



AMENDED

CITY OF CEDAR PARK
REGULAR CALLED MEETING OF THE
PLANNING & ZONING COMMISSION
TUESDAY, OCTOBER 15, 2013 AT 6:30 P.M.
CEDAR PARK CITY HALL COUNCIL CHAMBERS
450 CYPRESS CREEK ROAD, BUILDING FOUR, CEDAR PARK, TEXAS 78613

COMMISSION MEMBERS

- | | | |
|---|---|---|
| <input type="checkbox"/> SCOTT ROGERS, Place 1 | <input type="checkbox"/> NICHOLAS KAUFFMAN, Place 5, Chair | <input type="checkbox"/> KELLY BRENT, Place 7 |
| <input type="checkbox"/> THOMAS BALESTIERE, Place 2 | <input type="checkbox"/> AUDREY WERNECKE, Place 4, Vice Chair | <input type="checkbox"/> HOLLY HOGUE, Place 6,
Secretary |
| <input type="checkbox"/> KEVIN HARRIS, Place 3 | | |

1. CALL TO ORDER, QUORUM DETERMINED, MEETING DECLARED OPEN
2. PLEDGE OF ALLEGIANCE TO THE U.S. AND TEXAS FLAGS
3. MINUTES:
 - A. Approve Minutes from the Regular Meeting of September 17, 2013 and Special Called Meeting of October 1, 2013
4. CITIZEN COMMUNICATIONS (Not For Items Listed On This Agenda. Three Minutes Each. No Deliberations With Commissioners. Commissioners May Respond With Factual Information.)
5. CONSENT AGENDA:
 - A. STATUTORY DISAPPROVAL:

(Note: In accordance with the statutory requirements of the Texas Local Government Code reflected in City Ordinance Sections 12.03.001, 12.05.004, 12.06.004 the following applications are recommended for statutory disapproval in order to allow the City to process the application. These applications will continue through the review process without bias and will be placed on the agenda in a timely manner once the review process is complete. Disapproval in order to meet the statutory requirements under these sections shall not bias future consideration of this application by the Planning and Zoning Commission.)

 1. Cedar Park Town Center Live/Work Subdivision (SFP-13-012)
10.85 acres, 1 multifamily lot and 1 commercial lot
Located north of Main Street and west of Discovery Boulevard
Owners: V-S Cedar Park LTD
Staff Resource: Amy Link
Staff Proposal to P&Z: Statutorily Disapprove
 2. Scottsdale Crossing, Replat of Lots 1, 2 & 3 Blk A (FPD-13-007)
7.62 acres, 3 commercial lots into 2
Located east of 183A Toll Road, north of E. New Hope Drive, and south of Scottsdale Drive
Owner: Pecan Grove-SPVEF, LP
Staff Resource: Amy Link
Staff Proposal to P&Z: Statutorily Disapprove

B. SUBDIVISION APPROVALS:

1. Ranch at Brushy Creek Section 10A (FP-13-007)
17.47 acres, 84 residential lots and 1 landscape/drainage lots
Located on Frontier Lane near Dry Gulch Bend
Owners: Silverado Austin Development LTD and Standard Pacific of Texas Inc.
Staff Resource: Amy Link
Staff Proposal to P&Z: Approve

C. EXCUSED ABSENCES FOR PLANNING AND ZONING COMMISSIONERS:

1. Holly Hogue, October 1, 2013
2. Scott Rogers, October 1, 2013

6. POSTPONEMENT/WITHDRAWN/PULLED REQUESTS:

- A. Cedar Park Town Center, Z-13-006 – Postponement request by applicant to November 19, 2013
- B. Old Mill Village, Z-13-007 – Postponement request by applicant to November 19, 2013
- C. Abrantes Section V, Z-13-021 – Postponement request by applicant to November 19, 2013

7. STAFF REPORTS – ACCEPTANCE OF PRELIMINARY REPORTS:

- A. Ozone Lakeline, Z-13-011 (related to item 8A)
- B. Thousand Oaks, Z-13-020 (related to item 8B)

8. ZONING PUBLIC HEARINGS AND COMMISSION RECOMMENDATIONS:

- A. Consider a request by Ozone Technology, Inc. to rezone approximately 3.48 acres from Single Family (SF) to Local Retail (LR) with a Conditional Overlay to provide a 50 foot buffer along the northern property line and a 35 foot maximum height, for property located on the east side of West Riviera Drive, just north of South Lakeline Boulevard. (Z-13-011)
Owner: Ozone Technology, Inc.
Agent: Jennie Braash
Staff Resource Person: Rian Amiton
Staff proposal to P&Z: **Postpone to November 19, 2013**
 - 1) Public Hearing
 - 2) P&Z Recommendation to City Council
 - 3) P&Z Adoption of Final Report
- B. Consider a request by Whitney Walsh, Bryant Avery, Mary Ellen Avery, Marilyn Avery, and Mark & Luann Lewis to rezone approximately 21.70 acres from Single Family-Large Lot (SF) to Single Family-Urban Lot (SF-3) with a Conditional Overlay to require a 10,000 SF minimum lot size and 20 foot rear setback, for property located on the north side of West Park Street, east of San Mateo Terrace. (Z-13-020)
Owner: Whitney Walsh, Bryant Avery, Mary Ellen Avery, Marilyn Avery, and Mark & Luann Lewis
Agent: William Newton
Staff resource Person: Rian Amiton

Staff proposal to P&Z: **Single Family-Urban Lot-Conditional Overlay with a Conditional Overlay to require a 10,000sf minimum lot size and 25 foot rear setback (SF-3-CO).**

- 1) Public Hearing
- 2) P&Z Recommendation to City Council
- 3) P&Z Adoption of Final Report

9. FUTURE LAND USE PLAN AMENDMENTS: **NONE**

10. EXECUTIVE SESSION

Any item on this posted agenda may be discussed in Executive Session provided it is within one of the permitted categories under Chapter 551 of the Texas Government Code.

In accordance with Chapter 551, Government Code, Vernon's Texas Code Annotated (V.T CA.) (Open Meetings Law), "The City Council may meet in a Closed Executive Meeting pursuant to provisions of the Open Meetings Law, Chapter 551, Government Code, VTC.A. in accordance with the authority contained in the following sections":

- A. Section§ 551.071 (2) Consultation With City Attorney Regarding Matters In Which The Duty Of The Attorney To The Governmental Body Under The Texas Disciplinary Rules Of Professional Conduct Of The State Bar Of Texas Clearly Conflict With This Chapter:
 1. Legal Issues Concerning Subdivision Plat Approval

The Planning and Zoning Commission reconvenes into General Session.

11. OPEN MEETING:
Reconvene into Open Meeting and consider action, if any, on items discussed in Executive Session.

12. SUBDIVISION PLAT DISCUSSION AND POSSIBLE ACTION:

- A. Dies Ranch Subdivision (SFP-13-001)
10.15 acres, 2 commercial lots
Located at the northwest corner of Anderson Mill Road and Dies Ranch Road
Owner: Birdwell Investments LLC and Robert Theriot
Staff Resource: Amy Link
Staff Proposal to P&Z: Approve plat

13. CONDITIONAL/SPECIAL USE PERMITS (ACTION AND PUBLIC HEARING): **NONE**

14. ORDINANCE AMENDMENT PUBLIC HEARINGS AND COMMISSION RECOMMENDATIONS: **NONE**

15. DISCUSSION AND POSSIBLE ACTION:

- A. Consider a Recommendation to the City Council Regarding the Regulation of Poultry in Residential Districts
- B. Planning and Zoning Commission Excused Absence Policy

16. ADMINISTRATIVE ITEMS:

(Commissioners and staff may discuss items related to the Commission's general duties and responsibilities. The Commission may not take a vote.)

- A. Report on City Council Actions Pertaining to Zoning Matters from September 26th and October 3rd
- B. Director and Staff Comments
- C. Commissioners Comments
- D. Request for Future Agenda Items
- E. Designate Delegate to Attend Next Council Meetings on October 24th and November 7th

17. ADJOURNMENT

The above agenda schedule represents an estimate of the order for the indicated items and is subject to change at any time.

All agenda items are subject to final action by the Planning and Zoning Commission.

Any item on this posted agenda may be discussed in Executive Session provided it is within one of the permitted categories under Chapter 551 of the Texas Government Code.

An unscheduled closed executive session may be held if the discussion of any of the above agenda items concerns the purchase, exchange, lease or value of real property; the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee; the deployment or use of security personnel or equipment; or requires consultations with the City Attorney.

At the discretion of the Planning and Zoning Commission, non-agenda items may be presented by citizens to the Planning and Zoning Commission for informational purposes; however, by law, the Planning and Zoning Commission shall not discuss, deliberate or vote upon such matters except that a statement of specific factual information, a recitation of existing policy, and deliberations concerning the placing of the subject on a subsequent agenda may take place.

The City Attorney has approved the Executive Session Items on this agenda, if any.

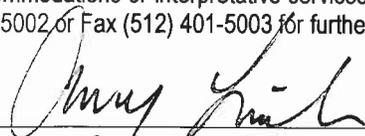
CERTIFICATE

I certify that the above notice of the Regular Called Planning and Zoning Commission Meeting of the City of Cedar Park, Texas was posted on the bulletin board of the City of Cedar Park City Hall, 450 Cypress Creek Road, Building Four, Cedar Park, Texas. This notice was posted on:

OCT 11 '13 PM 4:38

Date Stamped (Month, Day, Year, AM/PM, Time)

The Cedar Park City Hall Complex Meeting Rooms are wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretative services must be made 48 hours prior to this meeting. Please contact the City Secretary's Office at (512) 401-5002 or Fax (512) 401-5003 for further information.



Development Services Department

Notice Removed: _____
Date Stamped (Month, Day, Year, AM/PM, Time)

MINUTES FOR
CITY OF CEDAR PARK
PLANNING & ZONING COMMISSION
TUESDAY, SEPTEMBER 17, 2013 AT 6:30 P.M.
450 CYPRESS CREEK ROAD, BUILDING FOUR, CEDAR PARK, TEXAS 78613

COMMISSION MEMBERS

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| <input checked="" type="checkbox"/> SCOTT ROGERS, Place 1 | <input checked="" type="checkbox"/> NICHOLAS KAUFFMAN, Place 5, Chair | <input checked="" type="checkbox"/> KELLY BRENT, Place 7 |
| <input checked="" type="checkbox"/> THOMAS BALESTIERE, Place 2 | <input checked="" type="checkbox"/> AUDREY WERNECKE, Place 4, Vice Chair | <input checked="" type="checkbox"/> HOLLY HOGUE, Place 6,
Secretary |
| <input checked="" type="checkbox"/> MICHAEL DION, Place 3 | | |

1. CALL TO ORDER, QUORUM DETERMINED, MEETING DECLARED OPEN
Chair Kauffman called the meeting to order at 6:30 P.M. Seven Commissioners were present and a quorum was declared. Chair Kauffman read the standard introduction explaining the meeting procedures.

2. PLEDGE OF ALLEGIANCE TO THE U.S. AND TEXAS FLAGS
Chair Kauffman led the audience in the U.S. Pledge of Allegiance and the Texas Pledge.

3. MINUTES: Approve Minutes from the Regular Meeting of August 20, 2013
MOTION: Commissioner Brent moved to approve the Minutes of the Regular Meeting of August 20, 2013 as presented. Vice Chair Wernecke seconded the motion. The motion passed unanimously, 7-0.

4. CITIZEN COMMUNICATIONS *(Not For Items Listed On This Agenda. Three Minutes Each. No Deliberations With Commissioners. Commissioners May Respond With Factual Information.)*
Dan Jensen spoke to the Commissioners concerning the intent of the use of the Dies Ranch Storage property.

5. CONSENT AGENDA:
 - A. STATUTORY DISAPPROVAL:
 1. The Shops at Lakeline Village Section 3, Resub of Lot 2 (SFP-13-009)
5.56 acres, 2 commercial lots
Located north of Lakeline Boulevard and east of Little Elm Trail
Owners: Becky, Ltd.
Staff Resource: Rian Amiton
Staff Proposal to P&Z: Statutorily Disapprove

 2. The Shops at Park Street (SFP-13-010)
7.51 acres, 3 commercial lots
Located north of East Park Street and West of North Vista Ridge Boulevard
Owners: Carolville Ltd.
Staff Resource: Rian Amiton
Staff Proposal to P&Z: Statutorily Disapprove

 3. Lakewood Country Estates Phase One, Resub of Lot 3 Block D (SFP-13-011)
5.02 acres, 2 residential lots
Located on Lakewood Trail
Owners: Cecil and Norma Holder
Staff Resource: Rian Amiton
Staff Proposal to P&Z: Statutorily Disapprove

4. Cedar Park Ranchettes Unit Four, Amended Plat of Lots 14 and 15 (FPD-13-006)
0.95 acres, 2 residential lots
Located at 306 and 308 North Cougar Avenue
Owners: Jerry and Aida Castillo
Staff Resource: Amy Link
Staff Proposal to P&Z: Statutorily Disapprove

B. SUBDIVISION APPROVALS:

1. Lakeline at Old Mill Preliminary Plan (PP-13-003)
37.59 acres, 2 commercial lots and 2 residential lots
Located on the north side of Lakeline at Old Mill Road
Owner: Brooke LTD and Property Fund #2 LTD
Staff Resource: Rian Amiton
Staff Proposal to P&Z: Approve
2. Lakeline at Old Mill Final Plat (FP-13-004)
37.59 acres, 2 commercial lots and 2 residential lots
Located on the north side of Lakeline at Old Mill Road
Owner: Brooke LTD and Property Fund #2 LTD
Staff Resource: Rian Amiton
Staff Proposal to P&Z: Approve
3. Cypress Corner Section Two Preliminary Plan (PP-12-003)
3.63 acres, 2 commercial lots
Located at the southeast corner of Cypress Creek Road and Alexis Drive
Owner: TS-SD III LTD
Staff Resource: Amy Link
Staff Proposal to P&Z: Approve
4. Cypress Corner Section Two Final Plat (FP-12-002)
3.63 acres, 2 commercial lots
Located at the southeast corner of Cypress Creek Road and Alexis Drive
Owner: TS-SD III LTD
Staff Resource: Amy Link
Staff Proposal to P&Z: Approve
5. Colonial Parkway at Vista Ridge (SFP-13-004)
1.26 acres, 1 commercial lot
Located at Colonial Parkway and Vista Ridge Blvd
Owner: Carolville, LTD
Staff Resource: Rian Amiton
Staff Proposal to P&Z: Approve
6. LISD Silverado East (FP-13-003)
23.21 acres, 2 commercial lots
Located at the southwest corner of Ranch Trails and South Frontier Lane
Owner: Leander Independent School District

Staff Resource: Rian Amiton
Staff Proposal to P&Z: Approve

C. EXCUSED ABSENCES FOR PLANNING AND ZONING COMMISSIONERS:

1. Thomas Balestiere, August 20, 2013

MOTION: Secretary Hogue moved to recommend approval of Consent Agenda Items 5.A.1 through 5.C.1 as presented. Commissioner Brent seconded the motion. The motion passed unanimously, 7-0.

6. POSTPONEMENT/WITHDRAWN/PULLED REQUESTS:

- A. Cedar Park Town Center, Z-13-006 – Postponement request by applicant to October 15, 2013
- B. Old Mill Village, Z-13-007 – Postponement request by applicant to October 15, 2013
- C. Ann Seaman, Z-13-015 – Postponement request by the applicant to November 19, 2013

Planning Manager Amy Link advised that the first two cases had been postponed at the August meeting. The applicant requested that they be postponed again to October 15, 2013. The applicant is amending their zoning request for Z-13-015 and requested a postponement to November 19, 2013.

MOTION: Commissioner Balestiere moved to postpone Cases Z-13-006 and Case Z-13-007 to October 15, 2013 and to postpone Case Z-13-015 to November 19, 2013. Secretary Hogue seconded the motion. The motion passed unanimously, 7-0.

Chair Kauffman called up Item 10A out of order. See Item 10A.

7. STAFF REPORTS – ACCEPTANCE OF PRELIMINARY REPORTS:

- A. East Park and Vista Ridge, Z-13-017 (related to item 8A)
- B. Acme Brick, Z-13-018 (related to item 8B)
- C. Twin Lakes Park, Z-13-019 (related to item 8C)

MOTION: Commissioner Rogers moved to accept the Preliminary Reports for Items 7A (Z-13-017), 7B (Z-13-018) and 7C (Z-13-019) as presented. Secretary Hogue seconded the motion. The motion passed unanimously, 7-0.

