

**PLANNING AND ZONING COMMISSION
MEETING MINUTES
TUESDAY, SEPTEMBER 5, 2023**

Commissioners Present:

Jamie WilsonChairman
Michael Hennigan. Vice Chairman
George Mortimer..... Commissioner
Robert Vigil..... Commissioner
Tiffany Bell..... Commissioner
Daryl Cowart..... Commissioner
Becky Westmoreland Commissioner

Commissioners Absent:

None

City Council Members Present:

Brad Childs

City Council Members Absent:

Larry Spears, Jr.
Terrie Salter
Caroline Hennigan
Mary McKenna
Paul Burch
David Bailey

Staff Present:

Kelvin Knauf, Director of Planning & Community Development
Wendy Lloyd, Planning Secretary
Divon Williams, Deputy Director of Planning & Community Development
Hillary Gravett, Assistant EDC Director

Chairman Wilson called the Planning & Zoning meeting to order at 5:30 p.m.

CITIZEN COMMENTS

None

PLANNING & ZONING COMMISSION DISCUSSION/ACTION ITEMS

- a. **Case No. 23:13.** Consider and possible action on a recommendation to the City Council concerning a proposed ordinance amending the Code of Ordinances Chapter 9 “Subdivision Regulations” in its entirety.

Mr. Knauf stated this is a proposed ordinance that would amend the subdivision ordinance. In your agenda packet there is a 3 page memo that lists a lot of the changes. If you’d like I can go over each one one by one and

explain it or I have a lovely yet brief Power Point presentation. Chairman Wilson stated I say we see the Power Point presentation.

Mr. Knauf stated this amends the current subdivision ordinance. The current subdivision ordinance was adopted before 1982 and has been amended from time to time over the years, kind of a patchwork thing to get us where we are now. This is a comprehensive amendment of the subdivision ordinance. I started to do like a red line version where you can compare the current ordinance to the changes but it got to be so massive by the time you had the underlines and the strikeouts and the new words and the old words taken out. I would have given you a 200 page document that you wouldn't have been able to understand because it got to a point where I couldn't understand it after all the changes so I just decided to scrap that and just completely rewrite the subdivision ordinance. I solicited input from the Orange County Drainage District. We have Douglas Manning from the drainage district here. We had several meetings with them and then city staff solicited advice from a developer, from different engineering survey firms, from county officials and from the city attorney in drafting this. This is actually all the different drafts of this ordinance that I've gone through. It's literally been years in the making. Then the Legislature would do something and there would be a court case and then I would have to go back and change it again. So, we are finally here with the proposed subdivision ordinance. The proposed ordinance clarifies some regulations, eliminates conflicting requirements and corrects typographical errors and then it adds definitions that aren't in the current ordinance to help explain the ordinance. This ordinance requires compliance with Orange County Drainage District rules and regulations except properties in Newton County. Our ETJ expands into Newton County ever since we annexed the paper mill that expanded our ETJ into another county. The Orange County Drainage District regulations don't apply outside of Orange County so the ordinance specifically exempts Newton County. It allows me to approve preliminary plats, final plats and replats of four new lots or less. Then my decision can be appealed to the city council. The magic of the 4 lots is that the current ordinance allows me to administratively approve minor plats of 4 lots or less so that's the magic of 4 to just make it consistent across the board. This ordinance complies with State laws review times and new state laws. Guy Goodson requested that I read to you to advise you that Senate Bill 2127 would have limited cities authority to require certain studies for analysis by developers but the district court last week ruled that new law which cities are calling the "Death Star" bill, the district court judge ruled that that law is unconstitutional under the Texas constitution. Now the State has appealed that to the Court of Appeals and then depending on what happens there, it may get appealed to the Texas Supreme Court for a final decision. This ordinance complies with the current State law and with the "Death Star" bill. This ordinance adds to the items that must be submitted – application, letters from utilities, letter from the drainage district that it meets their requirements and just things that we haven't been requiring. We usually put an application in the packet but it wasn't technically required. So, if these things haven't been submitted, they're grounds for denial of the plat. This ordinance requires that if a Traffic Impact Analysis is required by TxDOT that a copy must be given to the City. Right now, we currently ask if TxDOT requires it can we have a copy and just depending on the developer's good will to provide us with a copy. But this ordinance would actually require it. We would not require a Traffic Impact Analysis for every development. Only those where TxDOT requires it. We're not trying to go overboard in some of our development regulations. It allows for a combined preliminary and final plat if it can be served by existing streets, utilities, fire hydrants and streetlights. There's no need in bringing a preliminary plat and then turning around and bringing a final plat and they're both exactly the same thing. It expands and provides the processes for minor plats and replats. Those were very sketchy in the current ordinance so I've expanded those, expanded the information required for a minor plat and replat just to make it more clear so when I respond back to the developers or engineering firms I've got an ordinance that I can specifically point to and say here's where you're violating the ordinance. It prohibits further subdividing of a minor plat until one year from the date the original plat was filed. That's to keep people from coming that say have a large tract of land and you want to

