Minutes
Planning and Zoning Meeting
August 8, 2011

On this 8th day of August 2011, at 7:00 p.m., the Planning and Zoning Commission convened in a Regular Meeting, and the same being opened to the public at their regular meeting place; thereof, at City Hall, 303 S. Teel Drive, Devine, Texas. Notice of said meeting having been prescribed in Chapter 551, Government Code, and Vernon's Texas Codes, Annotated, and the following members thereof, being present, namely:

Doug Wilkins, Chairman
Onis Wiemers, Secretary
Ed Dougherty
Darrell Murdock
Jim Lawler
Mike Herring

Thus constituting a quorum.

Personnel present: Darrell Rawlings, Code Compliance Officer and William L. Herring, Mayor, Dora V. Rodriguez, City Secretary.

Others present: Elida Lascano and Johnny Lascano.

Commissioner Wilkins called the meeting to order.

The first order of business was to discuss and consider approving minutes from the meeting on June 20th, 2011.

The Planning & Zoning Commissioners reviewed the minutes.

Motion made by Commissioner Herring, seconded by Commissioner Lawler to approve the minutes from the meeting on June 20th, 2011.

Ayes	--	Five
Nays	--	None
Absent	--	One (Commissioner Dougherty)

Motion carried.

The second order of business was to discuss and consider request made by Travis Franklin on behalf of Professional Resource Development, Inc. for the following variances/waivers be granted to the provisions of the Subdivision Ordinance (Appendix B) of the City of Devine, for the platting of property addressed as 1207 Hondo Avenue W, and being 1.5 Acres of the F. Niggli Survey No. 1 (Abstract No. 713) which is proposed to be platted as Jerry Hudson Addition, Lots 1 & 2:

a. Appendix: B; Article IV: Site Improvements and Design Standards, Section 403. Streets & Alleys, Subsection 403.03 *Private streets.*, which states: "Private streets shall not be permitted", to be allowed to plat a lot only accessible by a private street or ingress/egress easement;
b. Appendix: B; Article IV: Site Improvements and Design Standards, Section 403. Streets & Alleys, Subsection 403.08 *Right-of-way and pavement widths.*, which provides for minimum right-of-way widths and pavement widths for streets, to waive the requirement to have a public right-of-way meeting these requirements;
c. Appendix: B; Article IV: Site Improvements and Design Standards, Section 407. Lots, Subsection 407.05 *Access and parking.*, which states: "Every lot shall be provided with adequate access to a public street by direct frontage on such street...", to be allowed to plat a lot that does not have direct frontage on a public street.
d. Appendix: B; Article IV: Site Improvements and Design Standards, Section 410. Water System, Subsection 410.02 *Design Standards*; 410.02-04. *Fire hydrants.*, which states: "Every subdivision, as part of the water distribution system, shall be provided with standard fire hydrants … and every lot shall be within 500 feet of a fire hydrant." to waive this requirement.

At 7:05 p.m., Commissioner Ed Dougherty arrived.

No one was present to speak on behalf of Professional Resource Development, Inc. regarding the requested variances. Commissioner Wiemers asked Darrell Rawlings, Code Compliance Officer, for information regarding the requested variance. Mr. Rawlings explained that the plat was originally presented to him in early June; however, there was no preliminary meeting held with the city staff regarding the platting of the property. The preliminary plat was reviewed, but required some additional research and consultation with the city engineer and public works. It was determined that a meeting needed to be held with the owner or the owner's agent to discuss the proposed subdivision and the requirements of the subdivision ordinance and some questions regarding the plat. A meeting was coordinated with the owner and held in early July with Dr. Jerry Hudson, Gary Pelech, Tom Cate, Billy Grote, and Ismael Carrillo. During this meeting several items were discussed that were not in compliance with the subdivision ordinance, and most of these items were corrected in the revised plat as presented for the Commissioners review. The issues that remained were access to the property and fire hydrants; the city ordinance requires that lots be accessed by a public street, and that platted lots have fire hydrants within 500-feet. Mr. Rawlings explained that currently fire hydrants accessible without crossing Hondo Avenue are about 2,000-feet from the subject property.

