

MINUTES

PLANNING AND ZONING COMMISSION MEETING

April 22, 2021

CALL TO ORDER – Roll Call and Determination of a Quorum

The Planning and Zoning Commission met on the above date. Chairperson Wright called the meeting to order at 7:00 p.m. and noted there was a quorum. Chairperson Wright then asked P&Z Alternate Two Commissioner Crutcher to be a voting member for this meeting. Commissioner Crutcher agreed.

Commissioners Present: Use “✓” or “X”, please

<input checked="" type="checkbox"/>	Chairperson Russell Wright	Alternate Marilyn Kittrell
	Commissioner Joe Lozano	<input checked="" type="checkbox"/> Alternate Larkin Crutcher
	Commissioner Wei Wei Jeang	Alternate JR Douglas
<input checked="" type="checkbox"/>	Commissioner David Leamy	
<input checked="" type="checkbox"/>	Commissioner Jasmat Sutaria	

Staff/Others Present:

<input checked="" type="checkbox"/>	Public Works Director Gary Machado	<input checked="" type="checkbox"/> City Attorney Brandon S. Shelby
<input checked="" type="checkbox"/>	City Secretary Patti Scott Grey	

PLEDGE OF ALLEGIANCE

The pledges were recited.

PUBLIC COMMENTS The Commission invites any person with business before the Commission to speak to the Commission. No formal action may be taken on these items at this meeting. Please keep comments to 3 minutes.

Skip Cave, Terrence Dixon, Pam Terrell, and Ed Lynch submitted comment cards at the meeting, while. Joe Lozano, Andy Redmond, Todd Fecht, and Patrick Taylor provided comments via email. (EXHIBIT 1-4 – Joe Lozano’s email, dated April 21, 2021; 2) Andy Redmond’s email, dated April 22, 2021; Todd Fecht’s email, dated April 22, 2021; and Patrick Taylor’s email dated April 22, 2021)

INDIVIDUAL CONSIDERATION ITEMS

1. CONSIDERATION AND/OR ANY APPROPRIATE ACTION MEETING MINUTES FOR NOVEMBER 5, 2020.

MOTION: Commissioner Leamy moved to approve the minutes as presented. Commissioner Sutaria seconded with Commissioners Wright, Leamy, Sutaria, and Crutcher voting for the motion. Motion carried 4-0.

2. PUBLIC HEARING ON ZONING REGULATIONS REVISIONS. *[CITY CODE OF ORDINANCES, CHAPTER 156: ZONING REGULATIONS]*

Chairperson Wright stated that a sub-committee of the P&Z Commission had spent many hours over many meetings in the span of three years to review the Zoning Regulations. The original intent of the review is to correct errors, make the language consistent, and make clarification where needed, not to rewrite or make substantial changes to the code. Chairperson Wright further explained the review process with a flowchart (**EXHIBIT 5 – ZONING REGULATIONS REVIEW PROCESS**)

City Attorney Shelby explained there are currently four versions of the code: (1) original zoning regulations; (2) zoning regulations with city council sub-committee changes; (3) zoning regulations with P&Z sub-committee changes; and (4) City Attorney's input. However, there is nothing that clearly provides information on everyone's input/changes/comments. Chairperson Wright expressed the need for such a document so that everyone can be better informed in the remaining review and approval process.

MOTION: Commissioner Leamy moved to have City Attorney Shelby create a master change/mapping/commented document that shows all the changes made by city council and planning and zoning sub-committees. Commissioner Sutaria seconded with Commissioners Wright, Leamy, Sutaria, and Crutcher voting for the motion. Motion carried 4-0.

MOTION: Commissioner Leamy moved to table the public hearing on the proposed changes to the Zoning Regulations. Commissioner Sutaria seconded with Commissioners Wright, Leamy, Sutaria, and Crutcher voting for the motion. Motion carried 4-0.

Chairperson Wright invited those who had submitted a public comment card to speak on their issues. Ed Lynch, Skip Cave, and Pam Terrell spoke on the construction/permission for a fence in an easement and the use of the term "public easement."

ROUTINE ITEMS

3. FUTURE AGENDA ITEMS

- King's Crossing Phase III
- Parker Ranch Phase V

4. ADJOURN

Chairperson Wright adjourned the meeting at 7:54 p.m.



Minutes Approved on 12th day of May, 2021.

