

Planning & Zoning Commission

Regular Meeting Minutes

May 28, 2019 at 6:30 p.m.

A Regular Meeting of the Planning & Zoning Commission was held Tuesday, May 28, 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
Michael Lavengco
John McIntosh
Evelyn Strong

City Staff/Appointed Officials present were:

Jason Lutz, Planning Director
Amanda Padilla, City Planner II
Mary Sierra, Planning Assistant
Chad Gilpin, City Engineer
Keenan Smith, City Architect
Laura Mueller, City Attorney

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

II. PLEDGE OF ALLEGIANCE

Commissioner Strong 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.

Richard Bergfeld asked that the Commission discuss with TXDOT the timing on the traffic lights, specifically the light located at the intersection of Sawyer Ranch Road and US Highway 290. There have been multiple accidents at that location because everyone is trying to make that light.

Vice Chair Martin is on the Transportation committee and stated that they just recently did a traffic study in the last couple of months where they had HDR the City's consultants look at the traffic and they ran the timing of lights all the way to the Y in Austin. The timing of the lights are based on traffic counts and the safety. WE have looked at that and we continue to look at that every year. Which are independent from TXDOT. He will take that back to the transportation committee since TXDOT does attend the Committee meeting.

IV. BUSINESS

A. **Discuss and consider approval of the Planning & Zoning Commission April 23, 2019 Regular Meeting Minutes.**

A motion was made by Vice Chair Martin to approve the Planning and Zoning Commission April 23, 2019 Regular Meeting Minutes with a minor revision in regards to grammar. Commissioner McIntosh seconded the Motion which carried 5 to 2, with Commissioners Garza and Hubbard Abstaining.

B. **Public hearing, discussion and consideration of AED2019-0001: Alternative Exterior Design for AllState Agency Located at 28496 Ranch Road 12, Dripping Springs TX 78620.**

Applicant: Mark Sutton

1. Presentation

No presentation but the applicant is available for questions.

2. Staff Report

Keenan Smith Presented the staff report which is on file. This application is on Ranch Road 12 right at the corner of Timberline Drive going north out of town. It is a commercial office building conversion was probably an old church building. It is an existing noncompliance structure which means it's pre-dated the ordinance for the exterior design ordinance. The existing structure has a roof with composition shingles and the facades are white native lime stone with some siding that is being replaced. The existing floor area is a little less than 2400 square feet. It is relatively small building. The main reason this is before the commission tonight is because it is a noncompliant building which is a category in the ordinance that allows it to be reviewed as an alternative design standard and in his review he found that the building had a number of architecture features and materials such as predominance of native stone and porch elements. The main challenges is that it does not have a metal roof but a composition roof. There was a dilapidated building that had been removed with no variance requested. It has 100% stone on front facing Ranch Road 12 and has a full width porch, which is more than 50% of porch required. There is an additional porch element on the side. The spirit of this project is to improve this building and bring it back to life. It has a number of features and elements that meet or exceed our ordinance and we felt it was over all meet or exceed the requirements for an alternative exterior design. Staff recommends approval with minor conditions of approval.

3. Public Hearing

No one spoke during the public hearing.

4. Alternative Exterior Design for Allstate

Chair James asked Keenan Smith that he had some conditions in the approval that were in regards to the pedestrian amenities and if this had been reviewed with the applicant.

Keenan Smith stated that the applicant has received the report and has not vocalized any objections to the pedestrian amenities. He believes that they intend to populate the porches with benches and chairs.

A motion was made by Vice Chair Martin to approve AED2019-0001: Alternative Exterior Design for AllState Agency Located at 28496 Ranch Road 12, Dripping Springs TX 78620 with the following staff conditions:

1. Approval applies to the current proposal for a limited renovation and remodeling of the existing building. Any future exterior building improvements are subject to full compliance with applicable Ordinances. If “Future Building” designs, improvements, Site Layout or Orientations significantly alter the design approach of this Alternative Design Standard, this approval shall be rescinded and new Exterior Design review and compliance shall be required.
2. Compliance with this Alternative Design Standard shall be verified prior to issuance of Building Permits, periodically during Construction Phase, and prior to issuance of Certificate of Occupancy.
3. For the existing Office Building: a minimum of three (3) elements as required per Ordinance shall be installed & inspected in place prior to Certificate of Occupancy issuance for “Base Building / Core & Shell.” See review details.

Commissioner Lavengco seconded the motion which carried 6 to 0, with Commissioner Garza abstaining.

