

**Minutes
Planning and Zoning Meeting
April 1, 2020**

The Planning and Zoning Commission of the City of Devine, Texas, held a meeting on April 1, 2020, 7:00 p.m., at 303 S. Teel Drive, Devine, Texas 78016, Via Teleconference, and the following members thereof, being present, namely:

Doug Wilkins, Chairman – (In Person)
Mike Herring – (In Person)
Darrell Murdock – (In Person)
Jim Lawler – (Via Telephone)
Onis Wiemers – (Via Telephone)

Thus, constituting a quorum.

Personnel present: Dora V. Rodriguez, Interim City Administrator/City Secretary (In Person); Ruben Chapa, Code Compliance Officer (In Person); Ismael Carrillo, Public Works Director (In Person), Raul Garcia, City Engineer – (Via Telephone); and Tom Cate, City Attorney – (Via Telephone).

Others present: Misty Houston (In Person), Glenn Thompson (In Person), and David Wanders (Via Telephone).

Commissioner Wilkins called the meeting to order.

The first order of business was to discuss and consider approval of Minutes for the meeting of February 11, 2020.

Planning and Zoning Commissioners reviewed the minutes.

Motion by Commissioner Lawler, seconded by Commissioner Murdock to approve the minutes for the meeting of February 11, 2020.

Ayes	--	All
Nays	--	None

Motion carried.

The second order of business was to discuss and consider a vacate and re-subdivision plat vacating a portion of Lots 20.21. and 22 and all of Lots 23, 24, and 25, Block 2, N.C.B. 140, Adams National Bank Addition and creating Lots 1 through 12, Block 1 N.C.B., Cactus Flats Subdivision-Phase One.

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The Commissioners reviewed a letter submitted by City Engineer Raul Garcia in which he listed comments/suggestions. Misty Houston explained that nothing has changed since the last meeting. City Engineer Raul Garcia stated that what had been approved by the Planning and Zoning Commission was a Master Plan and said that this was a plat. After some discussion, the Commissioners decided to address each line item of Mr. Garcia's letter as follows:

Letter attached as Exhibit A.

- 1). Grant variance on Devine Drive Street 30 feet wide right-of-way not meeting subdivision standards.

Motion made by Commissioner Herring, seconded by Commissioner Murdock to recommend to Council to grant a variance on 30 foot right-of-way that does not meet subdivision standards, and to accept it as is.

Ayes	--	Three -- Commissioners Herring, Murdock and Chairman Wilkins
Nays	--	Two -- Commissioners Lawler, and Wiemers

Motion carried.

- 2). Notation by City Engineer. Colonial Parkway Right-of-Way dimension is not shown. According to City Engineer Raul Garcia, as long as a revised plat is submitted, no variance is needed; all they have to do is show the dimension to that line item and he'll sign off on it. No motion needed. City Attorney Tom Cate added that if corrections are being made to the plat, it has to be done before the plat is signed. He recommended that it be done before it goes to Council just to know that the corrections have been made.
- 3). Grant variance for Rear Lots half of 16' Utility Easement not to have to be shown. City Engineer Raul Garcia stated that the ordinance reads that if there are no alleys in the subdivision, then there must be a 16' utility easement (8' feet in this phase and 8' feet in the other phase), so they must put this on the plat or do a variance. Misty Houston inquired if the 8' is shown and the homeowner later decides to build a pool or a storage building in the back, if they would be able to build on that utility easement even though there's no utilities back there. Per City Engineer Raul Garcia, no, you cannot do this. Ms. Houston decided to ask for a variance. Discussion was held that there will never be utilities in the back of the house; utilities will always be in the front. City Attorney Tom Cate pointed out that the Master Plan shows 10' utility easements at the front of each lot.

Motion made by Commissioner Herring and seconded by Commissioner Murdock to recommend to Council to grant a variance to do away with the 16' utility easement.

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Ayes	--	Four – Commissioners Herring, Murdock, Lawler and Chairman Wilkins
Nays	--	One – Commissioner Wiemers

Motion carried.

