

Minutes of the meeting of the
Planning and Zoning Commission (P&ZC)
City of Belton
333 Water Street
Tuesday, May 19, 2015

The Planning and Zoning Commission met at 5:30 P.M. in the Wright Room at the Harris Community Center. The following members were present: Chair Larry Guess, John Holmes, Brett Baggerly, Mat Naegele, Ben Pamplin. The following Staff members were present: City Manager, Sam Listi, Director of Planning, Erin Newcomer, and Planning Clerk, Laura Livingston. Joel Berryman arrived at 5:33 P.M.

Pledge of Allegiance – John Holmes led all present.

Invocation – Larry Guess gave the Invocation.

1. Call To Order.

Chair Guess called the meeting to order at 5:30 P.M.

2. Minutes from the previous Planning and Zoning meeting.

Mr. Holmes made a motion to approve the minutes. Mr. Baggerly seconded the motion and the minutes were approved unanimously with 5 ayes, 0 nays.

3. Z-15-13 Hold a public hearing and consider a zoning change from Planned Development-6 and Retail to Planned Development Retail for a mixed use retail development at 525 North Main Street, the former HEB Grocery site, located on the southeast corner of North Main Street and East 6th Avenue.

Ms. Newcomer presented the staff report.

Chair Guess opened the public hearing on Z-15-13 and asked if anyone would like to speak on this zoning request change.

Stephen Gele, SLG Architect Inc, stated Ms. Newcomer did a good job explaining the project, so there is nothing he is really going to add, except the existing H-E-B sign is 12' tall instead of 10' tall. There are representatives from ACE Hardware and H-E-B present if the Commission has any questions for them.

Ben Edelstein, H-E-B leasing agent with Kenny Dryden Investments, stated he has been trying to lease and sell this building for the last 3 years for H-E-B. The building has been under contract three different times. He would like to express that both the tenant, ACE Hardware and the buyer, John Lewis have an agreement for outside storage along 6th Avenue. It would take a renegotiation of that agreement to change the outside storage to the area along 5th Avenue. On behalf of H-E-B, he would like to say this ACE Hardware component for this property is contingent both on John Lewis purchasing the building, and ACE occupying the 6th Avenue portion. The dynamics of that lease agreement from an H-E-B standpoint is a financial decision. They have been able to accommodate ACE by releasing several deed restrictions that were in place when HEB constructed the new HEB Plus. It is a standard procedure for HEB to include regulations in the deed restrictions for the pharmacy, grocery, and also in regard to several goods that ACE carries, which include cleaning supplies, garden and lawn equipment, for example. HEB was willing to release those deed restrictions to accommodate ACE, but in the same vein the actual deal they have created with John Lewis is really on John Lewis's side. ACE has reviewed those economics and they have indicated they will no longer consider this location unless outside storage is along 6th Avenue. The Planet Fitness deal is standing on its

own, since he represents them. H-E-B has included Planet Fitness, so that may be a real estate transaction that H-E-B would agree to. They have tried to negotiate with ACE and place them on the south side of the property; however, ACE prefers the north side of the site. ACE understands John Lewis' expectations, and will ensure they maintain a clean yard site. Those conditions are included in the agreement with ACE, and he believes the conditions recommended by city staff can be a component in the lease document that Mr. Lewis would be happy to accommodate.

Maria Riddle, 410 North Main Street, stated she is in favor of the development and thinks it will be good for Main Street.

Chair Guess asked if anyone else would like to speak on this zoning change request. Hearing none, the public hearing was closed.

Mr. Berryman asked Ms. Newcomer to restate staff's recommendation. Ms. Newcomer stated staff is recommending reduced masonry standards to allow for a portion of the building to be constructed with architectural metal and hardi plank. All of the existing stucco should be painted. Staff highly recommends locating the outside storage area along 5th Avenue, directly south of the building. If outside storage on 6th Avenue is allowed, additional conditions are recommended. Staff also recommends approval of a free standing 8' tall multi-tenant monument sign with a maximum sign face area of 64 square feet, if there are 4 or more tenants. If there is less than 4 tenants, the maximum sign face area is 48 square feet. Also, staff recommends the reduced setbacks on the northern side yard and eastern rear yard for the existing building.

Mr. Holmes asked if someone could elaborate on what kind of items will be in the outside storage area. Beau Nickel, P. O. Box 820, Lorena, ACE Hardware representative, stated mainly seasonal items will be displayed, such as lawn and garden items, plants during the spring and fall, bagged goods, mulch, soil, and other landscape items. Items similar to the Wal-Mart parking lot will be in the ACE garden center. If they are unable to have outside display, this will inhibit their growth and could make it economically unfeasible.

Mr. Holmes asked if there would be lumber, tar paper, cement, or fork lifts outside. Mr. Nickel stated those items will be stored inside.

