



RECORD OF MINUTES

CITY OF SAN ANGELO, TX
PLANNING COMMISSION
MONDAY, MAY 17, 2021, 9:00 A.M.

PRESENT: Travis Stribling (Chair), Teri Jackson (Vice Chair), Joe Spano, Luke Uherik, Brittany Davis

ABSENT: Joe Self, Ryan Smith

STAFF: Jon James, AICP, Director of Planning and Development Services
Aaron Vannoy, Assistant Director of Planning and Development Services
Sherry Bailey, Principal Planner
Jeff Fisher, AICP, Principal Planner
Shelly Paschal, Planner
Cooper Carroll, Planning Intern
Brandon Dyson, Assistant City Attorney
Mitchell Gatlin, Project Engineer-EIT
Ross Coleman, Fire Prevention Administrator

I. Call to order.

A. Chair Stribling called the meeting to order at 9:00 a.m. and established that a quorum of five was present.

II. Consent Agenda:

A. Consideration of approving the April 19, 2021, Planning Commission Regular Meeting minutes.

B. The Meridian, Section One-A

A request for approval of a Final Plat of The Meridian, Section One-A, being 9.572 acres, generally located west of Dominion Ridge and Coral Way.

C. The Meridian, Section One-B

A request for approval of a Final Plat of The Meridian, Section One-B, being 8.754 acres, generally located west of Dominion Ridge and Coral Way.

D. Arden Estates, Section Four

A request for approval of a Final Plat of Arden Estates, Section Four, being 12.925 acres out of Lot 1, Block 3, Second Replat in Block E, Section Three, Arden Acres; generally located southwest of the intersection of Arden Road and Northwest Drive.

E. South Jackson's Red Arroyo Crossing Subdivision

A request for approval of South Jackson's Red Arroyo Crossing Subdivision, being 1.573 acres out of the H. Hornburg Survey No. 175, Abstract No. 350, City of San Angelo, Tom Green County, Texas.

Chair Stribling indicated that at the request of the applicant, Item D was moved to the Regular Agenda.

Vice Chair Jackson made a motion to approve the Consent Agenda. Commissioner Uherik seconded the motion. The motion carried unanimously, 5-0.

III. Regular Agenda

Chair Stribling moved up Item 2A to be presented first on the agenda given the large amount of attendees for this case.

2. Special Uses

City Council has final authority for approval of special uses.

A. SU21-01 Lifepoint Baptist Church

A review and reauthorization of a Special Use to allow an indoor multi-use recreational facility and related recreational activities, daycare, community outreach, community services, and educational programs, on properties zoned Single-Family Residential (RS-1) and Two-Family Residential (RS-2), located at 810 and 811 Austin Street, and 818 Kenwood Drive.

Shelly Paschal, Planner, presented the proposed reauthorization of a Special Use on the subject properties. She explained that the Special Use was to allow various uses including in indoor multi-use recreational facility, daycare, community outreach, community services, and educational programs. Ms. Paschal then provided a brief history of this case including when it originally went forward on September 16, 2019, where the Planning Commission had given a no recommendation, a tie vote of 2-2, and then to City Council the following day where Council voted to approve the Special Use. Ms. Paschal explained that the Special Use has been operating since the end of 2019, and that there was only one Code violation for posting signs in the right-of-way which was promptly resolved, and there were no violations from the Police Department. She then shared photos of the site and surrounding area, including photos of the parking lot taken at peak traffic times. Ms. Paschal then shared Staff's rationale for approval on the grounds that there were minimal impacts on the neighborhood; that the existing parking more than meets the parking requirements; that the property serves as a transition between the core neighborhood and higher intensity uses in the South Abe corridor; and that there is no substantial increase in

impacts from the existing church uses. Ms. Paschal added that there were minimal traffic impacts during the day and that traffic was not continuous like other commercial activities. Ms. Paschal then indicated that 40 notices were mailed, and Staff received two in favor along with 440 emails and 28 letters in favor, and 29 in opposition, with 15 from parcels and 17 from River Terrace. Ms. Paschal concluded her presentation by outlining the five proposed conditions of approval as presented.

Mr. Jon James, Planning and Director of Planning and Development Services, provide some clarification for the Commissioners and the public on Special Uses. He explained that a Special Use does not change the underlying zoning on the property, but rather, authorizes additional uses not allowed in the underlying zoning. Mr. James further explained that the Special Use specifically limits what is allowed to the requested uses, but would not allow other commercial or retail uses. He then displayed a map showing over the past 55 years in Santa Rita, that there were 55 approved Special Uses including day cares, offices, retail and restaurants.

Chair Stribling asked the difference in the colors on the map.