8. ZONING PUBLIC HEARINGS AND COMMISSION RECOMMENDATIONS:

- A. Consider a request by Carolville, Ltd. to rezone approximately 3.24 acres from General Retail (GR) to Local Retail (LR) for property located at the northwest corner of East Park Street and Vista Ridge Boulevard. (Z-13-017)
Owner: Carolville, Ltd.
Agent: City of Cedar Park
Staff Resource Person: Rian Amiton
Staff proposal to P&Z: Local Retail (LR)
 - 1) Public Hearing
 - 2) P&Z Recommendation to City Council
 - 3) P&Z Adoption of Final Report

Planner Rian Amiton made the presentation and was available for questions. The City initiated rezoning of approximately 3.24 acres from General Retail (GR) to Local Retail (LR) for property located at the northwest corner of East Park Street and Vista Ridge Boulevard. LR zoning would bring the site into conformance with the Future Land Use map and the location is consistent with the LR purpose statement. Staff recommended approval of the request for Local Retail (LR) zoning.

A public hearing was held on the above item. There being no public testimony, the public hearing was closed and the regular session reopened.

MOTION: Commissioner Harris moved to recommend approval to the City Council of rezoning approximately 3.24 acres from General Retail (GR) to Local Retail (LR) for property located at the northwest corner of East Park Street and Vista Ridge Boulevard (Z-13-017) as recommended by staff. Commissioner Balestiere seconded the motion. The motion passed unanimously, 7-0.

MOTION: Secretary Hogue moved to accept the Preliminary Report with the Commission's recommendation as the Final Report for Item 8A, Case Z-13-017. Commissioner Balestiere seconded the motion. The motion passed unanimously, 7-0.

- B. Consider a request by Acme Brick to rezone approximately 48.67 acres of Light Industrial (LI) to General Retail (GR) for property located at 1800 West Whitestone Boulevard. (Z-13-018)
Owner: Acme Brick
Agent: Danny Miller, LJA Engineering
Staff resource Person: Amy Link
Staff proposal to P&Z: General Retail with a Conditional Overlay (GR-CO) prohibiting automobile sales (new and used), automobile repair shops, car washes, equipment rental/sales/service/repair, non-emergency medical transport, day care center (adult and child), private schools, wireless telecommunications facilities and laundromat.
- 1) Public Hearing
 - 2) P&Z Recommendation to City Council
 - 3) P&Z Adoption of Final Report

Planning Manager Amy Link made the presentation and was available for questions. The applicant requested rezoning of approximately 48.67 acres of Light Industrial (LI) to General Retail (GR) for property located at 1800 West Whitestone Boulevard. The site is currently undeveloped. The Applicant's Communication Summary had not been received.

Staff recommended approval of the applicant's request for GR zoning with the addition of a conditional overlay to prohibit Automobile sales (new and used), Automobile repair shops, Car Washes, Equipment rental, sales, service and repair, Non-emergency medical transport, Day care center (adult and child), Private schools, Wireless telecommunications facilities and Laundromat. Danny Miller, applicant's agent, was present to answer questions. The applicant was amenable to the above conditions.

A public hearing was held on the above item. There being no public testimony, the public hearing was closed and the regular session reopened.

There was general discussion among the Commissioners regarding the rezoning request.

MOTION: Commissioner Brent moved to recommend approval to the City Council of rezoning approximately 48.67 acres of Light Industrial (LI) to General Retail-Conditional Overlay (GR-CO) for property located at 1800 West Whitestone Boulevard (Z-13-018) as recommended by staff. Commissioner Harris seconded the motion. The motion passed unanimously, 7-0.

MOTION: Commissioner Brent moved to accept the Preliminary Report with the Commission's recommendation as the Final Report for Item 8B, Case Z-13-018. Secretary Hogue seconded the motion. The motion passed unanimously, 7-0.

- C. Consider a city initiated request to assign original zoning of Open Space Recreation (OSR) to approximately 34.08 acres located near the southeast corner of South Bell Boulevard and East Little Elm Trail, known as Twin Lakes Park. (Z-13-019)
Owner: Texas Parks and Wildlife
Staff Resource Person: Amy Link
Staff proposal to P&Z: Open Space Recreation (OSR)
- 1) Public Hearing
 - 2) P&Z Recommendation to City Council
 - 3) P&Z Adoption of Final Report

Planning Manager Amy Link made the presentation and was available for questions. She advised that this was a City initiated request to assign original zoning of Open Space Recreation (OSR) to approximately 34.08 acres for property located near the southeast corner of South Bell Boulevard and East Little Elm Trail. The site is currently developed as Twin Lakes Park and the YMCA. Voluntary annexation of the property will be final on September 26, 2013. The request is consistent with the Future Land Use Plan and goals of the Comprehensive Plan and is supported by the purpose statement of OSR District. Staff recommended approval of original zoning of Open Space Recreation (OSR).

A public hearing was held on the above item. There being no public testimony, the public hearing was closed and the regular session reopened.

MOTION: Commissioner Brent moved to recommend approval to the City Council of assigning original zoning of Open Space Recreation (OSR) to approximately 34.08 acres for property located near the southeast corner of South Bell Boulevard and East Little Elm Trail (Z-13-019) as recommended by staff. Commissioner Harris seconded the motion. The motion passed unanimously, 7-0.

MOTION: Secretary Hogue moved to accept the Preliminary Report with the Commission's recommendation as the Final Report for Item 8C, Case Z-13-019. Commissioner Brent seconded the motion. The motion passed unanimously, 7-0.

9. FUTURE LAND USE PLAN AMENDMENTS:
A Future Land Use Amendment for property located at 1800 West Whitestone Boulevard (related to item 8B).

Planning Manager Amy Link advised that staff supported the applicant's request to amend the Future Land Use Plan (FLUP) designation for Z-13-018 for approximately 48.67 acres located at 1800 West Whitestone Boulevard from Employment Center to Regional Office/Retail/Commercial.

MOTION: Commissioner Brent moved to recommend approval to the City Council of amending the Future Land Use Plan for Case Z-13-018 as presented by Staff. Secretary Hogue seconded the motion. The motion passed unanimously, 7-0.

Chair Kauffman called up Item 10A after Item 6.

10. SUBDIVISIONS (ACTION AND PUBLIC HEARING):

- A. Dies Ranch Subdivision (SFP-13-001)
10.15 acres, 2 commercial lots
Located at the northwest corner of Anderson Mill Road and Dies Ranch Road
Owner: Birdwell Investments LLC and Robert Theriot

Staff Resource: Amy Link

Staff Proposal to P&Z: Approve variance and plat

- 1) Public Hearing on Guara Court street extension variance request
- 2) P&Z Action on Guara Court street extension variance request
- 3) P&Z Action on subdivision

Planning Manager Amy Link advised that the applicant requested a variance to not extend Guara Court within the proposed subdivision. She advised that the tract was located in the Extra Territorial Jurisdiction (ETJ), oriented between two residential subdivisions, with an eight to ten foot elevation change from the end of Guara Court to the property line of the subdivision. Access to commercial property is not recommended from a local street. Guara Court was stubbed to property in 2002 as it was assumed that the use would be residential on the tract. She advised that no variance shall be granted unless the Planning and Zoning Commission finds that all seven of the variance findings are met. Staff recommended approval of the variance and approval of the subdivision plat. The subdivision met all state and local requirements with the exception of variance request. Planning Manager Amy Link reviewed the variance findings required to grant a variance. She advised that the neighborhood concerns included the maintenance issues for the stubbed street, flooding caused by fencing blocking drainage, and additional access needed for fire. Darwin Marchell, Director of Engineering, and Randy Lueders, Senior Engineer, were present to answer questions.

Robert Kleeman, representing the applicant, addressed the Commissioners. He agreed with staff's recommendation and variance findings. The Municipal Utility District (MUD) is responsible for the maintenance of the stubbed street. He advised that connectivity between residential and commercial uses did not make sense.

A public hearing was held on the above item. The following completed recognition cards and spoke in opposition of the variance request not to extend Guara Court within the proposed subdivision: 1) Gerry Booth and 2) Caleb Magee. There being no further public testimony, the public hearing was closed and the regular session reopened.

There was much discussion among the Commissioners concerning the variance findings. Most of the Commissioners did not support the second variance finding as they disagreed that due to the special conditions, strict application of this section would deprive the applicant of reasonable use of the property and result in an undue hardship. They did not continue to discuss the other requirements, because a variance could not be granted if all findings were not met.

MOTION: Commissioner Brent moved to deny the Guara Court street extension variance request for Case SFP-13-001, because strict application of this section would not deprive the applicant of reasonable use of the property and would not result in an undue hardship. Commissioner Rogers seconded the motion. The motion passed 5-2 as follows:

For: Brent, Rogers, Balestiere, Wernecke, Hogue
Against: Kauffman, Harris

There was no action taken on the subdivision plat. Planning Manager Amy Link advised that because the variance was not granted, the subdivision must be amended to include the road.

11. CONDITIONAL USE SITE DEVELOPMENT (ACTION AND PUBLIC HEARING): NONE.

12. ORDINANCE AMENDMENT PUBLIC HEARINGS AND COMMISSION RECOMMENDATIONS:
NONE.

13. DISCUSSION AND POSSIBLE ACTION: NONE.

14. ADMINISTRATIVE ITEMS:

(Commissioners and staff may discuss items related to the Commission's general duties and responsibilities. The Commission may not take a vote.)

A. Report on City Council Actions Pertaining to Zoning Matters from August 22nd and September 12th.

Planning Manager Amy Link advised that Case Z-13-013 was approved at the August 22nd meeting. Case OA-13-005 was on the agenda for a first reading and public hearing. Case ANX-13-001 was on the agenda for a second public hearing. Kelly Brent was reappointed to Place 7.

Planning Manager Amy Link Advised that Case OA-13-005 was approved at the September 12th meeting. Cases ANX-13-001, OA-13-008, Z-13-010, Z-13-012 and Z-13-016 were on the agenda for a first reading and public hearing. Kevin Harris was appointed to Place 3.

B. Director and Staff Comments.

1) Special Called work session on October 1, 2013

Planning Manager Amy Link advised the Commissioners of the items to be discussed at workshop on October 1st. She asked that the Commissioners let staff know if they would be able to attend the workshop. She advised that an electronic copy of the packet would be sent out and a hard copy provided at the meeting.

C. Commissioners Comments.

Secretary Hogue advised that she would not be able to attend the October 1st workshop. Commissioner Brent asked for excused absence requests to reflect the number of absences within the last 12 months. Charles Rowland, City Attorney, advised that the Rules and Procedures would need to be amended if the Commission decided to make any changes.

D. Request for Future Agenda Items.

The attendance portion of the Rules and Procedures will be brought to a future meeting.

E. Designate Delegate to Attend Next Council Meetings on September 26th and October 3rd.

Commissioner Balestiere advised that he would attend the September 26th Council meeting. There were no P&Z items anticipated on the October 3rd agenda.

15. ADJOURNMENT

Chair Kauffman adjourned the meeting at 8:42 p.m.

PASSED AND APPROVED THE 15TH DAY OF OCTOBER, 2013.

NICHOLAS KAUFFMAN, Chairman

ATTEST:

HOLLY HOGUE, Secretary

CITY OF CEDAR PARK
SPECIAL CALLED MEETING OF THE
PLANNING & ZONING COMMISSION
TUESDAY, OCTOBER 1, 2013 AT 6:30 P.M.
CEDAR PARK CITY HALL COUNCIL CHAMBERS
450 CYPRESS CREEK ROAD, BUILDING FOUR, CEDAR PARK, TEXAS 78613

COMMISSION MEMBERS

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| <input type="checkbox"/> SCOTT ROGERS, Place 1 | <input checked="" type="checkbox"/> NICHOLAS KAUFFMAN, Place 5, Chair | <input checked="" type="checkbox"/> KELLY BRENT, Place 7 |
| <input checked="" type="checkbox"/> THOMAS BALESTIERE, Place 2 | <input checked="" type="checkbox"/> AUDREY WERNECKE, Place 4, Vice Chair | <input type="checkbox"/> HOLLY HOGUE, Place 6,
Secretary |
| <input checked="" type="checkbox"/> MICHAEL DION, Place 3 | | |

1. CALL TO ORDER, QUORUM DETERMINED, MEETING DECLARED OPEN
Chair Kauffman called the meeting to order at 6:30 P.M. Five Commissioners were present and a quorum was declared. Secretary Hogue and Commissioner Rogers were absent. Chair Kauffman explained the workshop procedures.

2. PLEDGE OF ALLEGIANCE TO THE U.S. AND TEXAS FLAGS
Chair Kauffman led the audience in the U.S. Pledge of Allegiance and the Texas Pledge.

3. CITIZEN COMMUNICATIONS *(Not For Items Listed On This Agenda. Three Minutes Each. No Deliberations With Commissioners. Commissioners May Respond With Factual Information.)* **None.**

4. WORKSHOP
Chair Kauffman called up Items 4A and 4B together.
 - A. Consider Presentations and Discussion of the Regulation of Poultry in Residential Districts
 - B. Consider a Recommendation to the City Council Regarding the Regulation of Poultry in Residential DistrictsInterim Development Services Director Joe Vining made the presentation. He stated that there was no public hearing on this item. The City Council had requested that the Planning and Zoning Commission review and recommend whether or not any changes to the ordinance need to be considered. He advised that the motion would need four votes in order to recommend any changes or to recommend no changes be made.

Don Caldwell made a presentation in favor of changing the ordinance regarding the regulation of poultry in residential districts. Three people shared the presentation against changing the ordinance: 1) James Maness, 2) Angie Ibarra, and 3) Mollie Francis. Steve Echols and Bob Ingraham signed recognition cards in opposition of changing the ordinance, but did not address the Commissioners.

There was much discussion among the Commissioners concerning the issues presented.

MOTION: Commissioner Harris moved to recommend that no changes be made to the regulations of poultry in residential districts. Commissioner Brent seconded the motion. The motion failed as follows.

- Yes: Harris, Brent, Kauffman
No: Wernecke, Balestiere
Absent: Rogers, Hogue

C. Consider a Presentation and Discussion on Private Streets and Gated Communities
Planning Manger Amy Link made the presentation and was available for questions. Current ordinance provisions and proposed ordinance revisions were discussed. The proposed ordinance amendment will be brought to the November meeting for consideration. No action was taken.

D. Consider a Presentation and Discussion of Zoning Districts and Regulations for Various Care Giving Facilities

Planner Rian Amiton made the presentation and was available for questions. He advised that the existing definitions are confusing. The objectives of the proposed revisions address appropriate zoning districts, consolidating/amending permitted uses, and cleaning up definitions. There was general discussion among the Commissioners concerning continuum of care, hospice, and financial impact to the City of any changes proposed. Planner Rian Amiton advised that proposed amendments to the ordinance will be brought to the Commissioners at a future meeting. No action was taken.

5. ADMINISTRATIVE ITEMS:

(Commissioners and staff may discuss items related to the Commission's general duties and responsibilities. The Commission may not take a vote.)

A. Director and Staff Comments. **None.**

B. Commissioners Comments. **None.**

C. Request for Future Agenda Items. **None.**

6. ADJOURNMENT

Chair Kauffman adjourned the meeting at 8:22 p.m.

PASSED AND APPROVED THE 15TH DAY OF OCTOBER, 2013.

NICHOLAS KAUFFMAN, Chairman

ATTEST:

HOLLY HOGUE, Secretary

October 15,
2013
Subdivision

Planning and Zoning Commission
Cedar Park Town Center Live/Work

**Item:#
5A1**

Case Number: SFP-13-012

OWNER: V-S Cedar Park LTD

STAFF: Amy Link, 512-401-5056, amy.link@cedarparktexas.gov

LOCATION: North side of Main Street, west of Discovery Boulevard

COUNTY: Williamson

AREA: 10.85 acres

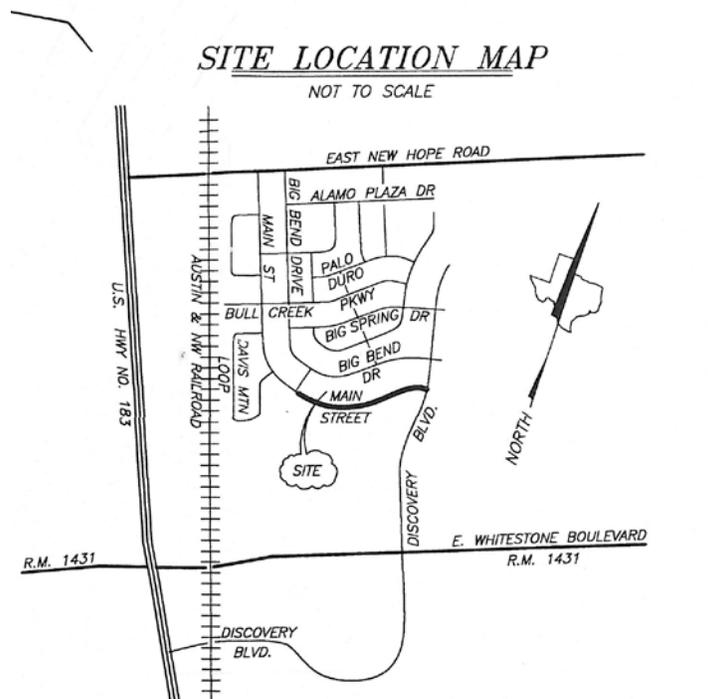
ZONING: DD

SUBDIVISION DESCRIPTION: 1 multifamily lot and 1 commercial lot

STAFF COMMENTS:

In order to address the statutory requirements of the Texas Local Government code this application has been scheduled on the Planning and Zoning Commission agenda. Staff is recommending an action of disapproval at this time as the application has not yet been fully reviewed.