Mr. Rawlings explained that Dr. Hudson wanted to have the plat approved by August 1, 2011, and a meeting was scheduled in July; however, a quorum was not available for this meeting and due to the notice that was required to neighboring property owners, tonight's meeting was the next available meeting date. Mr. Rawlings informed the commissioners that according to his understanding, the 1.5 Acre property was conveyed from Dr. Hudson to Professional Resource Development, Inc., which is Dr. Hudson's parent company, and now Dr. Hudson wanted to convey a 0.638 acre portion of this property back into his name, which is indicated as lot 1 on the plat. Mr. Rawlings stated that his understanding from Dr. Hudson was that he did not plan on building anything on the property in the near future, and that he wanted to buy back this portion for his portfolio.

Mr. Rawlings explained that this area of town is a mess, because there is a large piece of property that was divided up into separate tracts without platting prior to its annexation into the city. He also explained that there was currently an ingress/egress easement providing access to a property behind the 1.5 acre tract, and the owner wants to continue to use the ingress/egress easement to provide access lot 1. He stated that, according to public works, there is water and sewer service available to the rear of the property on which a fire hydrant could be installed, but that the lines would probably need to be extended. He reminded the commissioners that the subdivision ordinance was amended recently to include a note that the owner(s) of the lots are responsible for utility improvements to provide service to their lots.

Commissioner Wilkins asked about someone blocking the private road if the city allowed them to have a private road to access lot 1. Mr. Rawlings explained that any issues regarding the ingress/egress easement or private road would be civil matters between the property owners, including any maintenance and/or improvement. Mr. Rawlings also informed the Commissioners that the minimum right-of-way width according to the Subdivision Ordinance is 50-feet, with a 30-foot pavement width, and that would place the edge of the right-of-way really close to the existing building on Lot 2. Furthermore, the dead-end street would need to have a cul-de-sac which would take up most of Lot 1. Mr. Rawlings informed the commissioners that notices were sent to all neighboring property owners within 200-feet and notice was published in the Devine News regarding the requested variance and the only contact that was received was from the owner of Harrison Supply which just wanted information on what was being requested, but did not comment either for or against the granting of the variance. Commissioner Dougherty asked if this was four separate variances/waivers. Mr. Rawlings explained that by not wanting to install a public street, there were several ordinances that variances/waivers would need to be granted to. He stated that essentially, the request is regarding the access to Lot 1 and the installation of a fire hydrant.

Commissioner Lawler inquired about utility service to Lot 1. Mr. Rawlings explained that there was an existing utility easement on the north side of the proposed subdivision, and public works advised that there is water and sewer service available to the property; however, it may be necessary to extend the utility lines. Mr. Rawlings reminded the commissioners of the recent amendment to the Subdivision Ordinance regarding utility service, which places responsibility on the owner of the lots to ensure that utility service lines are available at the property line and of adequate size for the improvements on the property, thereby not requiring a person to install lines that may not be used for many years and be damaged or deteriorate, or be undersized and need to be replaced. He also stated that public works indicated that it is possible to extend the water service line and install a fire hydrant. Commissioner Lawler inquired about the sewer line indicated on Lot 1 on the preliminary plat. Mr. Rawlings stated that the line is currently in use providing sewer service to the building on Lot 2, however, a utility easement has been laid out along the east side of Lot 1 to provide for access of sewer service to the property should the line ever need to be removed or relocated.

Commissioner Dougherty asked for a clarification on the fire hydrants distances. Mr. Rawlings stated that the fire hydrant at CR 5710 and CR 7610 was approximately 1,500-feet from the subject property, and the fire hydrant at Bentson Drive and Atkins Avenue was just over 2,000-feet. Commissioner

Dougherty had concerns that if the plat was approved without requiring a fire hydrant to be installed, that it would run with the property and may create a bad situation if Lot 1 was to be built on. Mr. Rawlings explained that there are other ordinances in the adopted building code that require fire hydrants, and that depending on what type and use of building would be built there, the building code may require a fire hydrant within a certain distance. Commissioner Wiemers wanted clarification on Dr. Hudson's intentions for Lot 1. Mr. Rawlings explained that according to Dr. Hudson, he had no immediate plans to build on the property and has mentioned the possibility of him selling the property to a neighboring property owner or building a clinic on the property in the future. Mr. Rawlings stated that he preferred not to speak for Dr. Hudson, because he did not want to create any misunderstandings or confusion regarding his intentions.

