

**PLANNING COMMISSION  
Regular Meeting Minutes  
February 5, 2019**

**MEMBERS PRESENT**

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

**STAFF PRESENT**

Christopher J. Looney, Planning & Community Development Director  
Frank Onion, Assistant City Attorney  
Melissa Reynolds, Assistant City Engineer  
Holly Mullins, Senior Planner  
Matt Greene, Planner  
Matthew Simmont, Planner  
Maddison O'Kelley, Planning Technician

**MEMBERS ABSENT**

Shaun Gibson

The above meeting was called to order by Chair Edwards at 6:00 p.m. in the New Braunfels Council Chambers.

**ROLL CALL**

Roll was called, and a quorum was declared.

**APPROVAL OF MINUTES**

Motion by Commissioner Laskowski, seconded by Commissioner Sonier, to approve the regular meeting minutes of January 8, 2019. Motion carried (7-0-0).

**CITIZENS COMMUNICATION**

None.

**CONSENT AGENDA**

**PL-18-145 Approval of the preliminary plat for Klein Road C-Store.**

(Applicant: Up Engineering; Case Manager: M. Greene)

**PL-18-167 Approval of the preliminary plat for QT 4040 Addition.**

(Applicant: Matkin Hoover; Case Manager: H. Mullins)

**PL-18-161 Approval of the preliminary plat for Legend Pond Legend Point, Phase 8.**

(Applicant: Jacobs Engineering; Case Manager: M. Greene)

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

**ITEMS FOR CONSIDERATION**

**PZ-18-045 Public hearing and recommendation to City Council regarding the proposed rezoning of Lots 2 & 3 Country Meadows Subdivision, addressed at 2254 & 2316 FM 725, from "R-1" and "APD" to "C-1B" and "C-O."**

(Applicant: S. Neuse & M. Smithers; Case Manager: M. Greene)

Mr. Greene summarized the request and stated Staff recommended approval.

Chair Edwards invited the applicant to speak.

Mike Smithers, 2316 FM 725, stated he was one of the applicants. Mr. Smithers provided a brief history of the property and explained the request. He informed the Commission that after learning some surrounding property owners were opposed to the rezoning, he decided to change his request from 'C-1B' along 'C-1A' along FM 725. He further described his efforts to communicate with the surrounding property owners.

Chair Edwards asked if anyone wished to speak in favor.

No one spoke.

Chair Edwards asked if anyone wished to speak in opposition.

Gene Challenner, 2370 Brittany Grace, wished to speak in opposition. He stated he withdrew his objection to the proposed 'C-1A' zoning along the FM 725 frontage, but he maintained his opposition to the proposed 'C-O' zoning at the rear of the properties. He stated he believed the allowed uses in the 'C-O' ordinance would be incompatible with the adjacent neighborhood.

Mark Werner, 112 Dundee Grace, wished to speak in opposition. He stated he believed the proposed rezoning would harm the character of the Southbank neighborhood. He expressed specific concerns regarding height allowances in the 'C-O' zoning district. He withdrew his objection to the proposed 'C-1A' portion of the rezoning.

Jerry Cumby, 2270 Normandy Grace, wished to speak in opposition. He expressed concerns regarding the wide range of uses permitted in the 'C-O' zoning district. He said the Southbank residents would prefer a specific use be determined for the property prior to rezoning.

Susan Demoulin, 2323 Normandy Grace, wished to express her desire to communicate with the applicant regarding the request.

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

Vice Chair Reaves asked the applicant what his intention for the 'C-O' portion of the property is.

Mr. Smithers stated he hoped to sell the property and did not have a specific use intended for the property.

Discussion followed regarding the intended use of the property.

Commissioner Tubb asked what height restrictions there are on development adjacent to residential properties.

Mr. Greene clarified there are additional setback restrictions for each additional foot of building height over 20 feet.