Disapproval of the plat at this time shall not bias future consideration of the application.



October 15, 2013	<i>Planning and Zoning Commission</i>	Item:#
Subdivision	Scottsdale Crossing	5A2
Replat of Lots 1, 2 and 3 Block A		
Case Number: FPD-13-007		

OWNER: Pecan Grove-SPVEF, LP

STAFF: Amy Link, 512-401-5056, amy.link@cedarparktexas.gov

LOCATION: East of US 183A Toll Road, north of E. New Hope Drive, south of Scottsdale Dr.

COUNTY: Williamson

AREA: 7.62 acres

ZONING: DD

SUBDIVISION DESCRIPTION: 2 commercial lots

STAFF COMMENTS:

In order to address the statutory requirements of the Texas Local Government code this application has been scheduled on the Planning and Zoning Commission agenda. Staff is recommending an action of disapproval at this time as the application has not yet been fully reviewed.

Disapproval of the plat at this time shall not bias future consideration of the application.

October 15,
2013
Subdivision

Planning and Zoning Commission
Ranch at Brushy Creek Section 10A

**Item:#
5B1**

Case Number: FP-13-007

OWNER: Silverado Austin Development, LTD and Standard Pacific of Texas Inc.

STAFF: Amy Link, 512-401-5056, amy.link@cedarparktexas.gov

LOCATION: North Frontier Lane near Dry Gulch Bend

COUNTY: Williamson

AREA: 17.47 acres

ZONING: SF-2 and SF-3

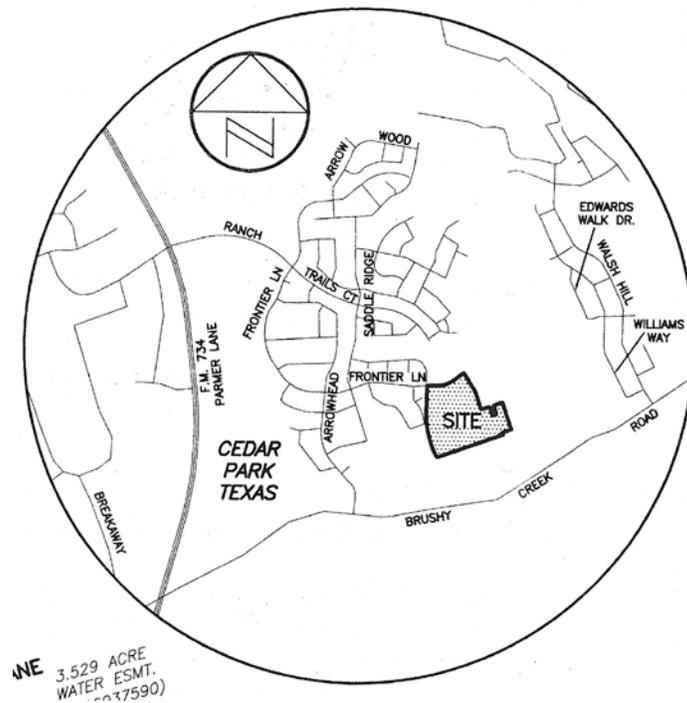
SUBDIVISION DESCRIPTION: 84 residential lots, 2 landscape lots

STAFF COMMENTS:

This plat meets all state and local requirements.

STAFF RECOMMENDATION:

Approve plat



October 15,
2013
Zoning

Planning and Zoning Commission
Cedar Park Town Center

Item:
6A

Case Number: # Z-13-006

OWNER: Continental Homes of Texas, LP

AGENT: James Brewer, Gray Engineering Inc.

STAFF: Amy Link, 401-5056, amy.link@cedarparktexas.gov

LOCATION: 183A Toll Road, south of East New Hope Drive

COUNTY: Williamson

AREA: 42.9 acres

The applicant is requesting a postponement of this case until the November 19, 2013 Planning and Zoning Commission meeting.

Staff is agreeable with the postponement.



October 15,
2013
Zoning

Planning and Zoning Commission
Old Mill Village

Item:
6B

Case Number: # Z-13-007

OWNER: 183 BLW LP

AGENT: James Brewer, Gray Engineering Inc.

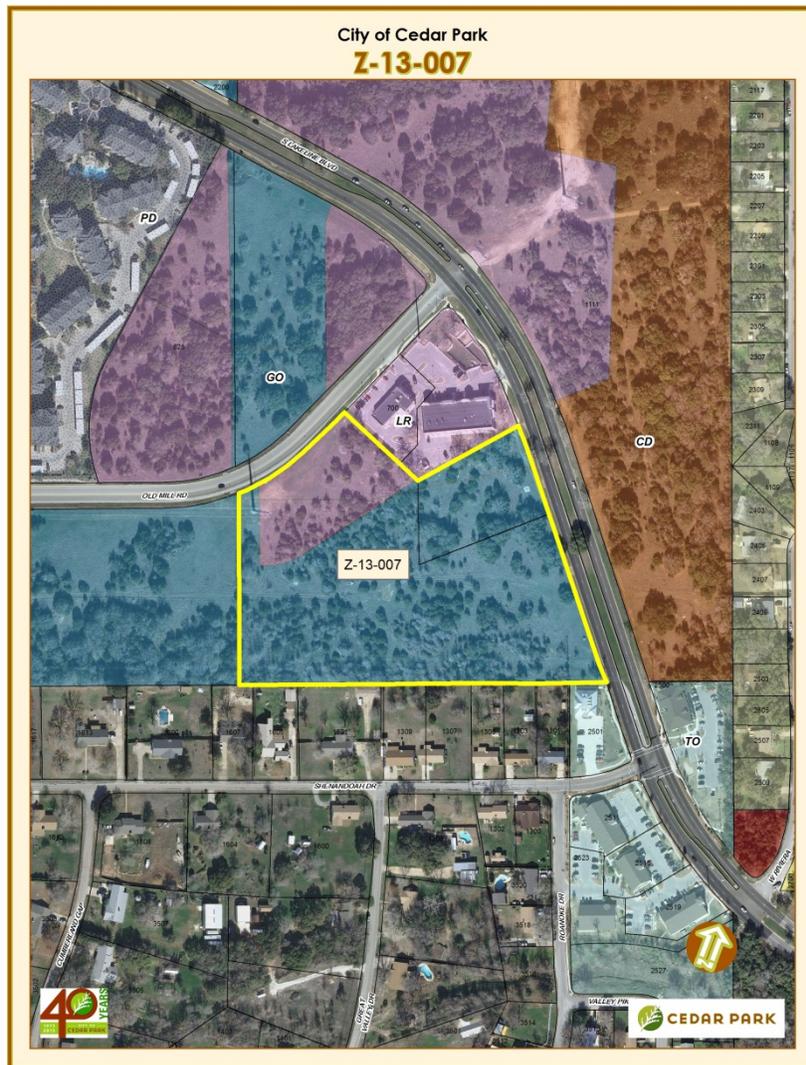
STAFF: Rian Amiton, 401-5054, rian.amiton@cedarparktexas.gov

LOCATION: Old Mill Road and South Lakeline Boulevard

COUNTY: Williamson

AREA: 10.72 acres

The Applicant has requested a postponement of their request until November 19, 2013.



October 15,
2013
Zoning

Planning and Zoning Commission
Abrantes Section V

Item:
6C

Case Number: # Z-13-021

OWNER/AGENT: Robert Tesch, Creekside Park Ltd.

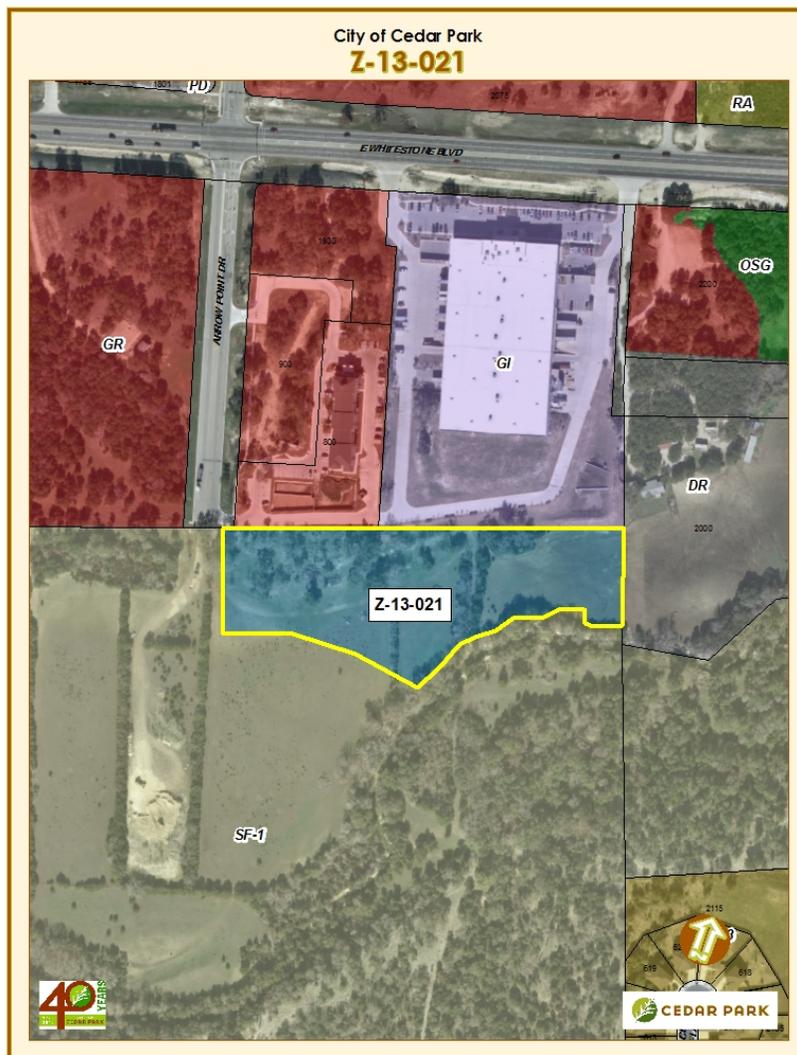
STAFF: Amy Link, 401-5056, amy.link@cedarparktexas.gov

LOCATION: Arrow Point Drive, south of East Whitestone Boulevard

COUNTY: Williamson

AREA: 5.7 acres

The applicant has requested a postponement to November 19, 2013. Staff is supportive of the postponement request.



October 15,
2013
Zoning

Planning and Zoning Commission
Ozone Lakeline at Riviera

**Item:
7A & 8A**

Case Number: Z-13-011

OWNER/APPLICANT: Ozone Technology, Inc.

AGENT: Jennie Braasch

STAFF: Rian Amiton, 401-5054, rian.amiton@cedarparktexas.gov

LOCATION: East side of West Riviera Drive, just north of South Lakeline Boulevard

COUNTY: Williamson County

AREA: 3.48 acres

EXISTING ZONING: Single Family (SF-2)

PROPOSED ZONING: Local Retail-Conditional Overlay (LR-CO) with the following conditions:

- 50 foot landscape buffer shall be provided adjacent to single-family uses along the northern property line
- Building heights shall be limited to one story, not to exceed 35 feet

STAFF RECOMMENDATION: Postpone to November 19 pending receipt of Traffic Impact Analysis

EXISTING FUTURE LAND USE PLAN DESIGNATION:

Medium Density Residential

SUMMARY OF APPLICANT'S REQUEST:

The Applicant's request is to rezone a total of approximately 3.48 acres from Single Family (SF 2) to Local Retail-Conditional Overlay (LR-CO) with the following conditions:

- 50 foot landscape buffer shall be provided adjacent to single-family uses along the northern property line
- Building heights shall be limited to one story, not to exceed 35 feet

EXISTING SITE and SURROUNDING LAND USES:

This site, which is currently undeveloped, abuts the City of Austin to the south. This land has been recently rezoned to Austin's equivalent to Cedar Park's Local Retail (LR) zoning district. Single family lots within the Riviera Springs subdivision are to the north. Across West Riviera Drive to the west is an undeveloped parcel zoned General Retail (GR).

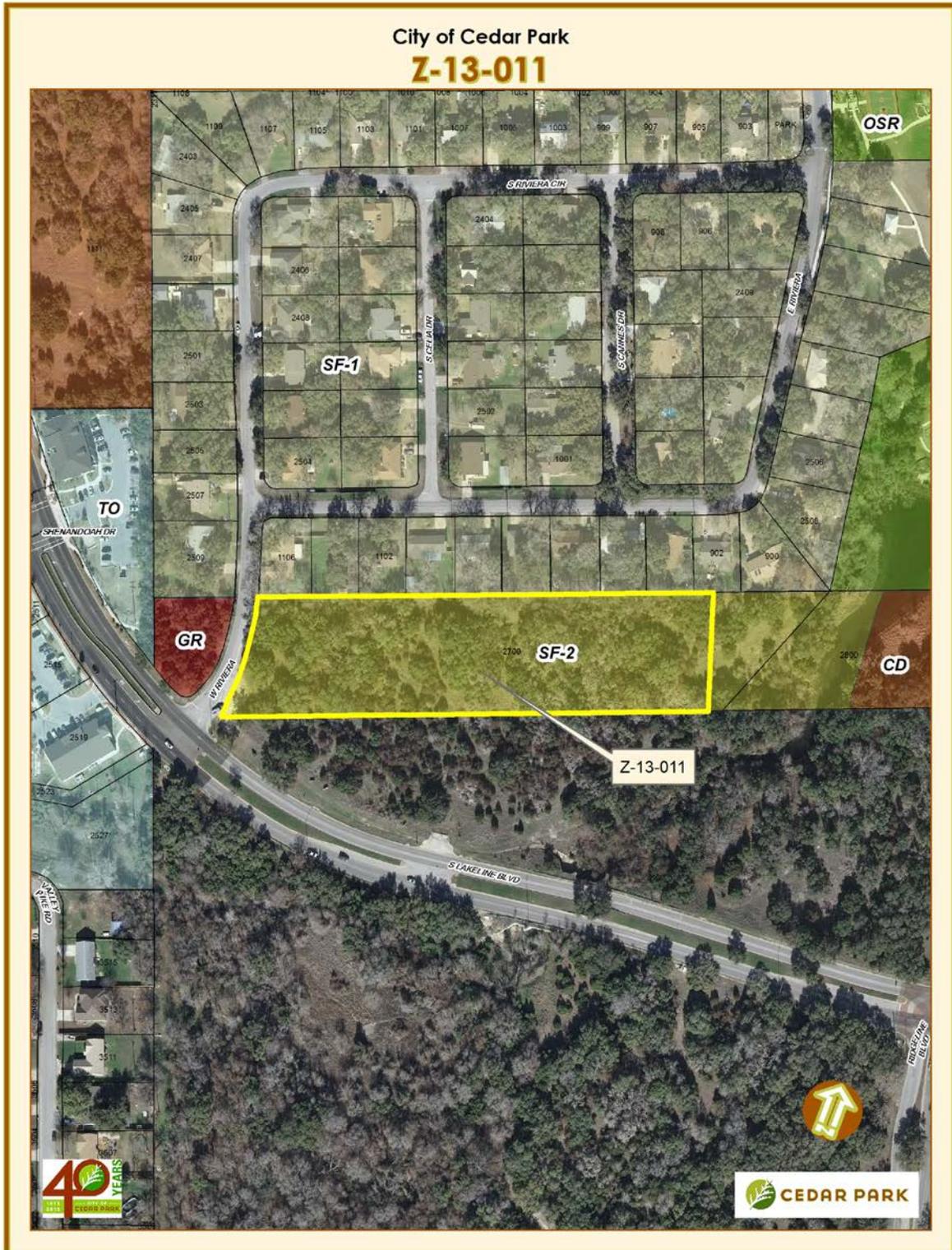
October 15,
2013
Zoning

Planning and Zoning Commission

Ozone Lakeline at Riviera

Item:
7A & 8A

Case Number: Z-13-011



October 15,
2013
Zoning

Planning and Zoning Commission
Ozone Lakeline at Riviera

**Item:
7A & 8A**

Case Number: Z-13-011

PURPOSE OF REQUESTED ZONING DISTRICT:

The Local Retail District, LR, is established to provide for office and retail businesses that are intended to serve the overall community, with a larger market than the immediate neighborhoods in the area. In order to accommodate the traffic generated from these businesses without negatively impacting the residential neighborhoods, these uses should be located primarily at pulse points or activity nodes where collector streets and arterial roadways intersect or at arterial roadway intersections. These uses generally serve a larger market than businesses found in a TC District; yet generally serve a local market opposed to the regional market served by uses in a GR District.