Mr. Holmes asked for an example of the proposed hardi plank and fencing. He is not familiar with that type of material. Ms. Newcomer stated the applicant is requesting to install a 6' tall wrought iron fence enclosure and staff is requesting additional hardi plank on the northern side of the building extending above the fence, if the outside storage area is displayed along 6th Avenue side.

Mr. Holmes asked if a wrought iron fence along 6th Avenue is acceptable to the city. Ms. Newcomer stated it is as long as all the conditions that staff has recommended are met.

Mr. Holmes asked what type of fencing was required for the rental business on South Main Street. Ms. Newcomer stated it is along a local roadway so the minimum requirement was a black chain link fence.

Mr. Holmes stated to be in compliance the city Sign Ordinance, the proposed multi-tenant sign is required to have a maximum height of 6 feet, but since the sign will be located at a low elevation, 2 feet below the road, the city recommends increasing the maximum height to 8' tall. Ms. Newcomer stated in the northwest area of the property there is a detention pond, which is the reason why this area is low compared to the roadway.

Mr. Pamplin stated the city is proposing the outside storage be located on the 5th Avenue side. There is not a lot of room to put anything on that side. Ms. Newcomer stated staff recommended that the applicant request an abandonment of a portion of 5th Avenue, from North Penelope Street to East Street. That portion can then be utilized as outside storage. HEB owns the land south of 5th Avenue and that area could be utilized for the outside storage.

Mr. Holmes stated it is his understanding that the tenant wants outside display exposure to 6th Avenue and consider this a primary location.

Mr. Holmes asked for further clarification regarding the fence. Ms. Newcomer stated staff is recommending that the outside storage be placed on the 5th Avenue side, but if that does not happen, what staff is recommending is exactly what the applicant is proposing: a 6' tall wrought iron fence enclosure around the outside display. If the outside display along 6th Avenue is considered reasonable, staff also recommends constructing additional hardi plank on the northern exterior wall that extends above the height of the fence. This will make the area more visually pleasing, since this is an important gateway into our community on a very visible roadway.

Mr. Baggerly stated Mr. Edelstein said should ACE not be able to use the 6th Avenue portion of the building for outside storage, this could be a deal breaker for this property, and that concerns him because he thinks this is a great use for this property.

Chair Guess requested clarification regarding the sign height. Ms. Newcomer stated the existing H-E-B sign is 12' tall.

Chair Guess asked if the Commission will be voting on the applicants request or the city's recommendations. Ms. Newcomer asked the motion be specific, as staff is proposing additional requirements.

Chair Guess stated that it seems the motion needs to be made to include the various issues from each of the recommendations.

Ms. Newcomer stated she spoke with Mr. Edelstein earlier and he stated they should have no issues with any of the items recommended by staff.

Mr. Holmes made a motion to approve item Z-15-13 with the following recommendations:

- 1) Reduction in the masonry requirement;
- 2) 6 feet tall wrought iron fence with outside storage on 6th Avenue, with staff recommendations for hardi plank on the northern elevation that extends above the 6'tall fence;
- 3) Outside storage may only contain seasonal items, and an unobstructed 20' wide access drive at all times;
- 4) An 8' tall multi-tenant monument sign is allowed with a maximum 64 square feet in area for four tenants; and
- 5) A reduction in the northern yard setback from 25' to 14'2" and the eastern rear yard setback from 20' to 15'9". Mr. Berryman seconded the motion and it was approved unanimously with 6 ayes, 0 nays.

4. Z-15-14 Hold a public hearing and consider a zone change from Commercial Highway to Office-2 District with a Specific Use Permit for the operation of a bail bond business in the existing structure at 206 East Loop 121, located on the south side of East Loop 121, west of Capitol Way, and east of Interstate Highway 35.

Ms. Newcomer presented the staff report.

Chair Guess opened the public hearing on Z-15-14 and asked if anyone would like to speak on this zoning request change. Hearing none, the public hearing was closed.

Chair Guess asked for a motion on item Z-15-14.

Mr. Berryman made a motion to approve the zoning change to City Council as proposed. Mr. Pamplin seconded the motion and it was approved unanimously with 6 ayes, 0 nays.

5. Z-15-15 Hold a public hearing and consider a zoning change from Central Business District to Planned Development Central Business District for a proposed retail gun store, Concealed Handgun License (CHL) classrooms, gunsmith shop, and indoor shooting range at 204 North Penelope Street, located on the west side of North Penelope Street, north of East 1st Avenue and south of East 2nd Avenue.

Ms. Newcomer presented the staff report.

Chair Guess opened the public hearing on Z-15-15 and asked if anyone would like to speak on this zoning request change. Hearing none, the public hearing was closed.

Chair Guess asked Ms. Newcomer to show the floor plan on the projector screen. He asked where the shooting range is proposed in the existing building. Ms. Newcomer stated it is proposed on the southeast side of the building and pointed to the location. Chair Guess stated there is nothing adjacent to that side of the building.