Motion by Commissioner Meyer, seconded by Vice Chair Reaves, to recommend approval to City Council regarding the proposed rezoning of Lots 2 & 3 Country Meadows Subdivision, addressed at 2254 & 2316 FM 725, from "R-1" and "APD" to "C-1A" and "C-O." Motion carried (7-0-0).

**PZ-18-047 Public hearing and recommendation to City Council regarding the proposed rezoning of Lots A & B City Block 5023, addressed at 415 & 435 S. Union Avenue from "R-2" Single and Two-family District to "C-O" Commercial Office District.**

(Applicant: Enrico Marfil; Case Manager: H. Mullins)

Mrs. Mullins summarized the request and stated Staff recommended denial.

Discussion followed regarding the short-term rental vicinity map.

Chair Edwards invited the applicant to speak.

Commissioner Mathis arrived at 6:38 p.m.



Rafael Marfil stated he was the applicant. Mr. Marfil provided the Commission with a presentation detailing his history in New Braunfels and his intention to use the property as a short-term rental. He stated he does not have any intention to use the property for a commercial use and he cited examples of other short-term rentals near the property.

A short video was played for the Commission.

Commissioner Meyer asked the applicant if he had operated an illegal short-term rental at the property.

Mr. Marfil stated yes, however, he ceased rental activity once he was notified by City Staff.

Discussion followed.

Chair Edwards asked if anyone wished to speak in favor.

No one spoke.

Chair Edwards asked if anyone wished to speak in opposition.

Wilton Warnecke, formerly 435 S. Union, wished to speak in opposition. He stated he sold the subject property to the applicant and he had clarified prior to the sale he did not want the property to be used for short-term rentals. He expressed concerns regarding the City's procedure addressing illegal short-term rental properties.

Patricia Frier, 441 S. Union, wished to speak in opposition. She stated she had informed the applicants there is a history of opposition to short-term rentals in the neighborhood. She stated she believed a short-term rental would harm the character of the neighborhood and would be disruptive to adjacent homeowners.

Karlis Ercums, 696 S. Washington, wished to speak in opposition. He stated a short-term rental would not be compatible with the close character of the neighborhood.

Violet Tannen, 111 E. Lincoln, wished to speak in opposition. She expressed her concerns regarding historic preservation and protecting the character of the community. She then expressed concerns regarding traffic and noise resulting from short-term rentals.

Motion by Commissioner Meyer, seconded by Commissioner Sonier, to close the public hearing. Motion carried (8-0-0).

Commissioner Meyer stated he held concerns regarding allowing rezoning and special use permits for applicants that had run illegal short-term rentals.

Commissioner Nolte and Commissioner Tubb stated a short-term rental is an appropriate use for the property but they held concerns regarding the commercial zoning designation.

Discussion followed.

Commissioner Sonier inquired if a condition can be placed on the property to ensure it will be used for short-term rentals only.

Mr. Looney clarified for the Commission a condition cannot be placed on a zoning designation.

Discussion followed regarding the City's short-term rental policy.

Motion by Vice Chair Reaves, seconded by Commissioner Meyer, to recommend denial to City Council regarding the proposed rezoning of Lots A & B City Block 5023, addressed at 415 & 435 S. Union Avenue

from "R-2" Single and Two-family District to "C-O" Commercial Office District. Motion carried (6-2-0) with Chair Edwards and Commissioner Sonier in opposition.

Chair Edwards announced item PZ-18-051 had been postponed.

Motion by Vice Chair Reaves, seconded by Commissioner Mathis, to postpone PZ-18-051 to the next regular meeting at the request of the applicant. Motion carried (8-0-0).

**PZ-18-048 Public hearing and recommendation to City Council regarding the proposed rezoning to apply a Special Use Permit to allow a car wash in the "C-1" Local Business District on 1.473 acres out of the Henry Foster Survey No. 34, Abstract No. 154, addressed at 1290 Rivercrest Dr. and 1293 Hillcrest Dr.**

(Applicant: D. McCutchen; Case Manager: M. Simmont)

Mr. Simmont summarized the request and stated Staff recommended approval.

