

**Minutes
Planning and Zoning Meeting
May 15, 2017**

On this 15th day of May, 2017, at 7:00 p.m., the Planning and Zoning Commission convened in a Regular Meeting, and the same being opened to the public at their regular meeting place; thereof, at City Hall, 303 S. Teel Drive, Devine, Texas. Notice of said meeting having been prescribed in Chapter 551, Government Code, and Vernon's Texas Codes, Annotated, and the following members thereof, being present, namely:

Doug Wilkins, Chairman
Onis Wiemers, Secretary
Mike Herring
Jim Lawler
Ed Dougherty
Rick Maxwell
Darrell Murdock

Thus, constituting a quorum.

Personnel present: Dora V. Rodriguez, City Interim Administrator/City Secretary; Denise Duffy, City Treasurer/ City Accountant; Tom Cate, City Attorney and Eddie Diaz, Code Compliance Officer.

Others present: Gordon Belcher of Devine, Texas and Porfirio Deleon of Devine, Texas.

Commissioner Wilkins called the meeting to order.

The first order of business was to discuss and consider approval of Minutes for the meeting of April 17, 2017.

Planning & Zoning Commissioners reviewed the minutes.

Motion by Commissioner Lawler, seconded by Commissioner Dougherty to approve the minutes for the meeting of April 17, 2017.

Ayes	--	All
Nays	--	None

Motion carried.

The second order of business was to discuss and consider a variance request made by Gordon Belcher for a fifteen-foot front setback requirement of eighty-feet from the front property line for 111 Covey Lane for a sixteen by forty accessory building, which bears the following description of A0632 D. Lieber Survey 4, 1.072 acres.

Planning & Zoning Minutes
May 15, 2017
Page 2

Commissioners heard from Gordon Belcher who informed Commissioners that he wants the accessory building to remain in place where an older shed had been placed before. Commissioner Wilkins asked if he has any electricity connected and asked what size it is. Mr. Belcher said the building does not have electricity connected and he stated that the accessory building is sixteen by forty feet, and the permit has been paid. Commissioner Wiemers asked if there have been any complaints from any of the neighbors.

Code Compliance Eddie Diaz, was informed by one of the neighbors that someone was living in the accessory building. Permit records were checked and no record was found of property owner obtaining a permit to move in an accessory building. The permit was paid for and the owner didn't place the accessory building according to setbacks due to trees. Commissioner Wilkins & Commissioner Wiemers inquired if it's going to be a home and if someone is going to live in it. Mr. Belcher said eventually yes, until he turns on the power. Commissioner Wiemers asked if it is then going to be used as a shed. Mr. Belcher said eventually after everything is completed. Commissioner Wilkins asked if they can have two residences on two properties. Mr. Belcher stated that his nephew will be living in the accessory building. Commissioner Wiemers stated you can't have two residences on the same property but you can use it as a shed or storage building. The accessory building cannot have anyone living in it. Dora V. Rodriguez, City Interim Administrator/City Secretary mentioned that the minimum living area requirements for Zone A is 750 square feet and Gordon Belcher's accessory building is less than that. Commissioner Wiemers said that we cannot grant a variance for the living area but we can grant a variance to be used as storage building.

Commissioner Wiemers asked if we have had any other complaints by neighbors about the accessory building being placed back in the same location. Code Compliance Officer Eddie Diaz informed them that the only complaint was about someone living in it. Also on field visit, he found that a cord was being run from the main house to the accessory building and the concern is a risk of fire. Commissioner Wiemers stated the electricity installation has to be installed properly. Commissioner Wilkins stated that an electric permit needs to be applied for proper inspection and completion.

Motion by Commissioner Dougherty, seconded by Commissioner Wiemers to recommend granting variance request made by Gordon Belcher for location of accessory building on same footprint as previous storage shed located on 111 Covey Lane, which bears the following description of A0632 D. Lieber Survey 4, 1.072 acres with the understanding that no one can live in the accessory building due to the living area square footage not met.

Ayes	--	All
Nays	--	None

Motion carried.

