

Planning & Zoning Commission

Regular Meeting Minutes March 26, 2019 at 6:30 p.m.

A Regular Meeting of the Planning & Zoning Commission was held Monday, March 26, 2019 beginning at 6:30 p.m. in the City Hall Council Chambers located at 511 Mercer Street, Dripping Springs, Texas.

I. CALL TO ORDER AND ROLL CALL

Commission Members present were:

Mim James, Chair
James Martin, Vice Chair
Martin Garza
Kim Hubbard
John McIntosh

Commission members absent were:

Evelyn Strong
Michael Lavengco

City Staff/Appointed Officials present were:

Jason Lutz, Planning Director
Amanda Padilla, City Planner II
Laura Mueller, City Attorney

With a quorum of the Commission present, Chair James called the meeting to order at 6:30 p.m.

II. PLEDGE OF ALLEGIANCE

Commissioner Garza led the Pledge of Allegiance to the Flag.

III. PRESENTATION OF CITIZENS

Floor open to discussion on any subject. No action may be taken by law. Citizens wishing to speak shall do so after being recognized by the Chair. The Chair may establish a time limit as necessary.

No one spoke during the Presentation of Citizens.

IV. BUSINESS

A. Discuss and consider approval of the corrected minutes of the December 18, 2018 Regular Planning & Zoning Commission meeting.

A motion was made by Vice Chair Martin to approve the minutes from the December 18th, 2018 Regular Planning and Zoning Commission Meeting with minor corrections to the minutes. Commissioner McIntosh seconded the motion which carried 4 to 0, with Commissioner Garza abstaining.

B. Discuss and consider approval of the January 22, 2019 Regular Planning & Zoning Commission meeting minutes.

A motion was made by Vice Chair Martin to approve the minutes from the January 22, 2019 Regular Planning and Zoning Commission meeting. Commissioner Garza seconded the motion which carried unanimously 5 to 0.

C. Public hearing, consideration, and recommendation regarding SUB2019-0007: Sawyer Ranch to consider a replat in order to add a drainage easement for the property located at 13834 Sawyer Ranch Road, Dripping Springs, Texas (Legal Description: Sawyer Ranch 33 Tract Two, Lot 2-A1-B, Acres 1.835, Hays County, TX).

Applicant: Jon Thompson

1. Staff Report

Jason Lutz, Planning Director, stated that the application was submitted as a replat which caused staff to notice for a replat. At further review of the application, Staff determined that the application was an Amending Plat which does not require public hearing. Staff kept the item on the agenda so that anyone that received notice could come and speak during the public hearing.

2. Presentation

Jon Thompson stated to the commission that there was no change to the subject property boundary. The site has already been graded. They are anticipating move-in in August. The only change is an addition of a drainage easement. The reason for the plat was to add a drainage easement.

3. Public Hearing

No one spoke during the Public Hearing.

4. Replat

No action was taken. The replat will be done administratively.

D. Public hearing, consideration, and recommendation regarding SUB2018-0068: Burba Ranch to consider a replat to decrease and modify the existing number of lots for the 103.83 acre property located at 16055 Sawyer Ranch Road, Dripping Springs, Texas (Legal Description: Burba Ranch Replat, Hays County, TX).

Applicant: Daniel Ryan

1. Presentation

Daniel Ryan with LGA Engineering presented their application to the commission. Daniel Ryan stated that the plat was similar to the previously approved plat. The only change to the plat regards the northern section of the plat where three lots decreased to two. They turned in the entire subdivision so that they could keep the replat clean.

2. Staff Report

Jason Lutz presented the staff report which is on file. He stated that the existing lots, Lot 28 is 1.05 acres, Lot 29 is 1.05 acre, and Lot 30 is 1.0 acres. They are redistributing those lots, the new lots will be 28A (1.64 acres), and 30A (1.46 acres.) The other lots of the subdivision will be renumbered.

Staff recommends approval of the replat.

3. Public Hearing

No one spoke during Public Hearing.