Chair Edwards invited the applicant to speak.

Daniel McCutchen, 723 Deer Run Way, stated he was the applicant and that he owns another car wash business in town. Mr. McCutchen stated he believed his proposed car wash would be an improvement to the property's existing self-service car wash because his facility would have hours of operation, strict cleaning protocol, and security precautions. He further stated the property's existing 'C-1' zoning allows a wide variety of commercial uses.

Chair Edwards asked if anyone wished to speak in opposition.

Glenn Effenberger, 1272 Rivercrest Drive, wished to speak in opposition. He expressed concerns regarding the noise produced from a car wash facility and described the accumulation of litter and traffic from the existing self-service car wash. He stated his primary concern was the effect the proposed car wash will have on property values in the neighborhood.

Don Clifton, 1273 Hillcrest Drive, wished to speak in opposition. He described the existing issues with litter accumulated from the self-service car wash and stated the proposed cleaning protocol for the car wash will not limit the litter accumulated offsite from the property.

Commissioner Sonier left the dais at 7:38 p.m.

Mr. Clifton expressed concerns regarding noise, loitering, and instances of crime in the neighborhood.

Commissioner Sonier returned to the dais at 7:42 p.m.

Mark Kneese, 1268 Rivercrest Drive, wished to speak in opposition. He stated he had visited Mr. McCutchen's existing car wash and it had been considerably loud. He stated noise is his primary concern.

A video, provided by Mr. Effenberger, was played for the Commission to demonstrate the noise produced by Mr. McCutchen's existing car wash.

Chair Edwards asked if anyone wished to speak in favor.

Thor Thornhill, 410 N. Seguin Avenue, wished to speak in favor. He stated the property is located on a major arterial which is suitable for the proposed use and the existing 'C-1' zoning designation allows uses with similar noise and traffic impacts as a car wash.

Motion by Commissioner Laskowski, seconded by Commissioner Mathis, to close the public hearing. Motion carried (8-0-0).



Discussion followed regarding residential buffering requirements.

Commissioner Meyer asked the applicant if he was comfortable with requiring the residential buffer wall to be 8 feet in height as a condition for approval for the special use permit.

Mr. McCutchen answered yes.

Commissioner Tubb inquired if the proposed car wash would abide by the City's Noise Ordinance.

Mr. Onion stated the car wash will have to abide by the Noise Ordinance and being adjacent to residential uses may require the applicant to limit hours of operation to ensure compliance.

Discussion followed.

Motion by Commissioner Sonier, seconded by Commissioner Mathis, to recommend approval City Council regarding the proposed rezoning to apply a Special Use Permit to allow a car wash in the "C-1" Local Business District on 1.473 acres out of the Henry Foster Survey No. 34, Abstract No. 154, addressed at 1290 Rivercrest Dr. and 1293 Hillcrest Dr, with a condition to require an 8-foot tall minimum masonry buffer wall along the common property lines shared with residential uses. Motion carried (8-0-0).

Mr. Kneese, 1268 Rivercrest, asked what the acceptable noise level is for the car wash.

Mr. Looney stated 85 decibels at the property line.

**PZ-18-049 Public hearing and recommendation to City Council regarding the proposed rezoning of approximately 6 acres out of the William Mockford Survey 285, addressed at 2850 Loop 337, from "R-2" Single and Two-family District to "C-1B" General Business District.**

(Applicant: Caroline McDonald; Case Manager: H. Mullins)

Mrs. Mullins summarized the request and stated Staff recommended approval.

Discussion followed regarding the transitional mixed-use corridors designated in the future land use plan.

Caroline MacDonald, 112 E. Pecan, San Antonio, stated she was representing the applicant. She stated she believes the proposed rezoning is appropriate for the property and consistent with the City's Comprehensive Plan.

Chair Edwards 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 (8-0-0).