C. Public hearing, consideration, and recommendation regarding VAR2019-0003: to consider a special exception request for the rear and side setbacks found in the City of Dripping Springs Code of Ordinances, Chapter 30, Exhibit A Zoning Ordinance, Section 3 Zoning Districts, 3.3 Single-Family Residential District – Low Density (SF-1), 3.3.4 Area Regulations for the property located at 1007 Pin Oak St, Dripping Springs TX 78620 (Legal Description: OAK SPRINGS, Lot 36, ACRES 2, Hays County, TX).

Applicant: Rebecca and David, Brock

1. Presentation

No presentation but the applicant is available for questions.

2. Staff Report

Jason Lutz presented the staff report which is on file. He stated that the applicant came in for a variance on a 1.9 acre lot. The applicant is looking at doing an addition to the home but was forced to go to the south and side of their property due to the existing trees that surround the applicant’s home. Currently they are 37 feet from the eastern side property line and 15 feet from the southern rear. Based on the location the applicant did design that

addition to preserve the existing trees and the end result will be side setbacks of 10 feet on both the side and the rear. That will be in accordance with the applicant's property's deed restrictions for that subdivision. This lot is the last lot in the City Limits the rest of the lots in the subdivision are within the City's ETJ. The properties to the east that are not within the City Limits can be developed with the same side and rear setbacks that this variance is asking for. Additionally the property to the south has an existing PEC transmission line that would prevent developers from encroaching to close to the house. Based on these conditions staff is recommending approval based on the applicant trying to save the trees and meeting the requirements of the rest of the subdivision. There was also no protest from any of the landowners in the subdivision.

3. Public Hearing

No one spoke during the public hearing.

4. Variance

A motion was made by Vice Chair Martin to recommend approval for VAR2019-0003: to consider a special exception request for the rear and side setbacks found in the City of Dripping Springs Code of Ordinances, Chapter 30, Exhibit A Zoning Ordinance, Section 3 Zoning Districts, 3.3 Single-Family Residential District – Low Density (SF-1), 3.3.4 Area Regulations for the property located at 1007 Pin Oak St, Dripping Springs TX 78620. Commissioner Garza seconded the motion which carried unanimously, 7 to 0.

D. Public hearing, consideration, and recommendation regarding SUB2019-0022: Driftwood 967 Phase 1 Lot 1 Plat Vacation; Approximately 489.206 acres located at 10450 FM 967 N Side Buda, TX 78610 (Legal Description: ABS 18 & 20 S J WHATLEY & FREELove WOODY SURVEYS MH-PFS377580/1 497.2035 AC (2.0 AC @ MKT FOR MH)(8.00 AC @ MKT), Hays County, TX).

Applicant: Ken Martin

1. Presentation

No presentation was given.

2. Staff Report

Jason Lutz presented the staff report which is on file. This plat vacation is the first step in fulfilling the obligations of the Development Agreement that was entered into with the City and the applicant. The original plat was done as a 2 lot minor plat to allow for the construction of the proposed Golf Course, approximately 500 acres and additional 25 acre lot. The applicant is looking at vacating the golf course lot, the 500 acres, so that they can begin the preliminary plat and final plat application with the city. Once that is done then they can go through with the final plat of each subsequent phase as they move through construction. Staff recommends approval of vacating the lot.

3. Public Hearing

Jerel Wottrich, lives near the new subdivision, stated that the recent floods in the month created a lot of water that came on to their property and flooded his driveway. The 150 feet of the drive way which was nice road base has been completely washed into the field. The applicant contacted the project managers and they put him in contact with the drainage engineer, George Murfee. George came out and was very corporative and saw the problem and asked them if he was sure it was caused by the development. Mr. Wottrich said that they have been at their location for 5 years and has sustain two Halloween flood and memorial day flood. This current flood caused a lot of damage and the developer said that they would put a culvert in and concrete a bridge over the area. He hopes that the developer follows through with it. If they follow through with it he will be happy and if not they won't be very happy.

4. Plat Vacation

Vice Chair Martin asked Jason Lutz if he was aware of TXDOT approving the culvert because they will need to give the approval for that.

Jason Lutz stated that he did not.

Vice Chair Martin asked Jason if the engineer mentioned that they have to get TXDOTs approval. He asked Jerel Wottrich if they had a culvert there before.

Jerel Wottrich said it was a very small culvert. When they built their house the builder told them that the culvert would be sufficient. It had been sufficient until the change of landscaping across the street from them caused a great deal of water. There was water of 967 that has never been there. In the meantime George Murfee said that he saw the damage and they will repair his driveway and place a bigger culvert there.