- 4). Approve Correction – Need to show the Five (5) foot side set back lines on each lot. According to Misty Houston, they can show a correction to the plat. City Engineer Raul Garcia agreed to sign off on the plat if this is done.
- 5). Notation by City Engineer - Planning and Zoning has approved 30 foot front set back line. According to City Engineer Raul Garcia, this is just a comment for this particular subdivision because the zoning called for a 40 foot front set back line. Nothing has to be done; it's already been approved.
- 6). Notation by City Engineer - Planning and Zoning has agreed that an alley is not required in Master Plan. City Engineer Raul Garcia stated that the ordinance states that an alley is required but it was approved in a previous meeting that an alley would not be required, so this is just a comment.
- 7). Grant Variance for Existing Streets Devine Drive and Colonial Parkway not meeting Subdivision Minimum Standards.

City Attorney Tom Cate advised that this is the same as Item 1, and we will need to issue a variance on this. City Engineer Raul Garcia agreed with City Attorney.

Motion made by Commissioner Herring, seconded by Commissioner Murdock to recommend to Council to grant a variance to existing street width for Devine Drive and Colonial Parkway, as they do not meet subdivision minimum standards.

Ayes	--	Three – Commissioners Herring, Murdock and Chairman Wilkins
Nays	--	Two – Commissioners Lawler, and Wiemers

Motion carried.

- 8). Approve showing two Monuments with State Plans Coordinates.

City Engineer Raul Garcia explained that the ordinance states that every lot should have iron pins and also two monuments need to be established; this would be a marker showing the state plans coordinates. He said the engineer should have that. According to Misty Houston, an engineer did not do the platting; they had a surveyor do the platting. When asked if a survey pin will work, Mr. Garcia explained that a monument is normally a pin set in concrete; all the others do not have to be in

concrete, they can just be pins. He said that they need two points that have to be marked in concrete. According to Mr. Garcia, if this has already been surveyed and the pins are there already, all they need to do is put the concrete around it and show the state plans coordinates on each monument. Misty Houston asked Mr. Garcia that if this is marked on the new plat that she takes to Council, if he would sign off on it without them having to go back before Planning & Zoning. Mr. Garcia responded, yes.

9) Subdivision Ordinance also requires plans to show the following:

a. Sidewalks – Grant Variance for no Sidewalks.

City Engineer Raul Garcia stated that you will not be able to put a sidewalk on a 30' right-of-way. City Attorney Tom Cate recommended a variance for the sidewalks.

Motion made by Commissioner Wiemers, seconded by Commissioner Herring to recommend to Council to grant a variance for no sidewalks.

Ayes	--	Three – Commissioners Herring, Murdock and Chairman Wiemers
Nays	--	One – Commissioner Lawler
Abstain	--	One – Commissioner Wilkins

Motion carried.

b. Street lights – Approve two Street Lights at each Intersection.

City Engineer Raul Garcia stated that it is a requirement of the subdivision ordinance that street lights need to be installed. He said that for the final, all he needs is a drawing or plans showing where these items are going to be. Misty Houston stated that they have never discussed having to have street lights or sidewalks on any of their discussions. Mr. Garcia commented that in the past, Council has issued variances on that, but said that in some areas where we have subdivisions, people have complained to Council that there are no street lights. He added that it is; however, a subdivision ordinance requirement. Interim City Administrator/City Secretary Dora V. Rodriguez mentioned that Tommy Ramirez was granted a variance when he did his subdivision on Jack Nicklaus. Misty Houston stated that if she had known this, she would've asked for that same variance at the same time they asked for the 30' setback. She said they had no idea that this was required or they would've done all of this prior to ever getting to this stage. Commissioner Wiemers commented that if we're not doing the sidewalks, he feels that the street lights need to stay in from a security standpoint; Commissioners Lawler and Herring agreed.

Misty Houston explained that this wasn't ever discussed in any of their prior meetings, so when they did their budget to see if this project was something that would even work; that was never budgeted in. She told the board that they gave a variance to Tommy Ramirez for the last subdivision. She asked, "So the City has to pay for those street lights, but now the City wants us to pay for these street lights? That is not fair!" City Attorney Tom Cate pointed out that the streets lights were not put in by Tommy Ramirez; the City did install the street lights at our cost.

