

MINUTE RECORD OF THE CITY OF SAN ANGELO PLANNING COMMISSION MEETING HELD ON MONDAY, APRIL 18, 2016, AT 9:00 AM IN THE SOUTH MEETING ROOM OF THE MCNEASE CONVENTION CENTER, 501 RIO CONCHO DRIVE, SAN ANGELO, TEXAS

PRESENT: VALERIE PREISS (CHAIR), TERI JACKSON (VICE CHAIR), RYAN SMITH, SAMMY FARMER, MARK CRISP, TRAVIS STRIBLING, JOE SPANO

ABSENT: N/A

STAFF: Jon James, AICP – Planning and Development Services Director
Rebeca Guerra, AICP, LEED-AP, CPD – Planning Manager
Dan Saluri – Deputy City Attorney
David Stallworth, AICP – Principal Planner
David Fee, AICP – Senior Planner
Jeff Fisher – Planner I

I. Call to order.

Chairwoman and Commissioner Valerie Priess called the meeting to order at 9:00 a.m. and established that a quorum of seven (7) was present.

II. Prayer and Pledge.

The prayer was delivered by Ms. Becky Benes, Peace Ambassador. The pledge was led by Commissioner Valerie Priess.

III. Consent Agenda:

A. Consideration of approving the March 21, 2016, Planning Commission meeting minutes.

A Motion to approve the Consent Agenda was made by Commissioner Smith and seconded by Commissioner Crisp. The motion carried unanimously, 7-0.

IV. Regular Agenda:

1. Subdivision Plats

The Planning Commission has final authority for approval; appeals may be directed to City Council.

A. Second Replat in Block 13, Millspaugh Addition

A request for approval of the Second Replat for Block 13, Millspaugh Addition.

Jon James, Planning and Development Services Director, provided a brief synopsis of the Replat request. Mr. James indicated the location for the subject area, showed existing site conditions with respect to sidewalk gaps abutting the project area, and showed various perspectives of the surrounding area. Mr. James concluded his presentation with a recommendation of APPROVAL subject to seven (7) conditions, along with his basis for the recommendation.

Commissioner Stribling opened up deliberation by inquiring on whether or not utility easements through the middle of the project area. Mr. James responded by stating that a previous alley abandonment specific to the project area provided for the retention of an easement to protect existing utilities that ran through the project area. Commissioner Stribling then inquired on commercial waste collection in the absence of an alley. Mr. James responded by indicating that the Site Plan review process at the time of a building permit application would address suitable locations for dumpster enclosures on a property. Rebeca Guerra, Planning Manager, reiterated and reinforced Mr. James' response. Commissioner Stribling expressed a strong desire to see an alley placed through the project area, given the proposed yield and type of lots to be replatted. Commissioners Smith and Stribling then discussed the possibilities of shared use of a dumpster, with Mr. James remarking that the City presently does not have requirements for dumpster enclosures, and that the issue of dumpster placement could be addressed either at an Urban Design Review, if required, or at time of Site Plan review prior to building permit approval. Mr. James further explained that the placement of an alley within the project area, if so desired, could be Condition of Approval for this Replat. Commissioner Crisp asked about minimum alley dimensions. Commissioner Farmer expressed concerns about minimum alley width requirements in relation to waste truck access and maneuvering, deferring to Commissioner Spano for further clarification on the matter. Commissioner Spano explained the difference between commercial and residential waste collection trucks. Commissioner Farmer then inquired about waste collection in relation to existing utility lines in place, to which Mr. James responded.

Barring further questions for Staff, Chairperson Preiss opened the public hearing for comments. Mr. Herb Hooker of SKG Engineering, the applicant's representative, approached the podium, identified himself, and began to explain the previous alley abandonments specific to the project area as well as the perceived practicality of not relying on an alley for commercial waste retrieval. Mr. Hooker requested that the Commission modify the proposed Condition and limit sidewalk installation to the project area's South Oakes Street frontage only. Commissioners Crisp and Farmer opined that there was no need for sidewalks along Orient, Washington or Avenue D. Commissioner Crisp disagreed, pointing out a pedestrian need

during special events at nearby Fort Concho. Commissioner Stribling followed up with inquiries on the location of Fort Concho Elementary School in relation to the project area. Mr. Hooker then suggested that the Commission, if so inclined, allow the applicant to defer sidewalk construction along Avenue D and Washington Drive to the building permit while requiring sidewalk installation along South Oakes to be tied to plat recording. Mr. James responded by stating that such deferral would be included as a plat note to be placed on the Replat to be recorded, stating that the placement of such notes on a plat was not uncommon in other jurisdictions. Mr. Hooker concluded with a request that the Commission not impose an alley requirement on the Replat.

