



RECORD OF MINUTES

CITY OF SAN ANGELO, TEXAS
PLANNING COMMISSION
MONDAY, JUNE 15, 2020, 9:00 A.M.
VIA Audio/Video Broadcast

PRESENT: Travis Stribling (Chair), Teri Jackson (Vice Chair), Joe Spano, Ryan Smith, Joe Self, Luke Uherik

ABSENT: Conoly O. Brooks III

STAFF: Jon James, AICP, Director of Planning and Development Services
Aaron Vannoy, Assistant Director of Planning and Development Services
Hillary Bueker, RLA, Planning Manager
Sherry Bailey, Principal Planner
Jeff Fisher, AICP, Principal Planner
Shelly Paschal, Planner
Brandon Dyson, Assistant City Attorney
Lance Overstreet, City Engineer
Mitchell Gatlin, Project Engineer-EIT
Charlie Kemp, Building Official
Austin Ayers, Deputy Building Official

I. Call to order.

- A.** Chair Stribling called the meeting to order at 9:06 a.m. and established that a quorum of six was present.

II. Consent Agenda:

- A.** Consideration of approving the May 18, 2020, Planning Commission Regular Meeting minutes.

Commissioner Smith made a motion to approve the Consent Agenda. Vice Chair Jackson seconded the motion. The motion carried unanimously, 6-0.

III. Regular Agenda

1. Subdivision Plats

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

A. First Replat of Lot 2, Block 4, Martha Mather's 2nd Addition

A request for approval of a First Replat of Lot 2, Block 4, Martha Mather's 2nd Addition, being 0.385 acres located at the southwest corner East 40th Street and Amarillo Street; a variance from Chapter 10.III.A.2 of the Land Development and Subdivision Ordinance to maintain a paving width of 30 feet without curb-and-gutter in lieu of the required 40 feet with curb-and-gutter for Amarillo Street, and to leave an easterly portion of East 40th Street without curb and gutter; and a variance from Chapter 9.V of the Land Development and Subdivision Ordinance exempting the requirement for sidewalks adjacent to East 40th Street and Amarillo Street.

Jeff Fisher, Principal Planner, presented the proposed replat of one lot into three lots for single-family home lots. He explained that the original Mather's 2nd Addition subdivision was platted in 1906 and over time, the original tracts which were over 5 acres were subdivided into smaller lots, including the subject property which was subdivided in 2001 from the lot to the south. He explained that the lots all meet the minimum lot sizes of at least 50 feet in width by 100 feet in depth.

Mr. Fisher indicated that he received a petition opposed to the subdivision and variances from six of the landowners within 200 feet of the subject property, raising concerns about the minimum lot sizes and if they would become rental properties. He also received a letter in support from the San Angelo Independent School District (SAISD). Mr. Fisher explained that because the opposition covered 32% of the land area within 200 feet of the property, more than 20%, a supermajority, or 5 out of 6 Commissioners under State Law would have to approve this case.

Mr. Fisher indicated that the plat will conform to the City's Comprehensive Plan and purpose statements of the Land Development and Subdivision Ordinance (LDSO). He then outlined for the Commission Staff's rationale to approve only a partial variance for Amarillo Street but deny the other variances that would allow no curbs or sidewalks. Mr. Fisher explained that the existing street width is sufficient for this infill area, but that adding curbs will help improve drainage and reduce edge deterioration of the streets. He also explained that new sidewalks along Amarillo Street and East 40th Street, and a painted crosswalk across Amarillo Street will help children safely cross the street to Goliad Elementary located directly east of the property. Mr. Fisher displayed an aerial photo of the property and surrounding area that showed existing curbing around most of the properties, and four existing crosswalks connecting to the school.

Chair Stribling opened public comment.

Mr. Russell Gully, SKG Engineering, representing the applicant, asked to clarify if the crosswalk was required across East 40th Street or Amarillo Street.

Mr. Fisher responded the crosswalk would be across Amarillo Street.

Mr. Gully indicated that he would agree to the sidewalk on East 40th Street but prefers not to install one on Amarillo Street. He also asked for a deferral of the installation of water and wastewater lines to the time of permitting.

Commissioner Self expressed concerns about drainage in this area.

Mr. Gully acknowledged drainage was an issue, even with curb and gutter.

Chair Stribling asked why the residents who signed the petition were opposed to the replat.

Mr. Fisher explained that their concerns involved the small lot sizes, drainage patterns, and the properties turning into rentals.

