

Minutes of the
Planning and Zoning Commission (P&ZC)
City of Belton
333 Water Street
Tuesday, May 21, 2019

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, Allison Turner, David Jarratt and Quinton Locklin. The following staff members were present: City Manager Sam Listi, Director of Public Works Angellia Points, Director of Planning Cheryl Maxwell, Planning Clerk Laura Livingston, Planner Kelly Atkinson, and IT Specialist Ryan Brown.

Pledge of Allegiance – Chair Baggerly led all present.

Invocation – Ms. O'Banion 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 April 16, 2019, seconded by Ms. O'Banion. The motion passed unanimously with 9 ayes, 0 nays.

3. Z-19-09 Hold a public hearing and consider a zoning change from Retail District to Retail District with a Specific Use Permit to allow Used Car Sales on approximately 0.9 acre comprising lots 0009, 0008, 0007, and 0006, Block 2 of Belton Lake Estates at 3286, 3292, 3298, and 3304 Lake Road, on the north side of Lake Road (FM439), east of Lake Ridge Drive.

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

Chair Baggerly opened the public hearing. Mr. Robert Babcock, 4881 FM 439, is the owner of the lots. He said he bought the lots several years ago to put multifamily housing there because he was told city sewer was going to come in but it didn't. He has had several people try to buy the property and he thinks this is a reasonable use. He would like to see it approved of course and he thanked them for the consideration.

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

Mr. Potts asked about the lighting with all of the homes and if there are any restrictions on the lighting. Ms. Maxwell said they are not proposing any restrictions other than following the Design Standards and the Zoning Ordinance, which would regulate the brightness and the placement. They did not call it out in the recommendations, but if the Commission wants to, they certainly can. Mr. Potts said he think it's a very reasonable use and he would support approving this.

Mr. Potts made a motion to approve Z-19-09. Mr. Hendrick seconded the motion. The motion was approved with 9 ayes, 0 nays.

4. Z-19-08 Hold a public hearing and consider a zoning change from Planned Development – Single Family One District to Planned Development—Single Family One District with a Specific Use Permit to allow an Accessory Dwelling Unit on Lot 5, Block 3, Dawson Ranch Subdivision, Section I, Phase I, at 3209 Loving Cove, west of Dunns Canyon Road and north of Chisholm Trail Parkway.

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

Chair Baggerly opened the public hearing.

Ms. Ilaina Shook, 3207 Loving Cove, lives next door to 3209 Loving Cove and she has lived there 11 years with her husband Bob Airhart. It is their understanding that the Hall family will be building an Accessory Dwelling Unit for her mother who is in poor health. They are sympathetic to the situation but they do have significant concerns about an extra dwelling being constructed on their property. With an additional dwelling there could be increased traffic and parking, and they are concerned for the safety of children who play outside. It may not be an issue with Mrs. Hall's parents living there but it could be an issue in the future. Currently the Halls have three cars parked in their driveway and do not park any of their cars in the garage and they frequently have visitors who park in the street. Loving Cove is a cul-de-sac with nice sized lots and good spacing between homes but adding another dwelling will alter that and decrease the level of privacy we now enjoy. They are concerned for the precedent it will set for the Dawson Ranch/Regatta Oaks development and all of the neighborhoods. This will create overcrowded neighborhoods. Every person on their block could do this and they could have 16 more people living on their block. If someone wants to sell their home it could be a potential problem based on these concerns. What happens when Mrs. Hall's parents are no longer living there? Or when they move? They understand Ms. Hall wants to take care of her parents, but they do not want another home crammed between two existing homes on their nice cul-de-sac.

Ms. Debra Minzak, 3205 Loving Cove, lives in the neighborhood. She also read a letter she wrote. In it she said Maria Hall sent an email to neighbors on the street advising them they would be adding a detached garage that has a bedroom, bathroom, closet, living area and small kitchen. Because she and her husband's parents had to also seek solutions for their ailing parents, their hearts are compassionate to the decisions they have to make. She told Ms. Hall that her parents are blessed to have them. However, she does have concerns after seeing the 1,200 square foot, almost 1,300 square foot home being built in the backyard. Her first concern that there is a request for a zoning change; that is a different home from what sits on their property. Is this what all garage apartments are zoned? Once her parents are no longer living in the home, they could legally rent that apartment to UMHB students or other people which would create more issues. Her greatest concern is for parking that is already limited, especially for them which has a limited curb space. The cul-de-sac is very active with children on bikes, scooters and skateboards every day and some of them are very young children. It concerns her there will be additional parking and traffic associated with the zoning change and new construction. The HOA has current restrictions for overnight parking and we are told this is because the streets are not wide enough to allow for emergency vehicles if the cars are parked on the street. They have an incredible street with incredible neighbors and she hopes they can work through this. What are their options?