Chair James stated two things came to mind. The volume and the intensity of the rain event was unique, It was almost a 500 year flood rain event that is the first question I am concerned about. The second is if these improvements are to be pursued will we need to take another look at the drainage plan of this development.

Chad Gilpin stated the recent storm was a more intense storm. We usually look at inches of rain over 24 hours. The rain fall that everyone is talking about happened in a few hours. So it really was a flash flood type of condition. As for the second question, he would have to take a look at the Culvert.

Chair James asked Jerel Wottrich if the culvert was on their property.

Jerel Wottrich stated that it was. It is properly 50 yards away from 967 on his property.

Chair James would like that Jerel Wottrich get with the City Engineer, Chad Gilpin, and show him where the culvert is on his property. He then asked Don Bosse, who is part of the development, to come up to the podium and help them work some things out.

Don Bosse stated that he was with Driftwood Ranch and Golf Club and they want to be good neighbors and follow through with the repair of the culvert. They got with George Murfee

to get a quote to fix the drive way. He is not a 100% sure it was his fault but they want to be good neighbors. They have taken an extreme amount of care with Erosion Controls and they currently have about 11 miles of silk fence, and rock berms. The rain event was a horrible event and it was hard for them to manage. They are going to take care of Jerel Wottrich.

Vice Chair Martin asked to make a correction. He thought that the culvert was within a TXDOT right-of-way, since it is on his property TXDOT will not have to be involved.

Tom Snider got up and spoke to the commission. He stated that most of the rock berm's and the things that discovery has done so far are from the main entrance east towards FM 1826 and his northern property boundary is their southern boundary. They have yet to do improvements there and as long as everyone is looking at the drainage he would like to double check. That was a big concern of his and hopes it gets taken care of when it is addressed. He knows that it is not ready to be addressed. He ask that it will be on the checklist.

A motion was made by Vice Chair Martin to recommend approval for SUB2019-0022: Driftwood 967 Phase 1 Lot 1 Plat Vacation; Approximately 489.206 acres located at 10450 FM 967 N Side Buda, TX 78610. Commissioner Lavengco seconded the motion which carried unanimously, 7 to 0.

- E. Public hearing, consideration, and recommendation regarding SUB2019-0020: Driftwood Golf and Ranch Club Preliminary Plat for Driftwood Golf and Ranch Club Subdivision; Approximately 490.61 acres located at 10450 FM 967 N Side Buda, TX 78610 (Legal Description: ABS 18 & 20 S J WHATLEY & FREELOVE WOODY SURVEYS MHPFS377580/1 497.2035 AC (2.0 AC @ MKT FOR MH)(8.00 AC @ MKT), Hays County, TX).**
Applicant: Ken Martin

1. Presentation

No presentation was given.

2. Staff Report (Jason Lutz)

Jason Lutz presented the staff report which is on file. He stated that the Development agreement had 150 residential units this project is looking at only doing 126 single family lots, which is a reduction from their maximum. However they are still under the 15% impervious cover they are actually around 10%. The plat does call out access for emergency services which is a minor change in the location from the Development Agreement, which was going to be taken from the east and now they are looking at taking it from the west. The west is the adjacent commercial tract that is part of the Development Agreement. Staff has reviewed the Preliminary Plat and it does meet our regulations and the Development Agreement. Staff recommends approval of the Preliminary Plat.

3. Public Hearing

No one spoke during the public hearing.

4. Preliminary Plat

Chair James stated that Jason had mentioned that there is an emergency access. His question was that it is an addition to the two access points we have off 967. He asked Jason if that was correct.

Jason Lutz stated it was.

Chair James asked where the emergency access lane is located.

Jason Lutz stated that there was a 25 acre commercial tract and they will take that through the adjacent tract. They have been in conversations with them about modifying the tract from commercial to another use. If they do not go over the 150 unit maximum they will not need to come back to P&Z for any changes. When they do come through with that change that is when the emergency access point will be finalized.

A motion was made by Vice Chair Martin to recommend approval for SUB2019-0020: Driftwood Golf and Ranch Club Preliminary Plat for Driftwood Golf and Ranch Club Subdivision; Approximately 490.61 acres located at 10450 FM 967 N Side Buda, TX 78610. Commissioner McIntosh seconded the motion which carried unanimously, 7 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

No presentation was given.

