

BELTON CITY COUNCIL SPECIAL CALLED MEETING
February 1, 2016 – 5:00 P.M.

The Belton City Council met in special session in the Wright Room at the Harris Community Center with the following members present: Mayor Marion Grayson (abstained from items 2-4; she joined the meeting at 5:54 p.m.), Mayor Pro Tem David K. Leigh, Councilmembers Craig Pearson, Paul Sanderford (arrived at 5:04 p.m.), Guy O'Banion and Jerri Gauntt. Councilmember Dan Kirkley was absent. Staff present included Sam Listi, John Messer, Amy Casey, Gene Ellis, Brandon Bozon, Erin Smith, Angellia Points, Byron Sinclair, Aaron Harris, Matt Bates and Larry Berg.

The Pledge of Allegiance to the U.S. Flag was led by Mayor Pro Tem David K. Leigh, the Pledge of Allegiance to the Texas Flag was led by Assistant City Manager/Police Chief Gene Ellis, and the Invocation was given by Councilmember Craig Pearson.

1. **Call to order.** Mayor Pro Tem David K. Leigh called the meeting to order at 5:04 p.m.

Planning and Development

2. **Hold a public hearing and consider a preliminary plat for Highland Estates, Phase III, a 15.23 acre tract of land, located north of Sparta Road, west of Dunn's Canyon Road, and east of the existing Highland Estates Subdivision, Phase I and recently developed Highland Estates, Phase II.**

Director of Planning Erin Smith stated that the proposed Phase III of Highland Estates contains 34 lots. She said that Lacy Ridge Court will extend southeast and terminate in a cul-de-sac north of Sparta Road. Stillman Court will extend north from Lacy Ridge Court and terminate in a cul-de-sac. She added that a portion of this property is a replat from Phase I which dictated the need for a public hearing.

Mrs. Smith explained that the Subdivision Ordinance establishes the maximum length of a cul-de-sac at 600 feet, except under unusual conditions and with the recommendation of the Planning and Zoning Commission (P&ZC). The applicant is requesting a variance to allow for a 1,241-foot cul-de-sac proposed as Lacy Ridge Court. This subdivision is elevated high above Sparta Roadway, making it difficult to create a safe connection to Sparta due to grade.

Additionally, she stated that two points of ingress/egress are required for subdivisions with 30 lots or more, and this subdivision has only one. Fire Marshal Jeff Booker has reviewed the ingress/egress and concurs with this design and the single access, given the limited number of lots. Mrs. Smith explained that because of the elevation issues in this area, it would be difficult to add another outlet. She also explained that since Sparta Road is a collector street, it is desirable to limit the number of access points within a short distance. The entrance to the subdivision on Mystic Mountain is close in proximity to where this road would access Sparta Road should a connection be required.

Due to the elevation issues of this area, Staff believes the variance request is reasonable, and P&ZC concurred.

Residential subdivisions within the City of Belton must provide a dedication of suitable parkland, payment of a fee-in-lieu of, or a combination of the two. Mrs. Smith stated that this subdivision requires a parkland dedication of 0.34 acres. She said that the developer is proposing to satisfy the parkland requirements for Dawson Ranch, Phase VI, and Highland Estates, Phase II, as well as Highland Estates, Phase III by dedicating a total of 1.62 acres of parkland to the City shown as Tract A on the plat. She said that the developer is proposing to grade the park to allow for safe pedestrian access from these subdivisions. In conjunction with construction plan review, the developer will submit a grading plan for the proposed park area. At that time, and in conjunction with final plat approval, Staff will evaluate pedestrian accessibility to the park to confirm that this proposal achieves the parkland dedication requirements.