Tom Minzak, 3205 Loving Cove, read a letter he wrote. One of the main reasons they purchased a home was because the lots were big and they were in a cul-de-sac. Over the years they have had great relationships with all of the neighbors. His concerns are the increase in traffic and there are children and grandkids living or coming to every house on that street that play. Parking is already a problem

and it's just going to increase. We live in a Single-Family subdivision and he strongly recommends that they keep it that way. It's his opinion that building separate homes in an existing platted property is wrong and he doesn't understand how they can put a 1,300 square foot building on the existing plat. He thinks it opens up a can of worms not only in their subdivision but he thinks it opens up a can of worms in Belton. If anybody can do this, build another house, on the same land – it's not right.

Maria Hall, 3209 Loving Cove, the applicant said they wanted to point out where the kitchen will be located. They will have a large closet because her husband has many pairs of boots. She said it will not be a full kitchen but similar to what you find in a pool house with a small refrigerator; her mom is not cooking much so they don't have a use for a full kitchen. She is trying to take care of her dad, and her mom is old but if they need to remove the kitchen, we are fine with it. They have no interest in renting to anybody and we have no interest in selling at this time or anytime. They do not like moving, even though she is a real estate agent. That's all she wanted to say.

Christine Herzog, 3203 Loving Cove, said she wanted clarification whether or not in the future the ADU could be rented.

Chair Baggerly closed the public hearing.

Mr. Potts asked if this neighborhood is already governed by an HOA? And this isn't breaking any rules of the HOA? Ms. Maxwell said they did receive a letter from the HOA saying they had approved the request and the applicant indicated that they cannot rent the property. Ms. Hall said they are not allowed to rent the unit and she will look for the email. Ms. Maxwell has the letter of approval and asked for the restriction that says they cannot rent it out.

Chair Baggerly asked if the applicant worked with the City or was it just coincidence that they met all the criteria? Ms. Maxwell said they had it all there and the only question she had when she saw the application was whether or not they really needed the kitchen. That's what makes it come forward with a SUP, but without a kitchen we wouldn't be standing here right now, but Ms. Hall indicated they wanted to do it right and have a kitchen facility.

Ms. O'Banion asked what qualifies as a kitchen? She knows that may sound like a really dumb question. She's curious what would those standards be? Ms. Maxwell said you would need a plumbing feature with a sink and water and electric outlets to plug in what appliances you need. It's probably the water aspect that makes it a kitchen.

Chair Baggerly said they did classify pool houses as something different that wouldn't have to come before the Commission and they would not have a kitchen. Ms. Maxwell clarified, anything with a kitchen has to come before the Commission. Mr. Krueger asked, that had a purpose because it would have everything a home has? Ms. Maxwell said yes, it is self-contained and could be a complete living facility by itself. Everything that you need would be there basically. Mr. Covington said it is still an Accessory Dwelling Unit, it's just if it has a kitchen it requires a Specific Use Permit which requires more review.

Mr. Jarratt said he recalls the discussion around the ADU had to do with the size and setbacks and this property is way inside all of the size criteria and this request fits in exactly what type of request is being made and the reason the ordinance was adopted in the first place.

Ms. Maxwell said one thing in the ADU ordinance that changed once it reached City Council was the size of the ADU. The P&ZC was looking at a smaller size, not to exceed 800 square feet and the

Council in their evaluation thought it could go larger with a percentage of the main structure. Mr. Jarratt said one of the main concerns brought up tonight was parking. One of the challenges of a smaller ADU was fitting parking. The fact that this ADU actually has a garage, it addresses that issue. It doesn't change the traffic perception.

Ms. O'Banion said in the ordinance it states the size can be 800 square feet or 60 percent of the main dwelling unit – whichever is greater. This ADU proposal is 37 percent, she said. Ms. Maxwell said it is about a third of the main house. Ms. O'Banion said it is well within the requirement that they have been given to work with. Mr. Potts asked about the zoning change; you couldn't all of a sudden build a 7-Eleven there? Ms. Maxwell said the Single-Family zoning would remain and it could only be used as a residence.

Mr. Covington said he thought a lot of the concerns expressed had to do with the allowance of ADUs in general in Belton neighborhoods. They had this discussion not with a specific property in mind but across the city of Belton and had a lot of really good meaningful discussion. To be clear, the base zoning stays the same but they are adding a Specific Use Permit to allow the ADU with a kitchen. If they didn't want the kitchen, they wouldn't have to come here, he said, they could just build it by right. The concerns he heard tonight, were concerns they already hashed out and approved last fall. Council and P&ZC had differing opinions on the size. With the restrictions and guidelines, they have, he feels like it meets every criterion we, and the Council, set out. Chair Baggerly said he believed it is right in the spirit of what they adopted. Mr. Covington said it goes right along with what they set out to do.