divide it into 5 or more lots and you don't really want to go before the Planning & Zoning Commission and the Council so what they want to do is divide it into 4 lots and then a few months later they want to divide those 4 lots to where it becomes 8 lots and essentially try to circumvent the whole preliminary plat process. So, this would prohibit that. They would have to wait a year from the minor plat before they could further subdivide. It clarifies that properties where the city cannot provide water and sewer services that they can use water wells, septic tanks, other municipal utilities or special districts. If you remember the Orange Gardens subdivision, the city couldn't provide Orange Gardens out on Hwy 105 & 62 with water and sewer so this just blast that where they could tap into Orangefield Water Supply Corporation or if they want to use septic tanks or water wells that is okay.

Vice Chair Hennigan stated say we take in some property in our ETJ and they have existing sewer MUD. They have an aerated system or they have a septic system. Is there any way that we can make sure that it meets the standards of the codes in the county. Do they just put in themselves and they've got an overflow line that runs straight to a ditch or something off their septic system. Can we manage that and make sure that it's up to code? Mr. Knauf stated yes. Actually, what happened in a very similar situation in the annexation up on the north end of town up along Beagle Road and Huntsman and all area. They actually made those people tie onto city utilities. The city extended the water and sewer lines and those people were actually required to abandon their water wells and septic tanks and tie onto city utilities. Vice Chair Hennigan stated so if we can't get sewer and utilities to them and they have these systems preexisting in our ETJ can we do an inspection and if it doesn't meet inspection can we require them to upgrade their system? Mr. Knauf stated well what we could do is if it doesn't meet TCEQ requirements, then we can report them to TCEQ, which are State regulations and they would have to come into compliance with State regulations. Vice Chair Hennigan stated so there is a way to make them comply to State regulations through TCEQ. Mr. Knauf stated oh yes we can report them and TCEQ would take over the enforcement.

Mr. Knauf stated again it requires plats in the ETJ to comply with the county regulations of the county that the property lies in. Orange County Drainage District regulates the properties in Orange County so for those properties in Newton county, they would have to comply with a regulations of Newton County but they wouldn't have to comply with Orange County Drainage District requirements. It allows for electronic submissions. The current ordinance actually requires that they submit 18 paper copies to the city. That's back in the 90's before we had all this new technology and everything. They did it because you had to have copies for the Planning and Zoning Commission for each one of you, copies for the council, copies for the staff and that ended up being 18 paper copies. We don't do that anymore. We allow them to submit an electronic copy for discussion purposes and then when it's ready to be signed and filed then we require them to submit a mylar and 2 paper copies to us. It requires a signed letter from the applicant's engineer to the public works director stating that all requirements have been met before the final plat can be approved. So, we want the developer's engineer to send us a letter stating that the water lines, sewer lines, fire hydrants and all the other public infrastructure has been properly installed and we want that engineer to put their seal on it to where their license is on the line if they miss something or if it's not up to the city's standards. It incorporates lot consolidation and lot line adjustment into the Code of Ordinances. This procedure was actually adopted back in 1997 but for whatever reason was never codified into the Code of Ordinances into the subdivision ordinance so this incorporates that into it. Lot consolidation it allows the director to consolidate 2 lots that are side by side. I just need the deed to both lots and then do a fairly simple administrative process. A lot line adjustment is where both property owners agree that the lot line needs to be here instead of here and it allows me to handle that administratively. That whole procedure was never codified so if this is adopted then it will be in the city code. It requires developers to post a performance bond or unconditional guarantee in a format that is