Chair Stribling asked Engineering Services to address the drainage issue.

Lance Overstreet, City Engineer, responded that curbs should assist with the drainage issue but will not fix the entire problem without regarding the streets.

Mr. Gully explained that the lot sizes will be 50-61 feet wide similar to some of the lots in the area.

Chair Stribling indicated he was comfortable with the lot sizes and supports the City's request for sidewalks and curb and gutters.

Commissioner Smith made as motion to approve as written.

Mr. Fisher asked if the Commission if this motion will include the deferrals requested by Mr. Gully.

Chair Stribling asked Mr. Fisher for clarification on the deferrals.

Mr. Fisher responded that the requested deferrals were for the installation of water and wastewater lines, and to only construct one sidewalk on East 40th Street at the time of permitting.

Mr. Overstreet indicated that a complete deferral for the water and wastewater lines may not be possible, but that staff could work with the applicant through a performance agreement or ordering of the water and wastewater taps.

Vice Chair Jackson asked Mr. Smith if he is requesting in his motion to deny the variances.

Mr. Smith responded that his motion is to approve as written by Staff.

Commissioner Smith made a motion to APPROVE a First Replat of Lot 2, Block 4, Martha Mather's 2nd Addition with six conditions; APPROVE a PARTIAL VARIANCE from Chapter 10.III.A.2 of the Land Development and Subdivision Ordinance to maintain a paving width of 30 feet and REQUIRE curb-and-gutter for Amarillo Street and to install curb and gutter on the easterly portion of East 40th Street; and DENY a variance from Chapter 9.V of the Land Development and Subdivision Ordinance and REQUIRE sidewalks adjacent to East 40th Street and Amarillo Street, and a striped crosswalk across Amarillo Street with necessary approvals, deferring these sidewalks and crosswalk to prior to issuance of a building permit. Commissioner Uherik seconded the motion. The motion carried unanimously, 6-0.

2. Rezoning

City Council has final authority for approval of Rezoning.

A. Z20-08 - 501 W. Avenue V

A request for approval of an ordinance rezoning property from the Single-Family Residential (RS-1) Zoning District to the Neighborhood Commercial (CN) Zoning District, being 0.138 acres at the southwest corner of West Avenue V and South Bryant Boulevard.

Jeff Fisher, Principal Planner presented the proposed rezoning request from RS-1 to CN. He explained that this area was originally designated in the 2003 Comprehensive Plan as Low Density Residential but changed with the Strategic Update in 2009 to Neighborhood Center which allows underlying CN zoning. He indicated that the applicant wants to construct a drive-thru grocery store but that the CN zone would allow other retail uses as well. Mr. Fisher displayed a zoning map and photographs of the surrounding area for the Commissioners showing other nearby commercial rezonings. He explained that at time of development, the applicant would require a sidewalk along South Bryant Boulevard, and privacy fencing along the south and west property lines adjacent to residential zoning.

Mr. Fisher outlined Staff's rationale to recommend approval of the rezoning on the grounds that it is compatible with the Neighborhood Center Future Land Use; that the lot complies with the CN development standards; that the development is compatible with surrounding commercial uses; that the property has remained vacant since at least 1972; and that there is adequate space for a drive-thru on the subject property.

Chair Stribling opened public comment.

Hillary Bueker, Planning Manager, indicated that she did not believe the applicant was available today.

Chair Stribling closed public comment.

Vice Chair Jackson made a motion to recommend APPROVAL of an ordinance rezoning property from the Single-Family Residential (RS-1) Zoning District to the Neighborhood Commercial (CN) Zoning District, being 0.138 acres at the southwest corner of West Avenue V and South Bryant Boulevard. Commissioner Spano seconded the motion. The motion carried unanimously, 6-0.

3. Conditional Uses

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

A. CU20-09 – 401 and 405 W. Avenue Y

A request for approval of a Conditional Use to allow for construction of a single family house at 401 W. Ave Y and 405 W. Ave Y, generally located northeast of the W. Avenue Y and S. Bryant Boulevard.

Sherry Bailey, Principal Planner, presented the proposed case for a conditional use to build two new single family homes on two lots, one on each lot. She explained that the applicant had requested a conditional use for a single family home directly across the street at a previous Planning Commission Meeting. Ms. Bailey indicated that the Future Land Use was Neighborhood Center and the zoning was CN for the two lots, which back onto residential property and are across from the Boys and Girls Club.

