

**CITY OF KERRVILLE, TEXAS
PLANNING AND ZONING COMMISSION**

March 17, 2016

MEMBERS PRESENT:

Bob Waller, Chairman
Garrett Harmon, Vice-Chair
Don Barnett, Commissioner
Doyle Malone, Commissioner
Bill Morgan, Commissioner
Rustin Zuber, Alternate

MEMBERS ABSENT:

Michael Slgerman, Alternate

CITY COUNCIL LIASON

Bonnie White (present)

STAFF PRESENT:

Trent Robertson, City Planner
Dorothy Miller, Recording Secretary

CALL TO ORDER:

On March 17, 2016, Cmr. Waller called the Kerrville Planning and Zoning Commission regular meeting to order at 4:31 p.m. in the City Hall Council Chambers, 701 Main Street, Kerrville, Texas.

1. VISITORS/CITIZENS FORUM:

No one spoke.

2. CONSENT AGENDA:

All items listed below in the consent agenda are considered routine or ministerial in nature and will be enacted with one motion. There will be no separate discussion of items unless a Commissioner or citizen so requests; in which case the item(s) will be removed from the consent agenda and considered separately.

2A. Approval of the minutes from the February 25, 2016 meeting.

Cmr. Barnett moved to approve the minutes as amended. Motion was seconded by Cmr. Bill Morgan and passed 5-0.

2B. Approval of the minutes from the March 3, 2016 meeting.

Cmr. Harmon moved to approve the minutes as amended. Motion was seconded by Cmr. Barnett and passed 5-0.

3. CONSIDERATION AND ACTION

3A. **Public Hearing & Action, Zoning** – Public hearing, consideration, and action concerning a requested amendments to an existing Planned Development District (PDD 01-23) Ordinance Number 2001-23 Section Three A thru R for an approximate 75.73 acres tract. Being all of a certain tract or parcel of land containing 75.73 acres, more or less, out of O. V. Robinson Survey

No. 44, Abstract No. 282 in Kerr County, Texas; comprising 4.25 acres out of a certain 141.38 acre tract conveyed from Farm Credit Bank of Texas to J. W. Colvin, III by a Special Warranty Deed with Vendor's Lien executed the 2nd day of November, 1995 and recorded in Volume 822 at Page 638 of the Real Property Records of Kerr County, Texas, 66.48 acres out of a certain 186.99 acre tract conveyed from Farm Credit Bank of Texas to City South Management Corp. by a Special Warranty Deed with Vendor's Lien executed the 2nd day of November, 1995 and recorded in Volume 822 at Page 620 of the Real Property Records of Kerr County, Texas, and 5.00 acres out of a certain 10.00 acre tract heretofore conveyed out of said 141.38 and 186.99 acre tracts from Richard B. Colvin, et ux to Chapman Building Systems, Inc. by a Warranty Deed with Vendor's Lien executed the 15th day of December, 2000 and recorded in Volume 1099 at Page 413 of the Real Property Records of Kerr County, Texas, located southeast of Airport Commerce Parkway East, between Highway 27 and Colvin Ranch Road East. 155 Colvin Ranch Road East.

Mr. Robertson presented the findings and asked Commissioners to render a decision.

Cmr. Waller opened the public hearing at 4:40p.m. Hearing no one speak, Cmr. Waller closed the public hearing at 4:41 p.m.

Cmr. Harmon moved to approve the requested amendments to the PDD as presented by staff; motion was seconded by Cmr. Morgan and passed 4-1.

3B. Public Hearing & Action, Annexation and Zoning – Public hearing, consideration, and action for the City of Kerrville to annex into its incorporated limits and a recommendation for a zoning classification of “R-1” Single Family Residential District, for an approximately 194.79 acre tract of land generally located on the south side of State Highway 27 and between Oak Way Street and Split Rock Road. The tract is more particularly described in the Survey of a 194.79 Acre (8,485,189 square feet more or less), Tract of land out of the William Watt Survey No. 69, Abstract No. 367 and the W.T. Crook Survey No. 70, Abstract No. 113, Kerr County, Texas, being all of that 195.26 Acre Tract conveyed to J.W. Colvin, III, in deed recorded in Volume 1395, Page 542, Official Public Records, Kerr County, Texas, and being more particularly described as follows: (Basis of bearing NAD83 State Plane Coordinates Texas South Central Zone.) 337 Split Rock Road.

