

Chairperson Michael Beckendorf
Vice-Chairperson Leo Gonzalez



Commissioners
Pete Bienski
Bobby Gutierrez
Nancy Hardeman
Scott Hickle
G.H. Jones
Kevin Krolczyk
Prentiss Madison

MINUTES

**BRYAN PLANNING AND ZONING COMMISSION
REGULAR MEETING
THURSDAY, OCTOBER 17, 2013 – 6:00 P.M.
COUNCIL CHAMBERS, BRYAN MUNICIPAL BUILDING
300 SOUTH TEXAS AVENUE, BRYAN, TEXAS**

Disclaimer: *The meeting minutes herein are a summarization of meeting procedures, not a verbatim transcription*

1. CALL TO ORDER.

Chairperson Beckendorf called the meeting to order at 6:01 pm.

Commissioners	Present	2013 Regular Meetings Held	2013 Regular Meetings Attended	Regular Meetings Held During Last 6 Months	Regular Meetings Attended During Last 6 Months
Michael Beckendorf	Yes	15	14	9	8
Pete Bienski	Yes	15	13	9	8
Leo Gonzalez	Yes	15	13	9	8
Bobby Gutierrez	Yes	15	14	9	8
Nancy Hardeman	Yes	15	13	9	9
Scott Hickle	Yes	15	14	9	8
G. H. Jones	Yes	15	14	9	8
Kevin Krolczyk	Yes	15	14	9	8
Prentiss Madison	Yes	15	12	9	8

Staff Members Present: Mr. Martin Zimmermann, Planning Administrator, Mr. Randy Haynes, Project Planner, Ms. Janis Hampton, City Attorney, Ms. Maggie Dalton, Staff Planner, and Ms. Annette Denton, Planning Intern.

2. HEAR CITIZENS.

No one came forward.

3. RECOGNITION OF AFFIDAVITS FILED IN RESPONSE TO STATE LAW ON DISCLOSURE OF LOCAL OFFICIAL'S CONFLICT OF INTEREST.

No affidavits were filed.

4. CONSENT AGENDA – *This Consent Agenda consists of items that are considered routine by the Planning and Zoning Commission and will be enacted by one motion. All items approved by Consent are approved with any and all staff recommendations. There will not be separate discussion of these items. If the Commission desires to discuss an item on the Consent Agenda it will be moved (at the request of two Commissioners) to the Regular Agenda for further consideration.*

a. Right-of-Way Abandonment RA13-06: North Washington Avenue at East 23rd Street

A request to abandon a 0.0826-acre portion of public right-of-way located at the southeast corner of North Washington Avenue and East 23rd Street and adjacent to Lots 6 and 7 in Block 28 of the Bryan Original Townsite in Bryan, Brazos County, Texas. (R. Haynes)

Commissioner Jones moved to approve the Consent Agenda. Commissioner Gonzalez seconded the motion and the motion passed unanimously.

5. REQUESTS FOR APPROVAL OF REPLATS – A PUBLIC HEARING WILL BE HELD FOR EACH ITEM (Commission has final approval).

a. Replat RP13-15: Block 28 of Bryan Original Townsite

Proposed Replat of Lots 6 and 7 in Block 28 of the Bryan Original Townsite and an adjacent 0.0826-acre portion of public right-of-way that has been requested to be abandoned, being a total of 0.3696 acres of land located at the southeast corner of North Washington Avenue and East 23rd Street in Bryan, Brazos County, Texas. (R. Haynes)

Mr. Haynes presented the staff report (on file in the Development Services Department). Staff recommends approval of the proposed replat.

The public hearing was opened.

No one came forward.

The public hearing was closed.

Commissioner Hickle moved to approve Replat RP12-33, based on staff's recommendations and review which considers adherence to all pertinent state and local requirements for replatting, subject to City Council's approval of Right-of-way Abandonment Case no. RA13-06. Commissioner Bienski seconded the motion and the motion passed unanimously.

b. Replat RP13-21: North Garden Acres

Proposed Replat of Lot 1 in Block 5 of North Garden Acres Addition, being 0.5261 acres of land located at the northeast corner of Broadmoor Drive and East North Avenue in Bryan, Brazos County, Texas. (M. Dalton)

Ms. Dalton presented the staff report (on file in the Development Services Department). Staff recommends approval of the proposed replat.

In response to questions, Ms. Dalton clarified that the only feedback she had received were requests for clarification, that the only driveway currently was on East North Avenue, and that the current house and accessory structure would be removed.

The public hearing was opened.

None came forward.

The public hearing was closed.

Commissioner Jones moved to approve Replat RP12-33, based on staff's recommendations and review which considers adherence to all pertinent state and local requirements for replatting. Commissioner Gonzalez seconded the motion.

Commissioners discussed:

- That the lot was already large.
- That the replat did not require any variances.

The motion passed unanimously.

6. REQUESTS FOR APPROVAL OF CONDITIONAL USE PERMITS – A PUBLIC HEARING WILL BE HELD FOR EACH ITEM (Commission has final approval; appeals may be directed to City Council).

a. Conditional Use Permit CU13-09: Mohamed and Dorothy Khan

A request to amend a previously-approved Conditional Use Permit for a neighborhood service use (grocery store) on property located in a Residential District – 5000 (RD-5), specifically to allow beer and wine sales for off-premise consumption on property at 913 East Martin Luther King, Jr Street, located at the south corner of East Martin Luther King, Jr and Bradley Streets, being Lot 1 in Block 1 of the Keats Subdivision in Bryan, Brazos County, Texas. (M. Zimmermann)

Mr. Zimmermann presented the staff report (on file in the Development Services Department). He also distributed a letter submitted by a citizen in opposition of the request. Staff recommends denial of the proposed conditional use permit.

