

Minutes of the  
**Planning and Zoning Commission (P&ZC)**  
City of Belton  
333 Water Street  
Tuesday, April 16, 2019

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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 Brett Baggerly, Dave Covington, Stephanie O'Banion, Zach Krueger, Luke Potts, Ty Hendrick, David Jarratt and Quinton Locklin. The following staff members were present: Director of Planning Cheryl Maxwell, Planner Kelly Atkinson, IT Ryan Brown and Planning Clerk Laura Livingston. Commission member Allison Turner was absent.

**Pledge of Allegiance** – Chair Baggerly led all present.

**Invocation** – Mr. Krueger gave the Invocation.

**1. Call To Order.**

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

**2. Consider approval of minutes from previous meeting.**

Mr. Covington made a motion to approve the minutes from March 19, 2019, seconded by Ms. O'Banion. The motion passed unanimously with 8 ayes, 0 nays.

**3. Z-19-07 Hold a public hearing and consider a zoning change from Neighborhood Service to Retail District on approximately 0.38 acre located at 3700 Auction Barn Road, on the northeast corner of FM 1670 and Auction Barn Road.**

Ms. Maxwell presented the staff report (Exhibit A).

Chair Baggerly opened the public hearing.

Ms. Angela Brown, 3822 Village Hill Road, stated she has seen a lot of activity go on down FM 1670. She has witnessed a police officer arrest someone who was walking. A man was walking down 1670 screaming profanities in front of her young children. She has a lot of safety concerns. Last year she had two armed men at her door. Adding a convenience store in that area with the sale of alcohol is a safety concern and it will devalue the property. Most of the activity is on the north side of the mini storage and so they don't see a lot of activity – every now and then – but she believes it would cause an increase in activity. She would request that the zoning is not approved based on the concerns of the neighbors in the area.

David Gilliam, 3827 Village Hill, stated his daughter is Angela Brown. He doesn't like the idea of the convenience store because of the potential for increased activity in that area. Will the lighting illuminate his backyard? Probably. So, he doesn't like that idea. The little Village Hill neighborhood is quiet. The police always go through there and it's always safe there. This can change when you add gas stations and all kinds of people going in and out and buying liquor. There was a car wreck near the mini storage facility and it took out the fences and a telephone pole. He doesn't like the idea.

Tanya Hix, 3700 Village Hill Road, said her concern is with the safety. Some people might drive through their road at a faster speed than a normal residential area so adding a convenience store will

increase the traffic. Her children won't get to play outside and enjoy the neighborhood and their friends. She said there a lot of "crackheads" who walk up and down FM 1670. She has seen four or five different people who frequent that area. It just doesn't seem like a good idea, or a place she would want to live with her children.

Darryl Wharton, 2807 Wharton Lane, said he has been there since 1983. He doesn't understand why they would want to put a convenience store there instead of a family dwelling. The real estate people changed it so they could sell it. There are people walking up and down FM 1670 and they dig through their trashcans and open up their trash. We get trash all up and down our fences, all of the time. When they turn down Auction Barn Road, people might throw their trash out on the corner. He is concerned about the entrances and how that is going to be done. He has concerns about that. With Rocking M Lane, it will be an in and out for Three Creeks residents so now there will be more traffic so how is the city and the state going to maintain that as far as getting an easy in and easy out? If you think about it, it is going to be a problem. He thinks it should be zoned Single Family. They should build a fence if they do something like this. He has concerns and it would be better if it was turned back to a zoning for residential use.

Prubesh Dhakal, 2305 Modoc Drive, Harker Heights, said he and his friend are trying to buy this property. They believe it is a really good location for a business. If they put a business there it will help the community and people to get whatever they need. It will be a convenient place to get supplies they need and gasoline. We are in the process of buying it so if the neighbors feel it's not a good location for them, we are OK with it.

Rajaram Gautam, 5400 Bell Drive, Killeen, said he and his friend are recently retired veterans running the 7-Eleven in Belton and saw the corner lot on Auction Barn Road and it is at an affordable price. There is a lot of construction by DR Horton in that area and lots of residents and they have two choices to stop. They are trying to open a convenience store that can sell alcohol in a closed container. They will design their buildings in a way that will make the neighborhood happy. They will not buy it under the contract if it is zoned NS.

With no one else requesting to speak, Chair Baggerly closed the public hearing.

Mr. Luke Potts asked Ms. Maxwell to show the slide that lists the uses allowed in a Neighborhood Services zoning. Ms. Maxwell did so and pointed out that in the NS zoning you can have a convenience store but you cannot have gasoline sales. In that zoning you cannot have a residential use, Ms. Maxwell added. She understands the concerns with a convenience store, but that could go up with the current zoning, just without gasoline pumps.

Chair Baggerly said he would like to remind the Commission they are deciding on a zoning change and not approving a convenience store today. Right, Ms. Maxwell said, any of these uses would be allowed with the proposed zoning change.

Ms. O'Banion said if they had proposed a convenience store without gasoline sales, they would not have to come before the Planning and Zoning Commission? Correct, Ms. Maxwell said. They would just have to request their building permits, she said.