Mrs. Smith added that Tract B is proposed as an expansion of the existing detention pond in Highland Estates, Phase I, to accommodate the additional drainage generated by this development. The Subdivision Ordinance requires the developer to construct and install a 5-foot wide sidewalk along the subdivision side of collector streets. Since Sparta Road is a major collector street, the developer is required to install a 5-foot wide sidewalk along the northern side of Sparta Road. She explained that Staff will evaluate the sidewalk location and make a recommendation in conjunction with final plat approval.

Mrs. Smith stated that Staff has reviewed the plat and finds it acceptable as a preliminary plat, subject to conditions contained in the January 5, 2016, letter to the applicant's engineer. She stated that on January 19, 2016, the P&ZC unanimously approved the plat subject to the conditions stated.

Mayor Pro Tem Leigh opened the public hearing on this item. The applicant's engineer, John Bandas, stated that he was present in order to answer any questions the Council may have. He added that he was in favor of the item. There being no one else speaking for or against the item, the Mayor Pro Tem closed the public hearing.

Councilmember Jerri Gauntt asked how many times this developer has requested variances for cul-de-sacs lengths for the developments in this area. Mrs. Smith replied that she could not recall. Mrs. Gauntt stated that she felt this was a continuing issue because they continue to ask for variances. This is twice the length of the maximum allowed, so it concerns her. She asked what the point was of having a regulation if we keep granting variances to it.

Mrs. Smith replied that she believes the regulation is needed, and variances are only deemed reasonable if there is a true need for the variance. She believes that legitimate factors exist in this situation due to the topography of the area, as well as the Mystic Mountain Lane access from Sparta Road being in very close proximity.

She stated another reason to grant the variance was because the area was nearing development completion.

Mayor Pro Tem Leigh asked if all the lots on Mystic Mountain Lane have houses on them. Mrs. Smith stated no, and reminded the Council that some of the houses in the area are on septic. Mr. Leigh asked if it would be possible to work with the developer to have a connection from Lacy Ridge to Mystic Mountain so that there was a second outlet. City Manager Sam Listi said that if it isn't developed, it might be feasible, but it would be a matter of working with the developer to accomplish it. He added that a major consideration of whether to grant a variance is the density of lots along the street. If you have 50-foot wide lots on a 600-foot cul-de-sac, the number of houses utilizing the street could exceed the number of lots as proposed in this plat. The lots in this development are approximately 73-75 feet wide. Mr. Leigh suggested that perhaps the Subdivision Ordinance could be modified to allow for a density consideration instead of totally based on cul-de-sac length. Councilmember Pearson said it made sense to consider density.

Councilmember Guy O'Banion stated that there are some severe topography issues between the houses and the cul-de-sac. He stated that it would be very difficult to access Mystic Mountain from Lacy Ridge.

Councilmember Gauntt said that if a developer knows they are going to be putting in a huge subdivision in phases, and they continue to do skinny, narrow subdivisions where they can only put long cul-de-sacs in, this is going to continue happening. She added that they need to have some forethought and make sure if they are subdividing something that it is done correctly so we aren't continuing to do the same thing over and over.

Councilmember Craig Pearson added that he agrees with some of what has been said, but he feels that the topography drives a lot of what the developer is doing here. He added that there weren't many options especially in the latter phases of development. He said he was okay with what the developer is proposing.

Councilmember Pearson made a motion to approve the preliminary plat/replat with the conditions presented. Upon a second by Councilmember O'Banion, the item was unanimously approved upon a vote of 5-0.

3. Consider a final plat for Dawson Ranch, Phase VI, a 8.175 acre tract of land, located south of Chisholm Trail Parkway and Dawson Ranch, Phase V, and west of the future Lake to Lake Road.

Director of Planning Erin Smith stated that Phase VI of Dawson Ranch contains 23 lots. She explained that Presidio Circle is a proposed cul-de-sac within this subdivision that will extend south from Yturria Drive. Drainage was initially proposed to be discharged off-site to a detention pond through a tract between Lots 15 and 16. City Staff met with the applicant and recommended changing this tract to a drainage easement, similar to what was completed in Dawson Ranch, Phase III, between Lots

4 and 5. On October 20th, the developer's engineer, John Bandas submitted a revised preliminary plat that included an on-site detention pond behind Lots 11 and 12. The applicant has also revised the plat to include a 20-foot wide drainage easement between Lots 11 and 12, extending to the on-site detention pond.

