

# Planning & Zoning Commission

## Regular Meeting Minutes April 23, 2019 at 6:30 p.m.

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A Regular Meeting of the Planning & Zoning Commission was held Monday, April 23, 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  
John McIntosh  
Evelyn Strong

Commission members absent were:

Martin Garza  
Kim Hubbard  
Michael Lavengco

City Staff/Appointed Officials present were:

Jason Lutz, Planning Director  
Amanda Padilla, City Planner II

With a quorum of the Commission present, Chair James called the meeting to order at 6:31 p.m.

### II. PLEDGE OF ALLEGIANCE

Chair James 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 Planning & Zoning Commission meeting minutes of March 26, 2019.

A motion was made by Vice Chair Martin to approve the minutes from the March 26, 2019 Regular Planning and Zoning Commission Meeting. Commissioner McIntosh seconded the motion which carried 3 to 0, with Commissioner Strong abstaining.

**B. 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 asked that the Agenda Item be postponed to May 28<sup>th</sup>,2019

*2. Staff Report (Jason Lutz)*

No staff report was given.

*3. Public Hearing*

Anton Allen states that he has lived in Dripping Springs for over 45 years. His property is near the proposed Zoning request. Over the years he has improved his property and he is worried this development will affect Walnut Springs. Any development there could affect the springs. Another concern of his is the traffic. Ranch Road 12 Road in the early morning is stopped all the way from the intersection of Ranch Road 12 and Highway 290 to the Caliterra Subdivision on Ranch Road 12. He is concerned that the development will add to the already bad traffic and with the development of the apartments that the springs will run dry, which is something they have never done.

*4. Zoning Amendment (applicant requests postponement)*

A motion was made by Vice Chair Martin to postpone the 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) to the May 28th, 2019 Planning and Zoning Commission Meeting. Commissioner McIntosh seconded the motion which carried unanimously, 4 to 0.

**C. Public hearing, consideration, and recommendation regarding ZA2019-0003: a request to consider a request to rezone an approximate 4.152 acre tract from Commercial Services (CS) to General Retail (GR) for property located at 1461 W Hwy 290, Dripping Springs, TX 78620 (Legal Description: ABS 222 & 415 B F HANNA & P A SMITH SURVEYS) and a request to rezone an approximate 18 acre tract from Agricultural (AG) to General Retail (GR) for the property located at 345 Quail Farm Rd, Dripping Springs, TX 78620 (Legal Descriptions: ABS 222 BENJAMIN F HANNA SURVEY).**

Applicant: Jon Thompson

*1. Presentation*

Jon Thompson presented the case to the commission. The application is for two (2) parcels of land that is adjacent to four (4) other parcels that is owned by Ruben Contreras. The Adjacent properties had been rezoned from CS to GR in December of 2017. In the past 16 months they have acquired the two (2) parcels. The request is to modify the zoning from CS to GR. The 18 acres was recently annexed and completed in the last 60 days and it initially came into the city zoned AG or agriculture so the request for AG to General retail is to reflect the other 8 Acres. The applicants want uniformity, so they are requesting both parcels be rezoned to GR.

## *2. Staff Report*

Jason Lutz presented the staff report which is on file. Given the current zoning in the area and the requested zoning of GR, staff recommends approval of the requested zoning changes as these zoning districts are compatible.

## *3. Public Hearing*

Seth Hendrickson spoke to the Commission about his concerns for the development of the property. His backyard borders the property that is proposing rezoning. His wife and he have concerns about the proposed density and the affect it will have on their property. His main concern is regarding the use that will be directly adjacent to where his children currently play. He has concerns for a parking lot or a drive way that may be built adjacent to his backyard. They would like to see a buffer that will help separate their property from the proposed development, such as a privacy fence.

## *4. Zoning Amendment*

Chair James stated there are two tracts that are interior lots that do not have direct access to Roger Hanks, they have a private road. In the staff report staff indicates that there is a plan to develop the tract for residential purposes.

Jason Lutz stated that yes that is correct. Currently staff has a site plan application for phase two. There's a series of duplexes in there that are under construction now. The applicant is looking at expanding into that adjacent tract and then the remaining eighteen acres that was recently annexed has no official plan for development right at this time.

Chair James asked the two duplexes under construction now, are they like the development off rose drive and Purcell Place.

Jason Lutz stated that these are two-story duplexes that are a little taller almost like a townhome configuration but there's no single ownership. So, this could be a condo regime but as far as land ownership and septic this is all one property, so that is why we review it as a multi-family project all those units will be tied into one septic system that will serve the entire development.