Ms. Bailey outlined Staff's rationale for approval which included that the existing use is in keeping with the residential nature of the area; that the lot dimensions are consistent with the Zoning Ordinance; that the proposed use is compatible with the surrounding uses of residential, a school, parks, and public use; and that the 2019 *ResIntel Study* called for more affordable housing in San Angelo and that these two lots meet this criteria. Ms. Bailey indicated that of the 16 notices mailed, there were none received in favor or opposition, and concluded her presentation by outlining the two proposed conditions of approval.

Vice Chair Jackson asked if these lots were not recently changed to CN zoning.

Ms. Bailey responded that this was correct.

Vice Chair Jackson asked why the lots would not go back to RS-1 instead of a Conditional Use.

Ms. Bailey explained that the lots were not RS-1 initially, but rather a heavier commercial zoning. She indicated that Staff believed a CN zoning was more appropriate for this area and would allow a conditional use for residential development.

Hillary Bueker, Planning Manager indicated that the CN zoning was also consistent with the Future Land Use of Neighborhood Center.

Vice Chair Jackson expressed her opinion that a rezoning to RS-1 would be more appropriate than a conditional use.

Ms. Bailey indicated that the applicant wanted to keep his options open and was comfortable keeping the underlying zoning as CN.

Chair Stribling opened public comment.

Ms. Bailey indicated that the applicant had a conflict this morning and would not be available today.

Chair Stribling closed public comment.

Vice Chair Jackson explained that she did not want so many conditional uses and preferred rezoning the properties.

Commissioner Spano indicated that he agrees with Vice Chair Jackson.

Vice Chair Jackson asked if this case could be denied or if there was a way a rezoning could be approved.

Hillary Bueker, Planning Manager reiterated that the rezoning was in alignment with the Future Land Use, and a rezoning to RS-1 would require a Future Land Use Amendment and a rezoning. She explained that the conditional use gives the applicant the ability to do a mixed use project for a retail use allowed in CN and a conditional use for household living. Ms. Bueker further explained that if the whole area was RS-1, Staff would have recommended RS-1, but because this area has many different uses such as Dollar Tree, Boys and Girls Club and commercial zoning that a conditional use made more sense.

Jon James, Planning and Development Services Director, indicated that Staff is looking at changes that would allow some residential uses by right in the CN district without a conditional use.

Ms. Bueker, shared her screen to show the nearby school, City recreational center, Boys and Girls Club, and other buildings more commercial in nature in the area. She explained that based on these non-residential uses already nearby it made more sense to recommend a conditional use instead of a zone change to residential.

Chair Stribling indicated to Vice Chair Jackson that if she believed RS-1 was more appropriate, than a larger swath of land should be rezoned to RS-1.

Vice Chair Jackson explained that it seemed odd that now that after rezoning the properties the applicant is now going back to residential uses.

Commissioner Uherik left the meeting at 9:54 a.m.

Commissioner Self made a motion to APPROVE the Conditional Use to allow for construction of a single family house at 401 W. Ave Y and 405 W. Ave Y, generally located northeast of the W. Avenue Y and S. Bryant Boulevard, subject to two conditions of approval as presented. Commissioner Spano seconded the motion. The motion carried unanimously 5-0.

4. Sign Variance

Planning Commission has final authority for approval of sign variances, appeals may be directed to City Council.

A. SV20-02 – 3949 Sherwood Way

A request for approval of a sign variance to allow a 300 square foot, on-site sign in lieu of the maximum of 250 square feet, for a business located at 3949 Sherwood Way.

Sherry Bailey, Principal Planner, presented the proposed sign variance. She noted the one change on the new agenda that the sign is 300 square feet. Ms. Bailey explained that the variance was to allow an existing billboard sign to be used as a freestanding sign with a sign area of 300 square feet whereas a freestanding sign can only be 250 square feet.

Hillary Bueker, Planning Manager, shared an aerial map and photographs of the property and surrounding area. She explained that the Future Land Use was Commercial and the zoning was General Commercial (CG).

Ms. Bueker explained that this is a legally permitted off-site billboard sign which included Mitchell GMC signage when Mitchell did not own the property. She indicated that because Mitchell now owns the property and wants to advertise for their business, the sign is now considered an on-site sign and limited to the maximum sign area of 250 feet.

Ms. Bueker explained in order to get a sign variance, the applicant needs to show a hardship and explained that Staff does not believe there is one in this case.