In response to questions, Mr. Zimmermann explained:

- That the zoning was RD-5.
- The previous non-conforming use of a nightclub lost its grandfathering after being closed

- The current convenience store was operating through a conditional use permit sought by current property owner.
- The applicants lease the property.
- Conditional use permits do not expire and are granted to the land, not the owner.
- The property owner did not request the prohibition for beer and wine sales in the previous conditional use permit.

Sergeant Oliver, Bryan Police Department, came forward to speak in opposition to the request, stating and responding to questions:

- When the property contained a nightclub, officers often responded to lawlessness on or around the property.
- The nightclub's license through TABC had been revoked and it closed down.
- Regardless of the quality of the current tenant, any conditional use permit would allow alcohol sales from any future tenant.
- The neighborhood had experienced many positive changes, including new families moving into the Habitat for Humanity subdivision.
- A nearby business does sell beer and wine, but additional alcohol could exacerbate problems with loitering and other illegal activity.
- If the conditional use permit is approved, TABC would still separately issue a license for the store to sell beer and wine.
- They had not received complaints from any activity at the current property while the current tenants have occupied it.
- That the police department usually was allowed a chance to comment on locations whose TABC permits were up for renewal.
- That TABC revoked permits when alcohol and beverage laws were violated.

In response to questions, City Attorney Janis Hampton stated:

- That the conditional use permit stayed with the land even if the owner changed.
- That the City of Bryan could not be held liable for granting the alcohol permit
- That once the permit was granted, the Commission would have no control over TABC's ability to grant or revoke permits for the sale of beer and wine.

The public hearing was opened.

Ms. Dorothy Khan, 707 East 24th Street, the applicant, came forward to speak in favor of the request. She stated that alcohol sales already exist in the neighborhood and she would like to be able to sell beer and wine in order to remain competitive. She stated that she does not permit loitering or illegal activity on her property. She stated that she would like to see improvements in the neighborhood, that her granddaughter often came to the business, and that she offers tutoring and motivation to neighborhood children. She stated she had spoken to Marco Mann, executive director of Habitat for Humanity, and that he did not voice an objection to her request.

In response to questions, Ms. Khan stated:

- Her hours were 7:30-8:30 Monday-Thursday, and 7:30-10:30 on Friday and Saturday, although she might stay open later on Wednesdays if she were able to sell lottery tickets.
- If she is able to purchase the property, she would make various site improvements which might include a fence at some point.

- She had not operated a neighborhood store before, but had previously been a social worker.
- She would only sell beer and wine.
- She did not know about the prohibition against beer and wine sales when she leased the property.

The public hearing was closed.

Commissioner Hickle moved to approve Conditional Use Permit CU13-09, finding that all of the applicable evaluation criteria for conditional use permit applications have been met for the following reasons: it does not negatively impact the neighborhood, there have been in the past code and police enforcement issues, beer and wine sales will not make or exacerbate those issues, and not allowing beer and wine sales would unfairly hinder the applicant to operate a business in that neighborhood. Commissioner Gutierrez seconded the motion.

Commissioners discussed:

- The difficulty of the business's operations without the beer and wine permit.
- The improvement in the neighborhood.
- Concern and respect for the police department's concerns.
- The applicant's dedication to the neighborhood.

The motion passed unanimously.

7. REQUESTS FOR APPROVAL OF ZONING CHANGES – A PUBLIC HEARING WILL BE HELD FOR EACH ITEM (Commission makes recommendation; City Council has final approval).

a. Rezoning RZ13-16: William Bassichis, Kay Conlee, Syed Hyder and George Jezisek

A request to change the zoning classification from Office District (C-1) to Downtown – South District (DT-S) on approximately 1.8 acres of land generally adjoining both sides of the 200 block of West 28th Street between South Bryan and South Parker Avenues, being Lots 1- 6, Block 116; and parts of Lots 1–3 and parts of Lots 6-7 and Lot 8, Block 117; Bryan Original Townsite in Bryan, Brazos County, Texas. (R. Haynes)

Mr. Haynes presented the staff report (on file in the Development Services Department). Staff recommends recommending approval of the proposed rezoning.

The public hearing was opened.

None came forward.

The public hearing was closed.

Commissioner Hickle moved to recommend approval of Rezoning RZ13-16 to the Bryan City Council, and to adopt the written staff report and analysis, as the report, findings and evaluation of this Commission. Commissioner Madison seconded the motion and the motion passed unanimously.

8. ADJOURN.

Without objection, Chairperson Beckendorf adjourned the meeting at 7:03 pm.

These minutes shall serve as the official findings of the City of Bryan Planning and Zoning Commission, as approved on this the 7th day of **November, 2013**.

Michael Beckendorf, Chairperson
Planning and Zoning Commission
City of Bryan, Texas

Martin Zimmermann, AICP
Planning Administrator and Secretary to the
Planning and Zoning Commission

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