

ON MAY 14, 2020 AT 6:00 P.M., THE HURRICANE CITY PLANNING COMMISSION MET ELECTRONICALLY VIA WEBEX.COM

Members Present: Mark Sampson, Chris Christensen, Michelle Cloud, Shelley Goodfellow, Ralph Ballard, Dayton Hall, Rebecca Bronemann, and Paul Farthing

Staff Present: Planning Director Stephen Nelson, Zoning Administrator Toni Foran, Planning Assistant Cindy Beteag, City Engineering representative Darrin LeFevre, City Council Representative Darin Larson, and City Attorney Fay Reber

Chairman Farthing called the meeting to order at 6:00 p.m. The pledge of allegiance was led by Dayton Hall and Shelley Goodfellow offered a prayer. Roll call was taken.

Dayton Hall motioned to approve the agenda with the address corrected on application 2020-CUP-02 to 2533 S 3560 West, seconded by Mark Sampson . Roll call taken.

New Business:

2020-PP-10 Consideration and possible recommendation to the City Council on a proposed preliminary plat (Desert Sands) located at 3000 South Sand Hollow Road. The Hollows, LLC applicant, Brett Burgess agent.

Brett Burgess was present to represent the application. He stated he sent an email this morning that addressed all the staff comments. He explained they can provide a second access after thirty units if they do their phasing that way. Michelle Cloud asked if he knew approximately where the second access would be. Mr. Burgess stated they are still discussing options. Chris Christensen stated JUC comment 8 mentions they need to be aware of shallow groundwater in the area. He asked if the Washington County Water Conservancy would need to sign off on the plans since they are intentionally percolating the water for Quail Creek. Ms. Foran stated the water percolating is a result of Sand Hollow Reservoir. It is a recharge reservoir. She stated the District is doing wells but there is always danger that groundwater can build up so the applicants need to be aware of it. Ralph Ballard asked who provides the water and sanitary sewer for this area. Mr. Burgess stated they have received will serve letters. Mr. Ballard asked if sewer would drain to the new pump station in Pecan Valley. Mr. Burgess stated not in this phase but he has been discussing with Ash Creek and Chris Wyler about potentially using that one in the future. Stephen Nelson commented the applicants responded to most of the comments but he is not sure if a soils investigation report has been submitted. He stated when they submit construction drawings the second access will need to be shown. Mr. Burgess commented he thought the soils report had been submitted so he will get it to the City tomorrow. Mr. Ballard mentioned Chris Wyler was required to pay for the pump station so if anyone hooks into it they need to reimburse him. Ms. Foran stated there is an agreement to ensure that happens. *Michelle Cloud motioned to recommend approval of application 2020-PP-10 to the City Council subject to JUC and staff comments; 1. Construction drawings must be reviewed and approved before final plat and final site plan application 2. They will need to provide a water model. 3. Need to do a Traffic Impact Study. 4. Geotech and drainage study. 5. Dixie Springs Dr should contain a 10' trail to connect to Sand Hollow Road. 6. After the 30th home, the development needs to construct a second access. 7. Power is at Dixie Spring Drive and Sand Hollow Road; the developer will need to make full improvements. 8. Need to be aware of shallow groundwater in the area. 9. Need to update the Sand Hollow Road cross-section to meet the new standard.10. Access: Once the development reaches 30 lots or more, there needs to be two functioning and fire-rated access. 11. Need to provide the average lot area information for the development. Must comply with R1-8 zoning, which requires the*

average lot area of 8,000 sq. ft, and a minimum lot area of 6,400 sq. ft. The plat appears to comply with this requirement, but the developer needs to provide that information. 12. The developer needs to identify potential geotechnical constraints on the project site HCC 10-39-7 (B)(8). Can supply a letter or a note on the plat. 13. Block length is too long for road C. Either need a roadway or trail access to road C to break the block up. Staff recommends the applicant works with the school district to provide a trail to access school property to the west. 14. The plat needs to identify whether the property is located in the desert tortoise take area. 15. The developer will need to provide a letter from both the local sanitary sewer provider and culinary water provider, indicating the availability of service. 16. Add utility lines to the legend on the plats. 17. The label width on 3150 S on plan view is missing; this needs to be added. Dayton Hall seconded the motion. The vote was as follows; Mark Sampson-aye Chris Christensen-aye, Michelle Cloud-aye, Shelley Goodfellow-aye, Ralph Ballard-aye, Dayton Hall-aye, Rebecca Bronemann-aye, Paul Farthing-aye. Motion carried.

2020-APA-02 Consideration and a possible recommendation to the City Council of a new Agriculture Protection zone, located at 1810 S 700 W. John & Collette Wadsworth Family Trust applicant.