Cmr. Waller recused himself due to conflict of interest and asked vice-chair Cmr. Harmon to conduct the meeting.

Mr. Robertson presented the findings and asked Commissioners to render a decision.

Cmr. Harmon opened the public hearing at 5:02 p.m.

Mr. Chance Allen, representing Martin Marrietta, spoke and asked to table this issue at least 60 to 90 days to give them time to continue those discussions to find a win-win situation. They would like to continue with their rights to mine.

Mr. Tom Moser spoke and asked why is this being brought up now to zone this? Mr. Harmon stated he believes it is part of the annexation process, that they have to determine the zoning classification. Mr. Robertson concurred.

Mr. George Baroody spoke and asked why is the city choosing residential? Mr. Trent Robertson responded that the current comprehensive plan calls for that area to be low density single-family residential, so to be consistent with the comprehensive plan the R-1 zoning district is the zoning

district they would apply to that area. The City has never received anything for a petition to change the zoning. Mr. Robertson stated it is always in the property owner's right to petition to change the zoning.

Cmr. Morgan and Cmr. Harmon agreed that an R-1 zoning did not make sense for what they have been presented with today.

Hearing no one else speak, Cmr. Harmon closed the public hearing at 5:14 p.m.

Cmr. Barnett moved to delay the annexation with a zoning classification of "R-1" determination for 60 days.

Cmr. Harmon asked if zoning is delayed, does this delay the whole process as well. Mr. Todd Parton, City Manager, responded by saying there is not an automatic zoning provision, so when the property annexation proceeds on, there has to be a hearing and a recommendation by Planning and Zoning and consideration of the zoning by the city council. At this point the annexation process has to continue. This runs concurrent with the annexation process. Mr. Parton discussed non-conforming rights.

Mr. Mike Hayes, City Attorney, stated that Martin Marrietta could have requested a zoning change as the owner or developer since January when the City was considering this issue. He cautioned the Commission that the City cannot negotiate zoning, which is called contractual zoning and is illegal. He continued by saying that zoning is a legislative matter, which does not mean the City does not listen to the land owner or to the developer or that the City does not take into account what the owner wants to do, but the City cannot negotiate with them. Mr. Hayes stated the Commissioner's scope here today is to come up with a recommendation for zoning. State law requires that the City follows the comprehensive plan. Mr. Hayes advised to leave the zoning as is, single family residential, move the process along and it will be read on first and second reading in April. The property owner at any time can come in and request a zoning change.

Mr. Morgan asked if their only option is to vote yes or no to R-1 or can they propose some other designation? Cmr. Barnett asked if they could delay this for a period of time.

Mr. Hayes responded he does not believe under the zoning code that they can delay. The zoning code states they "shall" make a recommendation on zoning to council and that zoning has to be part in parcel consistent with the comprehensive plan. Cmr. Morgan again reiterated his question. Mr. Hayes stated he thinks Commissioners are a bit constrained with their actions, but thinks they can also make a recommendation for council to consider more appropriate zoning in accordance with the current use.

Cmr. Morgan moved to decline the R-1 zoning and ask council to consider a different designation in light of the current use of the property. Motion was seconded by Cmr. Barnett and passed 4-0.

5. STAFF REPORTS:

Mr. Robertson had nothing to report at this time.

The next P&Z meeting is scheduled for Thursday, April 21, 2016.

6. ADJOURNMENT:

This meeting was adjourned at 5:25 p.m.

APPROVED:

Bob Waller
Bob Waller, Chairman

Dorothy A. Miller
Dorothy Miller, Recording Secretary

06-02-16
Date Minutes Approved