Mr. James responded that the green properties were those that were approved; the pink were those that were withdrawn; and the red were those that were denied.

Chair Stribling opened public comment.

The Commissioners deliberated over how long each member of the public could speak on this case.

Mr. James indicated that typically the proponent can speak for a longer time, but that members of the public should still be allowed to speak for 3-5 minutes.

Chair Stribling decided that members of the public would be allowed to speak for five minutes each.

Mr. H. R. Wardlaw III, asked if he could speak longer due to representation for litigation.

Chair Stribling asked if Mr. Wardlaw could speak longer such as 8-10 minutes given he represents many of those opposed to the Special Use.

Brandon Dyson, Deputy City Attorney, explained that this would be at the Chair's discretion.

Mr. Dustin Gaines, attorney for Lifepoint Baptist Church and Texas Tumbleweeds Gymnastics, spoke in support of the Special Use. He explained that the church wanted to use the gymnasium to serve the community while Tumbleweeds was looking for a

location to operate. He outlined details of a Memorandum of Understanding (MOU) between Lifepoint and Tumbleweeds to enter into an agreement to set out a working agreement that is faith-based. Mr. Gaines explained that the gymnastic program includes prayer and that Lifepoint is involved in the gym, offering prayer. He further stated that there have been no noise complaints, traffic has been minimal, and that he has received a stack of emails in support. He concluded by asking for a favorable decision.

The next speaker named Dave, indicated that he lived in the 1600 block of South Monroe Street, and expressed his support of the Special Use. He explained that there is not a lot of traffic, and that the lawyer Mr. Wardlaw representing the opponents, chose to live on Washington Street which is already busy. He concluded that he was upset with Mr. Wardlaw and believed he was getting paid to represent the opponents.

Mr. Wardlaw indicated that he is working pro bono and is not charging for his legal services.

Ms. Anne West, expressed concern of more commercial uses in the area, and that churches in the past in this area have left and relocated somewhere else.

Commissioner Uherik asked to clarify the difference between zoning and special uses. Mr. James responded that a special use is not open-ended like a rezoning and that the Planning Commission may impose conditions on a Special Use, which may be as broad or limited as they choose.

Mr. Bill McCormick, a real estate appraiser who has had an office in San Angelo since 1976, indicated that to protect property values we need to be careful, and that once a Special Use is granted, it could set a precedent for more commercial uses.

Ms. Heidi Brooks, a Santa Rita resident and former Planning Commissioner, said that we would not be here today if not for a lawsuit. She expressed that she wanted to keep this as a residential neighborhood, and that since Tumbleweeds moved in, they have not paid taxes. She further expressed her opinion that Tumbleweeds do not have a right to operate a business and not pay taxes. She explained that she passed out a petition with 85 neighbors opposed.

Mr. Wardlaw returned to speak in opposition of the request. He indicated that he is a resident of Santa Rita and an attorney. He indicated that the Special use covers 15 lots, and that since he filed the lawsuit there have not been other commercial developments. He expressed that the original special use is void because proper notice was not given and when notice was sent it was incorrect. He expressed his opinion that the applicant is attempting to reauthorize the SU before the lawsuit case. Mr. Wardlaw then began discussing a separate case on South A&M Avenue and was

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told by Vice Chair Jackson and Commissioner Spano that he could not continue discussing this case because it was separate from the current case.

Mr. Wardlaw responded that he believed he could discuss because he was not calling for any action on the separate case.

Mr. Dyson responded that Mr. Wardlaw could speak on the other case so long as it relates to special uses in general, but not to take any action.

Mr. Wardlaw continued and expressed concerns of a precedent being set of similar commercial uses in residential areas.

Sarah Rook, a resident of 233 Burlington Road, expressed her support for the Special Use, and indicated that Tumbleweeds provides a place for kids, especially since COVID. She asked if the Special Use was just for the current business, or would still apply to the property if the business was to leave.

Mr. James responded that the Special Use applies to the land, and would allow another recreational use if Tumbleweeds left.

Ms. Rook continued that there was no major traffic, no activity late at night, and children now have a place for activities with their friends.

Lawrence Ricci, a resident who lives across from church, believed that this use should not be in this neighborhood. He used a similar example of a water bottling facility on A&M Avenue and how similarly it was a commercial use which was not a good fit for a residential neighborhood. He then shared the Special Use criteria in the Zoning Ordinance used to evaluate Special Uses, and why he believed that the use is not compatible.

Don Payne, a resident of the neighborhood directly across from the gymnasium, spoke against the Special Use. He explained that if the Special Use is approved, it would be there from now on. He expressed concerns that Special Uses are broad and change the character of the neighborhood. He further expressed his opinion that the church was looking for business to help fund the church.