John Nielson was present to represent the application. Dayton Hall stated the Planning Director, Stephen Nelson, put together a draft report. He commented he liked the report other than the last sentence, *overlay is limited to agriculture uses as defined by underlying zone*. His concern is that by tying the overlay to the underlying zone most areas don't allow agriculture uses so it will limit what people can do on their property. He thinks they will run into problems where it doesn't match up so he proposes to adopt the report but remove the last sentence. Stephen Nelson explained he has received a lot of calls with concerns on people adding feed yards or slaughter houses so if they limit it the more intense uses wouldn't be allowed. He stated the code isn't really clear on what agriculture uses are allowed. Mr. Hall commented the City has sent notices to residents that state if you are going to have livestock then you have to live on the property. He thinks if this is approved as proposed then it is asking for a dispute. He pointed out the Wadsworths already have corrals and that is why there is this application to protect the uses. Toni Foran asked if the Commissioners were comfortable with language limiting it to current uses. Mr. Hall stated that puts burden on the landowners to prove what the uses were when it was approved. Shelley Goodfellow agreed with Mr. Hall. She pointed out sales and service is not allowed in RA zones so it doesn't do any good to do the overlay zone if they are subject to the underlying zone. She doesn't want it subject to the current zone. Ralph Ballard stated if we want agriculture then we need to protect it. He also agreed with Mr. Hall. Rebecca Bronemann stated she agrees too. Chris Christensen asked Mr. Reber if they were essentially changing the zoning if they approve the overlay zone. City Attorney Fay Reber explained it doesn't change the zoning like he is envisioning. He stated whatever the use is now will be protected as long as the use continues. Ms. Foran stated the intent of the overlay is add another protection to continue agriculture uses. Mr. Hall stated he read through the state code today and in his opinion the overlay does three things; 1. Prohibits the City from changing the zone. 2. It protects property owners from nuisance lawsuits. 3. It makes the government jump through hoops to condemn property. He commented he doesn't think it increases the uses allowed. He proposed to give them the overlay zone which would allow the uses permitted under the existing zone and the current preexisting non conforming uses can be continued. Mr. Reber stated he thinks preexisting non conforming uses would be protected but if the proposed language is used then it would raise an issue in the future. Stephen Nelson stated after the discussion he agrees. Mr. Christensen asked what zone supersede the other one, ag protection or the underlying zone. Mr. Reber explained the overlay protects what is allowed plus allows non conforming uses to continued on the property. Ms. Foran read the code. Michelle Cloud asked what the process is if the land owner wants to remove the overlay zone. Mr. Nelson explained the property can request that at any time with a similar process. Chairman Farthing commented he is all for agriculture but his fear is someone opening a slaughter house in the middle of

development. He asked if that would be possible. Mr. Hall stated he feels that since that use is not permitted in any of the agriculture zones then it would not be permitted. Mr. Reber agreed. John Nielson stated they already feed cows on the property so it is already a feed lot. Chairman Farthing stated his concern was regarding more of a large, commercial feed lot. Mr. Ballard asked if the overlay would give protection if the nonconforming use stops and then starts again. Mr. Reber stated he doesn't think it gives any additional protection in that situation. Ms. Foran disagreed, she commented what is the point of the protection if you can't introduce other agriculture uses. She doesn't feel like the overlay addresses uses at all. Mr. Reber stated he doesn't think it allows them to expand the use to a non-permitted use. Ms. Goodfellow stated it might be wise for some of the land owners to change their zone to an agriculture zone to better protect them. Her concern is if they have the overlay they can't change the zone in the future. *Dayton Hall motioned to recommend approval on application 2020-APA-02 subject to the report prepared by staff with the exception of removing the last line. Ralph Ballard seconded the motion. The vote was as follows; Mark Sampson-aye Chris Christensen-aye, Michelle Cloud-aye, Shelley Goodfellow-aye, Ralph Ballard-aye, Dayton Hall-aye, Rebecca Bronemann-aye, Paul Farthing-aye. Motion carried.*

2020-APA-03 Consideration and a possible recommendation to the City Council of a new Agriculture Protection zone, located at 1350 South Sand Hollow Road. Ash Creek Sewer District applicant, Michael Chandler agent.

Dayton Hall recommended the same thing as the last application. Michael Chandler was present to represent the application. He explained the concerns regarding the master planned road through the property were resolved with staff. They don't have any problems with accommodating the road. He mentioned they have no plans in the foreseeable future to change any of the uses. *Dayton Hall motioned to recommend approval of application 2020-APA-03 subject to the report prepared by staff with the exception of removing the last line. Ralph Ballard seconded the motion. The vote was as follows; Mark Sampson-aye Chris Christensen-aye, Michelle Cloud-aye, Shelley Goodfellow-aye, Ralph Ballard-aye, Dayton Hall-aye, Rebecca Bronemann-aye, Paul Farthing-aye. Motion carried.*

2020-APA-04 Consideration and a possible recommendation to the City Council of a new Agriculture Protection zone, located at 318 S 1230 W. Leonard Dunkovich applicant.

