

**MINUTES**  
**PLANNING AND ZONING COMMISSION MEETING**  
**BOERNE POLICE AND MUNICIPAL COURT COMPLEX, 124 OLD SAN ANTONIO ROAD**  
**Monday, June 3, 2019 – 6:00 p.m.**

Minutes of the Planning and Zoning Commission meeting of June 3, 2019

Present: Joe Anzollitto, Cal Chapman (temp Chair), Patrick Cohoon, Kyle Kana, Bill Bird, Paula Hayward, Bob Cates, Chesney Dunning

Members Absent: Joe Davis

Staff Present: Laura Talley, Nick Colonna, Stephanie Kranich, Barrett Squires, Mike Raute, Sean Reich, Jeff Thompson, Robert Lee, Molly Solis

Registered/

Recognized Guests: Bob Imler, Richard Mindmer, Jeff Carroll, Warren McKenney, Jeb Wait, Joe Cohen, Jeff Moeller, Denise Dever, Sandrana Shiva, Rick Swinghamer, Northern Hendricks, Michael Bowie, Greg Ruiz, Lucia Ruiz, Ame Brunt, WR Brunt, Paul Schroder, Dave West, Charlie West, Nigel Bencheff, Kimberly Galland, Pam Schultz, Rob Wasyliw, Bob Grassie, Kathy Grassie, Kurt Talbot, Kelly Talbot, Darla Rucke, Ben Rucke, Raylen Means, Tony Means, Meagan Guin, Greg Gouyer, Dawn Hold, Vincent Hold, David Greenwood, Steve Burkhart, Nora Burkhart, Dana Gonyer, Jessica Bailey, Mash Hardeman, Jenny Heymann, Richard Rohrbough, Mark Schendel, Mike Malley, Kandi Malley, Neal Graves, Bradley Smith, Lance Kyle, Charlene Gause

1. CALL TO ORDER – 6:00 PM

Pledge of Allegiance to the United States Flag

Pledge of Allegiance to the Texas Flag

(Honor the Texas flag, I pledge allegiance to thee, Texas – one state under God, one and indivisible.)

2. RECOGNITION OF EXITING COMMISSIONERS AND NEWLY APPOINTED COMMISSIONERS.

Commissioner Chapman thanked the three Commissioners coming off the Planning and Zoning Commission for their service and introduced the new three members coming onto the Planning and Zoning Commission.

**3. ELECTION OF VICE CHAIR AND SECRETARY.**

**COMMISSIONER COHOON MADE A MOTION FOR THE ELECTION OF VICE CHAIR COMMISSIONER CHAPMAN AND SECRETARY COMMISSIONER COHOON. COMMISSIONER HAYWARD SECONDED THE MOTION. THE MOTION CARRIED BY THE FOLLOWING VOTE:**

**Yeah:** 7 - Commissioner Cohoon, Commissioner Hayward, Commissioner Dunning, Commissioner Cates, Commissioner Anzollitto, Commissioner Bird, and Commissioner Kana

**4. APPROVAL OF MINUTES**

[2019-498](#) Approval of Planning and Zoning Commission Minutes of the meeting held May 6th, 2019

**COMMISSIONER COHOON MADE A MOTION TO APPROVE THE PLANNING AND ZONING COMMISSION MINUTES OF THE MEETING HELD MAY 6TH, 2019. COMMISSIONER CATES SECONDED THE MOTION. THE MOTION CARRIED BY THE FOLLOWING VOTE:**

**Yeah:** 7 - Commissioner Cohoon, Commissioner Hayward, Commissioner Dunning, Commissioner Cates, Commissioner Anzollitto, Commissioner Bird, and Commissioner Kana

**5. CONFLICTS OF INTEREST**

There were none.

**6. PUBLIC COMMENTS:** This is the opportunity for visitors and guests to address the Planning and Zoning Commission on any issue. The Planning and Zoning Commission may not discuss any presented issue, nor may any action be taken on any issue at this time. (Attorney General opinion – JC-0169)

Mr. Bob Imler, 215 West Bandera Road, stated his concerns and opposition regarding Shoreline Park and requested the Planning and Zoning Commission table the item on the agenda. Mr. Imler spoke regarding Impact Fees and suggested Shoreline Park be evaluated for impact fees to help improve roads.

