

MINUTES OF MEETING

HOOVER PLANNING AND ZONING COMMISSION

Date: February 12, 2018
Time: 5:30 PM
Place: Hoover Municipal Center
Present: Mr. Mike Wood, Chairman
Mr. Mike Shaw
Mr. Jason Lovoy
Mr. Allan Rice
Mr. Sammy Harris
Mr. Nathan Reed
Mr. Carl West

Absent: Ms. Jennifer Peace

Also Present: Mr. Rod Long, City Engineer
Mr. Chris Reeves, Assistant City Engineer
Mr. Jim Wyatt, Director, Building Inspections
Mr. Duke Moore, Fire Marshal
Mr. Mac Martin, City Planner
Ms. Sharon Nelson, Landscape Architect
Ms. April Danielson, City Attorney Staff
Ms. Vanessa Bradstreet, Secretary, P&Z Commission

1. CALL TO ORDER

The meeting was called to order by Mr. Wood. The secretary had roll call at this time and a quorum was present.

2. Mr. Wood asked Mr. Harris to give the invocation.
3. Mr. Wood asked Mr. West to lead in the Pledge of Allegiance.
4. Mr. Wood stated every Planning Commission member should have received copies of the January 8, 2018, minutes and if no one had any changes to me made, he would ask for a motion to approve as written. Mr. Shaw made a motion to approve. Mr. Rice seconded the motion. On voice vote, the minutes were approved unanimously.
5. The following cases were **continued** at the January 8, 2018, meeting by the applicants until the **February 12, 2018**, P&Z meeting:

(a) **S-1217-54** – Mr. Scott Rohrer, SB Dev. Corp., d/b/a/ Signature Homes, is requesting **Final Plat** approval for **Lake Wilborn, Phase 2A**, a proposed 46 residential lot subdivision located on Nunnally Pass in Lake Wilborn. P.R. Wilborn, LLC, is the property owner and the property is zoned PUD PR-1 (Planned Single Family District).

APPROVED

Engineering Comments: Recommend approval contingent upon the applicant providing a guarantee in the amount of \$232,000.

Mr. Bob Easley, AL Engineering Company, was present to represent this case. Mr. Wood asked Mr. Easley if he was ok with the \$232,000 guarantee. Mr. Easley answered yes. Mr. Wood asked if there were any comments on this case. There were none. Mr. Wood explained the Planning Commission had an opportunity to go over these cases at the work session before the meeting and he felt they were ok with it. Mr. Wood asked for a motion. Mr. West made a motion to approve. Mr. Shaw seconded the motion. On voice vote, the motion was approved by all members except for Mr. Harris, who abstained from the vote.

(b) **S-1117-50** - Public hearing to consider the adoption of **Resolution 01-2017** which would amend the Hoover Subdivision Regulations, Appendix A Design Standards, Article IV, Minimum Street Improvements, (5) Sidewalks.

APPROVED

Mr. Wood asked Mr. Mac Martin, City Planner, to present this case on behalf of the City of Hoover for the sidewalk ordinance change.

Mr. Mac Martin, City Planner, proceeded to explain the Sidewalk Improvement Regulations that had been discussed for the last several months and the improvements that would be amended in the current Hoover Subdivision Regulations. Mr. Martin stated that to this point, the subdivision regulations had required a 4 foot wide sidewalk on one side of the street in any subdivision and that did not include any roadways along the perimeter of the subdivision, but only interior to that subdivision. Mr. Martin stated that after hearing quite a bit of input from the community, they took a look at the sidewalk requirements and had proposed to this body changing the sidewalk improvements required in the subdivision regulations to the following:

(a) Where sidewalks are now required based on development type, whereas if you have a low density single family residential development, with an average lot width of 100 feet or wider, it would remain a requirement to have a sidewalk on one side of the road and that sidewalk would be 4 foot wide minimum and concrete. Mr. Martin stated that if they had residential development that was more medium or high density in nature, where the

average lot widths are beneath 100 feet wide, they would be looking to bolster the amount of sidewalk in the development to both sides of a street and that sidewalk would be 5 feet wide and made of concrete. Mr. Martin stated this would also take place for townhouse and multi-family residential developments as well as mixed use or commercial type subdivision developments, with the exception of the mixed use and commercial widening sidewalk to 6 feet, which was a standard that the city already used for commercial development.