Mr. Jarratt said he had a question. In the area of Wharton Lane and 1670, it is already zoned Retail, are there any building permit applications for that property right now? Ms. Maxwell said not that she is aware of. She said that property was rezoned in 2014.

Mr. Potts asked if anyone were to put a convenience store there, what would they have to do along the areas where residents are located? Will they have to do fencing or screening? Ms. Maxwell said screening is required adjacent to residentially zoned properties. Technically they would not have to do fencing because the homes are not residentially zoned (they are zoned Agricultural District--AG). With the site plan review, there are landscaping requirements, and the screening doesn't have to be a solid wood privacy fence; it could be 6 feet tall shrubs so we could work with the applicant and put in screening of vegetation. But it is not something they could require based on the zoning.

Mr. Hendrick asked if TxDOT would give them access off FM1670 or would all of the access come off Auction Barn Road? Ms. Maxwell said it would probably come off Auction Barn Road. She didn't see that they could get access that close to the intersection. Typically, this is reviewed with the plat to see if they needed a detention pond or utility extensions, and so forth, she said.

Mr. Covington said he has a few concerns that are directed at the use of a convenience store with a gas station. He said it's not a very big lot so whatever goes there is going to be very close. The neighbors around are zoned AG but the clear use is residential. With the convenience store with gas station sales on this particular lot, you will have to have a septic system so that is going to reduce the area for parking and where the tanks can be buried. There are a lot of reasons why a convenience store with gas sales wouldn't work here. There are many uses in NS that could work on a lot that small. Mr. Covington didn't think that Retail zoning is the best use for this lot.

Ms. Maxwell said one positive aspect with the Retail zoning, is that it requires a 25-foot setback on each side for the structure. NS would only require a 5-foot setback. It's just a consideration but might not counterbalance the uses.

Mr. Jarratt thanked Ms. Maxwell for noting that, but he has to get past the fact that he doesn't think the use is a good idea. That would be a protection or a further constraint of a use that's not appropriate if that happened. Mr. Covington said he's not convinced that NS is the best use for this property. He thinks it would be great if the owner were to rezone back to a residential use. Because of the size of the lot, a Planned Development or Specific Use Permit may be in order to gain momentum and due to the residences in such close proximity, so in that way they could require screening. Chair Baggerly said the lot is 0.38 acres.

Ms. Maxwell said if the Commission wanted to go that direction, it could be zoned Planned Development and require screening. Mr. Jarratt said with the amount of concrete, he did not think a residential septic system could fit on that lot with what is left. Ms. Maxwell said typically it is a half-acre. You have seen some come through if it was platted prior to 1988 where they don't hold you to that half-acre. This was platted in 1982. She wasn't sure if the potential buyers had spoken with the health department yet. Mr. Dhakal said they had spoken with them and they said the 0.5 acres requirement is only for residential lots. For commercial lots there is no rule, he said. Mr. Covington asked if they gave any indication as to what size drain field you might need? Mr. Dhakal said they said something similar, the lot is small to have a septic system and a gas tank but if they can get a blueprint drawn up and they can fit it then they don't have any problem.

Mr. Covington said if you could produce those plans and then come back with a Planned Development proposal, we could reconsider, but he is still hesitant. Mr. Covington said he's not telling him he would support that. Right now, they are guessing on the information, he said. Chair Baggerly said they have enough concerns and we have heard from the neighborhood that we can make a decision on this. Mr. Potts asked if they could change the zoning to residential from agriculture? Ms. Maxwell said typically we would like to do a city-initiated rezoning and we would

need the property owners support. There is protection to the residential area as opposed to AG and this is a perfect example, where if you have a business go in next to you then you can have some protection with screening. We would be happy to entertain that request, Ms. Maxwell said. Chair Baggerly said that is something those residents might want to discuss together. Anytime the city annexes land it is zoned AG until the homeowners initiate a change. This was annexed in 2004, Ms. Maxwell said.

Mr. Covington made a motion to disapprove Z-19-07. Mr. Jarratt seconded the motion. The motion was approved with 8 ayes, 0 nays.

Ms. Maxwell said this request will not automatically move forward for appeal to the City Council, unless the applicant requests it. It must then be approved by five of the seven members, she said.

Ms. O'Banion asked to add a comment, knowing it was the gasoline sales that brought the request forward tonight, and for everyone to understand what is allowed there in the NS zoning district.

#### **4. Staff update on upcoming items of interest.**

Ms. Maxwell updated the Commission on the workshop with the City Council on a food truck ordinance. They are hoping to move it forward in May to get it approved. They will then return to the P&ZC to approve a definition and define which zoning districts would allow for mobile food vendors.

In the next few months the results of the sidewalk sunset review will come to the P&ZC along with other subdivision ordinance requirements such as perimeter street improvements and parkland fees.

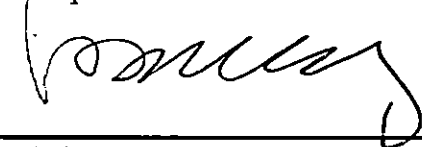
A review of the Design Standards is ongoing, Ms. Maxwell said.