Chair James stated to staff that they indicated on the map that there's an adjacent General retail zone that's adjacent to the 4-acre tract. He asked staff if they know when that was done and why that was done.

Jason Lutz said he does not.

Chair James asked Jon Thompson if the intent was to be multifamily.

Jon Thompson stated that the site plan that is in now is known as the Grotto Phase two it is a plan for 25 additional duplexes. It will be a condominium regime.

Chair James understands that the applicant is going to General Retail but is concerned that if this fell through that this lot could become a commercial use. He stated that we wouldn't want to see this turn into a commercial development.

Vice Chair Martin asked is there a reason we are going to General Retail and not Multi-Family.

Jon Thompson stated that they had discussed this with staff and went with staff recommendations and to be consistent with the entire 25 acres, which is owned by the same people, they decided on General Retail.

Chair James asked Jason is there was a reason why he preferred GR.

Jason Lutz stated that because of the way his development was laid out it fell into the multi-family regulations when you look at GR zoning district the use multi-family can be developed within that Zone.

Chair James only concern is when he looks at this specific tract he would like to take precautions.

Jon Thompson stated that the 18-acre parcel will be more like apartments. If it meant GR with restrictions he doesn't know if his client would be upset with that.

Chair James asked Jason Lutz if it is something we could do.

Jason Lutz stated that he thinks it would add an extra step. It would be up to the applicant. If the Goal was to just zone GR and strip everything but Multi-family staff would prefer that the zoning, go straight to Multi-family. It would be cleaner long term.

Jon Thompson doesn't think his client would oppose that, but he can't make that call tonight. He stated that part of the problem is most of the 18-acre tract is within a Water Quality Buffer Zone, so most of the property is undevelopable. With the four multi-family buildings there really is no space left for commercial.

Chair James asked the applicant if the concept plan is what is driving them to seek zoning at this time.

Jon Thompson indicated yes that is the case.

Chair James asked what consideration has been given to connecting the surrounding roads to help congestion on 290.

Jon Thompson stated that there was request for Quail farm road to be publicly dedicated.

Chair James asked staff is it unreasonable to ask for a connection from Quail Farm Rd to an adjacent or nearby road. Is there something the city can do?

Jason Lutz stated that there is a possibility that Rose Drive or Purcell Place could become a public road so in the future there could be a chance for connection. The city tries to look a few years into the future for connectivity.

Chair James asked how the city would preserve the option for connectivity.

Jason Lutz stated that the connectivity would happen during the platting process.

Chair James asked Jason Lutz if he was comfortable with the request for rezoning to General Retail.

Jason Lutz stated that the Commission has a couple of options they can recommend. They could give a recommendation that the Commercial Services go to General Retail but that everything else have a conditional overlay placed on it then the applicant could come forward with a list of the proposed land uses and strike out certain land uses. The commission could recommend that the Commercial Services be rezoned GR but that the 18-acre tract as shown in on the plat remain AG till the time comes to develop. So, the Commission has a couple of options to recommend but leaving it at General Retail would leave it open for commercial development now. John had pointed out that there is quite a bit of unbuildable land out there that is within the water quality buffer zone. I think one of the gentleman's concerns was he wanted a buffer area and probably privacy fence. There are additional setbacks when you're adjacent to single family zoned property, but I don't believe this gentleman is in the city limit so technically he may be a single-family use, but he has no zoning.

A motion was made by Vice Chair Martin to recommend approval of the ZA2019-0003: a request to consider a request to rezone an approximate 4.152-acre tract from Commercial Services (CS) to General Retail (GR) for property located at 1461 W Hwy 290, Dripping Springs, TX 78620. Commissioner McIntosh seconded the motion which carried 3 to 1, with Chair James opposing.

**D. Public hearing, consideration, and recommendation regarding CUP2019-0004: Application for Conditional Use Permit to allow onsite sale and consumption of alcohol at the property located at 400 W Hwy 290, Bldg. D, Dripping Springs, TX 78620 (Legal Description: Original Town of Dripping Springs, north 1/2 Block 12).**

Applicant: Jon Thompson

*1. Presentation*

Jon Thompson presented the Agenda Item to the commission. The application is for a CUP for a tasting room located at Bldg. D for Spring Bluff. The tasting room will not take up the

entire building, there will be offices and a wine cellar for the storage of wine for sale or for tasting in the tasting room. There is no variance being asked at this time.