2. Staff Report

Jason Lutz stated that the plat has been before the commission a couple times. The applicant is still working on addressing some comments. The applicant asked to table the item and they will re-notice. We were tabling it to subsequent meetings but at this point we are not sure that they can make the next meeting. That applicant is requesting to table and Staff recommends to Table the item. They will go through the notification process again. The applicant did identify a critical environmental feature that has caused the applicant to move property lines and reconfigure. So the City will need to re-review the application when it is resubmitted and schedule it when it is appropriate.

3. Public Hearing

Chair James stated to the City Attorney, Laura Mueller, that we have been in the habit of tabling an item to a date certain and this would be tabling it indefinitely. He asked her if she would be okay with that.

Laura Mueller stated that she would. She stated that when you use the word Table it means that we have to re-notice. She would recommend opening the public hearing.

No one spoke during the public hearing.

4. Preliminary Plat

A motion was made by Commissioner Garza to table 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. Vice Chair Martin seconded the motion which carried unanimously, 7 to 0.

G. 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

No presentation was given.

2. Staff Report

Jason Lutz stated that this item is another item that has been before the commission several times and postponed to a date certain. The applicant is still going through their process with the State to secure funding for this development. The applicant would like to table this item until they receive a final word on those awards and staff will wait to receive the final go ahead for the application from the applicant.

3. Public Hearing

No one spoke during the public hearing.

4. Zoning Amendment

A motion was made by Vice Chair Martin to table 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. Commissioner Garza seconded the motion which carried unanimously, 7 to 0.

H. Public hearing, consideration, and recommendation regarding a Zoning Text Amendment related to ZA2019-0006: to consider a proposed zoning text amendment to the City’s Land Use Chart, found in Appendix E of the City’s adopted zoning code, to allow the land use of “Two-Family Dwelling (Duplex)” to be permitted by right in the Manufactured Housing (MH) zoning district, described in Section 3.18 of Exhibit A of the Zoning Ordinance within the City Code of Ordinances.

Sponsor: City Staff (Jason Lutz)

1. Presentation

No presentation was given.

2. Staff Report

Jason Lutz presented the staff report which is on file. When staff looked at this they had a case a few weeks back asking to rezone one lot in the Manufactured Housing District to accommodate a duplex. Ultimately Staff did not feel comfortable making a recommendation of Approval because it was a singular lot within an area of a single zoning district. City Council and P&Z asked Staff to look at options so that we may move forward with that request. Staff took a look at the MH district and the regulations regarding the duplexes and those development standards are virtually identical. They require the same minimum lot size and the same amount of parking per unit. They do have the same setbacks outside of the side setback, MH requires 15 feet and Duplexes require 10 feet. Staff believes that it will provide citizens the availability to try to increase their property value by building a duplex and providing more affordable options to the Citizens of Dripping Springs. Staff recommends approval to allow duplexes by right in a MH district.

3. Public Hearing

No one spoke during the public hearing.

4. Zoning Amendment Ordinance

Commissioner McIntosh said he was glad to finally see this come before the Commission.

Chair James stated that he thinks this is a much better approach then the single lot rezoning issue that they were faced with before. Chair James brought up that it is his understanding that the City is obligated to maintain space for Manufactured houses.

Laura Mueller stated that he was correct. That there has to be an area in the city where manufactured housing is allowed.

Chair James asked if there is a statue that specifies how big that area needs to be and how many spaces. He said if we begin to see these duplexes being built in these areas are we still obligated to maintain that number of spaces.

Laura Mueller stated that this is an occupations code and all that it requires is that the city allow some manufactured homes in a certain part of the City. It is not about how many lots or spaces or area required. So if that area becomes smaller because that area is being

occupied by duplexes by the people that lived there previously or by selling it there is no change in that. But it is a policy decision that we should keep an eye on, so that it is looking like how we want it to look.

Chair James stated that there is no City obligation that requires the city to have to maintain a certain number of lots or number of spaces.

Laura Mueller stated he was correct.

Chair James asked Jason if there are only two MH Zones within the City limits, the North 40 and Terry's Mobile Home Park.

Jason Lutz stated that this was correct. Staff will continue to monitor the need for additional Manufactured housing as we move forward and things start to develop in that area. We are always looking to identify additional areas where that may be appropriate or be needed.

A motion was made by Vice Chair Martin to recommend approval of a Zoning Text Amendment related to ZA2019-0006: to consider a proposed zoning text amendment to the City's Land Use Chart, found in Appendix E of the City's adopted zoning code, to allow the land use of "Two-Family Dwelling (Duplex)" to be permitted by right in the Manufactured Housing (MH) zoning district, described in Section 3.18 of Exhibit A of the Zoning Ordinance within the City Code of Ordinances. Commissioner McIntosh seconded the motion which carried unanimously, 7 to 0.