Chairperson Russell Wright

Attest:

Commission Secretary Wei Wei Jeang

Prepared by City Secretary Patti Scott Grey

Exhibit(s):

Emailed Public Comments	1 Joe Lozano
	2 Andy Redmond
	3 Todd Fecht
	4 Patrick Taylor
Other Exhibit(s)	5 Zoning Regulations Review Process

From: [Joseph Lozano](#)
To: [Patti Grey](#)
Subject: Citizen Comment for P & Z Meeting, April 22, 2021
Date: Wednesday, April 21, 2021 8:58:51 PM

Patti,

Whereas Councilwoman Lynch sent an email regarding this P & Z meeting regarding Zoning Regulations Revisions as follows:

"Since you and I are residents, I encourage you to read these regulations. One area of note that you might read and consider is the paragraph I(5)(a) in both Sections 156.32 and 156.33 Single Family and Single Family Transitional Districts, respectively. which states:

"Within easements. No fence shall be located within any public easement except by prior written approval of those agencies having interest in that easement."

That paragraph is the current revision, it was not changed in our update that we are considering tonight. These easements are utility or drainage easements and for that purpose no fence or plants should be placed in the easements.

Best Regards,

Joe Lozano
P &Z Vice Chairperson

Sent from [Mail](#) for Windows 10

From: [Patti Grey](#)
To: [Patti Grey](#)
Subject: Submission comments P&Z Meeting
Date: Thursday, April 22, 2021 1:06:48 PM

Hello Patti:

If you could submit my comments, as I'm unable to attend; so appreciated. Thanks, Andy
///

Hello P&Z:

I have concerns with proposed City of Parker ordinance changes, so I request you table a vote until proper transparency is made to Parker citizens.

Suggestion:

It is unreasonable to seek citizen input or make proposed changes to council with your posted agenda and attachments (citizens must read old and new on separate documents). The suggestion is to offer a "red line" type document where current/proposed changes are clear on one document. Contract City Atty. Shelby should be familiar with my suggested document review approach.

Thanks for the opportunity to make input.

Andy Redmond
7275 Moss Ridge Road

From: [Todd Fecht FNMG](#)
To: [Patti Grey](#); [Gary Machado](#)
Subject: Fwd: Please have the attached letter read and entered into the records for the P&Z Meeting 4.22.2021
Date: Thursday, April 22, 2021 4:16:15 PM
Attachments: [Ltr for Parker P&Z 4.22.21.pdf](#)

Patti,
Please have the attached letter read and entered into the records for the P&Z meeting on 4-22-2021.

Thank you

Todd Fecht

-

Dallas Corporate office

NOTICE: This e-mail is covered by the Electronic Communications Privacy Act, 18 U.S.C. Sects. [2510-2521](#) and is legally privileged. This e-mail, and any documents attached, may contain confidential information belonging to the sender which is protected by the work product and/or other privileges. The information is intended only for the use of individuals or entities named above. If you have received the e-mail in error, we would appreciate your immediately notifying us by telephone call to arrange for the return of all copies of the e-mail. You should also delete this transmission from your computer and/or server.



Begin forwarded message:

From:
Date: April 22, 2021 at 4:08:35 PM CDT
To:
Cc:
Subject: Please have the attached letter read and entered into the records for the P&Z Meeting 4.22.2021

Todd Fecht
7234 Moss Ridge
Parker, Texas 75002

April 22, 2021

P&Z Commission
City of Parker
5700 East Parker Road
Parker, Texas 75002

Dear Parker P&Z:

First and foremost, I would like to thank you for serving on the P&Z Commission. I have been a member on many boards, and I understand the significant time commitment incurred without compensation.

By way of background, I have lived in Parker for over twenty years. Before that my wife and I lived in Plano. Fortunately, I have been able to raise my 3 boys in this same house for all their lives. The fact that my boys have been raised in the same home in a wonderful country lifestyle has been instrumental to their progress. After working so hard in a school environment each day, it has been especially important that they have had a place to come home to where they can be outside in open spaces and enjoy hobbies and activates that build their confidence. Our uses on the property are allowed under the city's zoning ordinances.

I am aware that many of the citizens of Parker are big believers in less government is better. Just as our forefathers left the European continent to come to America to have more rights and freedoms, we moved from Plano to Parker to have more rights and freedoms and to obtain the freedom of a country lifestyle. We along with many other Parker citizens are adamantly opposed to any change that would end in the P&Z and the Parker City Council making any additional restrictions or taking away any existing freedoms and rights that we currently have or making changes that would effectively result in the city

government becoming a HOA. We also do not want the city to engage in selective enforcement and/or discrimination.