Mr. Holmes asked if the outside door at the shooting range will be open. Ms. Newcomer stated they are working with the Fire Marshal and Building Official regarding what the requirements will be. She cannot answer that question yet without the Fire Marshal's report, but the applicant is here to answer any questions you may have.

Mr. Kelly Murphy, 1815 Dancing Oaks, stated the southeast bay door is in the interior range, and it will be removed and closed up. Their goal is to concrete the doorway, rock the windows like it was originally, and put a decent finish on the south side of the building. The bay door may be utilized for bringing materials in and out of the building during construction, but it will eventually be removed. They will be installing cinder block walls and the range will be 24 feet X 100 feet, solid rock will be constructed all the way around it with baffles, acoustic, backstop and other necessary components. The indoor shooting range will be completely self-contained and he has gone to a great extent to ensure the range is safe.

Mr. Naegele asked how many students will be in the classroom? Mr. Murphy stated at the very most there may be 10 students. A majority of the classes he teaches are a 2:1 ratio and he does not like to teach any more than 10 students at a time. The CHL classes will only last 5 hours on a Saturday or Sunday. The CHL classes will not be a continuous thing, although he would like it to be.

Chair Guess asked if anything will be done to the exterior of the building. Mr. Murphy stated he wants to keep the building in its original state. He likes the western look that it has. Other than changing the sign out front, they intend to keep the building as original as possible.

Ms. Newcomer stated a Façade Improvement Grant has been offered by the city since this building is within that area. This property is in a historic district and any exterior renovations must be approved by the Historic Preservation Commission.

Mr. Holmes asked why this gun range is held to a higher standard in regard to the decibel level than any other type of business in that area. Ms. Newcomer stated this prevents any concerns that anyone may have regarding the noise that an indoor gun range creates.

Mr. Holmes asked if any of the other cities Ms. Newcomer researched require a different decibel level for gun ranges. Ms. Newcomer stated each city has a specific noise ordinance. Mr. Holmes stated if 85 decibels is a violation for anyone, then 85 decibels should be the requirement for any type business. Mr. Listi stated the applicant has proposed a 70 decimal level.

Mr. Berryman asked if the applicant can live with a decibel level of 70. Mr. Murphy stated that is not a problem at all. He said think of the range as a building inside a building, it is completely sealed off for the contaminants with a filtration system.

Mr. Holmes stated he likes conformity and if the Texas Penal Code is 85 decibels and you want to start a business that meets that requirement, he does not see the reason to include additional restrictions.

Chair Guess asked for a motion on item Z-15-15.

Mr. Naegele made a motion to approve the zoning change to City Council as proposed by staff, including a maximum of 70 decibels. Mr. Pamplin seconded the motion and it was approved unanimously with 6 ayes, 0 nays.

6. P-15-17 Hold a public hearing and consider a replat for the Bella Rose Subdivision, a 9.08 acre tract, located on the north side of East Loop 121, 0.20 miles east of South Interstate Highway 35.

Ms. Newcomer presented the staff report.

Chair Guess opened the public hearing on P-15-17 and asked if anyone would like to speak on this replat. Hearing none, the public hearing was closed.

Mr. Pamplin asked if soil testing has been done in the new proposed area for the road. Ms. Newcomer stated that Public Works required the developer to take test spots in other areas of the subdivision.

Chair Guess asked for a motion on item P-15-17.

Mr. Holmes made a motion to recommend the replat to City Council as proposed. Mr. Baggerly seconded the motion and it was approved unanimously with 6 ayes, 0 nays.

- 7. Consider a request to waive the perimeter street improvement requirements for Lark Trail adjacent to the Chick Addition, Phase VII, approved January 13, 2015, located on the southwest corner of West Amity Road and Lark Trail, in Belton's Extra Territorial Jurisdiction (ETJ).**

Ms. Newcomer presented the staff report.

Chair Guess asked if the Commission had any questions about the request to waive the perimeter street improvements requirements for the Chick Addition, Phase VII. Hearing none, Chair Guess asked for a motion on the request.

Mr. Baggerly made a motion to recommend the request to City Council as proposed. Mr. Holmes seconded the motion and it was approved unanimously with 6 ayes, 0 nays.

- 8. Consider a request from McLean Group, LLC to extend the Preliminary Subdivision Plat validity six (6) months for Chisholm Trail West Subdivision, a 59.56 acre tract, located on the west side of Wheat Road, east of Boxer Road, and north of the US Highway 190.**

Ms. Newcomer presented the staff report.

Chair Guess asked if the Commission had any questions about the request to extend the Preliminary Subdivision Plat validity six months for Chisholm Trail West Subdivision. Hearing none, Chair Guess asked for a motion on the request.

Mr. Berryman made a motion to recommend the request to City Council as proposed. Mr. Pamplin seconded the motion and it was approved unanimously with 6 ayes, 0 nays.

With no further business, the meeting was adjourned at 6:30 P.M.

Chair, Planning and Zoning Commission