Commissioner Wilkins stated that it concerns him that there is no public access to the Lot 1, and future owners may have problems. Mr. Rawlings stated that it was his understanding that an ingress/egress easement would run with the property, but that he was not an attorney. Dora V. Rodriguez, City Secretary, asked Mr. Rawlings what Tom Cate, City Attorney, had stated regarding the variance request. Mr. Rawlings explained that during the meeting with Mr. Cate, Gary Pelech, Public Works, and Dr. Hudson, Tom stated that Dr. Hudson's only recourse would be to request a variance/waiver to the ordinances and the decision would be left to the city. He stated that Mr. Cate did not go into detail regarding the legal issues with ingress/egress easements. Commissioners Dougherty and Wiemers stated that if the variances or waivers were approved they would run with the property to whoever else it was sold to. Mr. Rawlings explained that it would only become an issue again if the property was to be vacated or replatted or if it were involved with the platting of adjacent property.

Commissioner Lawler asked if any plans were in place to provide for a fire hydrant within 500-feet of these lots. Mr. Rawlings stated that there were no plans submitted or time frame for installation submitted or discussed. He explained that Dr. Hudson was trying to expedite the matter as much as possible to get Lot 1 into his name.

Commissioner Dougherty stated that he saw problems in not requiring a public access to Lot 1, which would continue a problem that is already becoming apparent, and it appears that there is on about 18-foot of the ingress/egress easement is on the subject property. Mr. Rawlings explained that the city engineer also mentioned this and that it may be better to include the neighboring property owner in the plat to have some record of the boundaries of the right-of-way with the signatures of all the owners of the property that the right-of-way crosses or adjoins. Right now the ingress/egress easement is only made by a deed reference that refers to a survey that is not recorded.

Commissioner Wilkins stated that right-of-ways always present issues, especially with people wanting dead-end streets instead of through streets. Commissioner Dougherty stated that he didn't see how granting the variance would help to solve any of the problems that we have already, and may actually create problems by allowing it. Mr. Rawlings stated that there may even be issues later with mortgage companies or lenders because it does not have public access. Commissioner Wilkins stated that if you are going to have a doctor's office or similar building there, you will need to have an improved road to accommodate the volume of traffic that the street will receive. Mr. Rawlings informed the Commissioners that this property is currently zoned Class A. Single-Family Residence District and that

Dr. Hudson and the owner have decided not to change the zoning classification at this time, and that the existing building on Lot 2 is and will continue to be a non-conforming use. He explained that when this area was annexed into the city, the zoning classification of the land was never specified so it automatically is designated as a Class A. Single-Family Residence District. Commissioner Herring and Commissioner Dougherty both stated that even if it is residential use, the issue is still access and fire protection. Mr. Rawlings reminded the commissioners that there was already one residential property being accessed by an ingress/egress easement. Commissioner Dougherty stated that the property has recently been annexed into the city, and if the city starts allowing these changes now, there is the potential of it leading to more and more problems by not following the ordinances.

Motion made by Commissioner Dougherty, seconded by Commissioner Herring to recommend the city council deny all variances/waivers requested by Travis Franklin on behalf of Professional Resource Development, Inc. for the platting of property addressed as 1207 Hondo Avenue W, and being 1.5 Acres of the F. Niggli Survey No. 1 (Abstract No. 713) which is proposed to be platted as Jerry Hudson Addition, Lots 1 & 2.

Ayes	--	All
Nays	--	None

Motion carried.

The third order of business was to discuss and consider request made by Gabriel Rodriguez that a variance be granted to the minimum lot area of 9,000 square feet at 416 Teel Dr. S, also known as Lot 1 (Part of), of Block 10 (NCB 18) of the M.A.E. Hattox Addition, as required by Appendix A; Article 9: Class G. Retail Business District, Section 3. Area Regulations, Subsection (4) *Lot Area*, for construction of a new One-Family Dwelling as part of the Home Grant Program.

Elida Lascano & Johnny Lascano were present to speak for the granting of the requested variance. Darrell Rawlings, Code Compliance Officer, addressed the commissioners regarding the requested variance. Mr. Rawlings explained that the city had participated in a grant program where qualifying residents received improvements to their home to make it more livable, or, as was the case hear, the existing dwelling was so bad, that it was demolished and construction of a new home on the property. He informed the Commissioners that Gabriel Rodriguez had qualified for a new home under this program; however, his lot, which is currently zoned Class G. Retail Business District, is under the minimum size requirements to allow for the construction of the new home. He explained that the lot was reduced in size when State Highway 132 came through the city. The property is currently 3,569.28 square feet which is less than the minimum area of 9,000 square feet, and stated that there may be some issues with the building set-backs to allow for construction of the new home. The new home will not extend past any property lines, but may encroach into the building set-backs.