4. Replat

A motion was made by Vice Chair Martin to recommend approval of SUB2018-0068: Burba Ranch to consider a replat to decrease and modify the existing number of lots for the 103.83 acre property with staff recommendations. Commissioner Garza seconded the motion which carried unanimously 5 to 0.

- E. Public hearing, consideration, and recommendation regarding SUB2018-0028: Cypress Fork Ranch to consider the proposed Final plat, with a requested variance from Article 28.02 Subdivision Ordinance, Sec. 14 Lots, Sub. Sec. 14.2 Frontage, to allow multiple lots to utilize a shared access easement and not require the construction of an improved public or private street, on Creek Road in Dripping Springs, Texas (Legal Description: Lots 1-4 Cypress Fork Ranch Subdivision, totaling 19.050 acres out of the Benjamin F. Hanna League Survey, No. 28, Abstract No. 222, Hays County, TX). Applicant: Jen Paisley**

1. Presentation

John Doucet with Doucet and Associates presented the application to the commission. John Doucet is representing the Fellers who have owned the property for years. In 1998 they subdivided the property into 3 lots, 6 acres each. Now they are ~~replating~~~~replatting~~ the property from 3 lots to 4 lots, but leaving the drainage/flood plain portion out. Each of these lots will access the road via a private drive.

2. Staff Report

Jason Lutz presented the staff report which is on file. This plat was a part of a plat vacation, where they vacated the drainage portion. Unfortunately the City regulations require each lot to have frontage on a public right of way. The applicant is requesting a variance to access the lots on an approved access easement that would provide access to the 4 lots.

The only condition staff has is that an access and maintenance agreement be submitted to and reviewed by the City, recorded at the county, and the instrument/document number be added to the plat.

3. Public Hearing

No one spoke during the Public Hearing.

4. Variance & Final Plat

Chair James asked if we typically resisted lots that do not have their own access. He wants to understand why we don't typically like that arrangement.

Jason Lutz stated that it has to do with the maintenance of the private access easement. We like to make sure that it is maintained and other issues are sorted out.

Chair James asked if the Road maintenance agreement will address these issues.

Jason Lutz stated that they will be addressed. That is why we like to have the instrument number recorded on the plat because it allows citizens to research that agreement.

A motion was made by Vice Chair Martin to recommend approval for SUB2018-0028: Cypress Fork Ranch to consider the proposed Final plat, with a requested variance from Article 28.02 Subdivision Ordinance, Sec. 14 Lots, Sub. Sec. 14.2 Frontage, to allow multiple lots to utilize a shared access easement and not require the construction of an improved public or private street with Staff conditions. Commissioner McIntosh seconded the motion which carried unanimously 5 to 0.

F. Public hearing, consideration, and recommendation regarding VAR2019-0001: A variance to allow for the sale of alcohol 289 ft. from a school district boundary line instead of the required 300 ft. for the property located at 391 Sportsplex Drive, Dripping Springs TX 78620 (Legal Description: Sportsplex Sub No 3, Lot 4, Acres 0.751).

Applicant: Truly Texas Grown Wine Cellars, PBC (Larry Epp, President).

1. Presentation

Larry Epp, Truly Texas Grown Wine Cellars President, presented to the commission the business model for Truly Texas Grown Wine Cellars. The company will focus on wines produced in Texas with Texas grown fruit. They will receive the G permit from TABC that will be used for this location on Sportsplex and another location (not disclosed.) They will have online sales. They will not have on-site consumption, or walk-up sales. They will warehouse wines and fulfill online orders.

Jon Thompson presented the variance application and stated that the variance is required for the sale of alcohol. He believes when this ordinance was created it was not created for the sale of alcohol online. He stated if the variance is approved tonight they are willing to accept a condition on the variance, which only allows the business to operate online sales.

Larry Epp stated that he met with Dr. Gearing earlier this week. In his discussion with Dr. Gearing he stated that they ~~were going to~~ may move the elementary school within a year or two and that they did not ~~have an issue with~~ object to the business as proposed.