- I. **Public hearing, consideration, and recommendation regarding a Zoning Amendment Ordinance related to ZA2019-0005: to consider a requested zoning change to remove a portion of a conditional overlay for the area located at the corner of East US Hwy 290 and Sawyer Ranch Rd, Dripping Springs, Texas 78620, also identified as the location of "QuikTrip". This area is currently zoned General Retail (GR) with a conditional overlay applied in August 2007 by Ordinance No. 1220.020, also known as "Conditional Overlay: Shops at Highpointe," governing the approximately 10 acres at this location (Legal Description: Approximately 10.0 acres of land, Tract A, Sawyer Springs Subdivision, recorded in Volume 12, Page 240, Plat Records, Hays County, Texas).). The applicant is requesting that this conditional overlay be removed from their 3 acre portion of the property (Legal Description: A 3.151 acre tract of land, situated in the City of Dripping Springs, out of the E.B. Hargraves Survey No. 4, Abstract 240, Hays County, Texas, and being a portion of a 9.730 acre tract of land as conveyed to QuikTrip Corporation in Instrument No. 18008144 of the Official Public Records of Hays County, Texas).**

Applicant: JD Dudley

1. Presentation

JD Dudley, real estate project manager for QT, gave a presentation that highlighted the history and core values of the QT gas station corporation. He also shared some of the project details with a renderings and sketches of the proposed gas station. The site will be serviced by a septic system in the back and will have an underground storage system that can withstand up to 500-year flood. He emphasized that QT has been doing its best to follow all

the rules and regulations for developing in Dripping Springs and will not be asking for any variances. The QT team has worked extensively with Keenan and other city staff to ensure that the proposed gas station will meet all requirements for exterior design standards, landscaping, septic, and outdoor lighting. As a part of their due diligence phase the QT corporation requested a letter from the City stating that the use was allowed at this location. They were under the impression that they had checked all the correct boxes.

Using the map from the presentation for reference, Chair James verified which areas were the buffer zones and lot lines on the property.

The power point presentation is on file.

2. Staff Report

Jason Lutz presented the staff report which is on file. In 2007 the property was annexed into the City with the Conditional Overlay: Shops at Highpointe that provided property 70' buffer lines and prohibited three specific uses including gas stations and dry cleaners. Previously there was a development agreement (DA) regarding this property that was contracted between the City and the developer that had its own regulations, allowances, and restrictions. The DA was terminated in June 2013, but the conditional overlay remained in full effect. Staff recommends a modification to the conditional overlay to allow a gas station at this location. Since there are already gas stations at this intersection staff doesn't see how this proposal will differ significantly from the surrounding land use.

Applicant is still in the process of getting the plat approved for this property. The septic will be placed in the back part of this property.

Chair James verified that multiple land uses were allowed at this location under the current base zoning as general retail.

3. Public Hearing

Six people spoke during the public hearing, they all represented neighborhood behind the proposed gas station.

Todd Simons – when he and his wife were ready to start a family they chose to move to the Dripping Springs area. In doing their due diligence they found out about the restrictions on this property, so they are surprised that this corporation would be unaware. They see their home as an investment.

Georgia Sanchez is one of the original homeowners in the neighborhood and lives right behind the proposed gas station. She described that it was a months and months long process between the city, the developers, and the neighborhood to negotiate this conditional overlay – the majority of the neighborhood's requests were not heard. Eventually the neighborhood had to accept that they are in the ETJ and not within the City Limits. She was not willing currently to discuss all the reasons and components that lead to the creation and scope of the conditional overlay. A lot was already not granted, she requested that the commission to

respect the original intent of the conditional overlay. While she would consider herself pro-development she also wanted to emphasize her own investment in this neighborhood.

At this time John Sanchez donated his time so that she could continue her statement. Risa Hoyle also donated time.

G. Sanchez does not think it is correct that a government should be able to transfer equity to the QT corporation by granting their request. Property owners aren't even given the right to maximize their investments. The deed restrictions for these properties explicitly prohibit noxious gases so she doesn't understand how a gas station would not fall in this category. In general, there are already various consequences seen in the neighborhood from the other new developments at the intersection of Sawyer Ranch Rd and Hwy 290. She shared that the garbage from the medical center and the current gas station were frequently in her yard. There are also intense drainage issues plaguing her property and her neighbors. As the representative of the neighborhood she is willing to take this case to court. She mentioned that each time she saw this property go up for sale she would reach out to the realtor to try to share all the issues and restrictions associated with this property. She believes that the realtor is to blame for the current situation at hand.