She mentioned the American Planning Association conference in Waco. They are wrapping up the current fiscal year so if any members are interested in attending, please let her know so they can save room in the budget.

The City Council wishes to hold a joint meeting with the P&ZC, with the date to be determined. It's an opportunity for dialogue, Ms. Maxwell said. Chair Baggerly asked if they have considered a joint meeting with the Youth Advisory Commission? Ms. Maxwell said it's probably on their list.

Mr. Jarratt asked about the food truck ordinance. Ms. Maxwell said a food truck park would be a fixed location that would have to adhere to the Design Standards. Mr. Potts said he owns a food truck and he thanked Ms. Maxwell for taking the time to meet with the owners. She thanked everyone for their participation.

With no further business, the meeting was adjourned at 6:07 p.m.



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Chair, Planning and Zoning Commission

**Staff Report – Planning & Zoning Item**

**Date:** April 16, 2019  
**Case No.:** Z-19-07  
**Request:** Neighborhood Service  
to Retail District  
**Applicant:** Prabesh Dhakal and  
Rajaram Gautam  
**Owner:** Stacy & Jimmy Dowell

**Agenda Item**

Z-19-07 Hold a public hearing and consider a zoning change from Neighborhood Service to Retail District on approximately 0.38 acre located at 3700 Auction Barn Road, on the northeast corner of FM 1670 and Auction Barn Road.

**Originating Department**

Planning – Cheryl Maxwell, Director of Planning

**Current Zoning**

Neighborhood Service

**Proposed Zoning**

Retail District

**Future Land Use Map (FLUM) Designation:** Residential

**Design Standards Type Area 4:** Primarily for intersections and cross roads of the I-35 and US 190 corridors. Projected uses are commercial, retail, and neighborhood service with a higher standard as these areas are gateways to other areas.

**Case Summary**

This property is under contract for sale. The applicant has submitted this request for a zoning change to Retail District to allow development of a convenience store with gasoline and alcohol sales.

This property is currently undeveloped. It was annexed in 2004 and was brought into the city limits under the Agricultural Zoning District. It was rezoned to Neighborhood Service District in 2011, but no development has taken place. The surrounding properties are all zoned Agricultural District except for a parcel near the southeast corner of FM 1607 and Auction Barn Road, zoned Retail District in 2014. These surrounding properties are all undeveloped except for the adjacent properties to the north and east, which are developed with single family homes (Village Hills Subdivision).

**Land Use Table/Allowable Uses**

The proposed Retail District allows the following land uses:

- Any use permitted in the Office -1, Office – 2, and Neighborhood Service Districts
- Alcoholic beverages for on-premise consumption
- Brewpub and winery
- Clinic
- Convenience store with gasoline sales
- Gasoline or service station
- Various retail stores: auto parts; bakery; clothing and apparel; furniture and appliances; discount, variety or department store; food or grocery store; hardware store, sporting goods, etc.
- Laboratory with all operations conducted indoors and no residual waste products generated
- Nursing home or residence home for aged
- Nursery or plant sales
- Pet shop
- Restaurant or cafeteria

**Project Analysis and Discussion**

The applicant proposes to develop a convenience store to include gasoline sales and alcohol for off-premise consumption. Gasoline sales are not allowed in the existing Neighborhood Service (NS) Zoning District. Staff has determined this site to be “wet” for off-premise sales of beer & wine and on-premise consumption of alcoholic beverages associated with food. There is a church nearby on the west side of FM 1670, north of this site, but it exceeds the 300’ distance requirement, so the proposed application would be allowed.

The FLUM identifies this area as projected for residential use; however, this has already been modified with the NS zoning that was approved for this tract in 2011. Retail use is generally considered appropriate at major intersections such as FM 1670 and Auction Barn Road, and is consistent with anticipated uses identified in the Design Standards Type Area 4 that is assigned to this general area.

This property was platted in 1982 and consists of Lot 1 and the western half of Lot 2, Block 1, Village Hills Subdivision. The requested Retail Zoning District requires a minimum lot area of 7,000 sq. ft, with a minimum 60’ width; there is no minimum lot depth. Required setbacks in the Retail District include a 25’ front yard, 25’ side yards, and a 20’ rear yard. The existing Lot 1 satisfies the area requirement but it would be difficult to place a structure on this one lot and observe the required setbacks. Use of both Lot 1 and the western half of Lot 2 is needed to make this a viable site for retail development. A replat is needed to consolidate the lots. Approval of this replat and site plan will be required prior to issuing a building permit. Development of this property must comply with all design standards for site development including building design, landscape, tree preservation, etc.

## **Exhibit A**

After careful review of this zoning change request, the requested Retail Zoning District appears to be reasonable in this location.

### **Recommendation**

Recommend approval of zoning change from Neighborhood Service to Retail District.

### **Attachments:**

1. Zoning application
2. Property Location Map
3. Zoning map
4. Aerial photo
5. Map with zoning notice boundary (200')
6. Zoning notice to owners
7. Property owner's list
8. Field notes/survey