

MINUTES OF ZONING AND PLANNING COMMISSION
PUBLIC HEARINGS AND REGULAR MEETING
CITY OF WEST LAKE HILLS, TEXAS
June 15, 2016
6:30 P.M.

PRESENT: Chairman Robert Meisel, Commissioners Eric Erickson, Kathy Tullos, Rhett Hoerstenbach and Bill Vandersteel

ABSENT: Vice-Chairman Les Gage and Commissioner Sarah Swanson

1. Call to Order. Chairman Robert Meisel.

Chairman Meisel calls the meeting to Order at 6:30 p.m.

2. Consent Agenda: The following items are considered to be self-explanatory by the Commission and will be enacted with one motion. There will be no separate discussion of these item/s unless a Commission Member or citizen so requests.

- a. Approval of the May 18, 2016 Regular Meeting Minutes.

**COMMISSIONER ERICKSON MOVES TO APPROVE.
COMMISSIONER TULLOS SECONDS. UNANIMOUS (4-0)
APPROVAL.**

3. Land Use: Variances to allow a gate in a front fence setback and an accessory structure in the right-of-way at 914 Terrace Mountain Drive. (Sections 22.03.173 and 22.03.276 of the West Lake Hills Code.) Applicant representative Shaney Clemmons.

- a. Staff Briefing.

City Planner Grundman: This a variance to allow the location of the gate requires two variances because of the front yard setback and right-of-way. The front yard would be 30' from the edge of pavement and the gate is in that. The driveway drops off which is a request for a safety measure.

- b. Presentation by applicant.

Shaney Clemmons and Genevieve are with Mark Worth Design. A background of existing conditions. The driveway is very steep off of Terrace Mountain Drive and what is happening is it is between two streets and a lot of drivers at night end up taking a turn down this steep driveway and realizing it is a private drive and have to back up. The parking area down below is significant. If you look at the packet Sheet L1.0 is the site plan that shows the proposed auto gate location and the current slopes. It is about 22.5% slope down the slope. What you don't see is that from the driveway slope down to the house and that drop off is about 7' from we are proposing the gate. We are asking a variance for the gate located in this location and the guardrail. The owner's children are using it as a balance beam and think it is a safety requests. The

location of the request for the gate. It doesn't stop traffic for people that think it is part of the road. The location if you look there are photos, L.6 where the proposed gate would be. This location is just visible enough for a car to come in and stop and back out and not that visible from Terrace Mountain. We think we would be doing very minimal disturbance to existing vegetation. A remote box would be in the right-of-way. The rest of the gate would be swinging over the drive. The steepness shows why we need a guardrail. The gate design meets the requirements by the City and shows the safety concerns that we have. We invite people to drive down the driveway.

- c. Public Hearing: All persons wishing to speak for or against shall be heard.

David Castano lives at 941 Roadrunner. I think it is a good thing to protect the children. I certainly understand and am in favor as a neighbor.

Chairman Meisel closes the Public Hearing and reconvenes the meeting.

- d. Deliberation and action.

Commissioner Vandersteel: This is a thorough presentation. What are the legal ramifications in the right-of-way?

Assistant City Attorney Mueller: The ordinance says that no fence shall be constructed in the right-of-way and the gate is in the right-of-way. It is up to the City which controls the right-of-way the city can decide.

Commissioner Vandersteel: We can make a recommendation.

Chairman Meisel: We have a specific provision for mailboxes.

Commissioner Erickson: Normally there is a distance from the gate and road that there is space for a vehicle to get off the road?

City Planner Grundman: It is 18 feet and at the far corner is 40 feet.

Commissioner Vandersteel: My first thought was to move it down the hill but you would need a much taller gate to make it visible. Has the property owner considered putting a private property sign?