PERMITTED USES IN LR:

- Art galleries with retail sales
- Automated Teller Machines
- Automobile parts and accessories sales
- Bakery, retail
- Banks (with or without drive-through facilities)
- Bed and Breakfast
- Community center
- Consumer repair shop (including bicycles)
- Convenience store
- Day care center, adult
- Day care center, child
- Dry cleaning and/or laundry, on-site
- Drugstores
- Food sales, general (grocery store)
- Food sales, limited
- Gasoline service stations, limited
- Golf, amusement
- Hardware stores
- Instant print copy services
- Landscape nursery and supply store, retail
- Laundromat
- Liquor store
- Movie and music rentals, sales
- Non-Emergency Medical Transport Service (Conditional)
- Nonprofit seasonal fundraisers
- Personal Improvement Services
- Personal Improvement Services, Limited
- Personal services, general
- Pet grooming
- Rental libraries for sound and video recordings
- Research and development activities (as it pertains to software only)
- Restaurant, general
- Retail gift store
- Retail stores
- Studios/art studio, dance, music, drama, gymnastics, photography, interior design
- Software sales, computer hardware sales
- Vocational or trade school
- Veterinary Services

FUTURE LAND USE PLAN:

The Future Land Use Plan (FLUP) identifies the subject area for Medium Density Residential, with compatible zoning districts of Condominium (CD) and Duplex (DP). The Applicant's request for LR zoning therefore does not comply with the FLUP.

A FLUP amendment would be required.

October 15,
2013
Zoning

Planning and Zoning Commission
Ozone Lakeline at Riviera

**Item:
7A & 8A**

Case Number: Z-13-011

COMPREHENSIVE PLAN:

The request for LR is in compliance with these goals of the Comprehensive Plan:

4.1.1 Quality of Life/Civic Character Goals

- Create a complete community where residents not only sleep, but also work, shop, eat, exercise, play and pray.

4.1.6 Economic Development Goals

- Diversify and broaden Cedar Park's economic base to keep up with anticipated growth while both keeping taxes competitive and maintaining a high level of City services.
- Attract commercial development to Cedar Park in order to reduce tax burden on residential property.

SITE INFORMATION:

Corridor Overlay:

South Lakeline Boulevard is a corridor roadway. Nearly the entire subject area is within the Corridor Overlay (CO), with the exception of the extreme northeastern corner.

Transportation:

Lakeline Boulevard is classified as a major arterial. In 2011, the traffic count on Lakeline Boulevard, south of Little Elm Trail was 31,445 vehicles per day.

Subdivision:

The property is not yet platted.

Setback Requirements for LR:

Front Setback	25'
Side Setback	12'
Side Setback Adjacent to Public Street	25'
Rear Setback	5'

Architectural Requirements:

The LR district requires 100% masonry construction on building exteriors, exclusive of doors and windows.

October 15, 2013 Zoning	<i>Planning and Zoning Commission</i> Ozone Lakeline at Riviera	Item: 7A & 8A
Case Number: Z-13-011		

Case History:

Case Number	Request	P&Z Recommendation	Council Action
Z-86-015	Original zoning of CD	Recommended CD	Approved CD
Z-93-009	CD to SF-2	Recommended SF-2	Approved SF-2
Z-02-021	SF-2 to CD	Recommended CD	No action
Z-08-055	SF-2 to GR	Withdrawn by applicant	

STAFF COMMENTARY:

This site is part of a larger 6.72 acre tract that is approximately half (3.38 acres) in Cedar Park and half (3.24 acres) within the City of Austin’s jurisdiction. The Cedar Park portion of the tract is a 200 foot wide rectangular lot between the Riviera Springs neighborhood and City of Austin land that fronts South Lakeline Boulevard. The applicant intends to pursue a commercial development that will require commercial zoning on the entire tract. On August 29, 2013, the Austin portion was rezoned from “Townhouse & Condominium Residence” to “Neighborhood Commercial”, which is roughly equivalent to Cedar Park’s Local Retail (LR) zoning district.

Staff is generally supportive of Local Retail with the proposed conditions. However, staff and the neighborhood share concerns regarding potential traffic impacts to Riviera Drive from a commercial development on the site. Therefore, staff feels that an analysis of the traffic impacts on Riviera Drive and the surrounding roadways is needed prior to finalizing a recommendation.

STAFF RECOMMENDATION:

Staff recommends postponing to November 19 pending the receipt of a Traffic Impact Analysis.

October 15,
2013
Zoning

Planning and Zoning Commission
Ozone Lakeline at Riviera

**Item:
7A & 8A**

Case Number: Z-13-011

APPLICANT'S NEIGHBORHOOD COMMUNICATION SUMMARY:

From: Jennie Braasch [<mailto:jbraasch@pohlbrown.com>]

Sent: Friday, October 04, 2013 4:10 PM

To: Amy Link

Subject: citizen communication

Amy,

Communication for Riviera Springs concerning the rezone of W Riviera Drive and Lakeline Blvd:

The two meetings were held at the Riviera Springs Park. Notification of the meetings was by flyers on each door of in the section near the intersection of W. Riviera Drive and Lakeline Blvd.

Some neighbors called to discuss by phone, several emailed.

Neighbor input and concerns:

The neighbors, of course, would prefer no development. They were concerned about uses that would cause noise and traffic. Specifically traffic cutting through the neighborhood and additional traffic to utilize the corner itself, is the problem. They were opposed to retail for those reasons. The neighbors strongly request that a stop light be added to the corner as they say that it is dangerous to exit W Riviera Drive onto Lakeline Blvd. One neighbor, who backs up to the tract under consideration, said if there is additional setback and a one story 35 foot height limit that he would be okay with the zoning. A different neighbor said he wants it to be office. Another neighbor asked for it to be a park.

Land owner input concerning the portion of his ownership in Austin:

The portion of the ownership in Austin has been rezoned to their equivalent to Cedar Park's local retail. City of Austin's ordinances say that the new zoning is appropriate at this location and the case passed on consent.

October 15,
2013
Zoning

Planning and Zoning Commission
Ozone Lakeline at Riviera

**Item:
7A & 8A**

Case Number: Z-13-011

Resolution of concerns to Riviera Springs:

CO was added to the zoning request so that

1. The setback has been increased
2. The building height is limited

The CO helps push the development away from the neighborhood and limits the intrusion into the neighborhood. Retail buildings should help block road noise from Lakeline. Traffic from any project will be primarily focused right at the corner and onto Lakeline not through the neighborhood. Local retail is for the local area, not something that causes shoppers to drive from one area of town to another area of town. The drivers, who are cutting through the neighborhood, are doing so to shorten their drive or miss traffic on the main roads.

The local retail zoning allows for small retail to develop on this corner. With 30,000+ vehicles on Lakeline, this intersection is viable and appropriate for retail. With the location next to the large number of apartments next door and across the street in the Austin City limits, there is population that will utilize the retail to bring sales tax from Austin into Cedar Park. Most likely, the buildings for the retail will be located in the jurisdiction of Cedar Park with the parking on the Austin portion.

With regards,

Jennie Braasch
Pohl Partners
10800 Pecan Park #240
Austin, Texas 78750
Cell 512-694-9400
Office 512-335-5577

PUBLIC INPUT: To date, one (1) written response has been received regarding this request. This response is below.

From: Carl & Susan Carpenter
Sent: Sunday, June 09, 2013 2:16 PM
To: Rian Amiton
Subject: ATTN: Zoning File Z-13-011

I am NOT in favor of rezoning this property.

I have search CP for a definition f=of LR-CO zoning and could not find it. Could you please send me the definition of what is allowed in LR-CO zoning?

Carl & Susan Carpenter
2504 S. Cannes Dr.
Cedar Park TX 78613
512-258-8908

October 15,
2013
Zoning

Planning and Zoning Commission
Ozone Lakeline at Riviera

**Item:
7A & 8A**

Case Number: Z-13-011

PUBLIC NOTIFICATION: Cedar Park-Leander Statesman June 5, 2013
38 letter notices were sent to property owners within the 300'
buffer of the initial rezoning request

PROPOSED CITY COUNCIL HEARINGS: (November 7, 2013) 1ST Reading
(November 21, 2013) 2ND Reading

October 15,
2013
Zoning

Planning and Zoning Commission
Thousand Oaks

Item:
7B & 8B

Case Number: # Z-13-020

OWNER: Whitney Walsh, Bryant Avery, Mary Ellen Avery, Marilyn Avery, and Mark & Luann Lewis.

AGENT: William Newton

STAFF: Rian Amiton, 401-5054, rian.amiton@cedarparktexas.gov

LOCATION: North side of West Park Street, east of San Mateo Terrace

COUNTY: Williamson

AREA: 21.70 acres

EXISTING ZONING: Single-Family Residential, Large Lot (SF)

PROPOSED ZONING: Single-Family Residential, Urban Lot – Conditional Overlay (SF-3-CO)

STAFF RECOMMENDATION: Single-Family Residential, Urban Lot – Conditional Overlay (SF-3-CO)

EXISTING FUTURE LAND USE PLAN DESIGNATION: Low Density Residential

SUMMARY OF APPLICANTS' REQUEST:

The Applicants' request is to rezone a total of approximately 21.70 acres from Single-Family Residential, Large Lot (SF) to Single-Family Residential, Urban Lot – Conditional Overlay (SF-3-CO) with the following conditions:

- 10,000 square foot minimum lot size
- 20 foot minimum rear yard setback

EXISTING SITE and SURROUNDING LAND USES:

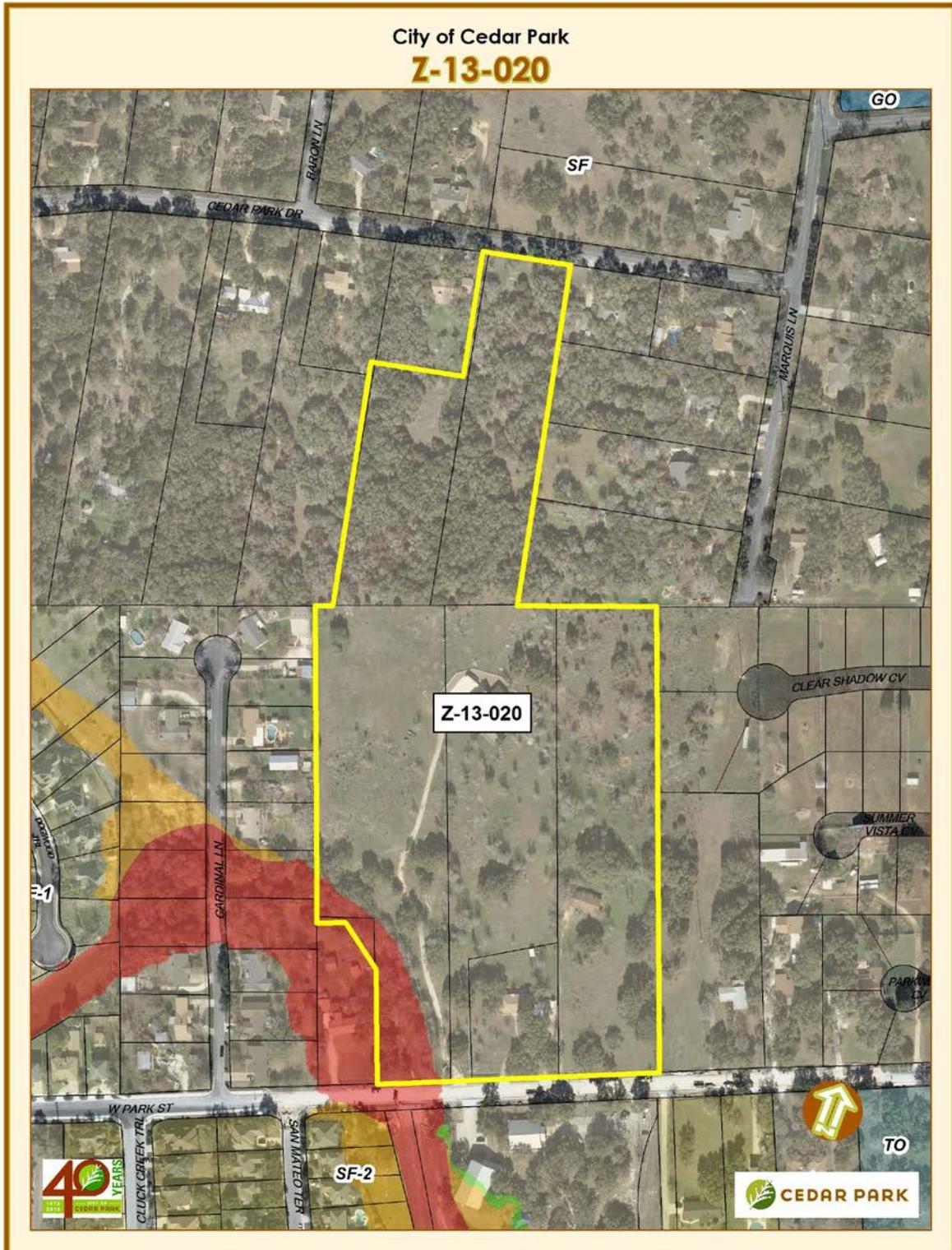
This site is currently comprised of six single family residential lots. It is bordered on the south by West Park Street, and to the north by Cedar Park Drive. To both the east and west are residential lots zoned Single Family (SF).

October 15,
2013
Zoning

Planning and Zoning Commission Thousand Oaks

Item:
7B & 8B

Case Number: Z-13-020



October 15,
2013
Zoning

Planning and Zoning Commission
Thousand Oaks

**Item:
7B & 8B**

Case Number: Z-13-020

PURPOSE OF REQUESTED ZONING DISTRICT:

The Single-Family Residential, Urban Lot, SF-3, is established to provide for standard urban sized lots that allow for low density single-family residential developments at a more compact urban scale. Nonresidential uses permitted in this district are considered to be compatible with single-family residences that act to preserve the value, and integrity of the residential neighborhood.

PERMITTED USES IN SF-3:

- Single-family dwellings, detached
- Parks, playgrounds, (owned and/or operated by the city or other governmental agency)
- Places of worship
- Public buildings, uses
- Real estate sales offices (during the development of a residential subdivision, to be terminated upon ninety (90) percent build out of the subdivision.)
- Temporary buildings
- Utility services, general
- Accessory structures
- Customary home occupations
- Private schools (accredited only, with curriculum equivalent to that of a public elementary or secondary school)
- Group Home

FUTURE LAND USE PLAN:

The Future Land Use Plan (FLUP) identifies the subject area for Low Density Residential, with compatible zoning districts of Rural Agricultural (RA); Single-Family Residential, Large Lot (SF); Single-Family Residential, Large Suburban Lot (SF-1); Single-Family Residential, Large Urban Lot (SF-2); Single-Family Residential, Urban Lot (SF-3); and Manufactured Home Residential (MH).

The applicant's request complies with the FLUP. No change in the FLUP would be necessary.

October 15,
2013
Zoning

Planning and Zoning Commission
Thousand Oaks

**Item:
7B & 8B**

Case Number: Z-13-020

COMPREHENSIVE PLAN:

The request for SF-3 is in compliance with these goals of the Comprehensive Plan:

4.1.3 Housing Goals

- Formulate a viable mix of housing types that will successfully diversify the housing market of Cedar Park, allowing it to grow into a sustainable community over the next 20-30 years.
- Provide new housing opportunities for current and future residents of Cedar Park.

SITE INFORMATION:

Corridor Overlay:

The site is not subject to the Corridor Overlay (CO).

Transportation:

West Park Street is classified as a minor arterial roadway. In 2008, the traffic count on Park Street, east of Lakeline was 2,414 vehicles per day.

Subdivision:

Approximately half of the site is part of the Cedar Park Ranchettes subdivision; the remainder is not yet platted.

Setback Requirements:

	SF-3
Front Setback	25'
Side Setback	5'
Side Setback Adjacent to Public Street	15'
Rear Setback	10'

Architectural Requirements:

The SF-3 district requires 50% masonry construction on building exteriors, exclusive of doors and windows.

Case History:

None.

October 15,
2013
Zoning

Planning and Zoning Commission
Thousand Oaks

**Item:
7B & 8B**

Case Number: Z-13-020

STAFF COMMENTARY:

The 21.70 acre subject area to be rezoned from Single Family-Large Lot (SF) to Single-Family Residential, Urban Lot (SF-3) is currently comprised of six large single-family lots. The applicants included in the rezoning application a concept plan showing 55 single family lots and a 50' right-of-way connecting from West Park Street to Cedar Park Drive. The lots in the concept plan are described as 80' wide and 125' deep, compliant with existing SF zoning.

The City's Zoning Ordinance offers four standard single family zoning districts. The permitted uses for SF and SF-3 are the same, with the exception of Accessory Dwelling Units, which are only allowed in SF. The only substantive differences between these zoning designations, therefore, are the minimum dimensional requirements.