Mr. Martin explained they did have the low-density, single-family residential development with sidewalk on one side and four-feet wide. He added they may require turn arounds for ADA standards, depending on the distances between driveways.

(b) Mr. Martin explained that the current sub-division regulations did not address roadways along the periphery of sub-divisions, so what they were finding in the field is that sidewalks are being provided to the interior of the development but if there were roadways along the perimeter of the development, that particular subdivision to the rest of the town, they were finding there were gaps in the sidewalks provided for the public.

Mr. Martin stated also that from this point forward, sidewalks would also be required along perimeter roadways on the side of the perimeter roadway abutting the new subdivision. Mr. Martin stated that if there was a case where a particular subdivision was large enough to where it includes the development of arterial streets, which would be a busier roadway, there is a requirement that sidewalks also be included on both sides of that particular roadway.

Mr. Martin stated that in the discussions between city staff and the Planning Commission members, they had discussed instances where the property may not be physically be able to accommodate sidewalks on both sides of the street. Mr. Martin explained that various development types include that if you had topography such that was required for instance in the development of basement lots. Mr. Martin stated that depending on how close the home sits or where the required setback sits to the roadway, that could create some major issues with trying to build the driveways in a set of basement lots and maintain the proper cross slope on the sidewalks. Mr. Martin stated that if there were physical limitations due to topography to where infield construction was limited to one side of the street meaning it was not such a large subdivision that it would warrant, the city did have the flexibility to work with the developer to make some adjustments to where the sidewalk could or could not go.

(c) Mr. Martin stated also they needed to take in to account the Planning Commission's thoughts on whether or not there was a clear appeals process should the city and the developer not reach an agreement on whether or not certain

sidewalks could be waived. Mr. Martin stated they did include a clear appeal to where the developer could appeal the decision of the city administration to the Planning Commission.

Mr. Martin stated in the present proposal, they also had in the cases of minor subdivisions with no proposed public improvements, that consists of four or fewer lots, they would not require the sidewalks to be put into place according to this amendment.

(d) Mr. Martin addressed alternate materials was another topic they covered and said in the proposal that alternate materials for sidewalks may be considered by the Planning Commission so if they had any type of pervious surfaces that the developer would like to try, they would take that under consideration.

Mr. Martin added that if they ran into a situation where they had a limited amount of right-of-way and there were some obstacles they needed to consider when having the sidewalk put into place, there may be a need for easements to be put in place to allow for the sidewalk to be installed. Mr. Martin stated that summed it up and would be glad to answer any questions.

Mr. Wood asked if there were any questions from the Planning Commission. Mr. Mike Shaw added that he felt whenever you added regulations, you always wanted to get it right, and he commended the city staff with collaborating with the Planning Commission, builders and such and felt this had been a good process of trying to come up with the best solution.

Mr. Rice stated he echoed Mr. Shaw's remarks and added this had been well played in terms of the process and he did appreciate the involvement of this Planning Commission and also the development community who had contributed to what was being presented. Mr. Rice added that it was very important to those at City Hall that there be due process and he appreciated the inclusion of language that did not hold the city staff with the burden of final determination, so it was appreciated that an applicant could come back to the Planning Commission and be heard by a citizen panel for final determination. Mr. Rice added that sidewalks were very important to the Mayor to be able to provide the opportunities for neighborhoods going forward to have a safe place to walk, run, bike, and not have to do these things in the street. Mr. Rice stated that a lot of builders were already doing this now voluntarily and they really appreciated that.

Mr. Rice thanked Mac Martin for all the hard work he had done in putting this sidewalk amendment together. Mr. Rice stated one more important inclusion was the alternative materials that Mr. Martin had touched on. Mr. Rice stated there would be some areas due to topography, trees, various features of nature that an ADA compliant concrete sidewalk would not be possible from an engineering

standpoint or at any remotely reasonable cost point. Mr. Rice stated it was very important to note that this had a couple of provisions that were brought to them by the development community where they could still get a safe foot path in an area that would be challenged by a traditional sidewalk installation. Mr. Rice stated this is a very sound ordinance and stated this was the way it was supposed to work instead of it being a unilateral decision on anybody's part.