Chairman Meisel: I'm looking at minimization. Red reflectors have been used in these conditions. This is not a hardship to the owner; it is to the driver that goes down the driveway. Again, I'm not seeing the hardship to the owner but to the driver. I don't know that a variance to give up city right-of-way is the right answer for an occasional risk. I don't know this is the right answer.

Commissioner Hoestenbach: Thank you for a great package. I understood all of that. I was looking for photos of a turnaround. There is a parking area where you could turn around there. I was looking at that. Maybe that could be a hardship.

Commissioner Vandersteel: Unless other people are parked there. David might be able to let us know what you've seen driving into the driveway.

David Castano: We are down the hill. Once you get down there is going to be difficult to back out even if you have a backup camera. A gate would stop them there. It would be less dangerous to who is driving.

Commissioner Hoestenbach: I'm having a hard time seeing the hardship to make a recommendation to Council. I can see the hardship a little more on the railing.

Commissioner Erickson: You just need to come down 7' to 8' towards the house.

Commissioner Vandersteel: Its leaves us outside the right-of-way.

Shaney: About the hardship, most of the time there are 2 cars at night which is when it occurs. People have been drinking and driving and they get all the way down the drive. It is backing up this driveway and incredibly steep and banked. That's the problem. The hardship is the windows are level with that and when somebody drives down it shines in the bedrooms. It's a weekly occurrence in the middle of the night and they get all the way to the bottom of the driveway. The reflective turtles wouldn't those require a variance for doing modifications in the right-of-way?

City Planner Grundman: It would require city inspector approval but not a variance.

Commissioner Hoestenbach: This is a maximum variance request and less expensive.

Commissioner Erickson: A sign could be here by the monument saying private drive.

Shaney: There is a mailbox you can see during the day. The problem is at night on the driveway. I think as it is now.

Commissioner Erickson: I'm not seeing a hardship with this.

Commissioner Vandersteel: I live at the end of a street and their driveway is very long. They put up a private drive sign. They were having the same problem. It is at the bottom of Madrone Road.

COMMISSIONER HOESTENBACH MOVES TO RECOMMEND THAT THE REQUEST FOR THE GATE BE DENIED. COMMISSIONER ERICKSON SECONDS. UNANIMOUS (4-0) DENIAL.

COMMISSIONER ERICKSON MOVES TO RECOMMEND APPROVAL ON THE GUARDRAIL. COMMISSIONER VANDERSTEEL SECONDS. UNANIMOUS (4-0) APPROVAL.

4. Land Use: Commercial Signs Application with variances for Wells Fargo Bank at 3738 Bee Cave Road. (Chapter 32 of the West Lake Hills Code.) Applicant J. Charley Schalliol.

- a. Staff Briefing.

Commissioner Tullos is not voting on this item due to conflict of interest.

City Planner Grundman: The request is for two wall handing signs which will replace existing. Corporate colors has gold is where the variance comes from. The size are fine and complies with the sign ordinances. It is a gold. They have red on the side, too. You can see the existing and the proposed.

- b. Presentation by applicant.

Brent Forte lives at 6001 Nims Parkway in Indiana. My company is we focus on site branding, zoning and signage and approvals by boards. We perform these for Wells Fargo and have been to many boards in Texas and other states. We feel this will be clear communication that is riddled with visibility and legibility issues. The new signs will corrected represent the trademark. Nothing is more frustrating by missing your destination. We are trying to avoid traffic stops. They are lost in the colors of the building and all the vegetation. We feel the new signs fits with the intent with the gold and brown as mentioned in Chapter 32 of the ordinance. It complements the surrounding buildings. Also mentioned this logo it is our current logo but we don't have the red at this location. Red would not fit in well at this location. Gold is most important to us. Photos are provided. The two new signs are going where they are currently. The next page shows the building frontage. We are about 11 sq. ft. for each wall sign. The following shows a current photo of the existing conditions. The new would match it and hide it better. The photo on the lower hand shows what it would look like if it was there today. We also have the new proposed wall sign in the lower photo. The following shows the other tenant signs of the other properties, we are asking for a similar with our current logo colors. Our request would blend well with the ordinance. The color is present throughout nature. We do feel that the colors mentioned are a dark or light yellow to brown. We are right in the middle there. Last page, the sign specs, the red on the trim cap will be changed to black. We want to make that toned down. We would change that to be all black and see the gold. Lastly we are proposing a nice panel that accent the colors. I'll wrap it up if you have any questions.