Chairman Wilkins asked for a motion on a variance to dismiss the street lights; no motion was made. City Attorney Tom Cate advised that if we don't have a motion, this means we will require the street lights. City Engineer Raul Garcia stated that two street lights are required, one at each corner. He added that their engineer should submit what will be proper and he will approve it. Misty Houston told Mr. Garcia that he had already approved the plat that their engineer turned in to him. According to Mr. Garcia, this is a plat and the other one was a Master Plan. Misty Houston inquired if this is an item that they can still go before Council and ask for a variance. Mr. Garcia said he believes that if there are any unresolved items by the Planning & Zoning Commission, then Council must act on it. City Attorney Tom Cate agreed that this was correct.

- c. Notation by City Engineer – All lots connected to Sanitary Sewer.
According to City Engineer Raul Garcia, there are already water and sewer lines in the street, and we just need to make sure they get connected to the lots.
- d. Notation by City Engineer - All lots connected to Water Main with $\frac{3}{4}$ " Type K Soft Copper.
This is just an advisory comment from City Engineer.
- e. Performance Bond – Grant Variance for no Performance Bond in the amount of construction needed.

City Engineer Raul Garcia held lengthy discussion. He stated that basically the only construction that the developer would be doing at this particular phase would be the water and sewer connections. He said he would need to have an estimate on the cost of the connections and a performance bond be given to the City. Misty Houston questioned why they have to do this. She said they are doing a construction project on Libold Drive right now, and they've never had to have a performance bond. She asked why they would be paying for a performance bond on lots that they may not be building on for years to come. She explained that for the first two lots, they'll come in and ask for building permits and taps, and they'll pay for those fees at that time. Mr. Garcia stated that the lots which Ms. Houston mentioned were not a subdivision plat; the lots were already platted. Mr. Garcia said that in this case, again, he's just telling us what the ordinance states; it is Item 302.01 in the Ordinance. More discussion was held on the utility services. There was confusion. Chairman Wilkins inquired whether the builder pays for the expense running up to the meter and the meter,

or just from the meter to the house. Mr. Garcia commented that the developer should install the services from the line to the property line. He said that from the property line to the house, it's up to the property owner or whoever purchases the house.

Misty Houston stated that they are currently doing construction on the four lots on Libold, of which they paid \$1,000 for a sewer/water tap and discussed in detail what they did. She wanted to know how this case is any different to what they are doing on Libold. Mr. Garcia said he did not have an answer to that.

City Attorney Tom Cate informed everyone that City Engineer Raul Garcia is just telling us that these are requirements that are in our subdivision ordinance, and as an engineer representing the City, he's just pointing these things out to the Planning and Zoning Commission and to the City Council. Mr. Cate stated that Mr. Garcia has a duty to point these issues out to the Planning and Zoning Commission; he's doing his job.

Chairman Wilkins addressed City Attorney Tom Cate and told him that he understands it's in the ordinance; however, he asked why it's been waived on all the other construction they've been doing. City Attorney Tom Cate said he was like City Engineer Raul Garcia on that. He said the only thing he can say is that some of the things that we've seen that have been done in the past, have led to problems. He said that the street lights and Tommy Ramirez' subdivision is a good example. His feelings are that we need to comply with what we have in the ordinance. He added that he can't say why it was done in the past.

Misty Houston had more questions on the cost of the performance bond and not understanding why they would get a performance bond right now if they're not doing all twelve taps at one time.

City Engineer Raul Garcia read Item 302.01 to the board regarding the Performance Bond, to help answer some questions. After hearing this, Misty Houston stated that she wanted to apply for a waiver on this. More discussion was held.

City Attorney Tom Cate advised that if the Planning and Zoning Commission wants to grant a variance to the Performance Bond requirement, they can do that.

Motion made by Commissioner Herring, seconded by Commissioner Murdock to recommend to Council to grant a variance do away with the Performance Bond requirement.