Mrs. Smith explained that the Subdivision Ordinance establishes the maximum length of a cul-de-sac at 600 feet, except under unusual conditions and with the recommendation of the Planning and Zoning Commission. The applicant is requesting a variance to allow for a 915-foot cul-de-sac. There are existing large residential properties to the west and south that prevent any reasonable opportunity for this developer to stub-out a street and decrease the length of the cul-de-sac. Additionally she added that a future road is envisioned between this subdivision and Sparta Road that will be necessary once the Lake-to-Lake Road is developed. Mrs. Smith stated that there is no way for the development to extend farther south, and therefore Staff concurs with the request for a variance to allow a 915-foot cul-de-sac, as did the P&ZC.

Residential subdivisions within the City of Belton must provide a dedication of suitable parkland, payment of a fee-in-lieu of, or a combination of the two. Mrs. Smith stated that this subdivision requires a parkland dedication of 0.23 acres or \$4,600 parkland fee (\$200 per lot). The applicant is proposing to satisfy this parkland requirement with dedication of 1.62 acres of parkland in Highland Estates, Phase III, as discussed in item 2.

Mrs. Smith reminded the Council that there is a 40-inch live oak tree in the proposed street. Design Standards state removal of a Belton heritage tree requires a tree replacement of 3:1 inches or a fee of \$50 per inch. The applicant is proposing to remove the tree, which will require the applicant, at his discretion, to plant 120 inches of trees or pay a fee-in-lieu of \$2,000. The applicant is proposing to pay a fee-in-lieu of \$2,000 to satisfy the tree mitigation requirements.

Mrs. Smith said that Staff has reviewed the plat and finds it acceptable, subject to the conditions contained in the letter to the applicant's engineer.

Mayor Pro Tem Leigh commented that this is another variance request for a long cul-de-sac. He named other subdivisions where the developer designed the cul-de-sacs to allow for future connection if needed. He feels that we need to think like a big developer, since we are managing development within Belton, and make sure that developments allow for connections to future developments.

Mr. Leigh asked if a caliper inch was diameter, radius or circumference. Mrs. Smith replied that it was diameter. Mr. Leigh stated that this tree is nearly 4-feet around. Mrs. Smith stated that they measure the trees at 3.5 feet above the ground, and sometimes the trees have multiple trunks. Mr. Leigh stated that he purchased some George W. Bush Ranch oak trees for \$1,500 each that were approximately 6 inches in diameter. He thinks when the tree mitigation policy was first implemented, the City got a lot of push-back on it, but he feels that removal of a heritage oak should be a

significant cost. He feels that two thousand dollars doesn't even come close to replacing a 40-inch tree. He added that we need to reevaluate the fee-in-lieu amount because obviously it's not a deterrent. Mrs. Smith reminded Council that originally the developer requested a variance to the tree removal requirement of 3:1 replacement or payment of the \$2,000. She also added that before the last revision to the policy, the fee-in-lieu of was \$200 per inch. Mr. Leigh commented that the City has gone too far the other way with the \$50 per inch requirement.

Councilmember Gauntt stated that the 915-foot cul-de-sac was another problem. She added that the developer for another subdivision, Liberty Park, agreed to add a stub-out road by eliminating one of the proposed lots. She stated that the developer of this subdivision didn't seem agreeable to that. Another issue she described was the width and length of street would allow for people to speed down the street, and the developer is going to remove the tree in the road which would help slow down the traffic. She also added that the developer doesn't make the driveways big enough, so sometimes people have to park on the street. She said, "I just hate that we are taking out the tree that's huge and again could serve as a way to slow traffic. Also, Jason Carothers sat in a meeting here a few years ago when we first did the tree ordinance and said, 'Trees make me money. I like this ordinance.' Do you remember that? But now, over and over again, we are taking out nice sized trees. I'm done with it."