Mr. Mike Mally, 165 Lake Front Drive, stated his concerns and opposition regarding the location which Shoreline Park is proposed to be built.

Ms. Denise Dever, 53 Silent Spring, stated her concerns and opposition regarding the proposed Shoreline Park development.

Mr. Rick Swinghammer, 101 Cold Water Creek, stated his concerns and opposition regarding an agenda item from May 2019 P&Z Commission meeting regarding the update of the Ranches at Creekside Master Plan updates particularly in regards to the request for commercial retail in the front of the development.

Ms. Northern Hendricks, 506 Upper Cibolo Creek Road, stated her concerns regarding the reviews of drainage studies regarding the proposed Shoreline Park development and asked for the Commission to take a more stringent approach to requirements.

Mr. Neal Graves, 212 Lake View Drive, stated his concerns and opposition to the proposed Shoreline Park development and the impact it may cause to the water quality of Boerne Lake.

Ms. Kimberly Galland, Snowcreek Drive, stated her concerns and opposition to the proposed Shoreline Park development.

Mr. Bradley Smith, 165 Michelle Lane, stated his concerns and opposition and asked the P&Z Commission to table the Shoreline Park item on the agenda.

Mr. Lance Kyle, 226 Cascade Caverns Road, stated his concerns on storm water runoff and TCEQ statistics for surrounding subdivisions in Boerne.

Ms. Charlene Gause, 304 Lake Side Circle, stated her concerns and opposition regarding the proposed Shoreline Park development.

## 7. PUBLIC HEARING

- [2019-499](#) a. Consider the proposed permanent zoning of 7.963 acres located at 15A Upper Balcones from the temporary zoning of R-A, Residential Agricultural to B-2R, Highway Commercial-Restricted (Morningside Ministries, KAD 15841 and 290201).

Commissioner Chapman opened the public hearing at 6:47 P.M.

Jordan, representative for Morningside Ministries, spoke regarding the established faith based organization which the business was founded on and the permanent zoning of the property. The business would like to add more cottages for long term care, they would be 1-2 bedrooms with an additional +/- 30 duplex/cottage units.

Travis Roberson, Architect for the development, spoke regarding the process of permanent zoning and explained the purpose of the long term care facility.

Commissioner Chapman closed the public hearing 6:51 P.M.

## ITEMS FOR ACTION

8. [2019-500](#) Make recommendation to City Council regarding the proposed permanent zoning of 7.963 acres located at 15A Upper Balcones from the temporary zoning of R-A, Residential Agricultural to B-2R, Highway Commercial-Restricted (Morningside Ministries, KAD 15841 and 290201).

Ms. Laura Talley spoke regarding the request for permanent zoning of B-2R for the business's property. There were mailings which were sent out and none were received back in favor of, or in opposition.

Commissioner Bird asked regarding where the entrance would be and Ms. Talley stated the proposed development will have access off of I-10 and Upper Balcones.

Commissioner Cohoon asked regarding the proposed development and how many stories it would be. Ms. Talley stated the proposed development would have 12 duplexes and 5 single story cottages.

**COMMISSIONER HAYWARD MADE A MOTION TO MAKE RECOMMENDATION TO CITY COUNCIL FOR THE PROPOSED PERMANENT ZONING OF 7.963 ACRES LOCATED AT 15A UPPER BALCONES FROM THE TEMPORARY ZONING OF R-A, RESIDENTIAL AGRICULTURAL TO B-2R, HIGHWAY COMMERCIAL-RESTRICTED (MORNINGSIDE MINISTRIES, KAD 15841 AND 290201). COMMISSIONER ANZOLLITTO SECONDED THE MOTION. THE MOTION CARRIED BY THE FOLLOWING VOTE:**

**Yeah:** 7 - Commissioner Cohoon, Commissioner Hayward, Commissioner Dunning, Commissioner Cates, Commissioner Anzollitto, Commissioner Bird, and Commissioner Kana

9. [2019-501](#) Consider the approval of the Preliminary Plat for Esperanza 1C (34 residential lots, six open space lots) (13.496 acres) (KAD No. 50520). Take necessary action.

Ms. Laura Talley spoke regarding the request of approval for the preliminary plat for the development. The plat meets the requirements of the ordinance. Staff recommends approval.