Nick Negovetich, a resident of 3310 Cumberland Drive, expressed his opinion that there was a difference between a bottling company and a gym. He read into record a letter from his wife in support of the Special Use and Tumbleweeds.

Tina Bean of 520 S. Washington Street, spoke against the Special Use. While she explained that she wants the children and Tumbleweeds to succeed, she was concerned what will happen when Tumbleweeds leaves. She also raised opposition to Lifepoint Church not paying property taxes despite Tumbleweeds being a commercial use.

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Melissa Bruns, a resident of 813 Windermere Circle, explained that her daughter attends Tumbleweeds and that she was in support of the request. She also explained that the new gym has a larger space and the new parking lot is safer for her daughter.

Mr. Gaines returned to the podium. He explained that there was no evidence presented today such as traffic or noise that should change staff's recommendation to approve in his opinion. He also indicated that all money received goes into capital improvements for the church. He finally expressed that unrelated business income is allowed for non-profits.

Ms. Anna Wardlaw of 1201 S. Park Street, explained that Tumbleweeds was sent a letter that there was lawsuit pending, and that Tumbleweeds moved in within 90 days of letter anyway.

Chair Stribling closed public comment.

Commissioner Uherik expressed his opinion that adequate notice is given, and that he understands steps are being taken. He also expressed concerns on how to limit or stop commercial uses from encroaching into neighborhoods. Mr. Uherik asked Mr. James if Special Uses can be limited to a particular owner.

Mr. James responded that the Commission can limit the Special Use to the current owner but that it is not recommended.

Mr. Dyson indicated that there is a provision in the Zoning Ordinance to bring back a case within a year, which allows Staff to give adequate notice to be heard.

Commissioner Davis provided her opinion that the gym provides a safe environment for kids to go.

Commissioner Spano indicated that he has not seen any evidence property values have gone down since the Special Use is on the property. He asked Staff if the use left tomorrow, if the church could hire a gym coach and have a gym here.

Mr. James responded this is correct.

Vice Chair Jackson indicated that this is a great opportunity for children and a place to do recreation. She indicated that with this business, the traffic is not any worse, and that property values have gone up.

Chair Stribling expressed concerns allowing a commercial use to run with the land, and does not believe it is good for the neighborhood. He explained that he would not like it if the church left and what could go in after. He also indicated that two members were not here today to vote.

Commissioner Uherik asked if the Special Use could be limited to only a gym facility.

Mr. James responded that the Commission could limit the use, number of occupants, or floor area.

Vice Chair made a motion to **APPROVE** the request for reauthorization of a Special Use to allow an indoor multi-use recreational facility and related recreational activities, daycare, community outreach, community services, and educational programs, on properties zoned Single-Family Residential (RS-1) and Two-Family Residential (RS-2), located at 810 and 811 Austin Street, and 818 Kenwood Drive. There was no second. The motion **FAILED** for lack of a second.

Commissioner Spano made a motion to **DENY** the request for reauthorization of a Special Use to allow an indoor multi-use recreational facility and related recreational activities, daycare, community outreach, community services, and educational programs, on properties zoned Single-Family Residential (RS-1) and Two-Family Residential (RS-2), located at 810 and 811 Austin Street, and 818 Kenwood Drive. Commissioner Davis seconded the motion.

Before the final vote could be taken on the denial, Mr. James expressed concerns that not including specific findings for denial could be problematic.

Mr. Dyson explained this was due to the federal law RLUIPA and a Texas State Law Civic Practice Code, Chapter 110 that states a government agency may not substantially burden religious freedom unless the decision has a compelling governing interest and that the agency needs to consider if conditions could be placed on the request that would make it appropriate.

The motion to DENY carried 3-2 with Commissioners Spano and Davis, and Chair Stribling voting in deny, and Commissioner Uherik and Vice Chair Jackson voting to approve.

This Item 1.D on the Consent Agenda was moved to the Regular Agenda.

1. Subdivision Plats

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

A. Arden Estates, Section Four

A request for approval of a Final Plat of Arden Estates, Section Four, being 12.925 acres out of Lot 1, Block 3, Second Replat in Block E, Section Three, Arden Acres; generally located southwest of the intersection of Arden Road and Northwest Drive.

Chair Stribling opened this item for public comment.

Russell Gully, SKG, representing the applicant, spoke in support of the request. He clarified that Arden Estates Drive is not part of this plat and is instead part of Section One. He also asked for the sidewalks to be deferred to the building permit stage, and that the associated Urban Design Review for the multifamily development will allow staff to review the sidewalk layout then.

Chair Stribling asked Mr. Gully if he wanted to strike the comment regarding the construction of Arden Estates Drive.

Mr. Gully responded this is correct, or the condition could be worded so that the street is constructed with Section One.