Mr. Martin thanked the other departments who assisted with this ordinance as it was a team effort in coming up with this proposal.

Mr. Wood asked if anyone in the audience had any comments on this ordinance. There were none. Mr. Wood asked if there was any more discussion from the Planning Commission members. There was none. Mr. Wood asked for a motion. Mr. Rice made a motion to approve. Mr. Shaw seconded the motion. On voice vote, the motion was approved unanimously.

6. REQUESTS FOR PRELIMINARY AND/OR FINAL MAP APPROVAL:

- (a) **S-0218-03** – Kelly R. Seewald is requesting ***Final Plat*** approval for ***Rainwater's Resurvey***, being a resurvey of Lots 7 & 8, Block C of the Survey of Crestview. **This** property is located at ***453 and 457 Shades Crest Road***. The purpose of the resurvey is to combine part of Lot 7 with Lot 8, Block "C" to be known as Lot 8-A. The property owners are Judy C. Rainwater and Kelly Seewald. The property is zoned E-2 (Single Family Estate District).

APPROVED

Engineering Comments: Recommend approval.

Mrs. Judy Rainwater was present to represent this case. Mr. Wood explained the Planning Commission had a chance to go over the subdivision cases in the pre-meeting work session and had satisfied themselves with any questions they had. Mr. Wood asked if anyone in the audience had any questions. There were none. Mr. Wood asked for a motion. Mr. Sammy Harris made a motion to approve. Mr. Shaw seconded the motion. On voice vote, the motion was approved unanimously.

- (b) **S-0218-04** – Mr. Charlie Williams is requesting ***Final Plat*** approval for ***A Resurvey of Lot 6 Greystone 7th Sector Phase V***. The purpose of this resurvey is to vacate part of an easement. The property is owned by Charlie and Ashleigh Williams and is zoned PR-1 (Planned Single Family District).

APPROVED

Engineering Comments: Recommend approval.

Mr. Charlie Williams was present to represent this case. Mr. Wood asked if anyone in the audience had any comments on this case. Mr. Bob Bailey, 7065 N. Highfield Drive, stepped to the podium to state his property was on the other side of the easement and asked about vacating part of an easement. Mr. Bailey asked if that included the part of the easement on his property as well. Mr. Wood stated he didn't think so but would let the City Engineer answer his question.

Mr. Rodney Long, City Engineer, answered this was an internal easement into the lot that is being considered now and did not affect the easement between the two properties. Mr. Bailey stated he was not aware there was an easement there. Mr. Wood stated they had a map and would show him where it was on the map.

Mr. Wood asked if there were any other questions on this case. There were none. Mr. Wood asked for a motion. Mr. Carl West made a motion to approve. Mr. Rice seconded the motion. On voice vote, the motion was approved unanimously.

(c) S-0218-05 – Allen Hawkins, Terra Ross Bridge, LLC, is requesting **Final Plat** approval for **Ross Bridge Commercial Resurvey No. 1**, being a resurvey of Lots C-1, C-2, C-3 & Common Area CA-6 according to the survey of Village Center Townhomes. The purpose of this survey is to combine lots C-1, C-2, C-3, and CA-6 into two lots for commercial buildings. A storm drainage easement will be vacated by this map. Terra Ross Bridge, LLC, is the owner and the property is zoned PUD PC (Planned Commercial).

APPROVED

Engineering Comments: Recommend approval.

Landscape Architect Comments: Applicant must submit plans indicating how Tree Conservation Ordinance requirements will be met.

Mr. Bob Easley, AL Engineering Co., was present to represent this case. Mr. Wood asked Mr. Easley if he was aware of and ok with the conditions from the Landscape Architect. Mr. Easley answered he was. Mr. Wood indicated the Planning Commission had looked at this case at the pre-meeting work session and were ok with the plat. Mr. Wood asked if there was anyone in the audience who had any questions on this case. There were none. Mr. Wood asked if there were any questions from the Planning Commission. There were none. Mr. Wood asked for a motion. Mr. Rice made a motion to approve. Mr. Shaw seconded the motion. On voice vote, the motion was approved unanimously.