Richard Bergfeld – their property backs up to the property line of the proposed gas station. (The QT presentation map was again used for reference). The former landowner of this property made sure to engage the neighbors in the process and negotiated for this conditional overlay. He and his neighbors were under the impression that this overlay could not be removed. Richard proposed that if the QT corporation wants something then they need to give something back to the neighborhood. He said that the proposed gas station would ultimately increase the amount of wrecks already seen at this intersection. He also doubted that the site would truly preserve the “Dark Sky” since he and his neighbors are currently already inundated by the nearby lights of the medical center.

Helen Darling – in 2005 this site was County land that wanted to annex. There were negotiations for months and months due to public feedback. Previous City staff took into consideration all the stakeholders concerns. She described that the prohibition of gas stations at this site was the neighbor's “something” in the deal. Helen described how the neighborhood street is situated quite low and allows for them to receive all the surrounding flooding; essentially this fact nulls any concept of a buffer (that is shown on the QT property). She continued to describe all the drainage issues currently effecting all the neighborhood properties. She entreated the Commission to please consider them and their problems when making their decision.

Dan Wattles – shared with the Commission that this neighborhood has been coming in ever since 2007 to make their concerns known. Unfortunately, many things have been changing drastically in the area, specifically drainage changes. In 2010 the County redid Sawyer Ranch Road and rerouted the drainage. Meanwhile, the Valero was built and approved without a drainage pond to serve their site. Since 2007 there are have been at least four major rain events and the damage recurred only increases over time. Two engineering studies that have been done show that twice the amount of water than what is possible for the system to handle is currently flowing through it and the neighborhood.

He brought up that he was one of only two neighbors that could attend the open house the previous week that was hosted by the QT Corporation. He questioned why it was given on such short notice and whether this was scheduled strategically before a holiday weekend. In any case, he also wondered why the presentation at this public hearing differed from the one presented at the open house. In the previous presentation the QT representatives said that the site would be engineered to handle a 100-year flood and now they were saying that it would handle a 500-year flood.

Next, he would like the commission to consider the traffic generated from the proposed gas station. This intersection already experiences a lot of traffic and the way the proposed gas station driveways are placed are not likely to improve the situation. Dan Wattles asks that the Commission would vote NO on removing the conditional overlay. There is no need for another gas station at this intersection.

Rafael Hoyle – the speaker asked to reiterate the three points brought up by his neighbors.

1. Traffic – even the kids getting just ready to drive are aware of this issue and complain about it.
2. Trash – he confirmed that he has seen the littering in Mrs. Sanchez’s yard and he is sorry that she has to deal with that.
3. Drainage issues – seen throughout the neighborhood. He recounted seeing actual rivers running through his neighbors’ yards and the street.

Chair James asked if anyone else would like to testify. Amanda Padilla replied that there were many more names on the list but no one else chose to testify. Public hearing was closed.

4. Zoning Amendment Ordinance

Vice Chair Martin motioned to move into discussion and Chair James seconded the motion.

Referring to the site plan proposal in the QT presentation, Commissioner Garza questioned how they could remove the guardrails. JD Dudley replied that the guardrails could be removed at this location because the project proposes to raise the grade. According to Dudley this proposal has been approved by TxDOT.

Vice Chair Martin thinks it will be also be hard to grant a cut and fill variance that it seems this project will require. Chad Gilpin could not confirm that this project would need a variance but just by looking at it now it seems to him it may be more than 6-feet. Vice Chair Martin expressed some concerns about the configuration of the turn lanes off Highway 290 and Sawyer Ranch Rd. He would like to see this come to the Transportation meeting or speak with TxDOT further to understand the situation better.

Jason Lutz said that these details would generally be reviewed during the plat and site plan review process. Right now, all applications regarding this project are on hold.

Vice Chair Martin said that this would still have to be presented at the Transportation Meeting. He sees various reasons for concern regarding the turn lane and stacking proposed at the proposed gas station entrance along Hwy 290.

JD Dudley responded that QT is willing to be transparent and to do whatever is necessary to make this entrance safer.

Vice Chair Martin expressed interest in a dedicated right lane on Hwy 290 going towards the gas station.

JD Dudley verified that the proposed project would not go over 6-feet and would not need a cut/fill variance.