The requirements of the current base zoning, proposed base zoning, and proposed SF-3-CO are outlined below (**bold** indicates standards that would change):

Zoning District	SF (current)	SF-3-CO (proposed)
Front Setback	25'	25'
Side Setback	20'	5'
Side Setback adjacent to public street	25'	15'
Rear Setback	25'	20'
Minimum Lot Width	80'	50'
Minimum Lot Depth	125'	100'
Minimum Lot Size	10,000 sf	10,000 sf
Maximum Height	35'	35'

At its July 16, 2013 meeting, the Planning & Zoning Commission reviewed a very similar proposal further west on West Park Street (known as West Parke, Z-13-013). In that case, the applicant proposed to rezone from SF to SF-3 and ultimately agreed to two conditions: a 10,000 SF minimum lot size, and a 25 foot minimum rear setback.

Effectively, rezoning to SF-3 with the proposed conditions would reduce the side and rear setbacks without increasing the number of buildable lots within the property. Reduced side setbacks have little or no impact on neighboring lots. However, reduced rear setbacks would allow homes to be built closer to existing homes surrounding the site. Therefore, as was the case with West Parke, maintaining the current minimum rear setback of 25' is appropriate.

STAFF RECOMMENDATION:

Staff recommends approval of the applicants' request for SF-3 zoning with the following conditions:

- 10,000 square foot minimum lot size
- 25 foot minimum rear yard setback

October 15,
2013
Zoning

Planning and Zoning Commission
Thousand Oaks

**Item:
7B & 8B**

Case Number: Z-13-020

The applicants' agent, William Newton, has indicated that the applicants are amenable to these proposed conditions.

APPLICANT'S NEIGHBORHOOD COMMUNICATION SUMMARY:

Not received.

PUBLIC INPUT: To date, staff has received two (2) written responses regarding the proposed rezoning. These responses are below. Staff has also received one (1) phone inquiry into the general nature of the rezoning.

From: Nancy Huffman
Sent: Thursday, October 10, 2013 5:01 PM
To: Rian Amiton
Subject: Zoning File #Z-13-020

Dear Rian:

My husband and I would like to express our concern for the rezoning of 21.7 acres from Single Family-Large Lot to Single Family-Urban Lot of this mostly undeveloped land. Building 55 homes with the loss of much permeable groundcover will directly impact our one-acre property on Cardinal Lane that we have lived on since purchasing it in December 1989.

Our property includes Cluck Creek on the northern edge of our side lot. The development of former ranchland upstream from us includes wide drainage ditches bordering the new subdivisions. These feed directly into our little natural creek and have begun to flood our property significantly. We never had flooding like this until October 4, 2009, so it is clear that the presence of much less permeable groundcover has been a major contributing factor. On September 7, 2010, Tropical Storm Hermine ruined fencing on our side lot (\$4,435.66) and flooded into our barn.

Although functioning as a public waterway, the City of Cedar Park has maintained that the creek is on private land and they cannot maintain it. We own the middle portion of the privately-owned creek portions. This proposed development adjoins our creek section and includes a badly overgrown portion of the creek that comes out at W. Park. It is my understanding that this is part of the property being sold. Hopefully some clearance could be achieved that would improve the water flow during storms, while retaining the trees and natural beauty of the creek.

It is our fervent hope that this development will include drainage planning that goes well beyond just channeling it all into Cluck Creek. Development of this large land parcel that sits on higher ground than our entire street could have disastrous new flooding implications for all of us if careful consideration is not given to these environmental impacts.

In conclusion, I wanted to mention concerns of all neighbors I spoke with on Tuesday when I distributed some copies of the Notice of Public Hearings. We fear the effects on the wildlife we have enjoyed, particularly the deer, who will experience a huge loss of habitat to this development. We wondered about the wisdom of the city in adding all these new customers to the water resources that are dwindling in this time of historic drought. And, our course, we lament the end of the country tranquility that will become only a fond memory.

Sincerely,

NANCY & ROGER HUFFMAN

October 15,
2013
Zoning

Planning and Zoning Commission
Thousand Oaks

**Item:
7B & 8B**

Case Number: Z-13-020

From: William Mullins
Sent: Thursday, October 10, 2013 2:49 PM
To: Rian Amiton
Subject: Zoning #Z-13-020File

Please show me as being against the above zoning change. William Mullins

PUBLIC NOTIFICATION: Cedar Park-Leander Statesman October 2, 2013
39 letter notices were sent to property owners within the 300'
buffer of the initial rezoning request

PROPOSED CITY COUNCIL HEARINGS: (November 7, 2013) 1ST Reading
(November 21, 2013) 2ND Reading

October 15,
2013
Subdivision

Planning and Zoning Commission
Dies Ranch Subdivision

Item:#
12A

Case Number: SFP-13-001

OWNER: Birdwell Investments, LLC and Robert Theriot

AGENT: Tom Groll, Tom Groll Engineering

STAFF: Amy Link, 401-5056, amy.link@cedarparktexas.gov

LOCATION: Northwest corner of Anderson Mill Road and Dies Ranch Road

COUNTY: Travis

AREA: 10.15 acres

ZONING: ETJ

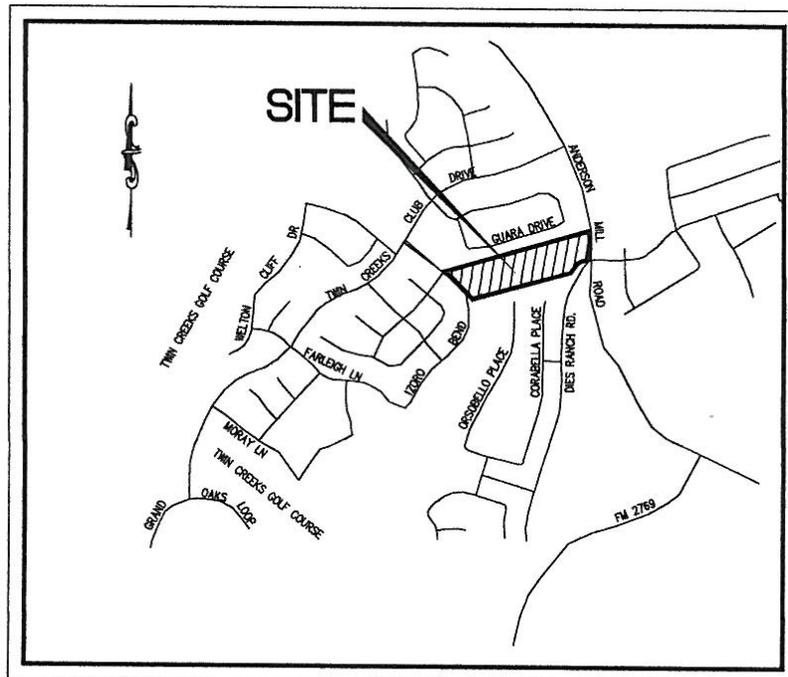
SUBDIVISION DESCRIPTION: 2 commercial lots

STAFF COMMENTS:

This plat meets all state and local requirements.

STAFF RECOMMENDATION:

Approve plat



VICINITY MAP
NOT TO SCALE

October 15, 2013

Planning and Zoning Commission

**Item:
15A**

MEMORANDUM

Chickens in Residential Areas

To: Cedar Park Planning and Zoning Commission
From: Joe Vining, Interim Director Planning and Development Services, 401-5066,
joe.vining@cedarparktexas.gov

Re: Chickens in Residential Areas

Dear Commissioners:

At the Special Called City Council meeting of September 5, Staff was asked to review the issue of chickens in our residential areas. Specifically, should we expand our existing ordinances to allow chickens in all single family districts or should we leave our ordinances as they are? We were asked to consider this topic in a work session environment in order to facilitate a more objective and technical discussion of the issues. We were not asked to have a public hearing during this work session.

At the October 1st special called meeting of the Planning and Zoning Commission, Staff made an opening general presentation and then individuals representing both sides of the issue made a ten minute presentation of their side. After much discussion, the Commission made a motion to make no changes to the existing ordinances. However, the motion did not receive an affirmative vote of at least 4 members. Therefore, this issue is being brought forward again for consideration.

Staff will make an abbreviated presentation, but no additional input will be provided by individuals representing both sides of the issue. The Commission is tasked with making a recommendation to Council on whether or not to change the existing ordinances regarding keeping of fowl in residential areas.

We have included the following items in your packet (these are the same items included in the October 1st P&Z packet):

- 1) Cover Memo
- 2) A Memo to the City Manager covering ordinances from our benchmark cities
- 3) Selected pages from our animal control ordinance
- 4) A copy of an article from the American Planning Association on Urban Livestock

The Staff recommendation is to not expand the ordinance provisions to the smaller single family lots.

Memorandum

To: Cedar Park City Council
CC: Brenda Eivens, City Manger
From: Kimberly Painter, Management Intern
Date: 8/7/2013
Re: The keeping of chickens and other livestock in residential areas.

Hello City Council,

As you know, several residents have expressed an interest in having chickens in residential areas. We have also heard from residents who oppose the allowance of chickens in their neighborhoods. Due to the level of public interest related to this topic, we have compiled some information for you to review.

Attached you will find a list summarizing the currently ordinances in benchmark cities related to the keeping of chickens and other livestock in residential areas. Since there seems to be an interest in residential chickens specifically, after each list of regulations I have summarized the city's residential chicken policy.

As you will see from the findings, there is a wide variety in terms of the stringency of regulations regarding the keeping of fowl and other livestock in residential areas. Cedar Park appears to fall somewhere in the middle in terms of stringency.

Attached you will also find a letter from the Ranch and Brushy Creek HOA which was sent to the Mayor expressing their opposition to the keeping of chickens and other livestock in their neighborhood.

Should you have any questions, after reviewing the attached information, please feel free to contact me for clarification or additional information.

Sincerely,

Kimberly Painter
Management Intern
Kimberly.painter@cedarparktexas.gov
(512) 401-5043

Fowl/Livestock Research

Overall Summary

Many of our benchmark cities do allow chickens in some capacity but there is quite a bit of variation on the stringency of the ordinances. Sugar Land and North Richland Hills have the strictest regulations of our benchmark cities. Sugar Land only allows chickens in one zoning area (M)-so basically chickens are not allowed in residential areas. North Richland Hills allows chickens only in their AG and S-F-1 districts and stipulates that coops be kept at least 50 feet from the property line. Flower Mound and Pflugerville have the most permissive ordinances involving chickens. Pflugerville has no regulations on chickens other than that no more than 10 animals can be kept without obtaining a commercial permit. In Flower Mound people can have up to 4 chickens in any backyard under an acre as long as the coop is 10 feet from your neighbor's property.

Other things to note: While the above notes discuss city ordinances related to livestock and fowl, please note that many **HOAs and private deed restrictions quite possibly have a more stringent policy** on these matters than what is enforced by the City. Several Cedar Park HOAs have expressed that regardless of what restrictions the City settles on, they do not plan to allow chickens in their neighborhoods.

Georgetown

- Livestock are considered a nuisance if pen/enclosure is within 200 feet of a private residence or 500 feet of any public building within the city limits.
- No person may keep more than 8 hens in a residential zoning district of the City. The hens must be confined within the backyard and the coop cannot be within 20 feet for another's private residence. Written notice of hen ownership and coop location must be provided to the Animal Services Manager.
- The above restrictions do not apply to property zoned Agricultural (A) or Residential Estate (RE) or to veterinary clinics or kennels.
- "Wild and Exotic Animals" (including ostriches, emus, miniature pigs, Vietnamese potbellied pigs...) are prohibited.

Summary: Chickens ok as long as they are kept at least 20 feet from neighbors and reported to Animal Control.

Leander

- Hogs are prohibited.
- May not keep livestock or fowl within 500 feet of water supply wells

- May not keep fowl or livestock within 200 feet of a private residence/dwelling or with 500 feet of a public building.
- The following are exempt from the distance restrictions listed above:
 - A tract or parcel of land that is 3 acres or more.
 - Property zoned as Rural/Agricultural district (R-A-1).
 - Vet hospitals, kennels and temporary shipping pens.

Summary: Chickens ok as long as they are at least 200 feet away from neighbor's home or 500 feet from public building or water supply.

Flower Mound

- Fowl, Rabbits and Guinea Pigs must be kept indoors or in a secure pen.
- No more than 4 poultry shall be kept on any lot up to 1 acre. Coops may not be located within 10 feet of any property line
- No roosters allowed on lots less than 1 acre.
- No more than 25 pigeons may be possessed on any premises in the town.
- Livestock (cows, horses etc) shall not be kept on land with a zoning classification that allows lots less than 1 acre in size.
- It is unlawful for anyone other than a vet to keep any live swine in the town except in areas zone or designated for rural or agricultural purposes. However the keeping of no more than 2 Vietnamese potbellied pigs with appropriate documentation are permitted as long as they are no more than 120 pounds and no more than 40 inches from nose to tail and no taller than 20 inches.

Summary: Chickens ok as long as there are no more the 4 on small sized lot and kept 10 feet from property line.

Sugar Land

- No swine allowed except in the district zoned M-1.
- The number of livestock (except swine) permitted in any area may not exceed one animal for the first 2 acres and 2 animals for per acre for additional acre over the first 2. This does not apply for areas zoned M-1.
- Fowl must be kept in a secure pen at least 50 feet from any property line.
- It is unlawful to keep fowl on any property zoned other than M. However they may be permitted to public lakes or ponds and on lakes/ponds managed by an organization or company.
- Rabbits must be kept in a secure pen at least 30 feet from any property line.
- It is unlawful to keep more than 6 rabbits over 6 weeks in age per acre and 2 litters less than 6 weeks old on any property zone other than M.

Summary: Chickens only permitted on areas zoned “M” and even then must be kept 50 feet from property line.

North Richland Hills

Considered a public nuisance if:

- Chicken coop within 50 feet of a residential structure or inhabited building.
- Keeping, except within enclosures as allowed by zoning, any chickens, pigeons or other fowl.
- Zoning AG and R-1-S allow livestock and fowl. It is restricted to properties for the first acre and one per every full acre after that.
- The R-1-S district is a single family residential district that was specifically planned to allow for the keeping of livestock in a residential setting.

Summary: Chickens can only be in areas zoned AG or R-S-1 and even there must be 50 feet from neighbors and are restricted based on property size.

Missouri City

- Swine are only permitted in the SD district and the number shall not exceed one adult (6 months or older) per 1/3 acre for the first 2 acres and 1 adults per acre for each additional acre. No swine are allowed within 2,500 feet of any residence, church, school or business other than that of the owner.
- Cow and horses are not limited in the SD districts. In other districts it is limited to one adult per 1/3 acre for the first 2 acres and 2 adults per acre for each additional acre.
- Fowl and rabbits must be in a pen or enclosure that is 30 feet from any property line.

Summary: Chickens allowed as long as they are kept 30 feet from the property line.

Pflugerville

- No restrictions on fowl or livestock in the City.
- No more than 10 animals allowed per residence without a commercial permit.
- No vicious, dangerous or wild animals (i.e.: no lions tigers or bears).

Summary: Chickens are allowed- up to 10 without a commercial permit.

Pearland

- No goats or swine allowed in the city with the exception of milch goats. Milch goats must be permitted by animal control (there is a fee) and will be allowed if the place where they are to be kept is at least ¼ acre in size, and such place is at least 150 feet from any residence other than the owners. No more than 1 additional animal per ¼ acre or land.

- No cows allowed on less than 1 acre of land. No more than 1 animal may be kept for each additional acre of land. No cows may be kept within 150 feet of any residence other than the owner's.
- No fowl allowed on any parcel of land less than an acre. Also no more than 100 may be kept per acre of land.
- No fowl may be kept within 150 feet of any residence other than that of the owner.
- No guineas or peafowl allowed in the City.

Summary: Chickens only allowed on property larger than 1 acre and must be 150 feet from neighbors home.

Round Rock

- Fowl is ok in residential areas if they are penned and:
 - 50 or more feet from all residences (other than the owner's) and contains no more than 10 fowl
 - 25-50 feet from all residences (other than the owner's) and contains no more than 5 fowl

(The above limitations on fowl do not apply in areas zones AG or SF-R.)

- Livestock (horses, cows, pigs, goats, ostriches, emus etc.) must be kept on at least an acre
- There shall be no more than one unit of livestock for the first acre of land. There shall be no more than one additional unit of livestock for each additional ½ acre of land in the same parcel. Units of livestock are defined as:
 - Horses, mules, llamas and cattle one head=1 unit.
 - Swine one head = ½ unit.
 - Sheep, goat, emu, ostrich and rhea one head= 1/5 unit.
- Livestock shall not be allowed to graze or roam within 50 feet of any residence other than the owner's.
- Barns, stables or corrals may not be located within 150 feet of any residence other than the owner's.
- All livestock must be properly fenced in.
- Animal living spaces must be kept in a manner that does not give off unreasonable offensive odors.