Jon James, Planning and Development Services Director, responded that the second option is better to allow the street to be constructed with this plat or with Section One. He further indicated that Staff was comfortable with the request to defer sidewalk construction.

Chair Stribling asked Mr. James how this condition could be worded to address his comment.

Mr. James responded and suggested leaving the language of the condition as is, but with the addition of “unless constructed as part of a previous phase of development.”

Mr. Gully asked expressed concerns over Condition #6 which references the 2015 International Fire Code but that the Fire Code may have changed when development occurs.

Chair Stribling asked if that could be to the applicant’s benefit.

Mr. Gully acknowledged this was possible and that the condition can be left as is.

Mr. James explained that the current fire code will apply when they seek permits anyway

Commissioner Spano made a motion to APPROVE a request for approval of a Final Plat of Arden Estates, Section Four, being 12.925 acres out of Lot 1, Block 3, Second Replat in Block E, Section Three, Arden Acres; generally located southwest of the intersection of Arden Road and Northwest Drive, subject to six conditions of approval, amending Condition #5 to require construction of Arden Estates Drive, “unless constructed as part of a previous phase of development”, and deferring Condition #7 to time of permitting. Vice Chair Jackson seconded the motion. The motion carried unanimously, 5-0.

B. First Replat of The North 105 feet of Lot 1, Block 5, Sheppard's Addition

A request for approval of a First Replat of the north 105 feet of Lot 1, Block 5 of Sheppard's Addition, being 0.120 acres located at 1231 Coke Street; and variances from Chapter 10.III.A.2 of the Land Development and Subdivision Ordinance to maintain a paving width of 36' feet with curb-and-gutter in lieu of the required 40' or 36' with a 4' sidewalk with curb-and-gutter for North Irene Street and Coke Streets, urban local streets.

Sherry Bailey, Principal Planner, presented the proposed replat. She explained that the replat is for one single-family residential lot, and that two variances are being requested to allow Coke and Irene Streets to remain at 36 feet with curb and gutter. Ms. Bailey indicated that street width variances have been granted in past for both streets. She concluded her presentation by outlining four conditions of approval, clarifying the condition that if the existing garage remains, a 1-hour firewall will be required because the garage sits on the new property line of the replat. She indicated that the owner will either remove the garage or set it back.

Chair Stribling opened public comment.

Russell Gully, SKG, representing the applicant, asked for approval of the replat and the two variances as presented. He also asked if the firewall condition could be deferred to time of permitting.

Ms. Bailey responded that she was good with staff deferring this condition to time of permitting.

Commissioner Spano made a motion to APPROVE a First Replat of the north 105 feet of Lot 1, Block 5 of Sheppard's Addition, being 0.120 acres located at 1231 Coke Street, subject to three conditions of approval, deferring Condition #4 to time of permitting; and APPROVE both variances from Chapter 10.III.A.2 of the Land Development and Subdivision Ordinance to maintain a paving width of 36' feet with curb-and-gutter in lieu of the required 40' or 36' with a 4' sidewalk with curb-and-gutter for North Irene Street and Coke Streets, urban local streets. Commissioner Ionita seconded the motion. The motion carried unanimously, 5-0.

C. First Replat of Lot 1 & Lot 2, Block 1, Reece Albert Subdivision and Lot 1, Block G, Sunnyside Addition – Tabled from previous meeting

A request for approval of a First Replat of Lot 1 & Lot 2, Block 1, Reece Albert Subdivision, and Lot 1, Block G, Sunnyside Addition; being 1.938 acres located southwest of Knickerbocker Road and Deaton Street; and a variance from Chapter 10.III.A.2 of the Land Development and Subdivision Ordinance, to maintain a paving width of 36 feet with curb-and-gutter in lieu of the required 40' or 36' with a 4' sidewalk for Deaton Street, an urban local street.

Chair Stribling indicated that this item has been WITHDRAWN at the request of the applicant.

3. Related Comprehensive Plan Amendment & Rezoning

City Council has final authority for approval of Comprehensive Plan amendments and rezonings.

A. 333, 404, and 412 Preusser Street

Items 3A.i and 3A.ii were presented concurrently as they apply to some of the same properties.

i. CP21-03: 404 and 412 Preusser Street

A request for an amendment to the City of San Angelo Comprehensive Plan, changing certain lands from the Neighborhood to the Commercial Future Land Use on the subject property located at 404 and 412 Preusser Street.

ii. Z21-07: 333, 404, and 412 Preusser Street

A request for approval of a rezoning from the Low Rise Multifamily Residential (RM-1) Zoning District to the Office Commercial (CO) Zoning District, being 0.880 acres at 404, 412 and 331 Preusser Street.