Commissioner Strong brought up that the conditional overlay was applied to this site to specifically prevent a gas station. She has yet to hear a compelling argument on why the commission should allow for this overlay to be removed. It is known why it was put there in the first place by City Council.

Commissioner Hubbard said that it would be necessary to be careful when considering the drainage and traffic impact.

Commissioner Strong countered that any development at this site would cause or exacerbate this situation by the additional traffic, drainage, and lighting.

Chair James said that the fundamental issue for consideration is that in 2007 the City approved the application of the conditional overlay with these specific prohibitions. City council and the developers had good reasons for their decisions, some of which we may be unaware of. It is known that there were specific prohibitions applied with this conditional overlay with one of them being a gas station. The surrounding property owners did their due diligence and were aware of the overlay and its implications.

Chair James asked for an explanation as to why the applicant said they were unaware of this conditional overlay; it would seem to him that either it was faulty diligence, or something went wrong.

City Attorney Laura Mueller replied that it is in City records that the applicant requested that information from city staff, but the response given to the applicant was inaccurate.

Chair James asked for staff to explain further. Jason Lutz related how the planning assistant at the time had issued a zoning determination letter to the applicant that stated that the use was allowed in the general retail district. There was no mention of the conditional overlay.

Commissioner Strong mentioned that the sellers of the property may or may not have been aware of this restriction and that it would've been their responsibility to disclose that to the buyer.

Chair James stated that as humans we all make mistakes; the fact of the matter remains however, that the conditional overlay was public information. This item would not be up for discussion if it were not but for this public record. It was determined though that the City does not enforce deed restrictions.

Chair James asked the applicant to verify if work has already begun at the site in terms of grading, JD Dudley replied that the water company had contacted them and asked to put in another pipeline.

Chair James took a minute to address some of the other issues mentioned in the neighborhood. While he understands there has been drainage issues for years he is upset about the littering issues mentioned. He asked city staff who the neighborhood could contact to resolve this issue. At Chair James prompting, Jason Lutz advised to reach out to the City's code enforcement officer or the County sheriff to report about the littering from the nearby entities. It may be that the medical center or the Valero gas station may need to install additional dumpsters. Chair James encouraged the neighborhood to reach out to the appropriate authority to resolve this issue and to not let it continue.

Chair James addressed the neighborhood saying that development is coming no matter what and regarding many of their current concerns such as lighting, drainage, access, and traffic it should be expected to see those issues continue.

Chair James next asked the commission to remain focused on the issue at hand; the applicant's request that a portion of the conditional overlay be removed.

Vice Chair Martin asked if whether conditional overlays are recorded with the County. City Attorney Laura Mueller replied that zoning is not something that is filed by the City with the County. Regardless if it was recorded or not it seems that this should have been readily available public information. Chair James agreed since the property owners that did their due diligence before purchasing in that neighborhood were aware of the conditional overlay. Commissioner Strong agreed with the commissioners that this would have been public information that could have been obtained by contacting the City. However, through the conversations tonight, it appears someone did contact the City but were given incorrect or incomplete information. Vice Chair Martin asked when this information was corrected, Chair James pointed out that the property owners did know. Vice Chair Martin requested that the QT representative, JD Dudley, provide a timeline regarding their due diligence phase.

JD Dudley started by saying that this is generally his role in the project formation. Back in 2017 he set up a meeting with City staff and met with Katie Jordan to discuss if this use would be allowed at this location. Within 30days the City issued a zoning determination letter stating that the property was zoned general retail and that the proposed use was allowed by right. At this point, the project planning moved forward with the impression that the due diligence was complete and that they were entitled to this use. It wasn't until that QT came back to apply for permits a year and half later that staff informed them of this unrecorded document that doesn't show up on any titles or with the County (his description), that would prevent them from this proposed use.

He went on to discuss the development agreement again, saying that while City Council did approve the Conditional Overlay Shops at Highpointe they also voted to dissolve the agreement and anything to do with it.

At this point Chair James spoke saying that that was enough information for now and that he would like to break into executive session

Via unanimous consent, the Planning & Zoning Chair James adjourned into Executive Session under Texas Government Code Section 551.071, Consultation with Attorney, and regarding Business Agenda Item I.