Summary: Depending on how far the chicken coop is from neighbors home you can have either 5 or 10 chickens in a residential area.

Mansfield

- No swine allowed in the City.
- A person commits an offense if:
 - More than 4 fowl on ½ acre or less or at a distance closer than 50 feet from any habitation located on another's property.

- More than 10 fowl on ½ -1 acre at a distance closer than 50 feet from any habitation located on another's property.
- 25 or more fowl 1+ acre at a distance closer than 50 feet from any habitation located on another's property.
- Fails to keep fails to keep a duck goose or swan from being at large (city parks exempted)
- Fails to keep chicken, guinea or peafowl in a pen/coop.
- Keeps a rooster w/out written permission from Animal Control Manager
- If fowl are kept within 100 feet of any private water well.
- If the odors/noise are unreasonably offensive.

Summary: Chickens allowed. Either 4-25 chickens allowed depending on lot size and must be kept 50 feet or more from neighbor's property.

Allen

- No swine permitted
- No cows or horses on or premises less than 1/3 acre for each cow or horse kept (or more than can be kept under sanitary conditions). The total number of cows or horses permitted shall not exceed 1 adult per 1/3 acre for the first acre and 2 adults per each additional acre over the first 2.
- No livestock within 150 feet of any residence or occupied building.
- No fowl (chickens, ducks, turkeys, geese, guineas or pigeons) within 150 or any property line.

Summary: chickens are ok as long as they are kept 150 feet or more from neighbor's property.

Cedar Park

- Poultry and other livestock are currently permitted in 4 zoning districts- "RA"(Rural Agricultural) "MH"(Manufactured Homes), "ES" (Estate Lots) and "SF" (Low Density Single Family).
- Fowl /livestock pens or coops must be at least 25 feet from any property lines.
- In "MH", "ES" and "SF" The property must be at least 1 acre in size to allow poultry and no more than 15 chickens (1 of which may be a rooster) are permitted.
- IN "MH", "ES" and "SF" the property must be at least 1 acre in size to allow livestock and shall be limited to one (1) with an additional one (1) per each additional acre of land.
- In "RA" there are no limitations on number of poultry or livestock.

FYI- While the definition of fowl and livestock vary slightly by city- Cedar Park considers fowl to be: chickens, guineas, laying hens, turkeys, ducks, geese, pheasants, quails, peacocks, emus, and ostriches. Livestock are: horses, cattle, mules, goats, sheep, miniature horses, and other similar animals traditionally raised in an agricultural setting.

Summary: Chickens allowed in 4 of the city's larger lot zoning areas and are limited to 15 chickens that are housed 25 feet from the neighbors.

From: A Lilya <aelilya@gmail.com>
Date: July 31, 2013, 23:52:50 CDT
To: mayorpowell@cedarparktexas.gov
Cc: Aneka Lilya <aelilya@gmail.com>
Subject: **Statement on poultry (chickens) from the RBC and RBC 3/5 HOA Board of Directors...**

To The Cedar Park City Council:

As representatives of our respective communities, we are strongly opposed to allowing poultry, fowl or any other type of animal other than traditional household pets to be kept, maintained or cared for on single family home properties. They have a high potential to be filth and noise nuisances and they attract a whole string of natural predators, many of which already present a problem for homeowners, such as:

- Neighborhood dogs
- Foxes
- Raccoons
- Feral and domestic cats
- Owls
- Skunks
- Snakes (chicks and eggs)
- Rats

Additionally, providing proper security and shelter for the animals requires construction of cages and coops that are generally unattractive and usually emit an unpleasant odor. Many also consider these cages inhumane.

To ensure our homeowners are not burdened with such an allowance if the City regrettably votes in favor of it, we have written into our Covenants, Convictions and Restrictions a prohibition against keeping, maintaining or caring for pigs, hogs, swine, poultry, fowl, wild animals, horses, cattle, sheep, goats or any other type of animal not considered to be a domestic household pet within the ordinary meaning and interpretation of such words.

For the sake of those not protected by Home Owner's Associations, we strongly recommend against the City passing an ordinance allowing these types of animals on single family home properties.

Respectfully Yours,

Vineet Rohatgi, President
On behalf of The Ranch at Brushy Creek HOA Board of Directors

Aneka Lilya, President
The Ranch at Brushy Creek 3/5 HOA Board of Directors

CHAPTER 2

ANIMAL CONTROL

ARTICLE 2.01 ADMINISTRATION AND GENERAL PROVISIONS

Sec. 2.01.001 Definitions

Unless specifically defined below, words and phrases used in this chapter shall be construed so as to give them the same meaning as they have in common usage and so as to give these provisions the most reasonable application, and as used herein, the singular shall include the plural and the plural the singular, and the masculine shall include the feminine and the feminine the masculine.

Animal. Any living, nonhuman, domesticated mammal, reptile, amphibian, fish, bird, insect, or arachnid being kept, maintained, fed, or harbored within the city.

Animal control. The animal control division of the police department, including animal control officers and staff.

Animal control officer. An employee or agent of the city, designated by the chief of police, to administer and enforce the licensing, inspection, and enforcement requirements contained within this chapter; the terms shall also include peace officers, code enforcement officers, and such other persons designated by the city to enforce the provisions of this chapter.

At-large.

- (1) Any dog not on its owner's property or the property of another person with such owner's consent which is:
 - (A) Not secured by means of a leash, chain, or other restraint of sufficient strength to control the actions of such dog;
 - (B) Not fully contained within a cage, crate, kennel, or similar enclosure; or
 - (C) Not fully confined to such property by a confinement fence of sufficient height and strength, excluding an electric fence or invisible fence, or by means of a leash, chain, or other restraint of sufficient strength to prevent the dog from escaping the property and so arranged that the dog shall remain upon the property the device is stretched to full length, and with such property owner's consent;
- (2) Any livestock or fowl on its owner's property or the property of another, regardless of consent, if such livestock or fowl is not fully confined as required by [article 2.05](#) of this chapter; or
- (3) Any animal, other than a dog, cat, livestock, or fowl, not on its owner's property or the property of another person with such owner's consent.

Food establishment. As defined by title 25 of the Texas Administrative Code, section 229.162(40), as amended.

Fowl. Any birds belonging to the game fowl, land fowl (Galliformes), or waterfowl (Anseriformes) biological orders, including but not limited to poultry, chickens, guineas, laying hens, turkeys, guineas, ducks, geese, pheasants, quails, peacocks, emus, and ostriches.

Livestock. Domesticated mammals and fowl, other than dogs, cats, ferrets, gerbils, hamsters, mice, pigs, potbellied pigs, rabbits, and common household birds, including but not limited to horses, cattle, mules, goats, sheep, miniature horses, and other similar animals traditionally raised in an agricultural setting.

Microchip or chip. An integrated circuit placed under the skin of an animal for purposes of facilitating identification of the animal.

Municipal court. The City of Cedar Park Municipal Court, including its staff.

Off-leash area. A designated area of a city park facility within which dogs may freely roam in compliance with posted rules for such city park facility and/or area.

Owner. Any person or persons, association, or entity, including any member of owner's immediate family, employee, or agent, having the right of property, care, custody, or control of an animal, who possesses, harbors, or maintains an animal, or who knowingly permits an animal to remain on or about any premises occupied by such person or persons, firm, association, or corporation for a period of three (3) days or more.

Police department. The City of Cedar Park Police Department, including its officers and staff.

Public nuisance or public nuisance animal. Any animal within the city that unreasonably disturbs, annoys, or alarms persons of ordinary sensibility, endangers the public health, safety, or welfare, or substantially interferes with the rights of citizens to quiet enjoyment of life or property, including but not limited to:

- (1) An animal that makes disturbing noises, including but not limited to, continued and repeated howling, barking, whining, meowing, crowing, or other utterances in an excessive, continuous or unreasonable fashion or at unreasonable hours, causing annoyance, disturbance, or discomfort to, or disrupting the quiet enjoyment of neighbors or others in close proximity to the premises where the animal is kept or harbored;
- (2) Any dog in a park or public recreation area, unless the dog is controlled by a leash or similar physical restraint or within a designated off-leash area within a city park facility, in compliance with posted rules at such city park facility and/or off-leash area;
- (3) Any animal that damages any property other than that of its owner;
- (4) Any animal that defecates on any common thoroughfare, street, sidewalk, passageway, road bypass, play area, park or any place where people congregate or walk upon any public property whatsoever, or upon any private property without the permission of the private property owner, if the owner of such an animal that soils, defiles, or defecates on any of the above areas fails to immediately remove the pet feces and droppings and place them in a designated waste receptacle or other suitable waste container;

ARTICLE 2.05 KEEPING OF LIVESTOCK AND FOWL*

Sec. 2.05.001 Keeping of livestock

No person shall possess, harbor, or maintain any type of livestock in any area of the corporate limits of the city that is not zoned such as to permit the keeping of livestock. Where permitted, all livestock weighing twenty (20) pounds or less at maturity shall be contained in a ventilated or open-air cage, pen, coop, or enclosure and be provided adequate shelter from the elements and a minimum of three (3) square feet of covered floor space per animal. All areas within which livestock are kept or harbored shall contain clean water and suitable food accessible to the livestock and placed such that the livestock cannot defile their contents, shall be at all times kept clean and sanitary in accordance with the health and sanitation laws of the state, shall not expose the animal(s) to undue heat or cold, and all cages, pens, coops, and enclosures in which livestock are kept or harbored shall be a minimum of twenty-five (25) feet away from any property lines.

Sec. 2.05.002 Keeping of fowl

No person shall possess, harbor, or maintain any type of fowl in any area of the corporate limits of the city that is not zoned such as to permit the keeping of fowl (see [chapter 11](#) of this code). Where permitted, all fowl shall at all times be confined in a fully enclosed and ventilated or open-air cage, pen, coop, or enclosure and be provided adequate shelter from the elements and a minimum of three (3) square feet of covered floor space per animal sufficient to allow each animal room to move around and stand without crowding each other; however, where permitted on lots of one (1) acre or more, fowl may be kept or harbored free of such confinement, so long as the fowl remains on its owner's lot. All cages, pens, coops, or enclosures and areas within which fowl are kept or harbored shall contain clean water and suitable food accessible to the fowl and placed such that the fowl cannot defile their contents, shall be at all times kept clean and sanitary in accordance with the health and sanitation laws of the state, shall not expose the animal(s) to undue heat or cold, and shall be a minimum of twenty-five (25) feet away from any property lines.

Sec. 2.05.003 Livestock and fowl not to run at-large

No person shall cause, permit, or allow livestock or fowl to be, and no owner shall fail to prevent their livestock or fowl from being at-large within the city.

State law references—Animals running at large on highways, V.T.C.A., Agriculture Code, sec. 143.101 et seq.

Sec. 2.05.004 Impoundment of livestock or fowl

Animal control officers are authorized to impound all livestock or fowl in violation of this chapter, subject to terms and conditions established throughout this chapter. Livestock will be held by a private contractor with the owner being responsible for all impound, transportation, medical treatment, boarding, feeding, and any other expenses incurred in impounding the livestock. All fees and charges must be paid prior to release of the livestock.

Sec. 2.05.005 Liability

If necessary to ensure the public safety and avoid injuries to persons or damage to property, any livestock or fowl that is in danger of entering a public roadway may be tranquilized by an animal control officer, or, if the livestock or fowl cannot be tranquilized or corralled in a timely manner and the circumstances are of an emergent nature, such livestock or fowl may be destroyed by an animal control

officer. Neither the city nor the animal control officer(s) acting under this article shall be liable for damages to or loss of such livestock or fowl.

Urban Micro-Livestock Ordinances: Regulating Backyard Animal Husbandry

By Jaime Bouvier

While small farm animals never completely disappeared from most cities, a growing number of communities are revisiting their animal control and zoning regulations in response to a renewed interest in chickens, bees, and goats among urban agriculture practitioners and backyard hobbyists.

This article explores how small farm animals (i.e., micro-livestock) can and already do coexist in urban environments, and it examines the regulatory tools cities use to sanction and control backyard animal husbandry. The following sections are intended to serve as a guide for local governments considering legalizing and regulating this budding hobby.

WHAT IS MICRO-LIVESTOCK?

There is no universal definition of micro-livestock. It often just means small animals—like chickens, ducks, quail, and rabbits. It can also mean breeds that are smaller than average—such as bantam chickens, Nigerian Dwarf goats, or Red Panda cows. Finally, it can mean an animal of what is normally a large breed that just happens to be small. Many international organizations have long championed raising micro-livestock in cities to provide a secure and safe local food source. Because they require less food and water, are often especially hardy breeds, and their small size makes them ideal for small lots, micro-livestock are especially well suited to urban living.

Right now, most attempts to legalize micro-livestock focus on chickens, goats, and bees. Although rabbits are micro-livestock, they have caused less controversy. Perhaps because they are more accepted as pets, they were never made illegal in many cities. Very small pigs, like the pot-bellied pig, have also been accepted in many cities

Uncle Sam Expects You To Keep Hens and Raise Chickens



➡ During World War II, the U.S. government framed backyard chicken keeping as a patriotic duty.

as a pet; because they are not being raised for bacon, people don't think of them as livestock. There has been some move to legalize miniature horses as guide animals for the blind and disabled. Other animals, like miniature hogs, cows, or sheep, may also be suitable for city life under the right circumstances, but fewer people are advocating for them.

A SHORT HISTORY OF URBAN HENS AND OTHER MICRO-LIVESTOCK.

Although micro-livestock never disappeared from cities altogether, they used

to be an accepted and even encouraged part of urban life. For example, during the Victory Garden campaign, when the U.S. government urged American citizens to grow more of their own food to support the war, the government encouraged people to keep and raise chickens.

As it became cheaper and more convenient to buy food from a grocery store, it became less common to see livestock in the city. While many people believe that livestock became illegal because they were a nuisance, there is little evidence that this was the case—especially when just

ASK THE AUTHOR JOIN US ONLINE!

Go online during the month of April to participate in our “Ask the Author” forum, an interactive feature of *Zoning Practice*. Jaime Bouvier will be available to answer questions about this article.

Go to the APA website at www.planning.org and follow the links to the Ask the Author section. From there, just submit your questions about the article using the e-mail link. The author will reply, and *Zoning Practice* will post the answers cumulatively on the website for the benefit of all subscribers. This feature will be available for selected issues of *Zoning Practice* at announced times. After each online discussion is closed, the answers will be saved in an online archive available through the APA *Zoning Practice* web pages.

About the Author

Jaime Bouvier is a senior instructor of law and codirector of the Writing and Academic Support Program at Case Western Reserve University School of Law in Cleveland, Ohio. She has also represented state and local governments as well as landowners in zoning and land-use litigation.

a few animals were kept. Instead, exiling livestock was partially a class-based phenomenon. Excluding animals that were seen as productive, that is animals kept for food purposes, was a way to exclude the poor. Animals that came to be viewed as nonproductive, such as dogs and cats, required money to keep and did not have the same associations. By illegalizing behavior associated with the recently rural and poor, a city could present itself as prosperous and progressive.

The desire to exclude the poor is a reason why ordinances making livestock illegal are often found in suburbs and even exurbs where the lot sizes are especially conducive to raising animals. It is also a reason why changing the regulations, even in such suburbs, is often especially contentious.

Now, however, raising livestock is becoming an activity that many young, educated, middle-class people seek out. The association between micro-livestock and poverty is no longer relevant. And distinguishing cities and suburbs from rural occupations is no longer universally seen as a sign of progress. In fact, many view a well-regulated return of micro-livestock to the cities and suburbs as embracing progressive values. And legalizing micro-livestock can actually attract people who seek to live in a place that supports the close-knit communities that this hobby creates.

MICRO-LIVESTOCK COMMUNITIES

Communities are essential to the micro-livestock movement. They provide much-needed support for people to discuss common problems and share interests.

Many communities began as a few people who already raised chickens, or goats, or bees—in violation of city law. They organized to legalize their animals. One of the leading examples of this is a group called Mad City Chickens in Madison, Wisconsin. Members of the group who kept chickens illegally, the self-described “Chicken Underground,” were

Many communities began as a few people who already raised chickens, or goats, or bees—in violation of city law.

generally law-abiding citizens uncomfortable with their outlaw status. They did not understand why raising chickens in a way that did not bother their neighbors should be illegal. In 2004, in response to the group’s lobbying efforts, Madison amended its zoning ordinance to allow chickens (and, subsequently, bees in 2012). Their lobbying efforts became the focus of a film, also titled *Mad City Chickens*, and have been a model for other groups seeking to legalize micro-livestock, such as the New York City Beekeepers Association and Seattle’s Goat Justice League.

These groups’ stories show that many people already keep micro-livestock in cities whether or not they are legal. It also shows that once citizens and city leaders are educated about these animals and shown how

they can, and already do, peacefully coexist in cities, they often will legalize these animals. Finally, it shows that cities are better off reasonably regulating micro-livestock, rather than forcing hobbyists out of their cities or underground.