Sherry Bailey, Principal Planner, presented both cases, indicating that the applicant wants to operate a drug and alcohol rehab facility for both women and men. She indicated that she received one letter in favor, and none against, and that Staff suggested rezoning to CO as there is another property nearby also zoned CO. She then outlined staff's rationale to approve both cases on the grounds that the Future Land Use of Commercial is the most reasonable land use adjacent to residential development; that the zoning provides a buffer between residential and more intense commercial and industrial uses; that the property to the north and west is also zoned CO; that there is a change in the area towards more commercial uses; and that drug and alcohol abuse is a growing problem, and therefore, there is a community need for this use.

Chair Stribling opened public comment.

Mr. Stephen McLaughlin, on the board of directors for Concho Valley Home for Girls, the applicant, indicated that there is a growing need for more residential treatment facilities and is partnering with the Alcohol and Drug Abuse Council for Concho Valley (ADACCV).

Chair Stribling closed public comment.

Commissioner Davis made a motion to **RECOMMEND APPROVAL** of CP21-03, a request for an amendment to the City of San Angelo Comprehensive Plan, changing certain lands from the Neighborhood to the Commercial Future Land Use on the subject property located at 404 and 412 Preusser Street; and **RECOMMENDED APPROVAL** of Z21-07, a rezoning from the Low Rise Multifamily Residential (RM-1) Zoning District to the Office Commercial (CO) Zoning District, being 0.880 acres at 404, 412 and 331 Preusser Street. Commissioner Uherik seconded the motion. The motion carried unanimously 5-0.

4. Rezonings

City Council has final authority for approval of rezonings.

Chair Stribling moved Item 4A to the end of the Regular Agenda (see below).

B. Z21-05 – 2321 South Bryant Boulevard & 504 W. Avenue T

A request for approval of a rezoning from the Single-Family Residential (RS-1) Zoning District to the Neighborhood Commercial (CN) Zoning District, being 0.30 acres located at 2321 S. Bryant Blvd and 504 W. Avenue T.

Sherry Bailey, Principal Planner, presented the case. She explained that the building at the immediate corner has been a bakery and restaurant since the 1970s. She indicated that of the 12 notices that were mailed, Staff did not receive any responses in favor or against. She then outlined staff's rationale to approve the case on the grounds that the proposed zoning is still intended to be commercial that serves the neighborhood; that the zoning is adjacent to the same zoning district on the rest of the block; that the residential across the street has a mixed use type; and that the use is compatible with the surrounding area.

Commissioner Uherik why there is a restaurant on the property if it was zoned for residential.

Ms. Bailey responded that the property was always zoned RS-1, and when the commercial use went away for several years and wanted to be reinstated, a zone change was required.

Chair Stribling opened public comment.

Rachel Avila, the applicant, indicated that the house on the second lot has burned down. She indicated that her father owned the property and she did not know how the zoning was residential but has paid property taxes for commercial. She requested approval of the zone change to CN.

Chair Stribling closed public comment.

Commissioner Uherik made a motion to RECOMMEND APPROVAL of a rezoning from the Single-Family Residential (RS-1) Zoning District to the Neighborhood Commercial (CN) Zoning District, being 0.30 acres located at 2321 S. Bryant Blvd and 504 W. Avenue T. Commissioner Davis seconded the motion. The motion carried unanimously 5-0.

C. Z21-06 – 4125 Dan Hanks Lane

A request for approval of a rezoning from the Heavy Commercial (CH) Zoning District to the Heavy Manufacturing (MH) Zoning District, being 7.353 acres located at 4125 Dan Hanks Lane.

Jeff Fisher, Principal Planner, presented the proposed rezoning. He explained that the applicant was proposing to change the zoning on the property from CH to MH, and that of the 10 notices that were mailed, only one response was received regarding drainage but was neither in favor nor opposed to this case. He indicated that he would forward that response to Engineering for review. Mr. Fisher explained that the applicant currently operates their business from the property immediately to the west at 3820 Christoval Road, and requires more space, desiring to relocate to the subject property. He then shared photos of the site and surrounding area. Mr. Fisher explained that the chemical mixing component of the applicant's business is what required the MH zoning. Mr. Fisher outlined Staff's recommendation to approve the proposed rezoning on the grounds that it is surrounded by industrial uses; is located within a 1.5 square mile industrial designated cluster in the Comprehensive Plan; that there is adequate space on the property to comply with zoning and parking requirements; that the use is compatible with surrounding industrial uses and a rezoning from CH to MH on the property where the applicant is now operating (Z10-12); and that there will be no significant environmental effects, and that noise, traffic and odor will be minimal per the information provided by the applicant, and that there should not be any outdoor uses. Mr. Fisher also noted that the applicant met with Staff in advance at a pre-development meeting to outline their proposed development.