Ms. Bueker then outlined staff's recommendation to deny the request on the grounds that the applicant is attempting to advertise services on-site on an off-site sign; that they created the situation by purchasing the property with an off-site sign; and that

the request is not in keeping with the general harmony of the Sign Ordinance. She indicated that the applicant could keep the billboard sign as an off-site sign and add three more freestanding signs at 250 square feet each given the lot frontage of the property.

Ms. Bueker indicated that the applicant was proposing to cover up a portion of the billboard area to get down to 250 sq. ft.

Commissioner Smith asked if the applicant could add 3 more signs and if so, that this would allow more sign proliferation than allowing the current sign.

Chair Stribling asked if the applicant is the property owner.

Ms. Bueker replied he is not.

Chair Stribling indicated that he agrees with Commissioner Smith, and does not want three more signs.

Jon James, Planning and Development Services Director, indicated that the Commission can attach conditions to the approval.

Commissioner Smith asked why Staff would deny use of the billboard if it is already there.

Ms. Bueker explained that the Sign Ordinance allows an on-site sign up to 250 square feet but this sign is larger. She indicated that if we allows this applicant to do this, we would open up the ability for others to do the same and get larger signs.

Mr. James explained that approving this sign would allow a loophole for a billboard sign to be larger than a freestanding sign but be able to use the sign as an on-site freestanding sign. He indicated that if the Commission wishes to approve the variance that they could make a condition that no more freestanding signs can be allowed on the property.

Commissioner Smith indicated that he was likely to approve the sign if the applicant agreed not to add two more freestanding signs.

Chair Stribling opened public comment.

Doug Cooper, the applicant, explained that the sign was originally built as a billboard, and met local and state codes. He believes that the business on the property can advertise on the sign for a business on their property. He referenced examples of political signs and real estate signs limited to 32 square feet in their definitions and that using the same logic he believed that they would also not be able to advertise on

a billboard sign. Mr. Cooper explained that Mitchell agreed to reduce the sign advertising area from 300 to 250 square feet within the billboard sign frame, but that the City still said no. He concluded that the content should not dictate the size of sign, and doing so would also prohibit political and real estate signs from being able to advertise on billboard signs.

Commissioner Smith asked who brought this issue up with the City.

Mr. James explained that we have an interpretation from our legal department disagreeing with Mr. Cooper's position, but that today, the only purpose is to make a decision on variance, not regarding the signage interpretation between on-site and off-site signs.

Brandon Dyson, Deputy City Attorney, explained that the Supreme Court analysis gives less protection for commercial signs, and has allowed the City's to classify a sign as off-site or on-site. He further explained that it is not illegal for the City to deem this sign as an on-site sign or an off-site sign.

Mr. Cooper explained that the sign was already approved as a billboard sign and did not believe it can be reclassified based on who advertises on the sign.

Mr. Dyson disagreed and read definitions of an on-site sign and off-site sign, and explained that an on-site sign is for advertising for a business on the premises, which includes Mitchell's signage.

Ms. Bueker explained that once the sign became an on-site sign, the maximum area allowed is 250 square feet.

Chair Stribling explained that the problem is when businesses use billboards as on-site signs and then apply for variances to get larger sign areas.

Chair Stribling closed public comment.

Vice Chair Jackson made a motion to DENY the sign variance to allow a 300 square foot, on-site sign in lieu of the maximum of 250 square feet, for a business located at 3949 Sherwood Way. Commissioner Self seconded the motion. The motion to deny carried 4-1 with Chair Stribling, Vice Chair Jackson, and Commissioners Spano and Self voting to deny, and Commissioner Smith voting against the denial.

I. Director's Report.

Jon James, Planning and Development Services Director, indicated that the Governor extended his order for 30 days to allow video conference meetings. He explained that this order will expire just before next Planning Commission Meeting, and so we will not know

whether the next meeting will be in-person or not, but that for the now the plan is to meet by video conference.

II. Future meeting agenda and announcements.

Chair Stribling indicated that the next regular meeting of the Planning Commission is tentatively scheduled to begin at 9:00 a.m. on **Monday, July 20, 2020**, in Council Chambers (South Meeting Room) of McNease Convention Center at 501 Rio Concho Drive.

III. Adjournment.

Commissioner Smith made a Motion to adjourn at 10:33 a.m., and Vice Chair Jackson seconded the Motion. The Motion passed unanimously, 5-0.

A handwritten signature in cursive script, reading "Teri Jackson", written over a horizontal line.

Teri Jackson, Vice Chair,
Planning Commission