With no public input, Chairperson Preiss closed the public hearing and opened the floor for a Motion. Commissioner Stribling reiterated his desire that an alley requirement be imposed on the Replat, citing the arbitrary placement of trash enclosures and their unsightliness in public view.

Commissioner Smith made a Motion to APPROVE the request subject to the seven (7) Conditions outlined in the Staff Report, modifying Condition #7 with the ability to defer all sidewalk construction to time of building permit. The Motion failed due to a lack of a second.

Commissioner Crisp followed up with a Motion to APPROVE the request, subject to the seven (7) Conditions outlined in the Staff Report, modifying Condition #7 to require sidewalk construction along South Oakes Street only and defer such construction until time of building permit, and Commissioner Farmer seconded the Motion. The Motion passed, 5-2, with Commissioners Stribling and Smith dissenting.

B. Final Plat for the Western Properties Addition, Section Four

A request for approval of a Final Plat for the Western Properties Addition, Section Four and a Variance from Chapter 10, Section III.A.2 of the City's Land Development and Subdivision Ordinance to allow for a 50-foot wide paving width in lieu of 64 feet.

Rebeca Guerra, Planning Manager, indicated prior to the introduction of this case that the applicant had withdrawn the request for a Variance. Chairperson Preiss then set aside the Variance request and introduced the Replat request. David Stallworth, Principal Planner, provided a brief synopsis of the case. Mr. Stallworth indicated the location for the subject area, showed existing site conditions as well as various perspectives of the surrounding area. Mr. Stallworth concluded his presentation with a recommendation of APPROVAL subject to six (6) conditions, along with his basis for the recommendation. Barring further questions for Staff, Chairperson Preiss opened the public hearing for

comments. With no public input, Chairperson Preiss closed the public hearing and opened the floor for a Motion.

Commissioner Crisp made a Motion to APPROVE the request, subject to the six (6) Conditions outlined in the Staff Report, and Commissioner Spano seconded the Motion. The Motion passed unanimously, 7-0.

2. Conditional Uses

The Planning Commission has authority for final approval of Conditional Uses.

A. CU16-02: Habitat for Humanity of San Angelo

A request for approval of a Conditional Use to allow for "Household Living," as defined in Section 310.B of the Zoning Ordinance, in the General Commercial/Heavy Commercial (CG/CH) Zoning District, located 100 feet from the southwest corner of Martin Luther King Drive and West 13th Street, on 0.115 acres.

Jeff Fisher, Planner, outlined the request for a Conditional Use to allow for a new single family home in a CG/CH Zoning District. Mr. Fisher explained that in 2014, Habitat for Humanity, a non-profit organization, built two homes immediately to the west and that these did not require a Conditional Use as they were already residentially zoned. Mr. Fisher displayed an elevation of the new proposed home which would look similar to the other two Habitat for Humanity homes in the area.

Mr. Fisher outlined Staff's recommendation for approval based on there already being residential homes on three sides; that the Future Land Use for the site was "Neighborhood Center" which called for eventually removing the CG/CH zoning; that the future home would meet all development standards; and that there is a community need for housing for low income families in this area.

Commissioner Smith asked why instead of a Conditional Use, a Rezoning request could have been made instead for an RS-1 Zoning District.

Rebeca Guerra, Planning Manager, explained that there is RS-2 Zoning to the west and rezoning to RS-1 would be bringing in the first RS-1 node to the area. She indicated that because the Comprehensive Plan designates this area as "Neighborhood Center," that a Conditional Use would provide a smoother transition.

There was no public comment for this request.

Commissioner Smith made a Motion to APPROVE the request, subject to the two (2) Conditions outlined in the Staff Report, and Commissioner Stribling seconded the Motion. The Motion passed unanimously, 7-0.

B. CU16-03: Pierce Masonry Construction

A request for approval of a Conditional Use to allow for "Household Living," as defined in Section 310.B of the Zoning Ordinance, in the Neighborhood Commercial (CN) Zoning District, located on the northwest corner of the intersection of Houston Street and North Garfield Street, on 0.966 acres.

David Fee, Senior Planner, provided a brief synopsis of the case to allow for 6 single-family residential homes in a CN Zoning District. Mr. Fee outlined Staff's recommendation for approval based on that there are no adverse impacts; that there are residential uses on 3 sides; re already being residential homes on 3 sides; and that new homes are needed in the City, particularly as infill developments near existing infrastructure.

There was no public comment for this request.

Commissioner Crisp asked if it would be appropriate to zone the properties RS-1.

Planning Manager Rebeca Guerra indicated that the Planning Division was looking at doing a City-initiated Comprehensive Plan Amendment for the area. This Amendment, she explained, would clean up inconsistencies such as this where the zoning is commercial in nature, but the long term Comprehensive Plan is for residential. She indicated the Conditional Use would allow the applicant to move forward.