Chair Stribling opened public comment.

Charlie Neale, who works with SMC Global, the applicant, mentioned that the company's plan is to conduct the same business as what they are doing now immediately to the west.

Chair Stribling closed public comment.

Vice Chair Jackson made a motion to RECOMMEND APPROVAL of a rezoning from the Heavy Commercial (CH) Zoning District to the Heavy Manufacturing (MH) Zoning

District, being 7.353 acres located at 4125 Dan Hanks Lane. Commissioner Ionita seconded the motion. The motion carried unanimously, 5-0.

5. Urban Design Reviews

The Planning Director has final authority for approval; appeals may be directed to the Planning Commission.

A. Appeal of an Amendment to UDR19-04

An appeal of the Planning Director’s decision to partially deny an amendment to UDR19-04 which approved new landscaping, internal sidewalks, and paint color changes, but denied a 6-foot tall privacy fence built to the front property line, located at 5702 Melrose Avenue.

Commissioner Uherik recused himself from this case due to potential conflict. He left the meeting at 11:19 a.m.

Jon James, Planning and Development Services Director, presented the appeal of the Urban Design Review amendment. He explained that the Urban Design Review was approved except for a 6-foot tall fence in the front yard facing Melrose Avenue which is the reason for the appeal. He explained that the taller fence creates issues including that it is not allowed to be taller than 4 feet per the Zoning Ordinance; that there is no separation or “shy distance” from the sidewalk; and that other fences that face Melrose Avenue are set back further.

Chair Stribling indicated that in this case, he understood that the developer is attempting to screen the back yard of the homes in the multifamily housing complex.

Mr. James responded that this is correct but that the fence was not part of the original approval and was added later. Mr. James explained that even if the Planning Commission approved this appeal, the applicant would still require a Zoning Board of Adjustment variance because of the Zoning Ordinance provision that a front yard fence is not taller than 4 feet without a variance.

Mr. James asked Staff to clarify the amount of yard space left if the fence was moved back 10 feet.

Jeff Fisher, Principal Planner, responded there would be approximately 15 feet of yard space left if the fence was moved back 10 feet.

Mr. James explained that in addition to moving the fence back, they could remove the fence.

Chair Stribling indicated that in his opinion, the developer created the issue by having the rear of the homes face Melrose Avenue.

Mr. James added that Melrose Avenue is also the front yard of the homes across the street.

Commissioner Davis asked if neighbors on Melrose Avenue were informed of this meeting so they could express their concerns.

Mr. Fisher responded that no public notice is required for an Urban Design Review so unless they read the agenda on Friday they would not have been aware of this meeting.

Chair Stribling opened public comment.

Mr. Justin Hardin, one of the property owners with Creek 27, explained that he wanted the fence to match other fences in The Bluffs. He explained that the internal fences are 4 feet but believed that a 6-foot fence facing Melrose Avenue provides more safety and privacy for residents of the development since Melrose Avenue acts as their back yard. He also explained that a wider sidewalk was placed to back of curb which is why it did not meet the shy distance. He indicated the he believes the fence looks good.

Mr. James clarified that the sidewalk is already approved and not part of today's request.

Chair Stribling asked Mr. James what the Commission is asked to do today.

Mr. James responded that the question to decide is if a 6-foot fence should be allowed in the front yard.

Ms. Davis asked to clarify if the 6-foot tall fence will go around the entire property.

Mr. James responded that this is correct.

Ms. Mindy Davis, a local resident at 6030 Westminster Lane, indicated that a 6-foot fence should stay on the property as it provides privacy for the residents.

Chair Stribling opened public comment.

Chair Stribling acknowledged if fence was setback 10 feet to show the existing front landscaping it would help, but that unfortunately, the fence was already built.

Commissioner Davis –indicated that she did not have an issue with the fence being 6 feet tall.

Commissioner Spano concurred that he had no issues with fence.

Commissioner Davis also raised concerned about the cost of material increasing, and that it would be a challenge for the builder to have the fence moved back.

Vice Chair Jackson explained that the main issue was that the fence was installed without following protocol.

Commissioner Spano made a motion to APPROVE an appeal of the Planning Director’s decision to partially deny an amendment to UDR19-04 which approved new landscaping, internal sidewalks, and paint color changes, but denied a 6-foot tall privacy fence built to the front property line, to ALLOW the 6-foot tall fence to remain, subject to the one conditional of approval as presented. Commissioner Davis seconded the motion. Chair Stribling and Vice Chair Jackson voted against the motion, and the motion FAILED 2-2 due to not having a majority in favor.

Commissioner Uherik returned to the meeting at 11:42 a.m.