- c. Public Hearing: All persons wishing to speak for or against shall be heard.

Chairman Meisel closes the Public Hearing and reconvenes the meeting.

- d. Deliberation and action.

Commissioner Erickson: I am not aware of granting other banks to color variances.

Commissioner Vandersteel: I didn't know that was a Wells Fargo Bank.

Chairman Meisel: I have a question for staff. On page 10 of 10, I see a propose sign Welcome to Wells Fargo above the drive through. That appears to be a brand new sign.

City Planner Grundman: That does not comply.

Chairman Meisel: Whatever happens tonight would have to be re-noticed since it is not mentioned in your application. We generally allow directional signs. I was prepared to let that go until I saw the whole new sign. We fought this battle with other folks.

Applicant: We will remove it.

City Planner Grundman: You are looking at all the signs in here. They are allowed up to 12 directional signs.

Commissioner Vandersteel: Welcome to Wells Fargo is being taken out of the package?

Brent: We would remove that from the directional package.

Commissioner Hoestenbach: All we are left with are the wall hanging signs?

City Planner Grundman: You would still be approving the sign permit.

Chairman Meisel: The handicapped sign is to remain. The concrete bumper has been painted bright yellow and states bank customers only. That is not acceptable. We have limited handicapped parking.

Brent: We'll address that.

Commissioner Erickson: I'm sure there are alternatives to the gold?

Brent: We have looked. We are looking at the colors and it would say that originate from clay and earth and we thought this would fit. The sign is our logo and that's our trademark. There is a sign right down from us that has gold. That is the most important think to us is the gold color.

Commissioner Erickson: Where is the hardship to allow this?

Chairman Meisel: This is a matter of business identify. It is recognized and color schemes are trademarks, too. The hardship is being denied using your trademark.

Commissioner Vandersteel: This is very lovely.

Chairman Meisel: We are allowing a trademark color on a sign.

Commissioner Hoestenbach: If you look at the code it is job to see if it conform. The only issue is the color and the code says about color, it doesn't say that the color can't be yellow. They have made an effort to

make it conform. With what we are required to do in the code, I can't see that they're not conforming.

COMMISSIOENR HOESTENBACH MOVES TO RECOMMEND APPROVAL OF THE WALL HANGING SIGNS AND DIRECTIONAL SIGNS WITH THE GOLD AND BLACK. COMMISSIONER VANDERSTEEL SECONDS WITH THE CONDITION THE HANDICAPPED CURB BE CORRECTED. (3-0) COMMISSIONER TULLOS ABSTAINED.

5. Land Use: Site Plan Amendment and Commercial Building Permit for Travis County ESD #9 at 1295 South Capital of Texas Highway. (Section 22.02.005 of the West Lake Hills Code.) Applicant Peter Wilson.

- a. Staff Briefing.

City Planner Grundman: This is a site plan amendment and permit application. They are adding a storage room for bunks for the firefighters. They are adding footage to the building without variances with no change in impervious cover.

- b. Presentation by applicant.

Walter Groman is here to answer any questions. I'll be managing it once it is approved. This project has been in the works for a year and a half.

- c. Public Hearing: All persons wishing to speak for or against shall be heard.

Chairman Meisel closes the Public Hearing and reconvenes the meeting.

- d. Deliberation and action.

Commissioner Vandersteel: Storage or sleeping quarters? Does it require windows?

City Planner Grundman: It will meet all the requirements.