Larry Epp, the owner added to the presentation. Patrons will learn about Texas Wines. They will have offices there because they will be marketing wine state wide. They will invite wineries to come in and discuss the sales of their alcohol. They will have indoor and outdoor seating for the tasting rooms. The applicant is looking to add a fireplace as well to create an ambience during the winter. They will have different operating hours the office will be 8-5 the tasting room will be opened longer on Thursdays and Fridays. The applicant will not open till 11:30 during the week and close at 7-7:30. They will be open earlier for the staff to prepare for the day. They will offer food such as cheese for guest as while.

Jon Thompson they are working on parking issues at the time. They met with staff last Thursday to discuss parking and what could be done. They are currently working on an agreement with adjacent buildings. They are working on additional parking for the tasting room and other patrons coming to mercer street.

## *2. Staff Report*

Jason Lutz presented the staff report which is on file. Staff supports the request for the CUP at this location. Staff recommends that the CUP meet the below conditions:

- a. The applicant be required to meet City Code regarding the required number of off-street parking, provide a parking agreement that meets the code, or the applicant seeks a variance to the parking requirements.
- b. All deliveries or shipments, loading and unloading, be made on the property and not from the public right-of-way.

## *3. Public Hearing*

No one spoke during the Public Hearing

## *4. Conditional Use Permit*

Vice Chair Martin asked Staff if they consider outside seating when calculating parking requirements.

Jason Lutz stated that the code does not speak to outside seating. Staff calculates parking based on gross floor or the seating arrangements. Staff has yet to see a site plan to understand the amount of seating that would be required. Staff would have to have that information in hand to look at parking and would need the site plan to verify the square footage of the seating area.

Chair James asked Larry Epp if they were contemplating any outside music.

Larry Epp stated that within the industry that is a strong appeal, so they are anticipating providing music.

Chair James asked if it would be amplified.

Larry Epp stated probably not.

Chair James asked how the city monitors noise.

Jason Lutz stated that the City does not have a noise ordinance that allows us to regulate noise. If the commission has concerns on that we can add that to the Conditional use permit.

Chair James just thinks we need to be aware of that.

Commissioner McIntosh stated that Mercer St has patrons that are going to park in one location and walk to another location, so parking is always going to be a problem.

Chair James said that he agrees and parking on Mercer St is going to be a problem, no matter what they do and that it is always going to be a big hurdle for the city. But the city needs to think about what special circumstances we may want to attach to the Conditional Use Permit. He asked Jason in his opinion is it better to tackle the CUP now and parking at a later time.

Jason Lutz stated that we should move forward so the applicant can continue to work with the building owner. We can tackle parking at the Certificate of Occupancy stage.

A motion was made by Vice Chair Martin to recommend approval of the CUP2019-0004: Application for Conditional Use Permit to allow onsite sale and consumption of alcohol at the property located at 400 W Hwy 290, Bldg. D, Dripping Springs, TX 78620 with the Conditions stated within the CUP permit. Commissioner Strong seconded the motion which carried unanimously 4 to 0.

**E. Public hearing, consideration, and recommendation regarding VAR2019-0002: Variance Request to allow for an exception to the standard found in the City of Dripping Springs Code of Ordinances, Chapter 28 Subdivisions and Site Development, Exhibit A Subdivision Ordinance, Section 14 Lots, 14.2 Frontage; and regarding property located at 1100 Butler Ranch Road, Dripping Springs, Texas (Legal Description: ABS 415 & 693 TR APA Smith & CH Mallot Survey, 10.01 Acres, AKA Western Woods).**

Applicant: Jon Thompson

*1. Presentation*

Jon Thompson presented the item to the commission. He stated that the Plat, 5PV, was submitted to the City on January 2018 because it is within the City's ETJ and the city has jurisdiction. The previous City Planner had approved this item in November. Then they received additional comments in October. Butler Ranch Road is a private easement that is publicly maintained. In the 1990s the County took over the maintenance. The reason hays county did not take it entirely was because some owners did not want it to be public. The county had asked the owners of the easement to provide a road maintenance agreement and the two property owners went back and forth and ultimately could not come to an agreement.

The current property Owners have current access to Butler Ranch Road through the easement and the subdivision of the property will have limited impact on the easement.

## *2. Staff Report*

Jason Lutz presented the staff report which is on file. Because the applicant owns additional property and staff has identified ways to meet the City's code, staff finds no hardship and recommends denial of the requested variance.

## *3. Public Hearing*

Dixie Newman, Representing Adjacent Property owners, spoke against the proposed Variance. Her clients own the property adjacent to the applicant and the property that would be sharing the access easement. In her findings each of the deeds that include Butler Ranch Road show an easement for the road and her clients deed shows an additional 50' easement which indicates that this easement is separate from the Butler Ranch Road easement. They reached out to a surveyor to confirm but have not heard back. They reached out to the Perez family, applicants, to reach an agreement for a Road maintenance agreement. They provided a generic one and in return her clients submitted a more detailed agreement. She believes that this Variance should be denied based on three things:

1. This is not a public ingress and egress easement. It is just for those two properties
2. There is no hardship.
3. They own the property next to the subdivision and could create their own road.