7. **C-0218-03** – Najam, LLC, is requesting **Conditional Use** approval for used motor vehicle sales to be allowed at **2745 John Hawkins Parkway**. Cadence Bank, N.A., is the property owner and the property is zoned PC (Planned Commercial) in the Lakeview PUD.

CONTINUED

City Planner Comments: The Zoning Ordinance defines a Used Motor Vehicle Sales Establishment as “an establishment that sells previously owned motor vehicle(s) where such sales is not accessory to a new automobile dealership—”. The Ordinance lists a Used Motor Vehicle Sales Establishment as a uniquely defined use that is only permissible in a C-2 zone with Conditional Use approval. The ordinance does not explicitly list this as an appropriate use in any other district, including the PC – Planned Commercial district.

Mr. Martin Evans, Attorney, 2001 Park Place North, Birmingham, AL 35203, was present to represent this case. Mr. Wood stated to Mr. Evans they had some concerns before they got started. Mr. Wood stated they had some concerns that this use was even allowable in this particular zoning. Mr. Wood called on Mr. Mac Martin, City Planner to explain the zoning that he believed to be in question.

Mr. Martin stated he wanted to take a step back and look at the zoning ordinance as a whole. He stated the application was for a “used motor vehicle sales establishment”, and the zoning ordinance actually defines that use specifically as “an establishment that sells previously owned motor vehicles where such sale is not accessory to a new automobile dealership”. Mr. Martin stated the ordinance actually lists the used motor vehicle sales establishment as a “uniquely defined use” that is only permissible in a C-2 zone with conditional use approval. Mr. Martin stated no where else in the ordinance does it exclusively list a used motor vehicle sales establishment as a use that is permissible or appropriate in any other district, including the PC (Planned Commercial) District which is the zoning designation for the property they have under consideration tonight. Mr. Martin stated the zoning ordinance for the PC (Planned Commercial) district does include in the Conditional Use section the phrase where it says, “uses as deemed appropriate by or approved by the Planning Commission and the City Council. Mr. Martin stated that usually when he saw a statement like that, it indicates that it was trying to provide enough flexibility for uses that were not captured in the ordinance. Mr. Martin stated you could not write an ordinance conceiving of every possible use out there that a person may want to apply to their property.

Mr. Martin went on to say that he didn’t see that this particular statement had any merit when it came to “used motor vehicle sales establishments”. Mr. Martin emphasized again that that was a use that was explicitly defined in the ordinance and is explicitly listed in one of their commercial zones as a conditional use.

Mr. Martin explained that from his review of the city's zoning ordinance, it did not appear that the city when adopting this ordinance saw "used motor vehicle sales establishments" as an appropriate use in a Planned Commercial (PC) district.

Mr. Wood stated to Mr. Evans that it appeared to the Planning Commission, from their staff and their City Council, that before they could request this Conditional Use, he needed to request a zoning change first.

Mr. Evans explained to Mr. Wood that one of the problems with him requesting a zoning change was that his client was under contract where this property was contingent on an inspection period and this conditional use, and if they were to request down zoning this, out of the PUD, and try for a C-2 zone and then try for a conditional use for the used car dealership, there was a possibility that they would be stuck at the down zoning at C-2 and then the seller may not go along with that.

Mr. Evans stated that was the concern and added that what Mr. Martin had just discussed, he was not familiar with the ordinance and it specifically not allowing a used car dealership anywhere else because the ordinance actually stated you could have a new car dealership which sells used cars, which was a permitted use under the current PC classification. Mr. Evans stated he found this odd. Mr. Wood added he felt the intent was that would be the primary use and this would be a secondary use and in this case, this was a primary use they were requesting.

Mr. Wood suggested the route they should take was to work with their sellers and try to work something out, because he felt the Planning Commission was going to have a problem trying to approve this when they did not believe it was the correct zoning. Mr. Wood explained he understood their predicament, but they needed to go back to the sellers and work out an agreement with them and felt the process of rezoning was the direction they needed to go.