6. Conditional Uses

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

A. CU21-07 – 2458 Fishermans Road

A request for approval of a renewal of a Conditional Use for a Short-Term Rental in a Single Family (RS-1) Zoning District, located at 2458 Fishermans Road.

Sherry Bailey presented the proposed Conditional Use for a Short-Term Rental (STR) second renewal. She explained that the owner has consistently used the property for a Bed and Breakfast. Ms. Bailey indicated that 7 notices were mailed with 1 was received in favor and 1 against. She explained that opposition letter related to renters swimming without life jackets, and that the owner agreed to put instructions about water safety in the short-term rental unit. Ms. Bailey outlined Staff’s recommendation to approve the STR given that there are no impacts anticipated; that it is an existing STR; that it meets the STR and zoning criteria; that there is a demonstrated community need; and that there are no changes to development patterns. She concluded her presentation by outlining the two conditions of approval as presented.

Chair Stribling opened public comment.

Chair Stribling closed public comment.

Vice Chair Jackson made a motion to **APPROVE** a request for approval of a renewal of a Conditional Use for a Short-Term Rental in a Single Family (RS-1) Zoning District, located at 2458 Fishermans Road, subject to two conditions of approval, as presented. Commissioner Uherik seconded the motion. The motion carried unanimously 5-0.

B. CU21-08 – 4630 Permian Drive

A request for approval of a Conditional Use for Telecommunication Facilities within a General Commercial (CG) Zoning District for a property located at 4630 Permian Drive.

Sherry Bailey presented the proposed Conditional Use for a telecommunication tower. Ms. Bailey explained there are no towers in the immediate area, and that of the 11 notices mailed out, 1 was received in favor and none opposed. Ms. Bailey then outlined Staff's rationale to approve on the grounds that it complies with zoning and that there is a demonstrated need for this tower. Ms. Bailey concluded her presentation by outlining four conditions of approval as presented.

Chair Stribling opened public comment.

Mr. Tony Acuellar, the property owner and applicant, indicated that he was available for questions.

Chair Stribling closed public comment.

Vice Chair Jackson made a motion to **APPROVE** a request for approval of a Conditional Use for Telecommunication Facilities within a General Commercial (CG) Zoning District for a property located at 4630 Permian Drive. Commissioner Davis seconded the motion. The motion carried unanimously 5-0.

7. Right-Of-Way Abandonments

City Council has final authority for approval of right-of-way abandonments.

A. Alley Right-Of-Way Abandonment – 500 Block of East 41st Street

A request to approve the abandonment of a 2,250-square foot (15' x 150') alley on the south side of East 41st Street between Oaklawn Street and Bowie Street.

Cooper Carroll, Planning Intern, presented the case. He indicated that the applicant wanted to place a carport to the side of the existing house which triggered the request. Mr. Carroll outlined Staff's rationale for approval on the grounds that there are no negative affects; that the alley remains unpaved and there are no rear garages or carports that access the alley; that there are no City or private utilities in the alley'

and there were no responses from utility companies or neighbors. He explained that of the 18 notices that were mailed, there were no responses received in favor or against. He concluded his presentation by outlining the three conditions of approval as requested.

Chair Stribling opened public comment.

Ms. Root, the applicant, asked when the property needed to be replatted.

Commissioner Davis indicated that the plat had to be approved and recorded within 18 months.

Ms. Carroll corrected this condition, confirming that the plat was not required until 36 months from this approval.

Ms. Root asked for clarification on the process.

Jon James, Planning and Development Services Director, indicated that in addition to this approval, the applicant would have to obtain City Council approval for this abandonment; pay an assessment formula; then obtain approval and record the replat. He explained that once all the conditions are fulfilled, she could then obtain a building permit.

Chair Stribling closed public comment.

Vice Chair Jackson made a motion to RECOMMEND APPROVAL of a request to approve the abandonment of a 2,250-square foot (15' x 150') alley on the south side of East 41st Street between Oaklawn Street and Bowie Street, subject to three conditions as presented. Commissioner Davis seconded the motion. The motion carried unanimously 5-0.

B. Alley Right-Of-Way Abandonment – 500 Block of East 44th Street

A request to approve the abandonment of a 2,250-square foot (15' x 150') alley on the north side of East 44th Street between Oaklawn Street and Bowie Street.

Cooper Carroll, Planning Intern, presented the case. He indicated that the applicant had told him they have been taking care of the property and that the owner to the west has no issue with the request. Mr. Carroll outlined Staff's rationale for approval on the grounds that there are no negative affects; that they alley can be abandoned provided an unobstructed easement is provided for the existing sewer main in the alley; and that there were no responses to date. He concluded his presentation by outlining the four conditions of approval as requested.