2. Staff Report

Jason Lutz presented the staff report which is on file. He stated that we did not receive anything from Dr. Gearing. That the city has received three responses from the public on this Variance. Two of the responses were against the proposal and there was one for the Proposal. However the one that was for the variance may have misunderstood what the request was for because the citizen thought it was for the sale of alcohol for Sportsplex Events. Staff was concerned about the traffic that may be impacted by this business.

Staff recommends denial based on the location to the school. There is a library to the north and the pediatrics center to the south. We were looking at alcohol sales not online sale. If P&Z wanted to put conditions on the Variance staff could support that.

3. Public Hearing

No one spoke during the Public Hearing.

4. Variance

Vice Chair Martin asked Laura Mueller, City Attorney, if when the Ordinance was constructed did they anticipated packages of alcohol to be shipped out.

Laura Mueller stated that she reviewed the Alcohol Beverage Code, which was updated in 2001, It does not make a distinction between the different types of sales. She does not think that it was contemplated when they drafted the ordinance but it will still apply to this type of sale. But it doesn't mean that the Commission can't consider these items when making their decision.

Vice Chair Martin asked the applicant if they intended to use USPS.

Larry Epp stated that they will not because the Law requires the package recipient to sign and USPS does not offer that service.

Vice Chair Martin asked if their business accounts for the fact that UPS and FEDEX usually only service ~~our the~~ area ~~twice a week~~ once daily.

Larry Epp stated that they will more than likely only ship twice a week, Monday and Tuesday.

Vice Chair Martin asked if they were going to produce wine in the facility.

Larry Epp stated that this is not what they are applying for at this time but they are anticipating doing that in the future. When they do decide to begin wine production they will apply for a CUP. Wines will come in on pickup trucks, no 18-wheelers. They will be

working with virtual wineries, which are wineries that have a label/brand and someone else produces their wine. They will help facilitate these virtual wineries businesses by getting them on the market.

Chair James asked Laura Mueller if the 300 ft. requirement is not only in our Ordinance but is also a TABC regulation.

Laura Mueller stated that it is in State Law but a city may choose to enforce the regulation. The language of the regulation allows the city to choose how they would like to regulate it. Most cities have adopted the 300 ft. rule.

Chair James stated that he thinks the business model is very exciting. He says that he has some qualms with the location. He said that the Ordinance may be old but ~~so is the constitution. It~~ is what we have and it is on record. He asked the applicant why he chose this location.

Larry Epp stated they chose Dripping Springs because it is the gateway to the hill country. 290 is known as the wine road. Dripping Springs was intentionally chosen for their location to Austin and San Antonio. They looked all over for a warehouse location. They chose the property because it was new, they can reconfigure it, and they like the owner of the property. ~~They are dealing with a 10 ft. issue, was it worth bringing it forward to Commission, yes.~~

Chair James asked the applicant what is the hardship. What is so compelling that we should consider the Variance.

Larry Epp stated that this ~~well will~~ put Dripping Springs on the map. This will be their flagship store and they want to duplicate this model elsewhere. They believe that it will increase tourism and generate sales tax. It will help the community grow in ways that it may have never grown in the past.

Chair James stated that he is still struggling with the location. He asked the applicant why he wants to operate at two different properties and not one.

Larry Epp stated that he wanted it to be one property but they could not find a location that could fit all the needs the business had. They wanted to do business in Dripping Springs so they decided on two locations.

Commissioner Hubbard asked if we had denied a similar variance, just west of the location, a few months ago.

Chair James stated that it was north of Baird lane and they did deny that Variance.

Commissioner McIntosh stated that what is in the boxes is irrelevant. No one is going there to drink. If they were selling something else we would not be having this conversation. If they were selling Tennis shoes we wouldn't be having this conversation.

Commissioner Hubbard stated that we still have an issue with the narrow 2 lane street.

Commissioner Garza stated that if the school moves it will still be school property and it may eventually be a school campus again.

Commissioner Hubbard believes that the sales tax would be great with our community but we still need to take into account the 300 ft. rule.

