family home zoning district and then provide more variation from there.

Discussion followed.

Commissioner Sonier asked if the city code allows for quadraplexes or triplexes.

Mrs. Drew stated any development with three living units, or more is considered multi-family.

Mrs. Snell stated we have two multi-family districts, R-3 and R-3L, for low and higher densities.

Chair Edwards stated once the fire department added the restriction of sprinklering any development considered multifamily rather than just allowing for a demising wall, developers were drastically less likely to build tri or quadraplexes due to increased cost. Chair Edwards stated increased requirements will increase costs, so it is important to be reasonably mindful about zoning requirements in order to increase affordability aside from the cost of land.

Commissioner Meyer stated he has no objection to the zoning ordinances but hopes this is the beginning of code changes that will result in more affordability within the city.

Mrs. Reynolds stated the alleyways would be required to have 25 feet of right-of-way and 22 feet of pavement.

Mrs. Reynolds stated a standard city street requires 30 feet of pavement.

Discussion followed.

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

Burt Wellman, 162 W Mill St., stated he is an Engineer and that the requirement of an alley might be expensive for a developer and having some sort of alternative to building an alleyway would be beneficial and asked if the zoning change would affect the ZHA zoning criteria.

Commissioner Sonier left the dais at 7:53pm.

Chair Edwards asked Mr. Wellman is providing extra parking or widening a main street as an alternative to providing an alleyway would take the burden off of developers as well.

Mr. Wellman stated this would be another option.

Chair Edwards asked if there would be any objections from developers about utilizing shared driveways to side loaded garages as an alternative.

Mr. Wellman stated the driveway may need to be made very large or have a shared access easement for the two properties. Mr. Wellman stated drainage might be a concern in this case.

Discussion followed.

Commissioner Meyer stated due to the smaller lot size a larger driveway would increase impermeability significantly.

Discussion followed.

Motion by Commissioner Laskowski, seconded by Commissioner Mathis, to close the public hearing. Motion carried (6-0-0).

Discussion followed.

Commission Sonier returned to the dais at 7:59pm.

Chair Edwards asked for clarification if the two items will be voted on separately despite being discussed together.

Mr. Onion clarified they will require separate motions; after making a motion on Item G, Item H will need to be read, a quick public hearing held, then a motion can be made for Item H.

Chair Edwards restated the description for Item G, ORD19-249 and asked if there was a motion.

Motion by Commissioner Laskowski, seconded by Commissioner Sonier to recommend approval to City Council regarding the proposed amendments to Chapter 144, Zoning, Section 144-3.4 Zoning districts and regulations for property zoned subsequent to June 22, 1987-, and Section 4.2, Land Use Matrix, with the creation of an additional single family residential zoning district; 3.4-2 R-1A-5.5, Single Family Residential District. Motion carried (7-0-0).

Item H - ORD20-011 Public hearing and recommendation to City Council regarding proposed amendments to Chapter 144, Zoning, Section 3.4 Zoning Districts and Regulations for Property Zoned After 1987, and Section 4.2, Land Use Matrix, with the creation of an additional residential district, R-1A-4, Small Lot Single Family District. (Case Manager: Jean Drew)

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

No one spoke.

Chair Edwards asked if anyone wished to speak in opposition.

No one spoke.

Motion by Commissioner Laskowski, seconded by Commissioner Mathis, to close the public hearing. Motion carried (7-0-0).

Commissioner Laskowski invited Mrs. Drew to speak before a motion is made.

Mrs. Drew stated an alternative to the alleyway requirement for 40-foot lots may be considered as the 40-foot lots seem to be a desirable option for developers.

Chair Edwards stated the frontage is often the largest cost portion of the lot.

Commissioner Laskowski asked if the changes to require a 110-foot depth as an alternative to the alleyway requirement should be included in the motion.

Mrs. Drew clarified Commissioner Laskowski's statement and restated this would be just another option to achieve the reduced 40-foot lot width without an alleyway.

Motion by Commissioner Laskowski, seconded by Commissioner Sonier to recommend approval to City Council regarding the proposed amendments to Chapter 144, Zoning, Section 3.4 Zoning Districts and Regulations for Property Zoned After 1987, and Section 4.2, Land Use Matrix, with the creation of an additional residential district, R1-A-4, Small Lot Single Family District with an recommendation to allow an option for a 40' wide & 110' deep lot minimum, and a longer driveway to accommodate off-street parking as an alternative to the alleyway option. Motion carried (7-0-0).

STAFF REPORT

N/A

ADJOURNMENT

There being no further business, Chair Edwards adjourned the meeting at 8:05pm.

Chair

Date