Commissioner Priess indicated that she supported the application and believed it would help the neighborhood.

Commissioner Farmer made a Motion to APPROVE the request, subject to the two (2) Conditions outlined in the Staff Report, and Commissioner Spano seconded the Motion. The Motion passed unanimously, 7-0.

C. CU16-04: The Roman Catholic Diocese of San Angelo

A request for approval of a Conditional Use to allow for a "Religious Institution," as outlined in Section 314.G of the Zoning Ordinance, in the Single-Family Residence (RS-1) Zoning District, located at the northwest corner of South A&M Street and Oxford Avenue, on 9.633 acres.

Jeff Fisher, Planner, outlined the request for a Conditional Use to legalize the existing Holy Angels Catholic Church and Angelo Catholic School, and to facilitate the construction of a new classroom building for the school on the property. The subject site allowed both the existing school and church buildings until 2000 when the previous R-1 Zoning changed to RS-1 and removed churches and schools as-of-right from the list of permitted uses.

Mr. Fisher outlined Staff's recommendation for approval based on that the school and church campus has existed since 1960 in this residential neighborhood, that the development meets all zoning standards, that there is adequate on-site parking, and that the new building would provide additional classroom space for students.

There was no public comment for this request.

Commissioner Crisp asked if there would be adequate parking. Mr. Fisher confirmed there would be adequate parking as the Site Plan provided by the applicant showed 441 spaces and the development required under 200 spaces.

Commissioner Jackson made a Motion to APPROVE the request, subject to the six (6) Conditions outlined in the Staff Report, and Commissioner Spano seconded the Motion. The Motion passed unanimously, 7-0.

3. Text Amendment

City Council has final authority for approval of Text Amendments.

A. Zoning Ordinance Text Amendment

Discussion and possible action regarding a text amendment to Chapter 12, Exhibit "A," Zoning Ordinance, for Bed and Breakfast Establishments and Short Term Rentals.

*This Item was Tabled from the last Planning Commission Meeting of **March 21, 2016**, to allow the Planning Division to conduct further research on guidelines for Short Term Rentals.*

Jon James, Director of Planning and Development Services, outlined some of the concerns received for short term rentals, including parking, parties, noise, trash, and camping, which led to the creation of this Text Amendment. He outlined one proposed change since the last meeting - to restrict short term rentals from having any signage.

Mr. James then outlined the difference between a short term rental and a bed and breakfast. A short term rental would be for the entire home, with single family occupancy of no more than 4 unrelated persons, no meal service, and no gatherings of more than 20 people, or another number as determined. A bed and breakfast could rent multiple rooms, could be multiple family occupancy, could serve meals, and could host gatherings of more than 20 people. He explained that a short term rental, as proposed, would be allowed in all residential zoning and in the Central Business District (CBD), in the same manner as Household Living, but that this could be done on a case-by-case basis instead. Short term rentals would require a minimum of two parking spaces, and bed and breakfasts would require one additional space per separately rented bedroom. Short term rentals would also be restricted to no more than two adults per bedroom and no gatherings before 7:00am or after 10:00pm, as proposed.

Mr. James further outlined the proposed Text Amendment, including registration for hotel tax which is required when renting a building for less than 30 days, a Certificate of Occupancy to convert a single-family residence into a bed and breakfast or a short term rental, and an annual fire safety inspection for both uses.

Commissioner Smith believed that the Commission was not ready to move forward yet with recommending approval of the Text Amendment.

Commissioner Priess agreed with Commissioner Smith, and indicated that she was unsure of how to proceed with the Text Amendment.

Commissioner Priess opened the item for public comment.

Greg Gossett, a resident in the area, believed the proposed Text Amendment should be denied. He was concerned of parties being held on the sites and the possible lowering of property values. He indicated that should the Amendment be approved, that short term rentals be limited to streets with the minimum street widths and that owners pay a fine if their short term rental is deemed a public nuisance.

Ms. Debbie Powell, an owner of a short term rental in the area, indicated she has rented her home for two years and has been paying hotel tax already. She is concerned that other houses not advertising as short term rentals do not have to follow the same rules because they are not identified as short term rentals.

Mr. Pat Powell, a resident, indicated that a real estate agent he spoke with would not lower the value of a home if it was next to a short term rental.

Ms. Anna Martinez, the owner of a short rental in the area, indicated she had received positive reviews of her rental.

Ms. Donna Berkson, a resident, is not against short term rentals, but is concerned with who would be responsible when there are several of these in the same area and there are large gatherings.