Mr. Krueger asked for what purpose was the kitchen left out of the ADU. His concern is that once the kitchen is removed, it's no longer a dwelling. Chair Baggerly said they did that to handle the pool house issue. Ms. Maxwell said that was done so it doesn't need to come before the Commission, but an ADU with a kitchen is a more significant change. The purpose of the SUP is to give the Commission a chance to evaluate it. It gives you the opportunity to evaluate each one on a case-by-case basis.

Mr. Jarratt said so sometimes what we see here or before the Zoning Board of Adjustments, are variances or off-set requests and this request actually meets every one of the criteria within the spirit of what the ordinance change was intended to do in the first place, which was to make this type of use available.

Chair Baggerly said we may be splitting hairs over a sink and a microwave.

Mr. Covington asked about the possibility of it being rented in the future? The City cannot control that? Ms. Maxwell said no. Chair Baggerly said Ms. Hall said she had documentation about that. Mr. Covington said, in general, there is not a restriction by the City on renting these out? Ms. Maxwell said no; they could not sell the unit because the lot would have to be replatted so that is definitely prohibited, but renting is not something the City can control.

Mr. Potts made a motion to approve Z-19-08. Mr. Hendrick seconded the motion. The motion was approved with 9 ayes, 0 nays.

Mr. Covington said the item will go to the City Council next week and so if you want to express concerns to the Council please attend that meeting. The P&ZC is not the final say; Council approval is required.

Ms. O'Banion said given the proposal that was presented tonight she did not see how they could make any other decision or it would have been wrong on their part, so Council is their next step.

Chair Baggerly said because the concerned neighbors were surprised to know this is allowed in Belton, he encouraged them to visit the website and read the minutes of past meetings so they are informed of what is happening in the city.

Ms. Maxwell said this is the first case they have had come before the P&ZC. Mr. Potts said again they have an HOA that governs the neighborhood, so they should take it up with the HOA with any future issues they may have. He thanked Ms. Hall for her willingness to support her parents, since not many children would do that.

5. P-19-19 Consider a final plat of Ramirez Addition, a replat of Lots 13, 14, and 15, Block 4, Belton Lake Estates, comprising 0.539 acre, located on the east side of Wild Wood Drive, near its intersection with Cedar Crest Drive, north of FM 439, in Belton's ETJ.

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

Mr. Covington asked if they were going to tear down and rebuild a house? Ms. Maxwell said no it's newly constructed and they need to put in a septic system. Mr. Covington said it is foolish you have to replat to do that.

Mr. Covington made a motion to approve P-19-19. Mr. Hendrick seconded the motion. The motion was approved with 9 ayes, 0 nays.

6. P-19-20 Consider a final plat of Royal Heights Addition, Replat No. One, comprising 6.293 acres, located on the northwest side of Loop 121, west of its intersection with FM 436.

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

Chair Baggerly said he could not tell what had changed but that before they had discussed drainage and parking and all of those things seemed to have been addressed.

Mr. Jarratt said he was a little confused. What prompted the review of the drainage utility area and whether or not it was sufficient? In the letter it says "hope to resolve issues" and during the presentation Ms. Maxwell seemed to indicate all of that has been worked out. Ms. Maxwell said on Thursday they had asked the applicant to make changes to their drainage plan and they did and they were satisfied with that. At that point in time, we did not have confirmation from TxDOT that the plan was going to meet all of their requirements. So, the applicant was asking the City to reevaluate the requirements because their original plans were indicating less flow as opposed to the revised plans which may impact TxDOT's culverts. We are satisfied with the revised plans but we are still waiting for TxDOT to review.

Before everybody seemed to be happy, Mr. Jarratt said, but now maybe not. If TxDOT approves it, does the applicant have more work to do?