Motion by Commissioner Sonier, seconded by Commissioner Nolte, to recommend approval to City Council regarding the proposed rezoning of approximately 6 acres out of the William Mockford Survey 285, addressed at 2850 Loop 337, from "R-2" Single and Two-family District to "C-1B" General Business District. Motion carried (8-0-0).

**PZ-18-050 Public hearing and recommendation to City Council regarding the proposed rezoning of 97.27 acres out of the J S Johnson Survey, Abstract 190 and 91.422 acres out of the Sarah Dewitt Survey, Abstract 103, located north of the terminus of Sunshine Lane, southeast of the Legend Pond**

**Subdivision and surrounding property addressed at 910 W. Zipp Rd., from "R-1A-6.6" Single Family District, "APD" Agricultural/Pre-Development District and Zipp Meadows Planned Development District to "ZH-A" Zero Lot Line Home District.**

(Applicant: F. Heimer; Case Manager: M. Simmont)

Mr. Simmont summarized the request and stated Staff recommended approval.

Commissioner Meyer expressed concerns regarding the density that can be produced from the 'ZH-A' zoning designation. He asked if it has been determined how many homes are proposed for the property.

Mr. Simmont stated the number of lots has not been disclosed to staff and the applicant may have a better estimate.

Discussion followed.

Commissioner Mathis left the dais at 8:08 p.m.

Chair Edwards stated the master plan may not reflect the allowable density in the 'ZH-A' district.

Commissioner Mathis returned to the dais at 8:10 p.m.

Discussion followed.

Mr. Looney clarified Staff's recommendation considers the requested 'ZH-A' zoning district to be consistent with the Comprehensive Plan's objective to provide opportunity for an enhanced variety of housing types.

Chair Edwards invited the applicant to speak.

Thor Thornhill, 410 N. Seguin Avenue, stated he was speaking on behalf of the applicant. He explained the request for the 'ZH-A' zoning designation was determined by the permitted lot sizes on the surrounding properties and stated the applicant is willing to put a note on the master plan for the project indicating the homes will not be zero lot line and maintain 5-foot side setbacks.

Discussion followed regarding properties adjacent to the subject property.

Chair Edwards 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 (8-0-0).

Motion by Commissioner Laskowski, seconded by Commissioner Sonier, to recommend approval to City Council regarding the proposed rezoning of 97.27 acres out of the J S Johnson Survey, Abstract 190 and 91.422 acres out of the Sarah Dewitt Survey, Abstract 103, located north of the terminus of Sunshine Lane, southeast of the Legend Pond Subdivision and surrounding property addressed at 910 W. Zipp Rd., from "R-1A-6.6" Single Family District, "APD" Agricultural/Pre-Development District and Zipp Meadows Planned Development District to "ZH-A" Zero Lot Line Home District.

Discussion followed.



Vice Chair Reaves, Commissioner Meyer, and Commissioner Mathis expressed support for requiring the master plan to have a plat note indicating 5-foot side setbacks will be required on all lots.

Mr. Looney clarified the Commission may not make the plat note a condition of the zone change approval and it can only be required upon approval of the master plan.

The motion carried (7-1-0) with Commissioner Tubb in opposition.

Mr. Onion clarified for the Commission regarding item PZ-18-048 the City's Noise Ordinance requires non-residential uses adjacent to residential uses to maintain 85 decibels at the property line from 10:00 a.m. to 10:00 p.m., however, 75 decibels at all other times.

**PZ-18-052 Public hearing and recommendation to City Council regarding the proposed rezoning of 78.93 acres out of Subdivision 13 of the A.M. Esnaurizar Eleven League Grant, addressed at 4958 IH 35 North, from "APD" Agricultural/Pre-Development District to "ZH-A" Zero Lot Line Home District.**  
(Applicant: Lynn Wohlfahrt; Case Manager: M. Greene)

Mr. Greene summarized the request and stated Staff recommended approval.

Discussion followed regarding the Comprehensive Plan and the requested 'ZH-A' zoning designation.

Chair Edwards invited the applicant to speak.