Planning & Zoning Minutes
May 15, 2017
Page 3

The third order of business was a Public Hearing: Discuss and consider the Preliminary Report for zoning classification change of approximately 154.632 acres of land located between West of IH 35 and E Hondo Avenue, from Class A. Single-Family Residence to Class H. Commercial Business which is proposed to include any or all properties described as follows: IH 35 (R80085); IH 35 (R55931); IH 35 (R2156); E Hondo Ave (R2167); 698B E Hondo Ave (R2162); 696 L.C. Martin Dr (R2143); 698 E Hondo Ave (R2155); 690 E Hondo Ave (R2166); 686 E Hondo Ave (R30950); E Hondo Ave (Hwy 173) (R2215); 646 E Hondo Ave (R2145); 644 E Hondo Ave (R2194); 100 L.C. Martin Dr (R2160); 627 L.C. Martin Dr (R86111); 525 L.C. Martin Dr (R89700); 505 L.C. Martin Dr (R89699); E Hondo Ave (R56807); 641 E Hondo Ave (R2191); E Hondo (R2146); HWY 173 (R83761); Oak Hill Dr (R58416); Oak Hill Dr (R83653); 146 Oak Hill Dr (R83654); 175 IH 35 N (R83652); 697 Hondo Ave (R66327); 1009 E Hondo Ave (R2213); IH 35 (R24345); and, IH 35 (R24339).

Commissioner Wilkins opened the Public Hearing at 7:11 p.m.

Commissioner Wilkins read a letter of protest from Charlotte A. Buentello, which read as follows:

“I protest the zoning change of the following properties within the proposed zoning change area west of IH-35 on East Hondo Avenue from Class A Single Family Residence District to Class H Commercial District: properties currently used as a residence; vacant lots, currently non-commercial use lots; sandy lots; lots damaged by the topographical changes to Walmart’s land, ex.: lot damaged to the point of useless and inaccessible, damaged lots with restricted, obstructed, entrances or shoulders; and flooded lots, contaminated lots.

I propose to allow the existing and future business affected by damage from Walmart or/and neighboring properties to Walmart to operate at the same low tax category as single-family residences.

Signed May 2, 2017 by Kenneth Cox for property ID Numbers R2167, R2155, R2143, R2162, R89700 & R89699.

Signed May 9, 2017 by Charlotte A. Buentello for property ID Number R2145.”

A general discussion was held among the Commissioners regarding the validity of protest. Tom Cate, City Attorney, addressed that if the protest covers twenty percent of the land to be rezoned or twenty percent of the land surrounding the land to be rezoned, then at least four members of the council must vote to rezone. The appraisal district will value the property at its highest use, regardless of its zoning classification. We have a master plan produced by an independent third party that was completed on 2010 showing that the property needs to be zoned Business. The City of Devine needs to follow the master plan. According to Tom Cate, City Attorney, it is not a valid request after reviewed by Eddie Diaz, Code Compliance Officer. Per Code Compliance Officer Eddie Diaz, the only valid signatures are for properties R2167, R2155 & R2145. The other properties listed on the letter are for different owners and no signature was obtained by those owners.

Planning & Zoning Minutes
May 15, 2017
Page 4

No one else present spoke regarding the Preliminary Report regarding the proposed zoning change.

Commissioner Wilkins closed the Public Hearing at 7:20 p.m.

The fourth order of business was to Discuss and consider creating a Final Report regarding a zoning classification change of approximately 154.632 acres of land located between West of IH 35 and E Hondo Avenue, from Class A. Single-Family Residence to Class H. Commercial Business which is proposed to include any or all properties described as follows: IH 35 (R80085); IH 35 (R55931); IH 35 (R2156); E Hondo Ave (R2167); 698B E Hondo Ave (R2162); 696 L.C. Martin Dr (R2143); 698 E Hondo Ave (R2155); 690 E Hondo Ave (R2166); 686 E Hondo Ave (R30950); E Hondo Ave (Hwy 173) (R2215); 646 E Hondo Ave (R2145); 644 E Hondo Ave (R2194); 100 L.C. Martin Dr (R2160); 627 L.C. Martin Dr (R86111); 525 L.C. Martin Dr (R89700); 505 L.C. Martin Dr (R89699); E Hondo Ave (R56807); 641 E Hondo Ave (R2191); E Hondo (R2146); HWY 173 (R83761); Oak Hill Dr (R58416); Oak Hill Dr (R83653); 146 Oak Hill Dr (R83654); 175 IH 35 N (R83652); 697 Hondo Ave (R66327); 1009 E Hondo Ave (R2213); IH 35 (R24345); and, IH 35 (R24339).