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Ayes -- Three – Commissioners Herring,
Murdock and Chairman Wilkins
Nays -- Two – Commissioners Lawler, and Wiemers

Motion carried.

Discussion was held after the motion. City Attorney Tom Cate pointed out that in the Subdivision Ordinance, the location for the street lights is set out in Section 403.11; this way the developer engineer can take a look at that. It was noted that they would let the engineers take a look at that.

Misty Houston thanked the board and said she appreciated their time. Chairman Wilkins stated that Ms. Houston would not need to come back again as long as she makes the corrections needed and submits the corrected plat to the City Council; she should be able to move on with her project.

10). Grant approval for Phase 1 to include all Variances.

City Attorney Tom Cate said he agreed with all that, and asked the Commissioners to vote on Phase 1 of the Cactus Flats Subdivision with the variances and comments.

Motion made by Commissioner Herring, seconded by Commissioner Murdock to recommend to Council to approve the re-plat to the Cactus Flats Subdivision – Phase 1, to include all variances and comments.

Ayes -- All
Nays -- None

Motion Carried.

Discussion was held after the motion. City Attorney Tom Cate commented that they are, in fact, going to have to come back after each phase, before the Planning and Zoning Commission. Interim City Administrator/City Secretary inquired/suggested that we (Interim City Administrator/City Secretary, City Attorney, City Engineer, Code Compliance Officer, and Director of Public Works) all meet with Ms. Houston prior to meeting with the Planning and Zoning Commission, so we can sit down and go over everything. City Attorney Tom Cate agreed with this. He said we have a Pre-submission Conference, and that's what we need to do. He said that after Phase 1, it will be easier now for everyone to understand what to expect now. Interim City Administrator/City Secretary said we'll do this next time before we go before the Planning and Zoning Commission so that everyone is on the same page.

11). Approve Correction – 12 Foot Radius Curb on Street Corners of Lots 1 & 12

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Mr. Garcia pointed out that he had overlooked the 12 foot radius on the street corners of Lots 1 and 12. He said that according to the Ordinance, the corners should have a radius on it. This means that the western corner of Lot 12 should have a 12' radius rather than a corner, and the same for Lot 1, a 12' radius should be shown. He said he missed this on his original review. Misty Houston said she would correct this on the new plat. Chairman Wilkins inquired that if they have those two lots changed and corrected on the new plat, if that would be alright. Mr. Garcia responded, yes.

The third order of business was to discuss and consider request for an off-premise sign variance made by Quik Trip Corporation.

Mr. David Wanders, from the Real Estate Division of Quik Trip Corporation, briefed the Commissioners via telephone on the history of Quik Trip; they've been around for 60 years. He said that the location they're looking at is on the corner of L.C. Martin Drive and State Highway 173. He said it's essentially on the same corner as the drive-thru bank, the property wraps around it; he explained it's a conglomeration of four properties that they are in the process of platting as well. He stated that this is the furthest site for them southwest of San Antonio, and they saw this as the best location for a travel center/truck stop. Mr. Wanders told the board that normally they like to build on corner lots right off the freeway but this area that they chose is not off the freeway and not visible from the highway; however, essentially, it is across from Walmart. So, for visibility purposes, they will require for an off-premise sign that is visible from freeway traffic. He explained that as part of their contract, in obtaining the other four pieces of property, they were able to obtain an easement from the motel property owner which will allow for them to put a sign there. So, in terms of height, the sign will be between the Triple C Restaurant and the Country Corner Motel sign, and there won't be a sign, back-to-back that blocks anything. Mr. Wanders explained that even though they've got permission from the motel property owner, they understand they need to meet our code requirements. Discussion was held on the height of each of the signs and the fact they will not be blocking each other.

Planning and Zoning Commissioners were all good with this.

Motion made by Commissioner Herring and seconded by Commissioner Murdock to recommend to Council to grant a variance to Quik Trip Corporation for an off-premise sign.

Ayes	--	All
Nays	--	None

Motion Carried.

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

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Motion made by Commissioner Herring, seconded by Commissioner Wiemers to adjourn meeting.

Ayes	--	All
Nays	--	None

Motion carried.

Chairman

Secretary