Ms. Points said let me walk you through that. During the preliminary plat we don't see a whole lot of details on the drainage calculations or the drainage plan. So now we are at final plat, which is

when we see the drainage calculations. The City requires developments to accept and design for off-site runoff. Royal Heights is in the lower part of that drainage basin and most of that is undeveloped. In order to handle offsite flows, it must be designed to handle runoff from a fully developed basin, so this is a normal requirement that all of our subdivisions adhere to. Granted, any development upstream will have to address their own runoff so there will be detention ponds upstream. Even if there are detention ponds scattered throughout the basin there will still likely be an increase in flows at the bottom of the basin, which is where Royal Heights is located. We've worked with the developers and engineers Mitchell and Associates to model the basin and design the channel to handle such flows. They developed a model that TxDOT reviewed, and then the city reviewed the figures, and the flows they projected were half of what the city projected would go through that channel. So, the City met with the developer and engineer, and worked through the design criteria discrepancies. In the end, the developer met some of the City's requirements, so both sides seemed comfortable with the solution. The channel was widened so it can handle those flows, Ms. Points said. But, because it had changed, the City said TxDOT still must review this, because it is going into their culvert and beneath Loop 121. The issue at hand is the culverts, designed in the 1950s, were not designed to handle that flow, she said. The concern is that Loop 121 is going to have water over top in the future with all of this development. The City needs to know from TxDOT the capacity of the culverts and TxDOT has requested additional information from the developer's engineer. Ms. Points said the City has a possible solution, but more information is needed. She is optimistic about a solution with the developer's engineer. As the City's engineer, she still recommends approval with the caveat that it must meet both the City and TxDOT's requirements.

Mr. Jarratt said at this point everything looks good, but what if TxDOT says no, then what happens next? Will there be a revised final plat discussion? Ms. Points said the solution that they have in mind should not affect the lots so she doesn't expect it to change the plat.

Ms. O'Banion asked if there was any cost to the developer between the initial plat and this plat? Ms. Points said yes, they have to do more dirt work for the channel, but the lot lines did not change.

Mr. Hendrick asked why there was such a discrepancy between the flows in their study and what the City found? TxDOT's criteria hasn't changed, Ms. Points said. The City commented to the developer's engineer that some of the model numbers they used were not adequate to model the entire drainage basin. The City asked them to change some of the numbers which therefore increased the flow. That is a standard part of the review process, Ms. Points said, and it is her responsibility to make sure these channels are adequately designed for development.

Mr. Covington said he's not an engineer, but it sounds like the issue is that TxDOT's culvert may not be big enough. Ms. Points said yes. And not that the drainage easement in Royal Heights isn't big enough, Mr. Covington said. Correct, Ms. Points said. Mr. Covington said that if TxDOT's culvert isn't big enough, he didn't think the City can say there needs to be a detention pond. It seems like we are hammering the developer for something that is TxDOT's problem, he said.

The applicant Dana Tatum, 35 Green Terrace, Austin, wanted to clarify: we did not work together. We submitted a plan that was permitted by TxDOT. We received comments from the City and we gave them everything with the exception of the drainage. We requested a meeting and offered a compromise by upsizing their drainage channel that their calculations still showed was adequate. They came back and said no, "there are several different ways to skin a cat," and there are several methodologies that are generally accepted and Belton does not have one that they dictate to be used in this process, so my engineer used the one he normally uses. KPA apparently uses a different one, Ms. Tatum said. KPA said we are sticking to our numbers and here are the calculations you need to

use in order to for us to accept your drainage. They went back and designed according to KPA's numbers.

What is KPA? Mr. Potts asked. It's the engineering firm Kasberg, Patrick and Associates, that the City hired to do the drainage report, Ms. Tatum said. We drew a third set and submitted it at their request, Ms. Tatum said, not because we wanted to, but because the City told us we had to have it that way in order to pass. Then TxDOT came back and said the flow is double, if not triple, what their infrastructure can handle and they can't permit it. We drew it twice and we got it permitted twice, Ms. Tatum said. The City came back and said we must use their numbers or else they can't approve it. We redrew a new set of plans that were submitted to TxDOT and TxDOT has now come back and said their infrastructure cannot handle the numbers that the City is requiring. So, the third rendition of this drainage channel is not because we chose it or we want it, but it's because we were told that is what needed to be done in order to pass, Ms. Tatum said, and now TxDOT cannot permit it. So TxDOT has requested additional information to try to determine what their infrastructure can handle and she guesses that the City will back into whatever numbers make sense to get them the maximum channel that can also go through TxDOT's infrastructure. Ms. Tatum said her concern is that it is her job to plan and build a project that meets today's existing circumstance, not for her to build something that will catch all of the runoff from future developments that may or may not have handled drainage properly.

Mr. Covington asked if the City has any master plans for detention ponds in the basin? Is there something the City could do upstream from here to try to help with that on a larger scale? Ms. Points said they have recently studied the basin with KPA and there is some regional detention upstream of this area that they have planned, but the projected flows are still the same.