Commissioner Dougherty stated that the property has public right-of-ways on three sides, and the neighboring property is almost unusable because it is smaller than the property in question. He stated that if the house would fit on the property and would not encroach on a right-of-way or the

neighboring property, he did not see a problem with it, especially since there had already been a home on the property. Commissioner Dougherty asked if there was an engineer that had looked at this property. Mr. Rawlings explained that the city engineer had surveyed the property and even had to look into elevations, because the currently Flood Insurance Rate Map indicates that the property is in the Floodplain, and the city engineer is preparing an elevation certificate. He stated that the Flood Zone may change when the new Flood Insurance Rate Maps take effect, and may be removed from the Floodplain. According to the city engineer, the new dwelling will fit inside of the property line. William L. Herring, Mayor, informed the Commissioners that the old dwelling had already been demolished. Commissioner Wiemers stated that reduced lot size was not the result of any action of the owner of the property, but because of the State Highway right-of-way. The Commissioners also noted that the new building would be an improvement over the previous building and be beneficial to the community.

Motion made by Commissioner Wiemers, seconded by Commissioner Dougherty to recommend the city council grant the variance requested by Gabriel Rodriguez that a variance be granted to the minimum lot area of 9,000 square feet at 416 Teel Dr. S, also known as Lot 1 (Part of), of Block 10 (NCB 18) of the M.A.E. Hattox Addition, as required by Appendix A; Article 9: Class G. Retail Business District, Section 3. Area Regulations, Subsection (4) *Lot Area*, for construction of a new One-Family Dwelling as part of the Home Grant Program, to include a variance to the set-backs as necessary.

Ayes	--	All
Nays	--	None

Motion carried.

Darrell Rawlings informed Mr. & Mrs. Lascano that the matter would be brought before the City Council at their next meeting, which is at 6:00 p.m. on Tuesday, August 16, 2011, for their decision on the requested variance.

Commissioners held discussion on the Home Grant Program, and the house at 515 W. Colonial Parkway that Mission Devine renovated.

The third order of business was to discuss Informational Items.

Code Compliance Officer Darrell Rawlings informed the Commissioners on the status of the Home Grant Program, and that all of the homes being built are in the area of Devine that was part of the original city when it was incorporated, and therefore, there were some items that needed to be addressed on these properties.

Mr. Rawlings informed the commissioners that Raul Garcia, City Engineer, had informed him that he has been contacted by Mangold Engineering regarding the drainage concerns on the property on Fay Avenue, that William Dorfmeister owns.

Mr. Rawlings informed the commissioners that there are some homes being built in addition to the Home Grant Program, and the commercial buildings on Hondo Avenue are working towards opening for business.

Discussion held on Eagle Ford Shale impact on the whole region, and the need for homes.

Mr. Rawlings informed the commissioners that the city is still working towards the improvements on Burnt Boot Creek.

Commissioner Dougherty informed the Commissioners that Devine Ministerial Fellowship (DMF) is working on leasing/purchasing the building currently owned by Medina County next to Devine News. He stated that Medina County had a survey done, but had only surveyed the building, with 0-foot setback, but DMF is working towards having additional land included, because as they have it now, the back door of the building would open onto property that they would not own. He stated that he was told that DMF could request a variance to the requirement to have adequate off-street parking for the loading and unloading of merchandise, but Commissioner Dougherty stated that DMF does not want to have to ask for a variance; they want to comply with this requirement. Mr. Rawlings stated that selling platted property by metes and bounds and not by lot has created a problem in the past. Mr. Rawlings informed the commissioners that he has been trying to work with the appraisal district because of issues in the past where a building sits across multiple lots that have been auctioned off separately by the county when they have tax sales, and sited 327 West Malone Drive as an example.

There being no further business to come before the Planning and Zoning Commission, Chairman Wilkins called for a motion to adjourn the meeting.

Motioned by Commissioner Wiemers, seconded by Commissioner Lawler to adjourn the meeting.

Ayes	--	All
Nays	--	None

Motion carried.

_____
Chairman

_____
Secretary