**COMMISSIONER COHOON MADE A MOTION FOR APPROVAL OF THE PRELIMINARY PLAT FOR ESPERANZA 1C (34 RESIDENTIAL LOTS, SIX OPEN SPACE LOTS) (13.496 ACRES) (KAD NO. 50520). TAKE NECESSARY ACTION. COMMISSIONER BIRD SECONDED THE MOTION. THE MOTION CARRIED BY THE FOLLOWING VOTE:**

**Yeah:** 7 - Commissioner Cohoon, Commissioner Hayward, Commissioner Dunning, Commissioner Cates, Commissioner Anzollitto, Commissioner Bird, and Commissioner Kana

10. [2019-502](#) Consider the approval of the Preliminary Plat for Esperanza Phase 2E (109 residential lots, one open space lot) (KAD No. 50520). Take necessary action.

Ms. Laura Talley spoke regarding the request of approval for the preliminary plat for the development. The plat meets the GDP or Master Plan approved. Staff recommends approval.

**COMMISSIONER COHOON MADE A MOTION FOR APPROVAL OF THE PRELIMINARY PLAT FOR ESPERANZA PHASE 2E (109 RESIDENTIAL LOTS, ONE OPEN SPACE LOT) (KAD NO. 50520). TAKE NECESSARY ACTION. COMMISSIONER KANA SECONDED THE MOTION. THE MOTION CARRIED BY THE FOLLOWING VOTE:**

**Yeah:** 7 - Commissioner Cohoon, Commissioner Hayward, Commissioner Dunning, Commissioner Cates, Commissioner Anzollitto, Commissioner Bird, and Commissioner Kana

- 11.**     [2019-503](#)     Consider the approval of the Preliminary Plat for Regent Park Subdivision Unit 4 (123 residential lots) (35.97 acres) (KAD No. 291871). Take necessary action.

Ms. Laura Talley spoke regarding the request for approval of the preliminary plat for the development. Staff recommends approval.

Commissioner Anzollitto stated the 5 TCEQ violations for the development and requested it be tabled. Ms. Talley stated the TCEQ violations are not regulated by the City and the P&Z Commission should vote to approve the plat for the development has met all of the requirements for a preliminary plat submittal.

Molly Solis, City Attorney, spoke regarding the requirements for plat approval and the Commission can not use an outside entity's noted violations to hold plat approval. TCEQ is responsible to hold the developer responsible and if the plat has met the City's ordinances and guidelines the Commission is responsible to approve the submittal.

Sean Reich, City Engineer, spoke regarding the process for any violations that the City Inspectors notate. The regulatory authority is TCEQ, and the developer works with the entity to correct the violations, not the City.

Commissioner Cates asked who is held liable for the cost of dirt or debris runoff. Sean Reich stated there is a 2 year warranty for any runoff issues which the City holds the developer at fault and requires for them to clean-up or pay the cost to remedy the clean-up.

Commissioner Hayward stated as P&Z Commissioners they have a role and a job to do not only for the citizens but also for the community however taking on roles of TCEQ isn't their purview.

**COMMISSIONER DUNNING MADE A MOTION TO APPROVE THE PRELIMINARY PLAT FOR REGENT PARK SUBDIVISION UNIT 4 (123 RESIDENTIAL LOTS) (35.97 ACRES) (KAD NO. 291871). TAKE NECESSARY ACTION. COMMISSIONER BIRD SECONDED THE MOTION. THE MOTION CARRIED BY THE FOLLOWING VOTE:**

**Yeah:** 6 - Commissioner Cohoon, Commissioner Hayward, Commissioner Dunning, Commissioner Cates, Commissioner Bird, and Commissioner Kana

**Nay:** 1 - Commissioner Anzollitto

12. CONSENT AGENDA: All items listed below within the Consent Agenda are considered to be routine by the Planning and Zoning Commission and may be enacted with one motion. There will be no separate discussion of items unless a Commission Member or citizen so requests, in which event the item may be moved to the general order of business and considered in its normal sequence. The following final plat shall be approved conditionally as is stated in the Subdivision Ordinance Article 2, Section 04. Final Plat Approval, Subsection 2.04.001 B Conditional Approval.