approved by the city manager. The current ordinance is kind of weird in that it says that if the developer isn't going to develop the property his or herself then they have to post a performance bond or unconditional guarantee. However, if they develop it themselves then they don't have to post one which I'm not sure the rationale for that. But what this ordinance would do whether you develop it yourself or not, you've got to post a performance bond or unconditional guarantee in a financial format that's acceptable to the city manager. It requires the developers to guarantee the material and workmanship are free of defects for two years instead of one year which is our current policy. We don't accept the public improvements until one year has passed to see any defects occur like the street cracking or starting to buckle or are the water lines leaking or sewer lines leaking or what. We don't want to be responsible for that until we know it's going to work properly. This ordinance would apply to plats filed after the second reading of the ordinance and publication as required by State law. So, any plats that are currently in the mill that we've been working on and they haven't been signed or filed, those would still come under the current ordinance of if they get introduced before the second reading of the ordinance and publication as required by State law we would still be under the current ordinance. Once council passes it on 2 readings and then it gets published in the newspaper, at that point then we would enforce the proposed subdivision ordinance. So that's kind of the quick and dirty highlights of it. I really appreciate the input of Doug and the Drainage District.

Doug Manning – OCDD: Mr. Manning stated when Kelvin first let me know that he was going to try to tackle this project, my hat was off to him. It's a herculean effort. I've done a few of these things in my time and Kelvin was very, very gracious and very, very attentive to the needs of the Orange County Drainage District incorporating the records as where they were appropriate into the ordinance so that we could also enforce our drainage criteria manual. I'll tell you and I told him; this was a herculean effort on his part. His finished product, I was very impressed with. I told you that and I'm telling you that. We are very grateful that he took the time to incorporate our input. I didn't just read our parts. I read the whole thing and it's very well put together. I'm excited for the city. Some things that were not questionable but that would raise questions as to procedure, he ironed all those out. I found it to be a very solid ordinance. My hats are off to you again.

Mr. Knauf stated yes this is a massive ordinance. We gave people an opportunity to comment on it and incorporate their comments.

Commissioner Vigil stated I had a question on one of the changes. You talked about eliminate the requirements that the use of adjacent properties be listed on the plat. What was the basis for that elimination? Mr. Knauf stated it's just something that we never really use. I mean we have other ways of getting information if we really need it. We've got the zoning ordinance. We've got the Future Land Use Map. We've got the county to check that. That seems to be for whatever reason the surveying firms never put that on there and we have to keep sending it back. It was more just to eliminate that obstacle from the surveying firms. Commissioner Vigil stated in my mind I would think that whatever is adjacent to the property may make a difference in say yay or nay. So, if we're not presented with that information required how will that be conveyed in the future? Mr. Knauf stated well actually if the piece of property itself complies with all the subdivision ordinance, it doesn't matter what the adjacent property is. If it meets all the subdivision ordinance requirements, we have to approve it regardless of how the adjacent property is being used. What we would do is we would look at the area and advise you if we think there is a problem or advise the developer or the surveying firm and we need more explanation. Commissioner Vigil stated so you're saying the burden will be on yourselves. Mr. Knauf stated yes.

Commissioner Mortimer stated I have no questions about the ordinance. I think you've done a great job. I

appreciate that. I know it was a lot of work. Only one thing I would ask is that if you could put together a sheet at sometime about those things that are normally asked when you go to look at a plat. Could that be handed to us saying these are some things when you give it to a developer and these are things that normally cause us issues. That would be helpful. Not part of this but how many times we come into this meeting and their nowhere close to where they need to be. We're just under some clock. I just think can we help them out by saying look you talk to your surveyors or whoever it may be. Mr. Knauf stated yes but remember for approval it can only be what's in the ordinance. Commissioner Mortimer stated I understand that. Mr. Knauf stated but if there's additional information you want we can certainly talk about that to help you understand what they are proposing.

Commissioner Mortimer motioned to recommend approval
Vice Chair Hennigan 2nd

Vote: 7 – 0

Motion Carries

PLANNING & ZONING APPROVAL OF MINUTES

- a. **Consider the minutes of the August 21, 2023, Planning and Zoning Commission meeting.**

Commissioner Mortimer motioned to approve
Commissioner Bell 2nd

Vote: 7 – 0

Motion Carries

Chairman Wilson adjourned the Planning and Zoning Commission meeting at 5:51 p.m.