Vice Chair Martin asked if they would consider no ~~delivery trucks~~semi-trucks, no tasting, no tours, and no public activities.

Larry Epp stated that they would have no issues with no 18-wheelers. They will have wineries that will bring special wines but they will move those in small trucks. Nothing that the Commission has outlined will hurt the Motto that the business has.

A motion was made by Commissioner Garza to recommend denial of the VAR2019-0001: A variance to allow for the sale of alcohol 289 ft. from a school district boundary line instead of the required 300 ft. for the property located at 391 Sportsplex Drive. Commissioner Hubbard seconded which carried 4 to 1, with Commissioner McIntosh opposed.

Chair James stated that the applicant will still have the opportunity to discuss this with City Council.

G. Public hearing, consideration, and recommendation regarding CUP2019-0001: A conditional use permit to allow the proposed land use of “Warehouse” at the property located at 391 Sportsplex Drive, Dripping Springs TX 78620 (Legal Description: Sportsplex Sub No 3, Lot 4, Acres 0.751).

Applicant: Truly Texas Grown Wine Cellars, PBC (Larry Epp, President).

1. Presentation – No presentation given.

2. Staff Report

Jason Lutz presented the staff report which is on file.

3. Public Hearing

Pam Owens, Neighbor and Business Bureau, she stated she has mixed emotions. She stated if no one is going to be drinking, she doesn't see why it cannot be a warehouse. She does not like 18-wheelers on the Road.

Bob Wilson, property Owner and Owner of Dripping Springs Chocolate Factory, stated that he has talked with the ~~applicant~~property owners a lot. His business is a family owned business and they like the idea of the Business being near them. They will just be warehousing wine and that will leave a lot of parking available for them. It will also leave parking for school events. They occasionally have 18-wheelers come on the property and it has never been an issue. The location is not big enough for multiple 18-wheelers, it won't house that volume of merchandise. As a business owner and neighbor he supports the business.

4. Conditional Use Permit

A motion was made by Commissioner McIntosh to recommend approval of the CUP2019-0001: A conditional use permit to allow the proposed land use of “Warehouse” at the property located at 391 Sportsplex Drive for the warehouse with the condition that there will not be 18-wheelers or any delivery trucks parked on Sportsplex. Vice Chair Martin Seconded the motion which failed 2 to 3, with Chair James and Commissioners Hubbard and Garza opposed.

Vice Chair Martin stated that when we approved this site plan in the past it was known that that building ~~would~~could be used as a warehouse.

H. Public hearing, consideration, and recommendation regarding CUP2019-0003: A conditional use permit to allow for a microblading salon at the property located at 700 Old Fitzhugh Rd, Dripping Springs TX 78620 (Legal Description: ABS 0415 P A Smith Survey 0.46 AC GEO#90401238).

Applicant: David Cancialosi & Michell Montgomery

1. Presentation

David Cacialosi stated he was available for any questions

2. Staff Report

Jason Lutz staff report is on file. Staff recommends approval.

3. Public Hearing

No one spoke during the public hearing.

4. Conditional Use Permit

A motion was made by Vice Chair Martin to recommend approval of the CUP2019-0003: A conditional use permit to allow for a microblading salon. Commissioner Garza seconded the motion which carried unanimously 5 to 0.

I. Public hearing, consideration, and recommendation regarding a Zoning Amendment Ordinance related to ZA2019-0002: to consider a requested zoning change from Single-Family Residential District – Low Density (SF-1) to Multiple – Family Residential District (MF) for the property located at 26700 Ranch Rd 12, Dripping Springs, Texas (Legal Description: ABS 415 9-3106-01-15 Philip A Smith Survey 10.00 AC MH- AKA Western Woods, Hays County, TX).

Applicant: Jon Thompson

1. Presentation

Jon Thompson stated that they request postponement to next month.

2. Staff Report

Staff report on file. We support any change to date as long it is to aa date certain.

3. Public Hearing

No one spoke during public hearing.