**COMMISSIONER COHOON MADE A MOTION TO APPROVE THE ITEMS ON THE CONSENT AGENDA. COMMISSIONER BIRD SECONDED THE MOTION. THE MOTION CARRIED BY THE FOLLOWING VOTE:**

**Yeah:** 7 - Commissioner Cohoon, Commissioner Hayward, Commissioner Dunning, Commissioner Cates, Commissioner Anzollitto, Commissioner Bird, and Commissioner Kana

[2019-504](#) a. BDSP - Scenic Loop Rd (four commercial lots), (5.006 acres) located at 31500 IH-10 (KAD No. 12146).

[2019-505](#) b. Buie Subdivision (two commercial lots) (8.658 acres) located at 30775, 30875, 30975 and 30975A IH-10 West (KAD Nos. 63761, 12202, 12288, 12242, 12243).

13. DISCUSSION ITEM:

[2019-506](#) a. Presentation on 86th Legislative Session and the Texas Open

Meetings Act and Texas Public Information Act, by City Attorney, Molly Solis.

Ms. Molly Solis, spoke regarding the 86th Legislative Session and various bills which are important to the Planning and Zoning Commission. Bill 3167 relates to Preliminary Plat approval and Master Plan approval, Open Meetings Act Senate Bill 1640 and Texas Open Meetings Act. The Senate Bill 621 did not pass. The bill regarding the walking quorum goes into effect Sept 1st, 2019.

[2019-507](#)      b. Distribute Commissioners' iPads and Email training/advisory by IT Director, Mike Raute.

Mr. Mike Raute, IT Director for the City, spoke regarding the issuance and use of iPads for the new P&Z Commissioners along with new city emails.

[2019-508](#)      c. Shoreline Park - presentation by developer (KB Homes) and status update by City Staff - Updates include: drainage study, lot layouts, LID features, studies by developer and future plans.

Ms. Laura Talley spoke regarding the Master Plan previously approved. Part of the approval of the Master Plan was that a drainage analysis would be provided for the full development at the time of the first preliminary plat for the 1st unit. The Master Plan is the guiding document to help provide an idea of what the development would come together or roads would connect, this is not a state law to provide, but a City requested submittal. The Master Plan was approved in December 2017. The City hired a consultant who has no affiliation with any of the subcontracting companies of the development, Mr. Moeller was hired to review the drainage study. The plats submitted for this development must follow the previously submitted and approved Master Plan. As long as the developer meets the requirements of the ordinance and the plat resembles the approved Master Plan, staff recommends approval to the P&Z Commission for approval of the plat.

Mr. Jeff Moeller, owner of Moeller Associates, is the consultant hired for the review of the Master Drainage Study submitted by the developer of Shoreline Park. The review of the drainage study showed they have met all of the requirements set in place by the City.



Mr. Rob Wasyliw, division president of KB Homes, stated there have been numerous talks with the City to address issues and concerns of the community. Mr. Wasyliw stated there will be 354 home sites, lots between 45' wide and 55' wide, the development will be made of 100 acres, 56 acres of the 100 acres will drain into the Boerne Lake. 20 acres of the 56 acres will remain open space. The larger of the two lot sizes, the 55' lots will be along the Boerne Lake watershed area. The development will be served by KWU for water, and there will be a lift station and a treatment plant located over 4 miles south of the development. The minimum buffer area from the lake was moved from 150' to 300' and will protect more of the canopy and will improve the view from the opposite side of the lake. The lots which back up to the Boerne Lake will banish the use of pesticides and not be allowed for use on those properties. A portion of the backyard of the lots sized 55' will remain natural. There will be bioretention, bioswale and vegetative filtration strips to filter the water through the soil and vegetation removing pollutants to filter pesticides, oil and sulfurs. The subdivision HOA will manage the LID sites. KB home will be declarant of the HOA until the last home is closed on in the community. KB Home will assign an HOA property management company and environmental compliance experts with experience in LID maintenance. The development's water and sewer will be provided by Kendall West Utilities, no water will be used from Boerne Lake. In 2017 KB Home hired Frost GeoScience to come and perform an assessment and concluded there were no audible or viewable signs of the Golden Cheeked Warbler. FGS also surveyed for Bald Eagles and nothing was located on the development, however a nest was observed 4 miles away from the development.