Thor Thornhill, 410 N. Seguin Avenue, stated he was speaking on behalf of the applicant. He stated the applicant is willing to include a note on the master plan for the project to require the homes will not be zero lot line and maintain 5-foot side setbacks. He further explained the requested 'APD' buffer between the 'M-1' zoning district and proposed development.

Chair Edwards 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 (8-0-0).

Commissioner Tubb inquired if the project aligns with the City's determination there is a need to maintain the existing industrial zoning districts in the area.

Discussion followed.

Motion by Commissioner Sonier, seconded by Commissioner Nolte, to recommend approval to City Council regarding the proposed rezoning of 78.93 acres out of Subdivision 13 of the A.M. Esnaurizar Eleven League Grant, addressed at 4958 IH 35 North, from "APD" Agricultural/Pre-Development District to "ZH-A" Zero Lot Line Home District. Motion carried (7-1-0) with Vice Chair Reaves in opposition.

**PL-18-107 Discuss and consider the master plan for Hidden Springs Subdivision.**  
(Applicant: HMT; Case Manager: H. Mullins)

Mrs. Mullins summarized the request and stated Staff recommended approval with the following requirements:

1. TxDOT approval of the master plan.
2. Remove "reserve" from Phase 2 and 3.

3. Revise Note 8 to include the 10-foot wide shared use path (in lieu of 4-foot wide sidewalk) along Saengerhalle Road.
4. Correct Note 11 to state: This subdivision is subject to Sec. 118-50 requirements for easement and construction of hike and bike trail by the developer.
5. Provide a pdf and full-size copy of the corrected master plan.

Motion by Commissioner Laskowski, seconded by Commissioner Sonier, to approve the master plan for Hidden Springs Subdivision, with Staff recommendations. Motion carried (8-0-0).

**PL-18-114 Public hearing and recommendation to City Council regarding the Veramendi Sector Plan 2 within the Comal County Water Improvement District #1 encompassing approximately 564 acres out of the Juan Martin de Veramendi Survey No. 2 Abstract 3, including property fronting Loop 337, from approximately 500 feet east of Independence Drive extending eastward to approximately 4,000 feet east of Oakwood Baptist Church, excluding the church property, and property east of the intersection of Oak Run Parkway and Geneva Street.**

(Applicant: ASA Properties; Case Manager: M. Simmont)

Mr. Simmont summarized the request and stated Staff recommended approval with the following requirements in relation to the DDCD:

1. Insert the approved Specialized Area Plans for Large Format Retail Planning Sub Area, Neighborhood Center Planning Area and Regional Park 1 in Appendix 7.
2. Upon agreement between the City and applicant, insert a Residential Building Permit Checklist in Appendix 1.
3. Remove all redline, incorporate attached final edits pursuant to Planning Commissioner workshop, format the document for publication and thereafter submit copies to the City for recordkeeping.

Chair Edwards invited the applicant to speak.

Peter James, 4040 Oakwood Boulevard, stated he would speak on behalf of the applicant. He thanked the Commission for their time at the workshop and offered to answer any questions they may have.

The Commission thanked Mr. James for his involvement in the workshop.

Chair Edwards 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 Nolte, to close the public hearing. Motion carried (8-0-0).

Motion by Commissioner Laskowski, seconded by Commissioner Mathis, to recommend approval to City Council regarding the Veramendi Sector Plan 2 within the Comal County Water Improvement District #1 encompassing approximately 564 acres out of the Juan Martin de Veramendi Survey No. 2 Abstract 3, including property fronting Loop 337, from approximately 500 feet east of Independence Drive extending eastward to approximately 4,000 feet east of Oakwood Baptist Church, excluding the church property, and property east of the intersection of Oak Run Parkway and Geneva Street. Motion carried (8-0-0).

**PL-18-137 Discuss and consider the final plat for Veramendi – Word Parkway, Phase 1.**

(Applicant: ASA Properties; Case Manager: M. Simmont)

Mr. Simmont summarized the request and stated Staff recommended approval with the following requirements:



1. Sector Plan 2 must be approved prior to recordation of the plat.
2. Revise sidewalk note #1 to reflect that the 6' wide sidewalk located on the west side of the right-of-way will be constructed by the developer at the time of street construction.