CHICKENS, GOATS, AND BEES: BENEFITS

The main benefits to keeping chickens, goats, and bees is not so much to eat the animal itself, though people do eat chickens and goats. The main benefit is to eat the food they produce: eggs, milk, and honey. There is good research to show that backyard eggs are tastier and have more nutrients than store-bought ones. Milk from backyard goats, moreover, tastes better because goat milk does not store or ship well. It is also, arguably, easier to digest for those who cannot drink cow’s milk. Goat hair is a prized material for making cashmere and mohair fabric. Manure from these animals is an excellent, and surprisingly pricey, fertilizer. Many people also value these animals for their companionship and become as close to them as they do any other pet. Finally, backyard and hobbyist livestock keepers ensure a diverse and more robust population of animals, ensuring the propagation of breeds that are not valued commercially but may become important if commercial breeds, because of genetic uniformity, become threatened by disease.

Apart from honey, keeping bees in urban areas has two main benefits: pollination services and ensuring an extant bee population. Honeybees pollinate two-thirds of our food crops and in recent years have suffered devastating losses. Some experts assert that these losses are caused or exac-

erbated by the use of pesticides, the stress of constant travel to different farms to pollinate crops, and the lack of plant diversity in rural environments. Thus, hobbyist beekeepers who do not subject their hives to such stressors may prove to be a haven for the continued existence of honeybees.

CHICKENS, GOATS, AND BEES: CONCERNS

Concerns about chickens and goats generally boil down to three things: odor, noise, and disease. None of these provide a reason to ban hens and does, but roosters can be too noisy and a ratty buck may be too smelly for dense urban environments.

Contrary to popular myth, roosters do not just crow in the morning to greet the rising sun—roosters crow all day. Hens do not need roosters to lay eggs; roosters are only necessary to fertilize the eggs. Hens are generally quiet, but when they do cluck, the resulting noise is about the same decibel level as a quiet human conversation. And, as long as a chicken coop is regularly cleaned and adequately ventilated, a small flock of hens will not be smelly.

Goats, too, are not generally noisy animals. While a goat may bleat, the sound is generally far less than the noise of a barking dog. Some goats, just like dogs or cats, are noisier than others. And, as for odor, female goats (does) and neutered male goats (wethers) do not smell. Male goats (bucks), during the mating season, do smell. The gamy odor of a ratty buck is the smell many associate with goats. While it is necessary for a doe to mate with a buck and deliver a kid to lactate and provide milk, this can be arranged with a stud-buck kept in more rural environs.

Finally, there is the issue of disease. As with any animal, including dogs and cats, disease can be spread through feces. Regular cleaning and straightforward sanitation practices, such as hand washing, can take care of this issue. While concerns about backyard chickens spreading avian flu have surfaced in some communities, the kind of avian flu that can cross over to humans has not yet been found in North America. And neither the Centers for Disease Control nor the Department of Agriculture have asserted that the possibility of bird flu is a reason to ban backyard hen keeping. Public health scholars have concluded that backyard chickens present no greater threat to public health than other more common pets like dogs and cats.

The major objection to honeybees is the fear of being stung. Here, it is important to understand the distinction between bees and wasps. Honeybees are defensive; they will not bother others unless they are threatened. A honeybee's stinger is attached to the entrails, so it will die if it stings. Bees want pollen; they are not interested in human food. Wasps, by contrast, are predatory, can sting repeatedly with little consequence, and are attracted to human food. Many people confuse fuzzy honeybees with smooth-skinned yellow jackets, a kind of wasp that forms papery hives. People do not keep wasps because they are not effective pollinators and do not produce honey.

A connected objection is a fear of a swarm. A swarm is a group of bees traveling to establish a new hive. While a swarm can be intimidating, before bees swarm they gorge on honey to prepare for the trip, which makes them particularly lazy and docile. Unless attacked or bothered, they will follow a scout bee to a new location within a few hours to a day.

§451 et seq.; 21 U.S.C., §1031 et seq.; and 21 U.S.C. §601 et seq.). The FDA requires that all milk be pasteurized, including goat milk (21 C.F.R. §1240.61) and regulates nutrition and information labeling of honey (21 U.S.C. §§342–343). Many of these laws have exceptions for animals and animal products raised for home consumption, but someone who wants to raise eggs, milk, or meat for sale or distribution would need to comply.

Most states have laws regulating the movement of livestock, including chickens, goats, and bees, into and out of the state. To track and attempt to control some diseases associated with livestock and bees, some states either require or encourage keepers of livestock and beekeepers, even backyard hobbyists, to register their premises with the state. Other states only ask to be alerted if a particular disease is found. Many states also have laws regulating the slaughter and sale of any animal used for meat, as well as laws regulating the sale of eggs, milk, and milk products. While these, also, generally have exceptions for home consumption, they will apply to sales. Often state agricultural

Before drafting an ordinance, local governments should be aware that federal and state laws already regulate livestock.

AGRICULTURAL BASICS FOR CITIES CONSIDERING LEGALIZING MICRO-LIVESTOCK Chickens and goats require companionship. As a consequence, cities should allow a minimum of four hens and two does. This ensures that the city is not interfering with good animal husbandry practices.

And, while bees never lack for companionship, it is a good idea to allow beekeepers to have more than one hive. This allows the beekeeper to better inspect for and maintain hive health. Cities should not be overly concerned that hives kept too close together will compete for food—honeybees fly up to a three-mile radius from the hive to find pollen.

FEDERAL AND STATE LAW CONSIDERATIONS Before drafting an ordinance, local governments should be aware that federal and state laws already regulate livestock. The federal government regulates the sale, processing, labeling, and transportation of chickens, eggs, and other meats (21 U.S.C.

extension services will have online information pages describing the regulations and exemptions for hobbyists.

For beekeeping, however, a few states have passed laws that interfere with a local government's ability to regulate. Wyoming, for instance, controls how close together apiaries (an area with one or more beehives) may be located (Wyo. Stat. Ann. §11-7-201). In June 2011, Tennessee preempted all local government ordinances regulating honeybee hives (Tenn. Code. Ann. §44-15-124). And in July 2012, Florida also preempted all local government ordinances regulating managed honeybee colonies or determining where they can be located (Fla. Stat. §§586.055 & 586.10).

COMMON ASPECTS OF URBAN MICRO-LIVESTOCK REGULATION

In the cities that have recently passed ordinances regulating micro-livestock, the ordinances are all quite different. No standard ordinance has yet been established.



Portland, Oregon, allows up to three pygmy goats in a residential backyard without a permit (§13.05.015.£).

There are, however, many common aspects to these regulations. Most of them limit the number and type of livestock that can be kept in the city, establish setbacks for where the animals can be kept on the property, and require a certain amount of space per animal. Some also require a license.

Micro-Livestock Standards

Most cities have not taken a comprehensive regulatory approach to micro-livestock, but appear to allow particular livestock in response to citizen lobbying. Hundreds of cities have legalized chickens in the past few years. And the growing popularity of beekeeping means many cities have also adopted separate ordinances to allow for it. For example, South Portland, Maine (§§3-51 & 3-710; Cary, North Carolina (§5.3.4(I) & (O)); Ypsilanti, Michigan (§§14-13 & 14-171); and Littleton, Colorado (§§10-4-4 & 10-4-14) have recently passed ordinances separately allowing for both chickens and bees.

Some cities make idiosyncratic choices. For example, Ponca City, Oklahoma, allows miniature horses and donkeys, but still bans all other fowl and livestock (§7-3-10). Sebring, Florida, allows two hens and

two pot-bellied pigs (§4-1). And Carson City, Nevada, allows chickens, pigs, rabbits, and bees, but no goats (§§7.02 & 7.13.190).

And some only allow goats. In 2011, Loveland, Ohio, allowed two pygmy goats on residential properties of any size (§505.16). It defines pygmy as a goat no heavier than 60 pounds. The choice of such a light weight is curious, given that many micro-goat breeds weigh more than 60 pounds. Also, many breeds of dogs weigh up to three times as much, but most cities do not restrict the size of dogs. In 2010, Carl Junction, Missouri, allowed just one pygmy goat on a property of any size (§205.200(C)). Because goats are herd animals, this limit encourages poor animal husbandry practices.

Meanwhile, many cities are legalizing a wider variety of livestock. For example, Denver allows up to eight ducks or chickens and up to two dwarf goats and two beehives (§8-91; §11.8.5.1). But it requires 16 square feet of permeable land available to each chicken and 130 square feet for each goat. The city also requires adequate shelter to protect the animals from the elements and from predators. This means that to keep the full complement of eight chickens and two

goats, the yard would have to have approximately 400 square feet of space. For chickens, ducks, and goats, Denver has a 15-foot setback from neighboring structures used for dwelling and requires that the animals be kept in the rear half of the lot. For bees, Denver has a five-foot setback from any property line and requires that hives be kept in the back third of the lot.

Seattle allows up to eight domestic fowl, four beehives, one potbelly pig, and two pygmy goats, or no pig and three pygmy goats, on any lot (§23.42.052). It then employs a step system for additional animals. For lots larger than 20,000 square feet, an additional small animal—which means a dog, cat, or goat, may be kept on the lot. Seattle also allows other farm animals, including cows, horses, or sheep, to be kept on lots that are greater than 20,000 square feet. Seattle allows one of these animals per 10,000 square feet. Also, it has a 50-foot setback from the neighboring property for all farm animals, not including potbelly pigs, fowl, or miniature goats. Finally, Seattle has a separate ordinance that restricts goats to their premises, “except for purposes of transport or when on property other than

that of the miniature goat's owner with the permission of a lawful occupant of that property" (§ 9.25.084(H)).

Cleveland has a slightly more complex ordinance in that it has different regulations for residential and nonresidential districts (§347.02). It also employs a step system, allowing one animal per a certain number of square feet. In residential districts, it allows one hen, duck, rabbit, or similar animal per 800 square feet, and one beehive per 2,400 square feet. The ordinance spells out that a standard residential lot in Cleveland is 4,800 square feet, so most households could keep up to six hens and two beehives. Setbacks for hens are five feet from the side-yard line and 18 inches from the rear-yard line. Setbacks for bees are five feet from the lot line and 10 feet from any dwelling on another parcel. Neither animal is allowed in the front or side yard. Cleveland only allows goats, pigs, sheep, or similar farm animals on lots that have at least 24,000 square feet (i.e., a little more than a half-acre). If a lot is that size or larger, two of these animals will be allowed, with an additional one for each additional 2,400 square feet. Enclosures for these animals must be set back 40 feet from the property line and at least 100 feet from the dwelling of another.

In Cleveland, the nonresidential districts are less restrictive, with one chicken, duck, or rabbit per 400 square feet, one beehive per 1,000 square feet, and one goat, pig, or sheep per 14,400 square feet. This can allow for more intensive operations in less populated areas—and also opens the area to urban farms.

Hillsboro, Oregon, and El Cerrito, California, employ similar step systems. El Cerrito allows three hens as long as the property is at least 4,000 square feet (§7.08.020). Hillsboro allows three hens as long as the property is 7,000 square feet (§6.20.070). Both cities require at least 10,000 square feet to keep goats, but Hillsboro limits goats to two, and El Cerrito does not appear to limit them. El Cerrito, however, does require an administrative use permit to keep goats and allows for a conditional use permit to keep goats on a smaller parcel of land. El Cerrito requires a property of at least 5,000 square feet to keep one beehive. That beehive must be 20 feet from an adjacent dwelling and 10 feet from the property line. Hillsboro allows up to three beehives on any size residential property with a setback of 10 feet from the property line.

Vancouver, Washington, is an example of a less restrictive ordinance (§20.895.050). It allows up to three goats, if they weigh less than 100 pounds, on any size property. It also allows chickens, ducks, geese, or rabbits on any size lot with no numerical restriction. It does provide in the ordinance that the keeping of animals is subject to already existing nuisance requirements.

Roosters and Bucks

Most of these cities prohibit roosters and male goats (or bucks). Hillsboro prohibits roosters and uncastrated male goats with no exceptions. Seattle also prohibits roosters and uncastrated males but has an exception for nursing offspring that are less than 12 weeks old. Denver does the same but only until they are six weeks old. El Cerrito prohibits roosters but does not say anything about the gender of the goats it allows. And Cleveland has a more complicated system, in that it will allow roosters,

the license on those grounds (§205.04). The department also notifies neighbors about the license application and waits at least 21 days to hear back from them. The director can consider any evidence that the neighbors submit concerning nuisance, unsanitary, or unsafe conditions. To determine whether to grant the license, and any time after the license is granted, the department can inspect the property and enforce any penalties for violating sanitation or nuisance regulations.

Ellensburg, Washington, has an interesting ordinance in that it requires a license for dogs and cats, but does not require a license to keep up to two beehives and four hens (§§5.30.260 & 5.30.310). Seattle, likewise, requires a license for dogs, cats, pigs, and goats, but does not require one for chickens or bees (§9.25.050).

After restricting livestock to property with three acres or more, Pittsburgh amended its ordinance to allow chickens

Some cities require a permit or license . . . [which] are relatively straightforward and do not allow for much discretion on the part of the official who issues it.

but only on property that is at least one acre in size with a 100-foot setback from the property line for the coop. Cleveland, like El Cerrito, does not say anything about goat gender.

Licensing

Some cities require a permit or license. Most of these permits are relatively straightforward and do not allow for much discretion on the part of the official who issues it. For instance, Denver requires a livestock or fowl permit to keep chickens or goats but requires no more than the provisions of the ordinance be met and a fee be paid to acquire the license. The city charges \$100 annually for a livestock permit and \$50 annually for a fowl permit.

Cleveland also requires a license. Its health department issues a two-year license to keep any type of livestock, including chickens and bees. In issuing the license the director of public health must consider evidence of "nuisance or conditions that are unsafe or unsanitary" and any "recorded violations" and may deny

and bees in 2011 (§912.07). It allows three hens and two beehives per 2,000 square feet on occupied, residentially zoned lots. It allows one more bird and hive for each additional 1,000 square feet. However, it requires the home owner to seek a special exception to keep livestock as an accessory use (§922.07). The special exception requires the zoning board of adjustment to hold a public hearing, to make findings of fact, and issue a written decision within 45 days of the hearing. This allows it to reevaluate and reweigh all of the concerns with raising chickens and bees in the city, even though the city council had already made the legislative determination and established criteria for when and where it was legal to do so. This puts a substantial burden on each home owner to fully argue the case before each iteration of the board. It also uses up considerable city resources.

COMMON AND LESS COMMON BEE PROVISIONS

Some cities never made keeping bees illegal, and do not regulate the practice.



Chicago allows up to five bee colonies in a residential backyard without a permit (§17-17-0270.7).

Among cities that do regulate beekeeping, flyway barriers and a source of fresh water are common requirements. Flyway barriers force bees to fly up over the heads of people so that they do not establish flight paths through a neighbor's property or populated sidewalks, streets, or parks. Bees require water; if a beekeeper does not provide it, bees will frequently use a close source, like a neighbor's pool.

Concerning flyway barriers, Cleveland requires a fence or a dense hedge of at least six feet in height within five feet of the hive and extending at least two feet on either side. However, it does not require a flyway barrier if the hive is at least 25 feet from the property line or on a porch or balcony at least 10 feet from the ground. South Portland, Maine, has a similar flyway barrier standard, but requires it to extend at least 10 feet in each direction. And Carson City, Nevada, requires the flyway barrier to "surround" the hive on any side that is within 25 feet of a property line. Neither South Portland nor Carson City has exceptions for balcony or rooftop hives.

Concerning a water source, Ellensburg, Washington, requires "a consistent source of water . . . at the apiary when bees are

flying unless it occurs naturally. The water may be 'sweetened' with mineral salt or chlorine to enhance its attractiveness." Cleveland requires a freshwater source to be maintained "throughout the day." And Carson City requires water only from April 1 to September 30.

As for less common provisions, Ellensburg, Washington, requires that all hives "consist of moveable frames and

combs." Cleveland prohibits Africanized bees. Africanized bees have only been found in a few southern states; beekeepers, moreover, do not seek to keep Africanized bees. Boise, Idaho, prohibits Africanized bees, as well as wasps and hornets (§11-09-11.03). This is peculiar; people do not keep wasps or hornets because they do not provide honey or pollination services. Boise and Carson City require a queen to be removed if the hive shows "unusually aggressive characteristics." And Carson City requires the new queen to be chosen from "stock bred for gentleness and non-swarming characteristics." Carson City only allows honey to be extracted "where there is no access by bees before, during, or after the extraction process." Carson City also requires any hive found to be diseased to be either "treated so as to completely eradicate the disease" or destroyed at the owner's expense. Finally, both Carson City and Ellensburg provide that abandoned hives are to be considered nuisances.