Business Agenda Item:

- I. Public hearing, consideration, and recommendation regarding a Zoning Amendment Ordinance related to ZA2019-0005: to consider a requested zoning change to remove a portion of a conditional overlay for the area located at the corner of East US Hwy 290 and Sawyer Ranch Rd, Dripping Springs, Texas 78620, also identified as the location of “QuikTrip”. This area is currently zoned General Retail (GR) with a conditional overlay applied in August 2007 by Ordinance No. 1220.020, also known as “Conditional Overlay: Shops at Highpointe,” governing the approximately 10 acres at this location (Legal Description: Approximately 10.0 acres of land, Tract A, Sawyer Springs Subdivision, recorded in Volume 12, Page 240, Plat Records, Hays County, Texas). The applicant is requesting that this conditional overlay be removed from their 3 acre portion of the property (Legal Description: A 3.151 acre tract of land, situated in the City of Dripping Springs, out of the E.B. Hargraves Survey No. 4, Abstract 240, Hays County, Texas, and being a portion of a 9.730 acre tract of land as conveyed to QuikTrip Corporation in Instrument No. 18008144 of the Official Public Records of Hays County, Texas).**

The Commission met in Executive Session from 8:32 p.m. – 8:40 p.m.

No vote or action was taken in Executive Session. Chair James returned the meeting to Open Session at 8:40 p.m.

Open Session

In Open Session, the Commission continued with discussion regarding Business Agenda Item I.

Chair James spoke for the commission in saying that they had been advised to be focused and to look at this issue from a strict zoning perspective.

Commissioner McIntosh said that as a member of the Historic Preservation Commission he is a firm believer in the application of overlays. It would defeat the purpose if at a later point in time all the work that the commission had worked to establish could be undone.

A motion was made by Commissioner Garza to recommend denial for a Zoning Amendment Ordinance related to ZA2019-0005: to consider a requested zoning change to remove a portion of a conditional overlay for the area located at the corner of East US Hwy 290 and Sawyer Ranch Rd, Dripping Springs, Texas 78620. Commissioner Lavengco seconded the motion which carried unanimously, 7 to 0.

Chair James explained to the public hearing that while this has been denied unanimously by the P&Z Commission this project will still have to be presented to City Council. He encouraged the neighborhood to still come and participant at the City Council public hearing.

V. REPORTS OF STAFF AND AGENCIES

No action to be taken.

A. Staff report regarding proposed changes to the City's adopted Parkland Dedication Ordinance.

Applicant: City Staff (Jason Lutz)

1. Staff Report

Jason Lutz presented the Staff report which is on file. Staff is looking at taking the Parkland Dedication Ordinance to the Parks Commission again at the beginning of the month. At this point the Parks and Recreation Commission make a recommendation at this meeting and to give any other final feedback.

2. Discussion

Chair James said that if there are still outstanding items with the Parks and Recreation review he would prefer the ordinance to not come again until it has a full recommendation.

Jason Lutz and Chair James agreed that if only minor issues remained from both boards feedback then that would be fine, and it could proceed to City Council.

3. Provide Feedback

Since parkland dedication is a platting requirement, Jason Lutz requested that the P&Z commission specifically provide any plat requirements or recommendations that they might deem appropriate. The goal is to have feedback from both boards before this item goes to city council.

B. Planning Project Report

Chair James asked which Big Sky project was in the City Limits, Jason Lutz verified that it was the project near Founders Park Rd.

Chair James asked for more information about Harrison Hills. Jason Lutz said it was property north of Whisenant Ln and RR12 that is raw acreage that is part of a DA. The applicant is filing for a minor plat with four lots, three of which would be commercial. The lot on the west side facing the residential area would probably be residential. Chair James said to expect some comments from the neighborhood.

Jason Lutz verified the location of the 7-Eleven project.

Jason Lutz explained that the Grotto project was the project on Quail farm road that was recently annexed and rezoned. The applicant requested general retail, but P&Z discussion had asked if multi-family would be more appropriate. It was rezoned multi-family at City Council and the applicant was ok with that.

The Sotto Voce project has not yet been reviewed by planning staff.

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 met in Executive Session earlier in the Agenda.

VII. UPCOMING MEETINGS

- A. Planning & Zoning Commission Meetings:**
 - June 25, 2019 - 6:30 p.m. Regular Meeting**
 - July 23, 2019 - 6:30 p.m. Regular Meeting**
 - August 27, 2019 - 6:30 p.m. Regular Meeting**

- B. City Council & Board of Adjustment Meetings:**
 - June 11, 2019 - 6:00 p.m. Workshop, 6:30 p.m. Regular Meeting**
 - June 18, 2019 - 6:00 p.m. Regular Meeting**
 - July 9, 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 Lavengco seconded which carried unanimously, 7 to 0.

This regular meeting adjourned at 8:48 P.M.