Motion by Vice Chair Reaves, seconded by Commissioner Meyer, to approve the final plat for Veramendi – Word Parkway, Phase 1. Motion carried (8-0-0).

**PL-18-160 Public hearing and consideration of the replat of Lots 3, 4, 12 and 13, New City Block 1070, Highway Addition, establishing Lot 1, Block 1, Watershed Car Wash New Braunfels.**  
(Applicant: LJA Engineering; Case Manager: M. Greene)

Mr. Greene summarized the request and stated Staff recommended approval with the following requirements:

1. Show and label the dimensions of Business 35 right-of-way from the corner property pins to the street centerline.
2. Correct the number sequence of the New Braunfels Utilities notes.
3. Delete General Plat Note #3.
4. Add the name of the individual signing the plat as the owner under the owner's dedication block.
5. Revise General Plat note #9 to state: "A 6-foot public sidewalk will be constructed per City standards by the owner/developer at the time of building permit adjacent to Merriweather Street. 3 feet of the sidewalk will be constructed within the 3-foot Pedestrian Easement and 3-feet will be constructed within the right-of-way adjacent to Merriweather Street."
6. Submit revised TIA worksheet.
7. Provide a preliminary plan of the water system showing the approximate location and size of existing and proposed onsite and offsite water lines and fire hydrants per Sec 118-25(2).
8. Provide a preliminary plan for the wastewater disposal system including the approximate location of wastewater lines pipe size, and points of discharge or any disposal sites, including lands subject to flooding per Sec 118-25(3).

Chair Edwards invited the applicant to speak.

Bjorn Boentges, LJA Engineering & Surveying, stated he would speak on behalf of the applicant and answer any questions the Commission may have.

Chair Edwards 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 Nolte, to close the public hearing. Motion carried (8-0-0).

Motion by Commissioner Laskowski, seconded by Commissioner Mathis, to approve the replat of Lots 3, 4, 12 and 13, New City Block 1070, Highway Addition, establishing Lot 1, Block 1, Watershed Car Wash New Braunfels. Motion carried (8-0-0).

**PL-18-163 Public hearing and consideration of a replat of Lot 1 Block 1, Creekside Farms Subdivision Unit 1.**  
(Applicant: AMH Creekside Development, LLC; Case Manager: H. Mullins)

Mrs. Mullins summarized the request and stated Staff recommended approval with the following requirements:

1. Remove "landscape easement" from Lots 911 and 912.

2. Revise Note 14 to state Lots 911 and 912 are non-residential common space lots for subdivision landscaping, entry signage, and utility easements, to be owned and maintained by the subdivision property owner or his assigns.

Chair Edwards invited the applicant to speak.

Thor Thornhill, 410 N. Seguin Avenue, explained the request on behalf of the applicant for the Commission.

Chair Edwards 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 Nolte, to close the public hearing. Motion carried (8-0-0).

Motion by Commissioner Laskowski, seconded by Commissioner Mathis, to approve the replat of Lot 1 Block 1, Creekside Farms Subdivision Unit 1 with Staff recommendations. Motion carried (8-0-0).

#### **DIRECTORS REPORT**

##### **Formal Code Interpretation process**

Mr. Looney informed the Commission he had created a formalized interpretation process to facilitate consistency in the Planning Division Staff's development review.

##### **Potential Special Zoning District**

Mr. Looney informed the Commission that Staff is considering creating a special district in Gruene to protect and facilitate the unique character of the neighborhood.

Mr. Looney then addressed some of the comments made by the Commission on the 'ZH-A' zoning district and objectives of the Comprehensive Plan.

#### **ADJOURNMENT**

There being no further business, Chair Edwards adjourned the meeting at 8:57 p.m.

  
Chair

  
Date