COMMISSIONER ERICKSON MOVES TO RECOMMEND APPROVAL. COMMISSIONER TULLOS SECONDS. UNANIMOUS (4-0) APPROVAL.

6. Land Use: Discussion regarding an amendment to City Code to modify the Zoning Amendment process. (Section 38.05.094 of the West Lake Hills Code.) City Planner Ashby Grundman.

- a. Staff Briefing.

City Planner Grundman: This is the 3rd time this has been before you. We walked through this and addressed all the comments and concerns and you received a memo from Sarah Swanson that was pretty thorough. If you need information from Laura, she can explain it.

- b. Public Hearing: All persons wishing to speak for or against shall be heard.

Chairman Meisel closes the Public Hearing and reconvenes the meeting.

c. Deliberation and action.

Commissioner Vandersteel: I was looking at the Part B actions by the ZAPCO. It struck me as being odd.

Assistant City Attorney Mueller: It's directly from the local government code.

Commissioner Hoestenbach: I know when we had the zoning change last week that was part of it.

Commissioner Vandersteel: Page 6 of 8, the bottom paragraph, where underneath the heading Denial by the ZAPCO, my question is how come city council and zoning and planning commission aren't capitalized?

Commissioner Tullos: We talked that. It was a subject of must discussion. We decided to go with that for consistency sake.

Assistant City Attorney Mueller: The sections that we reviewed on the zoning that were a part of this were not capitalized. I've not gone through the entire Code of Ordinances. Everywhere we looked it was not capitalized. City council was not capitalized and zoning and planning commission was not capitalized.

Chairman Meisel: It doesn't affect the substance of the ordinance.

Commissioner Vandersteel: Well, I'm not in a court of law but it struck me as odd because it doesn't seem like an entity it's just words. Here it says we're under denial by zoning and planning commission and C says approval of a request of a zoning amendment would require a super majority of the vote by city council? I thought we were talking about denial and not approval.

Chairman Meisel: If ZAPCO denies then these consequences ensue; A, B or C.

City Planner Grundman: It's under council action, if the zoning request comes from ZAPCO and is recommended denial, these are the options council has. So they can approve it. The whole section is action by city council.

Commissioner Vandersteel: One other thing I had was protest, when are protests supposed to happen? It talks about it. Is it part of the packet that is provided by ZAPCO or after ZAPCO makes its recommendation, Page 7 of 8?

Chairman Meisel: The new Number 4.

City Planner Grundman: It's at any time.

Assistant City Attorney Mueller: That is also from the local government code.

Commissioner Vandersteel: It doesn't make it clear by the way.

Chairman Meisel: But we do need to try and stay in compliance. If prior to the time council votes, that is what they are saying. They can file that protest even after we've given recommendation. If there is a protest filed at that point it will be a city council action.

City Planner Grundman: That happened with the Athletic Center. The neighbors filed a petition so they needed a super majority.

Commissioner Vandersteel: The next one, Number 5 Site Plan and then the following paragraph doesn't have anything to do with the site plan, not specifically? All representations made by an applicant, what does that have to do with site plan?

Commissioner Tullos: I believe the intent is that that those oral representations in essence become part of it.

Assistant City Attorney Mueller: That's how I interpret it as well.

Chairman Meisel: Maybe that paragraph should be prefaced representations by the applicant as opposed to site plan. It doesn't apply anywhere else.

Commissioner Vandersteel: The thing about that, these whether oral or written, the minutes, how is this recorded? That becomes part of the written record? Do we need to make a comment to that effect in this paragraph that is as legally recorded in the minutes or is that implied?

Commissioner Tullos: We actually talked about this quite a bit. We were concerned about what this puts on Mark. Ashby gave us great assurance that Mark was beefing away and was getting everything. It's not legally required that it be in the record. It can be a representation if there were a misstep. That representation will still be fine.

Commissioner Vandersteel: And are the meetings recorded?