4. Zoning Amendment Ordinance

A motion was made by Vice Chair Martin to Postpone this item to the April 23, 2019 Planning & Zoning Commission Meeting. Chair Martin seconded the motion which carried unanimously 5 to 0.

J. Public hearing, consideration, and recommendation regarding a Zoning Amendment Ordinance related ZA2019-0001: to consider a requested zoning change from Manufactured Housing (MH) to Two-Family Residential – Duplex (SF-4) for the property located at 301 Brookside Street, Dripping Springs, Texas (Legal Description: North Forty Sec 2, Block B, Lot 12, MH Serial # UNK, Title # UNK, Label # TEX0419733, Hays County, TX).

Applicant: Jon Thompson

1. Presentation

Jon Thompson presented the item to the commission. The property is owned by Mark Key and currently has a double wide mobile home on it. His mother currently resides on the property. He would like to remove the double wide mobile home and build a duplex. Which requires a rezone from MH to SF-4. There are multiple double wide mobile homes within the area. This subdivision is from the 1970s and is not a mobile home park. There are double wide mobile homes and manufactured houses within this subdivision. A duplex would be an advantage to the neighborhood. The applicant does not think it will be a detriment to the property.

2. Staff Report

Jason Lutz presented the staff report which is on file. The property is currently zoned MH and the applicant is requesting SF-4. The subject property is Lot 12, they will need to adhere to the Plat setbacks. There was a similar lot rezoned in the area that was much larger. Staff is looking at this case individually than taking a look at the entire area.

Staff recommends denial. Staff is willing to take a look at the MH zoning in the future.

3. Public Hearing

Louise would like to know if this rezoning will affect her property in the future.

4. Zoning Amendment Ordinance

Vice Chair Martin wants to know more about the previously approved rezoning in the area.

Jason Lutz stated that the previous case wanted to convert an accessory structure in the back of the property to a dwelling unit.

Chair ~~Martin~~James stated that spot zoning goes against zoning intentions. He stated that some people are concerned that the property getting rezoned could potentially affect their property taxes. He stated that he would like it if staff could take some time to research and study Mobile homes and Manufactured homes and where they are placed within the City limits.

A motion was made by Vice Chair Martin to deny the Zoning Amendment Ordinance related ZA2019-0001: to consider a requested zoning change from Manufactured Housing (MH) to Two-Family Residential – Duplex (SF-4) for the property located at 301 Brookside Street. Commissioner McIntosh seconded the motion which carried unanimously, 5 to 0.

The Planning & Zoning Commission will recommend further review by staff and further consideration by Planning & Zoning Commission and the City Council regarding City Zoning.

V. REPORTS OF STAFF AND AGENCIES

No action to be taken.

A. Planning Project

The Planning Department Report is on file and available for review upon request.

VI. EXECUTIVE SESSION

The Planning and Zoning Commission for the City of Dripping Springs has the right to adjourn into executive session at any time during the course of this meeting to discuss any matter as authorized by Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), and 551.086 (Economic Development). The Planning and Zoning Commission for the City of Dripping Springs may act on any item listed in Executive Session in Open Session or move any item from Executive Session to Open Session for action.

The Planning & Zoning Commission did not meet in Executive Session.

VII. UPCOMING MEETINGS

- A. **Planning & Zoning Commission:**
April 23, 2019 - 6:30 p.m. Regular Meeting
May 28, 2019 - 6:30 p.m. Regular Meeting

- B. **City Council & Board of Adjustment Regular Meetings:**

April 9, 2019 - 6:00 p.m. Workshop, 6:30 p.m. Regular Meeting
April 16, 2019 - 6:00 p.m. Regular Meeting
May 14, 2019 - 6:00 p.m. Workshop, 6:30 p.m. Regular Meeting

VIII. ADJOURN

A motion was made by Vice Chair Martin to adjourn the meeting. Commissioner McIntosh seconded the motion which carried unanimously 5 to 0.

This regular meeting adjourned at 8:18 p.m.