Mr. Tad Logan, a resident of Lake Nasworthy, believed short term rentals were going to be detrimental to the area. He cited problems with parking and that the existing streets are not 40 feet wide and allowing short term rentals would lead to further traffic congestion.

Mr. Randal Schkade, a resident of Red Bluff Road, stated he was against short term rentals and suggested a non-binding ballot to see if residents agreed with allowing short term rentals, and if not, that existing short term rentals would have 12 months before they were removed.

Ms. Jean Dampert, a resident, indicated that the Lake Nasworthy Homeowners Association at their last meeting voted 12-1 in favor of this Text Amendment. Mr. Tad Logan clarified Mr. Dampert's statement, noting that the 12-1 vote was not in support, but to remain neutral on this issue at this time.

Ms. Sammye Favre, a resident, indicated that she occasionally rents out her home as a short term rental and lets her neighbors know. She also stated that has not had any problems pointed out to her.

Mr. Max Puello, a local real estate agent, believed the Homeowners Association could regulate short term rentals, and requested a motion to table the proposed Amendment.

Jon James, Director of Planning and Development Services, indicated that short term rentals are currently not identified as a Use Category on the Zoning Ordinance. Moreover, he added, if this text amendment was not approved in some form, enforcement would be brought forward on existing short term rentals as they would not be in compliance with the City's Zoning Ordinance. Mr. James recommended that it would be in the best interest of

the Commission to move the item to City Council to ascertain their position on the matter.

Commissioner Priess indicated that several of the existing short term rentals appear to have registered because they are already paying the Hotel Occupancy Tax (HOT tax).

Mr. James responded that even if existing short term rentals signed up with the City for the HOT tax, they are still not zoned accordingly and may not have known about the zoning prohibition on short term rentals.

Ms. Jackson asked where the HOT tax money has been going if the uses are not permitted by zoning. Ms. Priess also inquired if this money went to the City first.

Mr. James indicated that the HOT tax money first goes to the State of Texas which later comes back to the City of San Angelo as a disbursement.

Commissioner Smith asked one of the residents who had already spoken, Ms. Debbie Powell, how she paid her HOT tax.

Ms. Powell responded that to pay the HOT tax, one sends a report to the City with the rental receipts multiplied by 7%. One then sends a separate report to the Texas State Comptroller for their portion of 6%, so that monies go directly to both the City and the State, for a total HOT tax of 13%. Ms. Powell indicated that she had been paying this HOT tax for the last 2 years.

Rebeca Guerra, Planning Manager, explained there are currently two bed and breakfasts that were subject to application approvals in the City, one as a Special Use and one as a Conditional Use. At the present time, the Zoning Ordinance does not allow short term rentals in residential areas, they would require a Conditional Use as a bed and breakfast. The new Text Amendment if approved, would allow short term rentals in residential areas without requiring a Conditional Use as a bed and breakfast each time.

Ms. Kandi Pool of the San Angelo Association of Realtors suggested that the Text Amendment only apply for Lake Nasworthy.

Anna Martinez requested that the Amendment be modified to allow up to six unrelated persons for short term rentals instead of four.

Mr. Gary Pierce, a resident of the Lake, indicated that he wanted to be informed of any further changes.

Commissioner Crisp believed that the homeowners needed to be exempt from the short term rental provisions while they were living in their house.

Mr. James explained as the Amendment is currently written, owners will have one year to obtain a Certificate of Occupancy to convert a single family dwelling into a short term rental.

Commissioner Smith made a Motion to recommend APPROVAL of the Text Amendment for Short Term Rentals and Bed and Breakfasts, seconded by Commissioner Stribling, subject to five (5) modifications. The five (5) modifications were as follows: Outdoor gatherings for Short Term Rentals shall terminate at 10:30 pm (instead of 10:00 pm); A maximum of six (6) unrelated persons may be allowed to occupy a Short Term Rental (instead of four [4]); Camping shall be permitted (instead of camping being prohibited); All Short Term Rentals in residential zoning shall require Conditional Use approval; Existing Short Term Rentals that pay Hotel Occupancy Tax shall have one (1) year from date of the Ordinance's approval to obtain a Conditional Use.

V. Director's Report.

Jon James, Director of the Planning and Development Services Department, indicated there was no new information to report this month.

VI. Future meeting agenda and announcements.

Chairwoman Priess indicated that the next regular meeting of the Planning Commission was scheduled to begin at 9:00 a.m. on **Monday, May 16, 2016**, in Council Chambers (South Meeting Room) of the McNease Convention Center at 501 Rio Concho Drive.

VII. Adjournment.

Commissioner Priess made a Motion to adjourn at 11:13 a.m., and Commissioner Jackson seconded the Motion. The Motion passed unanimously, 7-0.



Valerie Preiss, Chairperson,
Planning Commission