RECOMMENDATIONS

Of the ordinances discussed above, two stand out as potential models: Denver's and Seattle's. These ordinances show that the trend, over time, is to simplify regulations. Local governments seeking to regulate these practices should consider how much they are prepared to spend, in terms of resources, on licensing or monitoring these practices given the relatively small degree of actual nuisance they cause. Governments should also keep in mind that straightforward ordinances following developing norms will be easier to follow and easier to enforce.

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October 15, 2013

Planning and Zoning Commission

**Item:
15B**

**Planning and Zoning Commission Rules
and Procedures**

At the regular P&Z meeting of September 17th, Commissioner Brent requested that the Commission review the absence policy established in the Rules and Procedures adopted by the Commission.

Staff has attached the existing Rules and Procedures for information and will entertain possible amendments as desired by the Commission.

RULES AND PROCEDURES PLANNING AND ZONING COMMISSION

Rule 1.1 Regular Meetings. Regular meetings of the Planning and Zoning Commission will be held on the third Tuesday of each month, beginning at 6:30 p.m. Public notice of all regular meetings of the Planning and Zoning Commission shall be given as required by the Texas Open Meetings Act, Section 551.001 *et seq.* of the Government Code.

Rule 1.2 Special Meetings. Special meetings of the Planning and Zoning Commission may be held on such dates and at such times as called by the Chairman or, in his/her absence, the Vice Chairman. Public notice of all special meetings of the Planning and Zoning Commission shall be given as required by the Texas Open Meetings Act, Section 551.001 *et seq.* of the Government Code.

Rule 1.3 Work Sessions. Planning and Zoning Commission work sessions will generally be held on the first Tuesday of each month and will generally commence at 6:30 p.m. Such work sessions may coincide with such regular meetings of the Planning and Zoning Commission. Planning and Zoning Commission work sessions may be held at such other times as may be necessary or beneficial. Public notice of all Planning and Zoning Commission work sessions shall be given as required by the Texas Open Meetings Acts, Section 551.001, *et seq.* of the Government Code.

Rule 1.4 Retreats, Seminars. The Planning and Zoning Commission will generally hold two retreats or seminars annually in lieu of the Planning and Zoning commission regular meeting or work session. Public notice of all Planning and Zoning Commission retreats shall be given as required by the Texas Open Meetings Act, Section 551.001, *et seq.* of the Government Code. A guideline for suggested attendance at planning or zoning seminars or conferences, or other recommended training sessions is attached hereto as Exhibit A.

Rule 1.5 Joint Meetings. The Planning and Zoning Commission may hold joint meetings with the City Council or other boards, commissions or task forces in addition to their other meetings. Public notice of all joint meetings shall be given as required by the Texas Open Meetings Act, Section 551.001, *et seq.* of the Government Code.

Rule 1.6 Location of Meetings and Work Sessions. All regular meetings, special meetings, joint meetings and work sessions of the Planning and Zoning Commission shall be held at the Cedar Park Public Library or the Cedar Park City Hall unless the Chairman (a) determines that an irresolvable scheduling conflict exists in the use of the Cedar Park Public Library or the Cedar Park City Hall and (b) promptly notifies the Planning and Zoning Commission.

Rule 1.7 Delivery of Minutes to City Secretary. The Planning and Zoning Commission shall promptly deliver to the City Secretary all minutes of regular meetings, special meetings, joint meetings, work sessions, and retreats upon approval thereof.

Rule 1.8 Commission Reports. The Chairperson of Planning and Zoning Commission or his/her designee shall report to the City Council on the activities of the Planning and Zoning Commission at such time as may be directed by the City Council.

Rule 1.9 Policy Directives. The City Council is ultimately responsible for the establishment of City's policies. The Planning and Zoning Commission is cognizant of the City Council's primary responsibility to establish, approve, disapprove, or modify the City's policies. The Commission shall ensure that any policy directive initiated by the Board is reported to and approved by the City Council before issuance of any such policy directive.

Rule 1.10 Rules and Procedure. Upon an affirmative vote, these Rules and Procedures, and any amendments thereto, shall be forwarded to the City Council for their review and approval. Upon the City Council's approval, the Rules and Procedures, or any amendments thereto, shall become effective.

Rule 1.11 Attendance. A position on the Planning and Zoning Commission shall become vacant if a Member fails to attend either: a) three (3) consecutive; or b) more than fifty percent (50%) of all Planning and Zoning Commission meetings during any twelve (12) month period from appointment or reappointment without being excused by the Commission. Absence from any Commission meeting shall be excused only for reasons of personal illness or immediate family emergencies. Attendance shall be taken and noted by the Chairman at the beginning of all meetings with notations as to whether a Member's absence is excused or not. No absence shall be considered by the Board to be excused unless, prior to the meeting, the Member contacts either the Planning Department staff or the Chairman and indicates such request and the reason for such request.

Chapter 2: Agenda

Rule 2.1 Preparation of the Agenda. The Chairman or, in his/her absence, the Vice Chairman is responsible for preparing or ensuring the preparation of the Agenda for each meetings, work session, retreat, or seminar.

Rule 2.2 Agenda Categories for Board Meetings: For each Planning and Zoning Commission meeting, the Agenda may contain any of the following categories:

- a. Call to Order;
- b. Role Call;
- c. Approval of Minutes;
- d. Citizen Communication;
- e. Commissioners' Opening Comments;

- f. Discussion and Possible Action on Policy and Procedures;
- g. Discussion and Possible Action on Personnel;
- h. Consent Agenda;
- i. Public Hearing and Zoning Recommendations;
- j. Subdivisions;
- k. Discussion and Staff Presentations;
- l. General Training
- m. Executive Session;
- n. Possible action on Executive Session matters;
- o. Commissioners' and Staff Closing Comments; and
- p. Adjournment.

The categories listed above are demonstrative and are not meant or intended to be exclusive.

Rule 2.3 Consent Agenda. Any item on the Consent Agenda shall be removed at the request of a single Member. A request for removal from the Consent Agenda may be made (a) in writing directed to the Chair and distributed to the Sign Control Board; or (b) verbally during Members' Opening Comments. Any item removed from the Consent Agenda shall be considered as a separate action item at the meeting on which such item appears on the Consent Agenda.

Rule 2.4. Placement of Agenda Items by Commissioners. Any Planning and Zoning Commissioner may request the placement of any item on the Agenda. Any Agenda item so requested shall bear the requesting members name on each occasion at which the item appears on the Agenda. A Commissioner may request the placement of any item on the Agenda (a) during Commissioner's Opening Comments or Commissioners and Staff Closing Comments; or (b) in writing directed to the Chairman and distributed to the Planning and Zoning Commission.

Rule 2.5 Public Availability of Agenda. In addition to the requirements of the Texas Open Meetings Act, Section 551.001, *et seq.* of the Government Code, the Planning and Zoning Commission Agenda and supporting materials, excluding exempt materials, shall be made available to any member of the public who requests same. However, any member of the public requesting the Planning and Zoning Commission Agenda and supporting materials, excluding exempt materials, shall pay all costs associated with the reproduction of the Planning and Zoning Commission Agenda and/or supporting materials, excluding exempt materials, in accordance with the standards established by the General Services Commission. The Planning and Zoning Commission Agenda shall also be made available to the public on the City's internet website.

Rule 2.6 Description of Certain Agenda Items. For each Agenda item requiring consideration and/or action by the Planning and Zoning Commissioners, excluding items on the Executive Session Agenda, the Agenda shall (a) reflect a brief substantive description of the matter for consideration and/or action, (b) identify the staff resource

person(s) responsible for the item, and (c) if appropriate, provide a staff recommendation or proposal for action.

Chapter 3: Conduct of Meetings

Rule 3.1 Officers. The Officers of the Planning and Zoning Commission shall consist of a Chair, vice-chair, and secretary. The Officers of the Board shall be elected on an annual basis by majority vote of the Planning and Zoning Commission at the regular scheduled meeting in August. Terms of office shall be one (1) year. An officer may be reelected for an additional one year term but no individual shall serve for more than two (2) consecutive terms. All officers shall be subject to removal from office at any time by a vote of the majority of the entire Commission. A vacancy in the office of any officer shall be filled by a vote of a majority of the Commission.

Rule 3.2 Powers and Duties of the Chair. The Chair shall preside at all meetings of the Planning and Zoning Commission. He or she shall have the power to sign and execute all appropriate documents as the Chair of the Planning and Zoning Commission. He or she shall have general and active management of the business of the Commission and shall perform all the duties usually incident to the office of the Chair. If the Secretary is unable to attend any meeting, the Chairman or Vice Chairman may appoint an acting Secretary for purposes of such meeting.

Rule 3.3 Vice-Chair. The vice-chair shall have such powers and duties as may be prescribed by the Commission and shall exercise the powers of the Chair during that officer's absence or inability to act. Any action taken by the vice-chair in the performance of the duties of the chair shall be conclusive evidence of the absence or inability to act of the chair at the time such actions was taken.

Rule 3.4 Secretary. The secretary attest to the minutes of all meetings of the Planning and Zoning Commission and cause such minutes to be maintained in books provided for that purpose; shall provide all notices; may sign with the Chair, or vice-chair, in the name of the Commission, all appropriate documents; and shall in general perform all the duties incident to the office of secretary. Copies of the executed minutes of the Commission shall be filed with the city secretary of the City. Official Records of the Commission, including agenda and minutes of all Planning and Zoning Commission meetings shall be maintained and on file in the office of the Planning Director and/or his/her designee.

Rule 3.5 Rules of Procedure. The Planning and Zoning Commission shall determine its own rules of procedure, voting, and order of business except that, upon request of any member, the most current form of Roberts Rules of Order shall be followed for the designated item before the Board. A standard procedural format shown as Exhibit B is attached hereto and adopted by reference as part of these Rules and Procedures. (Resolution PZ-R-06-001 adopted 3/21/06)

Rule 3.6 Parliamentarian. The City Attorney or any Assistant City Attorney shall serve as parliamentarian for the Planning and Zoning Commission, who shall construe all applicable procedural rules liberally.

Rule 3.7 Applicant Discussions. Individual Members shall not meet with or discuss with any Applicant issues subject to the regulation or authority of the Planning and Zoning Commission except within the confines of properly posted and noticed meetings.

Rule 3.8 Applicant Presentation. With the exception of the Consent Agenda, Applicant, or his/her agent, shall make any presentation necessary for a public hearing or before consideration of a possible action item. Unless modified by the Planning and Zoning Commission, such presentation shall follow any presentation made by City staff.

Rules 3.9 Presentation by City Staff. With the exception of the Consent Agenda, City staff shall make any presentation necessary for a public hearing or before consideration of a possible action item.

Rule 3.10 Written Presentation by City Staff. For each request submitted to the Planning and Zoning Commission for consideration and action, the following material shall be provided to the Commission: applicant's documents, staff report, map and any written citizen communications received by staff.

Rule 3.11 Public Presentation. During any public hearing on any matter before the Planning and Zoning Commission, and after any presentation by the Applicant, or his/her agent, and City staff, any other member of the public who desires to address the Commission may do so, provided that (a) he/she limits such presentation to three (3) minutes, and (b) he/she fills out and presents a registration card for each Agenda item prior to addressing the Planning and Zoning Commission.

Rule 3.12 Citizen Communications. Any member of the public who desires to address the Planning and Zoning Commission during Citizen Communication may do so, provided that (a) he/she limits such presentation to three (3) minutes, and (b) he/she fills out and presents a registration card identifying the topic on which he/she desires to address the Planning and Zoning Commission.

Rule 3.13 Registration Card. The registration card referred to in Rules 3.11 and 3.12 shall include the following information: (a) full name; (b) business or residential address; (c) business or residential telephone number; (d) representation; (e) Agenda item or topic; and (f) brief statement of position [e.g. for or against an Agenda item or summary of communication].

Rule 3.14 Expansion of Time for Public Presentation and Citizen Communications. The Chairman may expand the time limit set forth in Rules 3.11 and 3.12 for up to an additional three (3) minutes if the presenter requests an extension unless a Commission member objects. In the event of a Commission member's objection to a request for extension, the Commission shall vote to approve or disapprove the request for extension.

Rule 3.15 Time Keeper. The City Attorney, any Assistant City Attorney, or the Board's Secretary shall serve as time keeper for any public presentation made to the Planning and Zoning Commission.

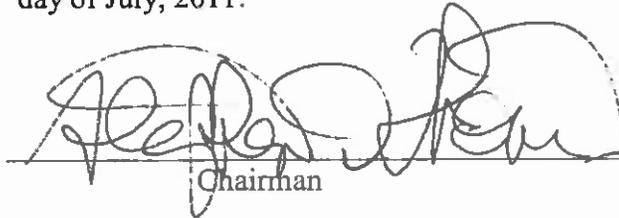
Rule 3.16 Repetitive Presentations. The Chairman may deny any presenter the opportunity to address the Commission if the presentation made or offered is repetitive of a presentation previously made.

Rule 3.17 Commission Vote. The Commission Secretary or his/her assignee shall maintain, and the minutes shall reflect, the votes made by the Planning and Zoning Commission in open meeting.

- (a) Consent Agenda. The Planning and Zoning Commission shall vote on the Consent Agenda by voice vote or by a show of hands as directed by the Chairman.
- (b) Separate Action Items. All votes shall be by show of hands, unless a motion for a division of the assembly is approved by the Planning and Zoning Commission. In the event of a division of the assembly, the Commission Secretary or his/her assignee shall poll the Planning and Zoning Commission as directed by the Chairman.
- (c) An affirmative vote of four (4) commissioners is required for a recommendation to City Council.

Rule 3.18 Executive Session; Certified Agenda. All executive sessions shall be recorded by certified agenda in conformity with Section 551.001, *et seq.* of the Government Code.

PASSED AND APPROVED this 19th day of July, 2011.



Chairman

ATTEST:



Secretary

Amended Rule 1.1 per Resolution R209-09-08-27-D6, on August 27, 2009.
Amended Rule 3.1 per Resolution R175-11-08-11-D4, on August 11, 2011

EXHIBIT A (P&Z Rules and Procedure)

State or National APA Conference, or other Planning and Zoning Commission approved planning conference: Every member should attend at least one (1) conference every two (2) years.

Legislative Update: Every member should attend one (1) special training meeting every two (2) years following completion of the Legislative Session for an update on planning, zoning, development, or other land use legislation passed.

Local training: Every member should attend one (1) local training conference or seminar every year.

**Rules and Procedures
Planning and Zoning Commission**

Exhibit B (P&Z Rules and Procedures)

Procedural Format

Citizens Communications

Citizens Communications are to provide an opportunity for any individual in attendance to speak on an item that is not on the posted agenda. (Since this is a “non-posted item” no discussion or dialog on the part of the Board may occur.)

Consent Agenda

Chair reads the following statement regarding the Consent Agenda.

“Items on the consent agenda are technical or procedural issues. All items posted on the consent agenda will be acted upon with a single motion, will include all staff recommendations and will not have any further discussion. If anyone wishes to discuss an item or have separate consideration of an item now posted on the consent agenda, they may ask that it be removed for individual action. The consent agenda this evening consists of _____ items, shown as agenda items _____ through _____. Is there anyone present who wishes to remove an item from the consent agenda for separate consideration?”

(If an item is to be removed, the requestor must state the item number and caption before it can be withdrawn from the consent agenda).

If not, Chair accepts motion to approve consent agenda, second, and calls for vote.

(Any item (s) removed from the Consent Agenda is/are to be called up immediately after approval of remaining consent agenda items and acted on individually and in order)

Public Hearing and Commission Recommendations

(Chair calls up each item as listed on the Agenda)

Standard Order of Business

- Chair recognizes Staff for opening presentation (5 minutes maximum)
- Applicant and/or designated agent may address the Commission (8 minutes maximum)
- Commissioners may ask question & request clarifying information from staff and/or applicant. This time is not deducted from the stated times above. Chair may extend staff's or applicant's time up to 3 additional minutes if there is no

objection from any Commission member. It takes a majority vote of the Commissioners present and voting to override an objection.

Chair closes the Regular Session and Opens the Public Hearing

- Chair Call speakers from sign up sheet or registration card (3 minutes per speaker) Chair shall limit speakers to those providing new information. Individuals with no new information shall be permitted to state their name and whether they are for or against the issue.
- Chair asks if anyone in the audience wishes to speak (3 minutes per speaker and must fill out a registration card.

(The Chair may extend the time limit for a speaker by an additional 3 minutes upon request and without objection of a Commission member. In the event of objection, the Commission, by majority vote of those present and voting, may extend the time up to a maximum of three minutes. A speaker may receive only one extension of time)

Chair closes the Public Hearing and reopens Regular Session

- Chair recognizes Applicant and/or agent for comments (3 minutes)
- Chair recognizes staff for closing comments (3 minutes)

Chair entertains a motion and second.

Commission members may engage in discussion related to the motion but may only ask for clarifying information from staff or applicant.

Chair calls for vote on the motion.

(Chair may call for a show of hands or roll call vote. A concurring vote of four (4) members of the Commission shall be necessary to submit a recommendation to City Council.)