Leo Perez, the owner, spoke for the variance. He stated that the County did survey the road and did maintain the road. They tried to reach an agreement with the adjacent owners, but the agreement had some items that they did not agree with such as no horses or children could be on the easement. They do own the property adjacent to the subdivision, but they already have access to Butler Ranch Road through the easement.

## *4. Variance Request*

Commissioner Strong asked if the Perez's had the property surveyed when they purchased it.

Leo Perez stated that they had it surveyed.

Commissioner Strong asked how it showed the driveway and what was your understanding of the driveway.

Leo Perez stated that the county maintained the gate, but it was privately owned.

Commissioner Strong is curious on what the Perez family is proposing. They want to continue using the privately maintained road that is on their neighbor's property, why can't they use their own property for access.

Jon Thompson, the applicant, stated that the county has said that Butler Ranch Road ends at the turn. The easement has never restricted any access. The only difference is the county did not accept maintenance. He talked to Marcus Pacheco, County Planner, and he said he would be issuing the 1445 approval letter.

Commissioner Strong asked the applicant if the current property owners declined maintenance.

Jon Thompson stated that is was the previous owners.

Evelyn Strong stated that is seems like they did that, so they could limit access.

Vice Chair Martin commented that the applicants are no longer landlocked because they own the property adjacent.

Commissioner Strong states that there is a responsibility that comes with subdividing which is complying with regulations. They have no hardship at this point.

Chair James stated that the hardship does not seem to exist. The ordinance is clear that lots should have frontage. He does not understand what the hardship is. It does cost money to build a road but that is the consequence to subdivide.

A motion was made by Vice Chair Martin to recommend denial of the VAR2019-0002: Variance Request to allow for an exception to the standard found in the City of Dripping Springs Code of Ordinances, Chapter 28 Subdivisions and Site Development, Exhibit A Subdivision Ordinance, Section 14 Lots, 14.2 Frontage; and regarding property located at 1100 Butler Ranch Road, Dripping Springs, Texas. Commissioner Strong seconded the motion which carried unanimously, 4 to 0.

**F. Public hearing, consideration and recommendation regarding SUB2019-0001: Murphy's Meadows Preliminary Plat for Murphy's Meadows Subdivision; approximately 10.01 acres located on Trautwein Road and in the City of Dripping Springs Extraterritorial Jurisdiction (Legal Description: ABS 70 John Barton Survey 10.00 AC).**

Applicant: Jon Thompson

*1. Presentation*

Jon Thompson requested that this Item be postponed to the May 28, 2019 Planning and Zoning Commission Meeting.

*2. Staff Report*

No Staff report was presented.

*3. Public Hearing*

No one spoke during the Public Hearing.

#### *4. Preliminary Plat*

A motion was made by Vice Chair Martin to Postpone the Agenda item: SUB2019-0001: Murphy's Meadows Preliminary Plat for Murphy's Meadows Subdivision; approximately 10.01 acres located on Trautwein Road and in the City of Dripping Springs Extraterritorial Jurisdiction to May 28th ,2019 Planning and Zoning Commission Meeting. Commissioner McIntosh Seconded the motion which carried unanimously, 4 to 0.

### **V. REPORTS OF STAFF AND AGENCIES**

*No action to be taken.*

- A. Planning Projects**  
March 2019 PDD Report

### **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 Commission did not meet in Executive Session.

### **VII. UPCOMING MEETINGS**

- A. Planning & Zoning Commission Meetings:**  
**May 28, 2019 - 6:30 p.m. Regular Meeting**  
**June 25, 2019 - 6:30 p.m. Regular Meeting**  
**July 23, 2019 - 6:30 p.m. Regular Meeting**
- B. City Council & Board of Adjustment Meetings:**  
**May 14, 2019 - 6:00 p.m. Workshop, 6:30 p.m. Regular Meeting**  
**May 21, 2019 - 6:00 p.m. Regular Meeting**  
**June 11, 2019 - 6:00 p.m. Workshop, 6:30 p.m. Regular Meeting**  
**June 18, 2019 - 6:00 p.m. Regular Meeting**

### **VIII. ADJOURN**

A motion was made by Vice Chair Martin to Adjourn the Meeting. Commissioner Strong seconded the motion which carried unanimously 4 to 0.

This regular meeting adjourned at 8:09 P.M.