The problem here is quite simple. What we have is a situation where a minuscule minority of people failed to do proper due diligence and made the mistake of purchasing property in a community that does not support the lifestyle they want to live. There are far more communities with covenants and HOAs that support a country club lifestyle than there are communities that allow people to live a country lifestyle like we have here - without an HOA.

The solution is just as simple. The people who failed to do adequate due diligence and made the error of purchasing property here should sell their property and move to a community that supports the restrictive lifestyle they want to live; or learn to keep quiet and let the rest of us enjoy the freedoms we bought into.

As a result, those who are unhappy living here would presumably end up enjoying life in their new more restrictive community, and as a big plus, a new family that would appreciate the personal freedoms offered by living in Parker, in an area without an HOA, would move in and become a happy member of our community.

Simply put: Why should those of us who did our due diligence in any way pay for the mistakes of those who did not?

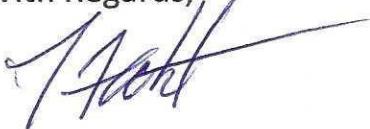
I am opposed to any and all changes, known or unknown, in the ordinance that would affect any land usage and/or rights of land usage for anything that citizens of Parker are currently allowed to do, whether the citizen chooses to use that right or not. This includes items in the letter attached, written by Art Anderson at Winstead Law firm, and sent to the city on my behalf on August, 15 2018, but is not limited to just the items in this letter.

The citizens of Parker deserve concise transparency in what P&Z and City Council members are proposing. I requested a redline version so I would know what current rules are, and what the new proposed rules may be. I was basically told to read a 210-page document, (if 300 words per page, is over 60,000 words) which was posted by the city, with no red lines, and compare it to the current ordinances, which is similar in size, to figure out the differences, and thus told, "it's

not our job to tell you the differences." That is an impossible task in my humble opinion. We need a copy of a redline version, one with the line going through every word taken out and the new words they are proposing to put in next to it, from planning and zoning and not modified by any third-party known or unknown.

Again, in the absence of a redline version the only thing I can fundamentally say is, I object to any provisions, known or unknown, to the proposed ordinance changes, which will impact the uses of property as stated in the attached 2018 letter, but not limited to the items in that letter. And would kindly ask P&Z to go back and verify for us that there are no provisions here that would restrict the current land uses and or rights of the citizens of Parker.

With Regards,

A handwritten signature in black ink, appearing to read "Todd Fecht".

Todd Fecht

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August 15, 2018

VIA EMAIL

Ms. Johnna Boyd (jboyd@parkertexas.us)
City Administrator
City of Parker
5700 E. Parker Road
Parker, TX 75002

Re: 7234 Moss Ridge, Parker, TX 75002

Dear Ms. Boyd:

Our firm represents Todd Fecht, who owns four acres located at 7234 Moss Ridge ("Property") in the City of Parker ("City"). The Property has been used for the following purposes ("Historical Uses") for approximately the last 20 years:

- (a) Raising of different animals including rabbits, ducks, dogs, quail, chucker, pheasants, chickens and other poultry;
- (b) Farming, including the farming of different grasses, grains, fruits, nuts, berries and wildflowers;
- (c) Gardening of various fruits, vegetables and grains;
- (d) Wildlife research and management including food plots and nesting habitats;
- (e) Riding of vehicles;
- (f) Practice for sports activities including football, baseball, archery, golf, fly fishing and lacrosse;
- (g) Hobby of antique tractor collection including use for organic farming, restoration, repair and maintenance; and
- (h) Repair and maintenance of recreational vehicles and farm equipment.

It has come to our attention that the City is considering revising its comprehensive zoning ordinance to prevent or limit the Historical Uses on the Property.

The Property is located in the Moss Ridge Subdivision ("Addition") and received plat approval in 1983. Numerous house building permits were subsequently issued. Unlike other

subdivisions in the City, there are no deed restrictions or homeowners association for the Addition. Like many Parker residents, Mr. Fecht moved to Parker for the rural country atmosphere. If he wanted restrictive regulations Mr. Fecht would have moved to a different city or an HOA-regulated subdivision within the City. Mr. Fecht opposes any attempts by the City to inhibit or prevent the continuation of the Historical Uses on the Property.

