

**Minutes  
Planning and Zoning Meeting  
December 7, 2009**

On this 7<sup>th</sup> day of December 2009, 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  
Darrell Murdock  
Jim Lawler  
Mike Herring

Absent being: Ed Dougherty; thus constituting a quorum.

Personnel present: Darrell Rawlings, Code Compliance Officer.

Others present: None.

Commissioner Wilkins called the meeting to order.

The first order of business was to discuss and consider approving minutes from the meeting on October 19, 2009.

The Planning & Zoning Commissioners reviewed the minutes.

Motion made by Commissioner Lawler, seconded by Commissioner Herring to approve the minutes from the meeting on October 19, 2009.

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

Motion carried.

The second order of business was to discuss and consider the interpretation of Subdivision Ordinances pertaining to the platting of property in the Extra-Territorial Jurisdiction (ETJ) to include minimum lot size and utilities.

Mr. Darrell Rawlings, Code Compliance Officer, provided the Commissioners with additional pages of the ordinance to assist in the discussion. Mr. Rawlings advised that he had spoken with the City Administrator, the City Engineer, and the City Attorney who suggested that the matter be taken to the Planning & Zoning Commission and to the City Council for clarification.

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He reminded the commissioners that the ETJ is all land lying within one-half of a mile from the City Limits. He informed the commissioners that the city regulates the subdivision of land in this area exclusively due to the proximity of the land to the city limits and as stated in an agreement between Medina County and the City. The ETJ generally has subdivision requirements that fall between the county requirements (low population density) and city (high population density). Mr. Rawlings reminded the Commissioners that a few years ago, the city discontinued providing utilities to any property outside of the city limits, and now the only way that a property outside the city would be provided utilities is if they requested annexation. If the property were annexed into the city then the regulations applicable to the ETJ would no longer apply. The minimum lot size and other requirements for subdivision within the city limits are generally dictated by the zoning ordinance, the city could not regulate land use (zoning) or construction (building permits or building codes) outside of its city limits.

Mr. Rawlings informed the Commissioners that when a plat is received, it is initially reviewed by the Code Compliance Department, who consults with the Public Works Department for utility information and the City Engineer, and, as needed, the City Attorney, upon approval of the City Administrator. The most common subdivision plats that the city receives are for property that is to be divided into four or fewer lots and the Short Form Subdivision guidelines of the Subdivision Ordinance apply.

Mr. Rawlings informed the Commissioners that this matter had arisen out of a proposed subdivision in the ETJ, but that since this matter regarded utilities and minimum lot size it would affect any future subdivision in the ETJ; therefore, this general clarification was being sought independent of the conditions of this proposed subdivision. Mr. Rawlings gave a description of the proposed subdivision as an illustration. Mr. Rawlings informed the commissioners that a plat had been received for a subdivision of 1.968 acres into three lots. The property was not adjacent to the city limits and could only be annexed into the city by annexing the property between it and the city limits. He stated that according to his understanding, the neighboring property owner did not want to be annexed, and that a forced annexation could take at least three years, in which case the owner did not want to pursue the matter. In this particular situation, each proposed lot will have access to a public right-of-way and access to an organized water system (Benton City Water). Two of the lots have existing septic systems which were permitted through the county, but the remaining lot does not have sewer service or a septic tank. Mr. Rawlings informed the commissioners that since there are no other organized sewer systems in the area, and since the city no longer extends utilities outside of the city limits, all property within the ETJ had to rely on on-site sewage facilities, i.e. septic tanks; however, Section 411.06 makes no mention of septic tanks, and is used as a reference from Section 407.02 to describe "adequate sewerage system(s)". Section 407.02 states that property in the ETJ that is connected to an "adequate sewerage system" as described in Section 411.06, the minimum lot area and width as determined by the commission, and ultimately the city council; however, those lots that were "not connected to an adequate sewerage system...lots shall contain a minimum of 30,000 square feet (0.6887 acres) with a minimum width of 60 feet". In this particular case the property is not large enough to divide into three 30,000 square foot lots.

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Mr. Rawlings stated that he wanted to inform the Commission and the Council of this matter to ensure that the governing body was aware of this, and informed them that the ordinance could be updated if they felt it was necessary. He also wanted to inform the commissioners that a Rule adopted in 2002 by the Texas Commission on Environmental Quality states that the smallest property that a septic tank can be installed on is half an acre, (21,780 square feet). Commissioner Wiemers asked Mr. Rawlings if the city could be more stringent than what the state requires. Mr. Rawlings informed Mr. Wiemers that generally the State allows for counties and cities to enact more strict regulations regarding development in their communities; therefore, the city can require lot sizes to exceed the state minimum, but cannot allow for septic tanks to be placed on a property that is less than half an acre. Mr. Rawlings also informed the commissioners of the County Subdivision rules. The County Subdivision Rules, which only apply if a property is being divided into more than two tracts or lots, allows for the following minimum lot sizes for lots outside of the Edwards Aquifer Recharge Zone:

1. Without Public water and Public sewer – 3 acres (130,680 sq. ft)
2. With either Public water or Public sewer – 1.5 acres (65,340 sq. ft)
3. With Public Water and Public Sewer – 30,000 square feet

Mr. Rawlings also explained that Section 411.05 provided that “if the city’s wastewater system is not available to a subdivision and the subdivider has made no provision for wastewater treatment on or offsite...a restriction shall be noted on the plat stating that the occupancy of any lot shall be prohibited until some such wastewater system is installed...” He explained that septic tanks had to be sized according to the building that they were serving, and that installing a septic tank prior to knowing building specifics would only hinder development; however, he felt that placing a restriction on an individual lot stating that it could not be occupied without a wastewater treatment system would seem more logical.

The Commissioners held discussion on the ordinance and the options available. The consensus of the Commissioners present was that variances could be requested for a lot to be less than 30,000 square feet in area and 60 feet in width.

Motion made by Commissioner Herring, seconded by Commissioner Lawler to interpret the regulations of the Subdivision Ordinance pertaining to the platting of property in the Extra-Territorial Jurisdiction (ETJ) concerning minimum lot size and utilities to state that all lots in the ETJ that are not connected to an organized water system and an organized sewer system meeting the criteria established by the ordinance to have a minimum area of 30,000 square feet and a minimum lot width of 60 feet, and to recommend that the ordinance not be changed, but that variances may be requested for lots to be platted smaller than these minimum sizes.

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

Motion carried.

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The fifth order of business was to discuss monthly Code Compliance, Floodplain Administrator, and Fire Marshal Reports for October, 2009 and November, 2009.

Commissioners held discussion with Mr. Darrell Rawlings, Code Compliance Officer, on permits issued, inspections conducted, ordinance violations, and enforcement.

Mr. Darrell Rawlings, Code Compliance Officer, reminded Commissioners of Public Meeting on the Preliminary Floodplain Maps at the Community Center at 7pm on Tuesday December 8, 2009.

There being no further business to come before the Planning and Zoning Commission, Chairman Wiemers adjourned the meeting.

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Chairman

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Secretary