Chairman Meisel: But for legal purposes, our official record is the minutes. As you may recall with the Wells Fargo fella, when he said he was going to change the color from this to that, you do understand that when you make a representation that is binding on the applicant.

Commissioner Vandersteel: Council has to state their factual findings, what are those exactly?

Chairman Meisel: As we know from candidate Trump, facts are where you find them. This is a rather loose concept. Calling for a factual finding really is not a challenge on elected officials.

Commissioner Tullos: You'll have the minutes from the city council meeting and that will be the official findings of fact. You don't have to label them as such in that function. We did actually talk about that.

Commissioner Hoestenbach: I'd like to thank Kathy, Laura and Sarah for doing this. We didn't ask for these changes they were asked by the city's law firm. Page 7, on the first (e) and (f) at the top. It talks about an applicant will be timely informed of its right to appeal. I was looking through and didn't see timely defined anywhere. What is timely?

Commissioner Tullos: Timely depends on the circumstances and there is a pretty good body of law behind that. We talked about putting in a time certain number of hours and business days, the power was out for three days or it snows so everyone panics or there is a threat of snow. We decided to go with the timely fashion which coupled with the good track record from the city staff led Sarah and me to feel really comfortable that applicants would be getting the information they need and we'd still have enough legal cover to be able to defend if we weren't within a day or two days.

Commissioner Hoestenbach: I could see where timely could be subjective enough if someone decides our bodies are looking at this that it was demonstrated that it was given so many days in advance if it would be considered timely. I was just wondering if some other statute that defined timely and referenced it but you have answered the question. I get why you did what you did. Something else was to be informed in writing. Did you consider informing by e-mail?

Commissioner Tullos: We talked about that. That is considered writing.

Chairman Meisel: What I envisioned is when and if we hear a zoning application and we recommend denial somebody is already going to have an already printed piece of paper that you are hereby advised you have the right to and why and this is a written notice given in confirmation of our ordinances and as they walk out of the room with their head hung low we hand it to them.

Commissioner Tullos: You are asking great questions. These are things that we talked about and tried to come up with something that would make life livable for the staff but would still give us plenty of opportunities to make government as transparent as possible.

Chairman Meisel: It really is one of the better written ordinances in some time. I'm thoroughly impressed.

Commissioner Vandersteel: On the (d) above that, my one question there is that it says no zoning change shall become effective until after the adoption of an ordinance for the same which makes sense but the adoption of an ordinance for the same is that at an immediate subsequent council meeting?

Chairman Meisel: An adoption of an ordinance. You know, the Camp Craft school, they were looking for a zoning change ordinance. They got all the way up to city council and just before the council voted they said postpone. They pulled back; that kind of thing. If that zoning changes then it must be done by ordinance. We already have a well lined out procedure of how ordinances happen.

Commissioner Vandersteel: It's not a defined set in time either?

Commercial Erickson: When that happens it happens.

Chairman Meisel: I do want to, the smallest that I can pick is this word site plan versus refrigerator versus recommendations.

Commissioner Tullos: We did not talk about refrigerators.

Chairman Meisel: I agree that if we're going to title the paragraph site plan, the word site plan should appear somewhere else. Since it doesn't, perhaps we need a different title for that paragraph.

Assistant City Attorney Mueller: We can change that. It has to go to council even if you all don't approve it. The representation of that will be changed. That's binding on me and not anybody else.

City Planner Grundman: What do you want it changed to?

Assistant City Attorney Mueller: Representations by the applicant.

Commissioner Tullos: That's a great change.

COMMISSIONER ERICKSON MOVES TO RECOMMEND APPROVAL WITH THE NOTED CHANGES. COMMISSIONER HOESTENBACH SECONDS. UNANIMOUS (4-0) APPROVAL.

7. Adjournment by Chairman Robert Meisel.

Chairman Meisel adjourns the meeting at 7:35 p.m.