I was both the trial and appellate lawyer in the following cases which impact the legality of the City's actions:

1. *Town of Lakewood Village v. Biziros*, 493 S.W.3d 527 (Tex. 2016). This Supreme Court case emphasizes that as a general law town Parker has limited land use regulatory authority.

2. *City of McKinney v. OH Skyline*, 375 S.W.3d 580 (Tex. App.—Dallas 2012, pet. denied). The Dallas Court of Appeals held that cities are required to send mailed notice of proposed revisions to its comprehensive zoning ordinance to all landowners affected by the change under § 211.007(c), Tex. Loc. Gov't Code. It appears from the proposed changes that every lot owner in the City will be entitled to notice.

If the proposed revisions are forwarded from the P&Z to the City Council, then our client will file a written protest pursuant to § 211.006, Tex. Loc. Gov't Code. This will trigger the statutory requirement that 3/4ths of the City Council approve any changes to the comprehensive zoning ordinance that impact the Property.

3. *FLCT, Ltd. v. City of Frisco*, 493 S.W.3d 328 (Tex. App.—Fort Worth 2016, pet. denied). Even if new adverse zoning provisions were enacted they could not legally be applied to the Property in accordance with Chapter 245, TEX. LOC. GOV'T CODE. To do so would violate our client's vested rights. The initial permit for our client's project under Chapter 245 would be the plat for the subdivision approved in 1983. When the Historical Uses commenced, they were authorized under the City's comprehensive zoning ordinance in effect at that time. The City is prohibited from applying new ordinances which adversely impact the Historical Uses under § 245.002, TEX. LOC. GOV'T CODE. The court of appeals also held that adversely applying new zoning regulations can result in an inverse condemnation or regulatory taking.

As the City is aware, the Texas Legislature and the judiciary have focused over the last few years on strengthening private property rights, particularly where local government regulation is involved. The courts in particular have stressed that both the U.S. and Texas Constitutions protect private property rights. If you have any questions, please do not hesitate to contact me.

Sincerely,



Arthur J. Anderson

AJA:vb

cc: Brandon S. Shelby, Parker City Attorney (via U.S. Mail)

From: [Patrick Taylor](#)
To: [Patti Grey](#)
Subject: P&Z meeting 4-22-21
Date: Thursday, April 22, 2021 4:54:11 PM
Attachments: [PandZ 4-22-21.pdf](#)

Please see attached:

Patti, would you please have this read into the record for the P&Z meeting on 4/22/2021:

Patti, would you please have this read into the record for the P&Z meeting on 4/22/2021:

The audio record of the City Council meeting from June 5, 2018 starting at about 1 hour, 10 minutes offers the discussion of asking P&Z to review the City's ordinances. The discussion specifically addressed that P&Z needed to act completely independent of Council and without any influence or bias as the suggested changes from the authors Mayor Pettle and Councilmember Meyer were not well received. At about 1 hour, 30 minutes a motion was made to send a redline version with possible changes onto P&Z. This motion had a clear message for the City Attorney to explain that P&Z was to not consider the content of what was redlined, but instead how possible changes had been organized.

Unfortunately, the first two Meetings where P&Z started working on this item were each attended by one of the previously mentioned authors. Both individuals spoke to the body of P&Z acting in an unauthorized capacity of representing "what the Council wanted and intended."

Upon completion, it was intended for P&Z to deliver back to Council their suggested changes (again: unbiased by Council or any members thereof) to correct any existing conflicts, items which may possibly be unenforceable, and general clean-up of any areas which may be hard to understand; not necessarily suggest a significant change in the intended spirit of a particular section unless it was in conflict with another. Council would then consider P&Z's recommendations plus any suggestions the Council members may offer.

Because there is no redline version being made available, it is very difficult to timely determine what the proposed changes by P&Z are and further what has since been changed after P&Z sent their version to legal counsel and not changed by legal counsel. Previous efforts were unethically made to circumvent how the Council intended and requested P&Z to handle this item and further efforts may or may not have been employed to alter that which P&Z intended to deliver back to the Council.

The document version which is on your agenda may not be the same version you intended. I request your diligence in being absolutely sure that the City stays transparent and accurate in providing your work to the Council and not that of other individuals who may have different desires and positions than P&Z. By providing a redline version of your proposed changes, the City will allow you to verify and also the citizens a reasonable tool to see and understand what changes you are proposing.

I am in opposition of any action that takes away or limits the rights or land uses whether or not the rights and land uses are being employed.

Thank you,
Patrick Taylor

EXHIBIT 5