Mr. Evans stated he wished they could have prepared for that. Mr. Wood asked if there were any Planning Commission comments. There were none. Mr. Wood explained to Mr. Evans if he came back, a new application would have to be filled out and new notices would be sent out. Mr. Wood explained to those in the audience who had a concern about this case, if the applicant chooses to come back and try to rezone the property from its' current zoning to a C-2 and then go the Conditional Use route, they would be notified. Mr. Wood asked if there were any questions regarding what he had just explained.

Some questions from the audience were as follows: would they be notified of the zoning meeting. Mr. Wood answered whomever was notified about this meeting, would be notified of the zoning meeting.

Mr. Wood asked for any other questions. Ms. Janice Day stated she was a resident in the residential area right behind the property and her question was would they be invited to the zoning meeting when it was taking place. Mr. Wood answered again, that whomever was notified about this meeting, would be notified about the zoning meeting. Ms. Day stated she couldn't imagine anyone on this board or the City Council would like to have a used car dealership at the entrance to their residential area.

Mr. Dave Taylor, also a resident of Lakeview, stated with the current zoning, what would be permissible there. He asked what they could expect the land to be used for.

Mr. Mac Martin, City Planner, answered it was zoned PC (Planned Commercial) and there were a number of uses in their Zoning Ordinance that would be permitted there by right and also permitted there with Conditional Use. Mr. Dave Taylor asked if they could get a list of those uses. Mr. Martin explained the Zoning Ordinance was available online for those who wanted to take a look.

Mr. Shaw added he realized there had been a lot of attention to this piece of property and they might want to set up a follow-up meeting as he knew there was a lot of concern and go over what the permitted uses and conditional uses were. Mr. Shaw added that just for the education of the audience, uses by right could happen without a vote, but things that were conditional uses did require an additional vote by Planning Commission and City Council, and felt it was important to distinguish between those two issues.

Mr. Rice asked if they could take one additional step with Mr. Shaw's recommendation and asked Mr. Martin if he could give a brief summary of these uses and send out to residents who were notified of this case. Mr. Martin agreed that could be done.

Mr. Wood asked if there were any other questions. Mr. Evans asked if he was to understand if this case had been tabled, rejected, denied or what. Mr. Wood stated he felt they would act on it, but explained Mr. Evans had the right to withdraw the case. Mr. Wood explained that was his right.

Mr. Evans asked about the difference between continuing or withdrawing the case. Mr. Wood explained that a continuance meant this same case would come back before this board at the next month's meeting. Mr. Wood explained he didn't see a reason to continue because this Commission was of the opinion that this case did not meet the zoning ordinance for uses allowable in that district. Mr. Wood stated when the city staff and attorneys told them that it was not in compliance with correct zoning that was allowable in that zoning district, he couldn't be in favor of it.

Mr. Evans stated he understood and wanted to follow the correct process as well. Mr. Evans then asked for a continuance so he could further look into this case. Mr. Wood asked April Danielson, City Attorney staff, if the case was withdrawn, could it be presented in the same form as a zoning case in its' next application, or did it have to wait a certain time period. Ms. Danielson stated she would have to look into it further.

Mr. Mac Martin, City Planner, addressed the Planning Commission, and stated according to the Zoning Ordinance, application should not be continued more than three (3) times at the request of the applicant. He stated the Planning Commission was developing a recommendation on a Conditional Use application such as this and upon receiving a favorable or negative recommendation, it would go to the City Council. Mr. Martin stated that if the City Council were to deny the Conditional Use request, the P&Z Commission shall not consider the same request for a period of six months.

Mr. Evans stated that based on what he just heard, the best thing they could do was to continue the case. Mr. Harris asked Mr. Martin if Mr. Evans continued the case tonight, could he come back in a month and change the request from a Conditional Use to a change in zoning? Mr. Martin stated that a rezoning request would mean a different application. Mr. Wood asked Mr. Evans if what he meant was he wanted to continue this case and bring the same case back to the March P&Z meeting. Mr. Evans answered yes, that was his request. Mr. Evans added he was a bit caught off guard and wanted to have some time to do some research if proper procedures were being followed.

Mr. Wood announced that if anyone in the audience had an interest in this case, they should come back next month, March 12th, at 5:30 p.m., and no new notifications would be sent out as it was a continuance.

There being no further business, the meeting was adjourned.

Vanessa Bradstreet
Zoning Assistant