Mr. Hendrick said he grew up in that area and a lot of this runoff goes through Mitchell Branch. His home would get close to flooding quite a bit, he said. He asked to see the preliminary plat that the Commission approved versus what this final plat looks like. Ms. Maxwell said the plat itself is very similar and she said it would be hard to notice any differences. Mr. Hendrick asked if it's the far development that's being talked about, to the north? Where is the future development? Ms. Points showed an exhibit of the extensive drainage basin, and said it's everything between Liberty Hill and some of that open space you see. Chair Baggerly said we know about the developments along Laila Lane and Connell. Mr. Hendrick said it would seem that Laila Lane would flow through Mitchell Branch. Ms. Points said it actually goes through Royal Heights and both the developer's engineer and our engineer agree to that.

Mr. Potts said he is understanding that this may not be ready for final approval, and maybe we should table it until everything gets worked out. Mr. Potts said he would like to make a motion to table the item.

Chair Baggerly invited the engineer to speak at the podium.

Ace Reneau, representing Mitchell and Associates, 102 North College Street, Killeen, said their initial drainage analysis of this basin was similar to the area they are showing. They used the standard method of assigning runoff values to the existing use which is standard practice, and concurrent with Texas law, that says you can't add or discharge a higher volumetric flow rate onto your neighbor downstream than currently exists when you develop, that's when you run into detention ponds being so prevalent. So, we made the assumption that anything developed or with a detention pond would reasonably exist in a way that would have a flow similar to what an undeveloped condition would be. The City of Belton does not prescribe a particular method for calculating time and volume

concentration (how long it would take a drop of water to travel from the top of the drainage basin to Loop 121), so his firm used the method Killeen uses since they do a lot of work there. The calculations equated to a lower flow and there were also some questions about the rainfall data. They made some adjustments with data recommended by TxDOT and did show an increase in flow. Mr. Reneau said they made their submittal at the end of September and the report done by KPA was delivered to the City in October. They did not know that study existed, and they would have been happy to look at it. We felt like that was a little bit of a blindside. In the study that was done, they treated everything upstream as fully developed, which is going to skew the numbers. We will do everything we can within the plat to accommodate that channel section that was requested, and TxDOT has had issues with that. Mr. Reneau said anecdotally he spoke with someone at TxDOT who has been around a long time and they have said they don't know that that road has ever flooded. He doesn't believe the numbers KPA produced are necessarily what the true existing condition is. He said he understands Ms. Points' statement that as each development comes in and mitigates the runoff, there is some cumulative effect, but it is not a cumulative effect of doing nothing. We're not required to do detention necessarily because we're at the bottom of the basin, but our development makes no difference to that peak number, he said. Looking at the culvert under Loop 121, he estimated the capacity to be about 600 cubic feet of water per second (cfs). They are trying to accommodate what the City wanted and he believes they will be somewhere in that 600 range. For TxDOT standards, they should be designed for a 25-year storm so that flow can pass through. It will come out that it will be slightly undersized, but in that area. Mr. Reneau said he believes they can get to the calculations needed before it heads to City Council if the P&ZC can approve this. They will continue to work on it. Their goal is to make a project that works. They do not want their project to have flooding issues because that will come back on his firm. He didn't believe it was fair to design everything based on the Future Land Use Map (FLUM). It feels like they are making analysis off projections that aren't even close to being concrete since there is a lot of time that it could change. They do want to work toward a solution that everyone is happy with. They are actively working to find a solution and he thinks they can get there.

Mr. Covington asked Mr. Reneau if they make some adjustments, would it be close to 620 cfs? Mr. Reneau said they believed they will be in the 600 range with KPA's projections being closer to 740. Mr. Covington asked if the numbers were based on the way the land currently is with a 25-year storm or is that based on if everything west of the development was paved? Mr. Reneau said it's based on the existing land use and what the runoff will be currently.

Mr. Potts asked if he was correct in saying this is not the final plat. Mr. Reneau said he believed it could be and they will work within this parameter. He believed this footprint is what will eventually be there. Mr. Potts asked if he felt that this will get TxDOT approval? Ms. Points believed the addition of a small weir (a very small, minimal detention pond) to slow down the flow of the drainage and can easily be removed, may be the solution. She is discussing this with TxDOT to see if this is going to work, Ms. Points said. We believe this plat is the footprint, and that the footprint will not have to change, Ms. Points said. Mr. Jarratt said he wanted to make sure this wasn't an issue. Chair Baggerly said this shouldn't hold them up.

Ms. O'Banion made a motion to approve P-19-20. Mr. Jarratt seconded the motion. The motion was approved with 9 ayes, 0 nays.

With no further business, the meeting was adjourned at 6:50 p.m.

Chair, Planning and Zoning Commission