Chair Stribling opened public comment.

Chair Stribling closed public comment.

Vice Chair Jackson made a motion to **RECOMMEND APPROVAL** of a request to approve the abandonment of a 2,250-square foot (15' x 150') alley on the north side of East 44th Street between Oaklawn Street and Bowie Street, subject to four conditions as presented. Commissioner Uherik seconded the motion. The motion carried unanimously 5-0.

4. Rezoning

City Council has final authority for approval of rezonings.

Chair Stribling moved this item 4A to the end of the Regular Agenda items.

D. Z20-03 CBD Expansion (northwest) – Tabled from previous meeting

A request for approval of a rezoning to the Central Business District (CBD) Zoning District from the General Commercial (CG), General Commercial/Heavy Commercial (CG/CH), Office Commercial (CO), Light Manufacturing (ML), Office Warehouse (OW), and Low Rise Multi-Family Residential (RM-1) Zoning Districts, on approximately 29 acres generally located north of West Harris Avenue; east of Sante Fe Park; south of West 4th Street; and west of North Chadbourne Street.

Jeff Fisher, Principal Planner, presented the case. He indicated this item was presented at the April Planning Commission and after further research, Staff has scaled back the proposed CBD expansion area. He explained one reason for this was several industrially-zoned property owners did not want to be in the CBD, and also the CBD limited outdoor storage on these properties to 10% as opposed to unlimited outdoor storage. He further explained that three other properties, two car dealerships and a hotel west of Abe Street, and properties north of 4th Street were also removed. In total, Mr. Fisher explained that the total number of properties affected went from 84 down to 53. He also added there was one owner that wanted to be zoned CBD.

Mr. James explained that Staff would be good with the one property 328 W. 3rd Street being added to the CBD.

Chair Stribling asked about the Palmer Feed properties.

Mr. James responded that all of these properties remain outside the CBD at the request of Winn Palmer, except for 214 and 216 West 3rd Street which he asked to bring into the CBD.

Commissioner Uherik asked what parts of CBD zoning is more beneficial to owners.

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Mr. Fisher responded that ML properties require 25-foot front yard setbacks where CBD allow 0-foot setbacks.

Chair Stribling asked of the 53 property owners to be rezoned, if Staff has spoken to the property owners.

Mr. Fisher responded that letters were sent as required per State Law.

Chair Stribling asked to clarify if most of the lots are single-family homes.

Mr. Fisher responded that most of these are either single-family or retail commercial properties.

Chair Stribling asked how many properties were non-conforming.

Mr. Fisher showed a map of non-conformities and explained what these uses are.

Chair asked what would happen to these businesses if they are rezoned CBD.

Mr. James explained that they would be grandfathered and allowed to continue as is.

Commissioner Davis asked to clarify that the grandfathering only applies to existing footprints and that they could not expand without a new approval.

Mr. James responded this was correct.

Commissioner Davis asked if Staff has spoken to these customers.

Mr. Fisher responded that Staff have not spoken to these owners but that notices were mailed last year when the case began and this time around also.

Mr. James explained that Staff would be willing to contact these owners before taking this item to Council.

Vice Chair Jackson made a motion to RECOMMEND APPROVAL of a request for approval of a rezoning to the Central Business District (CBD) Zoning District from the General Commercial (CG), General Commercial/Heavy Commercial (CG/CH), Office Commercial (CO), Light Manufacturing (ML), Office Warehouse (OW), and Low Rise Multi-Family Residential (RM-1) Zoning Districts, on approximately 29 acres generally located north of West Harris Avenue; east of Sante Fe Park; south of West 4th Street; and west of North Chadbourne Street. Vice Chair Jackson seconded the motion. The motion carried unanimously 5-0.

IV. Director's Report.

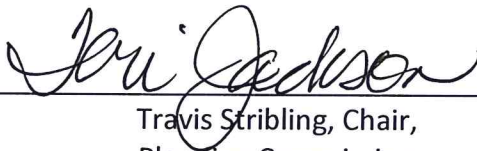
Jon James, Planning and Development Services Director, indicated that Shelly Paschal, Planner, will be leaving the Planning Division after this meeting and has taken a position as the City Stormwater Administrator. He also indicated that the East Mezzanine of City Hall is now the permanent home for Planning Commission Meetings.

V. Future meeting agenda and announcements.

The next regular meeting of the Planning Commission is tentatively scheduled to begin at 9:00 a.m. on Monday, June 21, 2021.

VI. Adjournment.

Vice Chair Jackson made a Motion to adjourn at 12:37 p.m., and Commissioner Ionita seconded the Motion. The Motion passed unanimously, 5-0.



Travis Stribling, Chair,
Planning Commission