Councilmember Sanderford asked about access to the parkland and the distance from the subdivision to the park. He asked what distance is considered too far away. Mrs. Smith stated that she believed the distance requirement to the park was addressed in the Subdivision Ordinance. Mr. Sanderford stated that he was more interested in whether the park is accessible from the other subdivisions. Mrs. Smith outlined all the ways to access the park by walking, biking, and vehicle based on the ultimate street system

Councilmember O'Banion said he understands what Councilmember Gauntt was saying about the tree, but he wondered how developable the land was south of the proposed subdivision. He asked if he understood Staff to say that there wasn't going to be any more development in the area south. Mayor Pro Tem Leigh said that he thought there was more development proposed to the west. Mrs. Smith said that the master plan only showed the Dawson Ridge subdivision to be developed to the west. She added that the current land owner has stated that he is not planning on selling any more of the land. Mr. O'Banion stated that the areas to the south and to the west would be difficult to develop due to the topography. He said that he doesn't have a problem with the cul-de-sac length because this is pretty much the end of the development to the south.

Councilmember O'Banion asked to have a copy of the master plan available with Staff recommendations so the Council would have that to reference each time a plat is approved. He said that he was okay with the cul-de-sac length, but he agreed with Mrs. Gauntt on the tree; although he didn't think there was anything the Council could do about it. Mr. Leigh stated that Council could approve the plat or not approve

it. Councilmember O'Banion said, "If our policy says that you can pay \$2,000 for removing a tree, then we could disapprove for another matter but it would be disingenuous."

Mr. O'Banion stated that the policy needed to be changed before the Council had to approve another tree removal. He said it was shame that the developer couldn't figure a way around the tree in the street. Mrs. Gauntt said she didn't understand why, after Council had already talked about trees and how important they are to the Council, the developer still didn't want to keep the tree. Mayor Pro Tem Leigh commented that the developer is following the policy. He reminded Council that originally the developer requested a variance because they didn't want to pay to remove the tree. He stated, "That is why we need to look at the policy again." Councilmember Pearson added that when Council looks at the policy, they will need to define what is grandfathered and what is not.

City Attorney John Messer asked if the Council was requesting Staff to look at the issue about trees, parks or the lengths of cul-de-sac streets. Mr. Leigh said all three are things that have come up tonight and warrant a review. Mr. O'Banion said that he was just concerned about the trees tonight. Mr. Messer agreed that we have given several variances on the length of cul-de-sacs over time, and there may be other cities that have a different approach. Mr. O'Banion said that all three issues are worth looking at. Mayor Pro Tem Leigh said that each Councilmember could speak to his or her own concern, but he feels that all would agree that the \$2,000 fee-in-lieu of a 40-inch tree is not reasonable; it is too lenient. He said that the other item on cul-de-sac lengths, especially when there is developable land surrounding the proposed subdivision, Council needs to ensure there is a possibility of connection to another development. Councilmember O'Banion said he agreed with the Mayor Pro Tem, and added that the City needs to see the big picture so that a cul-de-sac is not dead-headed.

Councilmember Gauntt stated this is a final plat so the Council's options are, if the plat meets the requirements, it must be approved. Mr. Messer agreed that if a subdivision meets the requirements, then Council has to approve it. However, he added that this subdivision does not meet the requirements, and the developer is asking for a variance. Mr. Leigh stated that the variance was for the cul-de-sac length and not for the tree. Mr. Messer said that the developer met the requirements on the tree. Mr. O'Banion said that he felt the variance request for the cul-de-sac was reasonable. Councilmember Pearson added that the cul-de-sac variance was less egregious than the one the Council approved in item 2. He felt that the Council would be on a slippery slope if they were not to approve this one.