A brief discussion was held among the Commissioners present and all indicated their approval for changing the zoning classification of the indicated properties from Class A. Single-Family Residence to Class H. Commercial Business, and agreed that no change needs to be made to the Preliminary Report.

Motion made by Commissioner Dougherty, seconded by Commissioner Wiemers that the Preliminary Report be made the Final Report in favor of the zoning classification change from Class A. Single-Family Residence to Class H. Commercial Business which is proposed to include any or all properties described as follows: IH 35 (R80085); IH 35 (R55931); IH 35 (R2156); E Hondo Ave (R2167); 698B E Hondo Ave (R2162); 696 L.C. Martin Dr (R2143); 698 E Hondo Ave (R2155); 690 E Hondo Ave (R2166); 686 E Hondo Ave (R30950); E Hondo Ave (Hwy 173) (R2215); 646 E Hondo Ave (R2145); 644 E Hondo Ave (R2194); 100 L.C. Martin Dr (R2160); 627 L.C. Martin Dr (R86111); 525 L.C. Martin Dr (R89700); 505 L.C. Martin Dr (R89699); E Hondo Ave (R56807); 641 E Hondo Ave (R2191); E Hondo (R2146); HWY 173 (R83761); Oak Hill Dr (R58416); Oak Hill Dr (R83653); 146 Oak Hill Dr (R83654); 175 IH 35 N (R83652); 697 Hondo Ave (R66327); 1009 E Hondo Ave (R2213); IH 35 (R24345); and, IH 35 (R24339); and for a Public Hearing to be held before the City Council for final approval on May 23rd, 2017.

Ayes	--	All
Nays	--	None

Motion carried.

Planning & Zoning Minutes
May 15, 2017
Page 5

The fifth order of business was Information Items.

- Code Compliance Officer Eddie Diaz stated that ordinance violation letters continue to be sent for non-compliance violations and about 137 letters have been mailed already. Owners who are still non-compliant after the grace period, are being referred to Municipal Court.
- The business owner of Billy Bob's Burgers stopped by the City Office to introduce himself and will be bringing his business to Devine on 619 E. Hondo Avenue. Owner has applied for Certificate of Occupancy, and has connected utilities.
- Commissioner Wilkins asked about the status of Mr. Rodriguez's property located on 416 S. Teel Drive. City Attorney Tom Cate stated that the City of Devine has a permanent injunction, obtained a couple a years back. Mr. Rodriguez would never comply and we need to schedule a time to clean it up again. Tom Cate, City Attorney, also said the Brown residence located at 109 E. College Avenue was cleaned up recently for the same issue and the City of Devine also has a permanent injunction.
- Tom Cate, City Attorney, asked about the current status of the property located in front of Ingram Ready Mix. Eddie Diaz, Code Compliance Officer, stated that the property belongs to Gene Buckner and he is planning on building a storage facility. Gene Buckner is currently working on engineering & architectural plans and has not paid for permits yet. Tom Cate, City Attorney, stated there might be some concern on the visibility of the storage, especially being close to the railroad tracks or close to the road.

There being no further business to come before the Planning and Zoning Commission, Commissioner Wilkins called for a motion to adjourn the meeting.

Motion made by Commissioner Wiemers, seconded by Commissioner Dougherty to adjourn the meeting.

Ayes	--	All
Nays	--	None

Motion carried.

Chairman

Secretary