Commissioner Cates asked regarding the inspections, maintenance and repairs for the LIDs. Mr. Shivas, Engineer of TetroTech, stated the maintenance cost for LID is estimated at one dollar to four dollars per square foot. The LID for an example will require plants to absorb the pesticides and there will be maintenance to confirm the plants are continuing to work with absorption. There would be the possibility of replacement for the top four inches of soil which can be done on an

annual basis. Water quality is based on several storms up to the 100 year storms. The first 1/2 inch of runoff is being tested as it is the most critical and holds pollutants, as the quality is the most important area to study. The bioswale is designed to capture the first 1/2 inch.

Commissioner Anzollitto stated he is thrilled for an LID community and thankful for the presentation from the developer.

Commissioner Dunning asked how are sediments captured. Mr. Shiva stated the sediments are captured in the LID structures.

Commissioner Bird asked regarding if there was a way to maintain and sustain the filtration system for a long period of time for the LID. Mr. Wasyliv stated the LID set up will maintain the filtration process and will be funded and maintained by the subdivision's HOA.

Commissioner Cohoon stated his concerns regarding the CCRs as none of them are listed on the preliminary plat or can be provided until later. Ms. Talley stated the City does not enforce the covenants. The developer has met the requirements of the ordinance.

Commissioner Cates stated his big concern about the minimum standards that the City holds in place, and there shouldn't be any standards at a minimum set when in relationship with the City's drinking water.

Commissioner Anzollitto asked Ms. Molly Solis if it was possible to make any water utility agreement with the City's water board. Jeff Thompson stated the quality of Boerne's Lake is held as the utmost important and the City's Utility Director doesn't have concern on Boerne's water supply due to the development.

Commissioner Hayward stated if this development was in the City limits during the proposed design of the development the density would have never been allowed. In addition, the LID device designed for San Antonio will it work for this area with the different soil. Mr. Shiva stated yes, the

soil testing was completed and was conducive to the LID filtration services.

Commissioner Chapman stated the process of designing and building permanent storm water drainage systems, and setting the minimum of standards is not a part of storm water requirements. However here in Boerne there are failed storm water drainage systems and the reason is because there are apparently only minimum standards set in place here at the City.

Commissioner Dunning asked regarding the properties next to and near the proposed development and if they will be brought into the City limits. Ms. Talley stated the City's standards are set higher than most town's minimums.

Commissioner Hayward asked what the City will gain if the development is annexed, Ms. Talley responded and stated property tax and the control of building permits.

14. [2019-509](#) Consider the approval of the Preliminary Plat for Shoreline Park, Phase 1 (49 residential lots, 2 open space lots) (KAD No. 302218). Take necessary action.

Item tabled.

**COMMISSIONER ANZOLLITTO MADE A MOTION TO TABLE THE PRELIMINARY PLAT FOR SHORELINE PARK, PHASE 1 (49 RESIDENTIAL LOTS, 2 OPEN SPACE LOTS) (KAD NO. 302218), WITH A CONDITION THE ITEM TABLED TO NOT EXCEED A 30 DAY TIMEFRAME. COMMISSIONER DUNNING SECONDED THE MOTION. THE MOTION CARRIED BY THE FOLLOWING VOTE:**

**Yeah:** 7 - Commissioner Cohoon, Commissioner Hayward, Commissioner Dunning, Commissioner Cates, Commissioner Anzollitto, Commissioner Bird, and Commissioner Kana

15. COMMENTS FROM COMMISSION/LEGAL COUNSEL/STAFF - No discussion or action may take place

Ms. Talley reminded the Commission to check their City emails throughout the week.

16. ADJOURNMENT

Commissioner Chapman adjourned the Planning and Zoning Commission meeting at 9:52 P.M.

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P&Z Chairman

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P&Z Secretary

#### **Rollcall**

<b>Present</b>	8 - Commissioner Patrick Cohoon, Commissioner Paula Hayward, Vice Chair Cal Chapman, Commissioner Chesney Dunning, Commissioner Bob Cates, Commissioner Joe Anzollitto, Commissioner Bill Bird, and Commissioner Kyle Kana
<b>Absent</b>	1 - Chairman Joe Davis