City Manager Listi stated that the P&ZC's recommendation was for approval, and Staff's recommendation is to concur in that favorable recommendation for approval. He noted that the Council had made some good points about some things to look at, especially the issue with the trees.

Upon a motion by Councilmember Pearson to approve the item as presented with conditions and a second by Councilmember Sanderford, the item was approved upon a vote of 4-1. Councilmember Gauntt provided the dissenting vote.

4. **Consider a request from Carothers Development LLC to extend the Preliminary Subdivision Plat validity six (6) months for Dawson Ridge Subdivision, a 59.033 acre tract, located north of Sparta Road, south of Lake Road/FM 439, and west of the existing Dawson Ranch subdivision.**

Director of Planning Erin Smith stated that the Subdivision Ordinance provides that Commission approval or conditional approval of a preliminary plat shall be valid for a period of twelve (12) months from the date of Commission action. If a final plat is not submitted within that time frame, the preliminary plat will become null and void. The preliminary plat for Dawson Ridge, a 144 lot subdivision, was approved by the P&ZC on February 18, 2015, and by the Council on February 25, 2015, making the preliminary plat valid until February 25, 2016.

On September 22, 2015, the applicant requested an extension to the validity of the preliminary plat which Council denied as untimely. At that meeting, Council requested that Staff work with the developer to review City comments and develop a Right-of-Way Management Ordinance, allowing the potential for utilities to be located under the street pavement. Mrs. Smith said she has advised the applicant his original utility plan is acceptable and will not have to be redesigned, as a result.

Mrs. Smith stated the applicant submitted the Dawson Ridge subdivision final plat and construction plans for Staff review on August 15, 2015. City Staff completed a review and had extensive comments regarding drainage, streets, and water/sewer. She explained that this property will be served by the 439 Water Supply Corporation for water and by City of Belton for sewer. The water lines are proposed within the City's right-of-way, and Staff is working on a Right-of-Way Management Ordinance. Angellia Points, Interim City Engineer, has completed a draft ordinance that includes permitting, excavations and repair, construction, and insurance requirements. It has been distributed to the utility companies, contractors and TABA for comments.

The developer has submitted a request to extend the Preliminary Subdivision Plat validity six (6) months, to August 25, 2016. This is a large subdivision with several elements; therefore, the developer is also requesting this extension to resolve any issues prior to P&ZC and Council consideration of the final plat, and may conclude to submit the final plat in multiple phases. This extension will also allow adequate time for City Staff to finalize the Right-of-Way Management Ordinance for Council adoption.

Mrs. Smith stated that the P&ZC recommended approval of this extension at their meeting on January 19, 2016, and Staff concurs with their recommendation to extend the Preliminary Subdivision Plat validity to August 25, 2016, for Dawson Ridge Subdivision.

Councilmember O'Banion commented that there appears to have been some progress made since the last time this request was made. Mrs. Smith said that there had been some progress made on the drainage and other issues, but she has not yet seen the revised plans.


Upon a motion by Councilmember Sanderford to extend the Dawson Ridge preliminary plat validity for six months to August 25, 2016, and a second by Councilmember O'Banion, the item was unanimously approved upon a vote of 5-0.

Executive Session

At 5:54 p.m., the Mayor Pro Tem announced the Council would reconvene in the Smith Room to go into Executive Session for the following item:


5. **Executive Session pursuant to the provisions of the Texas Open Meetings Act, Chapter 551, Govt. Code, Vernon's Texas Codes Annotated, in accordance with the authority contained in Section 551.074, to conduct an evaluation of the City Manager's performance.**

The Mayor reopened the meeting at 7:10 p.m., and there being no further business, the meeting was adjourned.



Marion Grayson, Mayor

ATTEST:



Amy M. Casey, City Clerk