Leonard Dunkovich was present to represent the applicant. He pointed out the address on the agenda is his house not the field that he is requesting. He explained this property is surrounded by fields except for on the east side. Dayton Hall stated he lives in this area and there are a lot of agriculture uses in the area. He mentioned a neighbor talked to him and they were glad to see this application. Paul Farthing asked if a road was supposed to go through this area. Toni Foran stated yes, it is showing on the map that was provided. She explained the M12 means it is a mid range road and it is #12 on the list. Chairman Farthing asked if it has the overlay protection, and the City does move forward with the road, would it prevent the City from building that road. Ms. Foran explained there would be extra steps for the City but it could be done. Mr. Dunkovich pointed out the road is not in the middle of his property, it is along the side. Mr. Reber explained the overlay only gives protection on roadways if there isn't another reasonable alternative. *Dayton Hall motioned to recommend approval on application 2020-APA-04 subject to the report prepared by staff with the exception of removing the the last line. Shelley Goodfellow seconded the motion. The vote was as follows; Mark Sampson-aye Chris Christensen-aye, Michelle Cloud-aye, Shelley Goodfellow-aye, Ralph Ballard-aye, Dayton Hall-aye, Rebecca Bronemann-aye, Paul Farthing-aye. Motion carried.*

2020-CUP-02 Consideration and possible approval of a Conditional Use Permit for an accessory building that is larger and taller than a permitted use, located 2553 S 3560 West Solaris Homes applicant.

Ken Koontz was present to represent the application. He agreed with the comments in the findings. Chris Christensen asked if the elevations were all the same surrounding this property. Mr. Koontz explained they are bringing this lot up to street level. There is an existing home to the north and an open lot to the south but they are the same grade. *Shelley Goodfellow motioned to approve application 2020-CUP-02 based on the staff findings. Rebecca Bronemann seconded the motion. The vote was as follows; Mark Sampson-aye Chris Christensen-aye, Michelle Cloud-aye, Shelley Goodfellow-aye, Ralph Ballard-aye, Dayton Hall-aye, Rebecca Bronemann-aye, Paul Farthing-aye. Motion carried.*

2020-AFP-01 Consideration and possible recommendation to the City Council on a proposed Amended Final Plat (Willow Park RV PUD Amended) located at 80 South, 1150 W. VJE LLC Applicant, Scott Woolsey agent.

Scott Woolsey was present to represent the application. He agrees with the staff comments. He mentioned most of them have already been addressed. He stated one of comments is regarding a signature that the applicant agrees to all the changes and he will get that. Dayton Hall asked if the area that is being amended has already been in use. Mr. Woolsey explained the original plat was different than what was built so they are just cleaning up the property lines and making the plat match what was built. He stated some lots were taken out because they were in a flood area. Mark Sampson asked why it has to be updated now. Mr. Woolsey stated there are currently two owners so they wanted to make sure it was correct in case they wanted to start selling the spaces. *Mark Sampson motioned to recommend approval of application 2020-AFP-01 to the City Council subject to the JUC and staff comments; 1. Move some of the lots to the north to avoid the flood plain and floodway area. 2. May need to do a Floodplain Development Application. 3. Each lot need to be labeled with the lot size as required in HCC 10-39-10 (A)(3). 4. The applicant needs to submit a copy of the current CC&Rs. 5. Have increased the number of lots to 189 from 182. The applicant can't expand the nonconforming use. Can eliminate lots 55-61 for compliance. 6. Property Contains Flood Area. The plat should have the flood plain and floodway drawn on for reference. Additional lots should be removed from floodplain and floodway. Michelle Cloud seconded the motion. The vote was as follows; Mark Sampson-aye Chris Christensen-aye, Michelle Cloud-aye, Shelley Goodfellow-aye, Ralph Ballard-aye, Dayton Hall-aye, Rebecca Bronemann-aye, Paul Farthing-aye. Motion carried.*

Planning Commission Discussion Items

- 1. Accessory Building Side Yard Street Setbacks.** Stephen stated in 2018 the Planning Commission approved to decrease street side yard setbacks in single family residential zones. It was recently brought to staff's attention that in the residential agriculture zones an accessory building isn't allowed in the street side yard setback. He commented he wants thoughts from the Commissioners on updating this section to match residential. He mentioned the accessory buildings in residential agriculture can be larger and taller than single family zones but he thinks it will still be okay. He mentioned there was a concern in staff meeting because there is an easement on the street side and the Power and Water departments recommended no structures within that easement. Commissioners discussed easements. Mr. Nelson stated a ten foot setback would accommodate the easement. Toni mentioned staff had some concern that the single family chapter should match the ten feet as well. Ralph questioned if this would put restrictions on someone that doesn't have an easement. Toni stated it won't be every lot but all

the ones in a subdivision have an easement. Dayton agreed they should be consistent and he is leaning towards changing this chapter to match the single family residential. Stephen commented he could do more research on easements and then bring back a recommendation. Commissioners agreed.

2. Toni mentioned the code states the floodplain manager is the Planning Director but it is going to be the Engineer so she is requesting that change too when this one is held for a public hearing.
3. Dayton stated when he was reading the State's agriculture protection section he saw them mention the need to make sure City nuisance laws comply with State law. He asked staff to make sure it matches. Toni stated they will review them because there are new changes on the State level.
4. Toni asked the Commissioners to keep encouraging people to look at general plan update.

Meeting adjourned at 7:52 p.m.