

CITY OF ALAMO HEIGHTS
CITY COUNCIL
April 13, 2015

A regular meeting of the City Council of the City of Alamo Heights, Texas was held at Council Chambers, located at 6116 Broadway, San Antonio, Texas, at 5:30 p.m. on Monday, April 13, 2015.

Present and composing a quorum were:

Mayor Louis Cooper
Mayor Pro-Tempore Bobby Rosenthal
Councilmember Bobby Hasslocher
Councilmember Fred Prassel
Councilmember Lynda Billa Burke
Councilmember John Savage

Also attending were:

City Manager J. Mark Browne
Fire Chief/Assistant City Manager Buddy Kuhn
Assistant to the City Manager Marian Vargas
City Attorney Mike Brenan
Finance Director Cynthia Barr
Community Development Services Department Director Jason Lutz
Human Resource Manager Lori Harris
City Secretary Jennifer Reyna
Chief Police Rick Pruitt
Public Works Director Pat Sullivan

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Mayor Louis Cooper opened the meeting at 5:30 p.m.

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Item # 1 Approval of Minutes

Mayor Cooper asked City Council for any revisions to the minutes of the March 23, 2015, City Council meeting. A motion was made by Councilmember Lynda Billa Burke to approve the minutes of March 23, 2015. The motion was seconded by Mayor Pro Tem Bobby Rosenthal and passed by unanimous vote.

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Item # 2 Announcements

Mayor Cooper read the following captions.

a. National Telecommunicators Week, April 12th - April 18th

Police Chief Rick Pruitt announced the week of April 12th through April 18th is National Telecommunicators Week dedicated to Public Safety Dispatchers. He briefly highlighted their duties and history noting they are the backbone of emergency operations for the Police and Fire Departments. Police Chief Pruitt expressed his sincere appreciation and stated the City's dispatch operators are the best.

Mayor Cooper expressed his appreciation to the dispatchers and presented the proclamation to Police Chief Pruitt as he read it.

b. King Antonio XCIII

King Antonio Mark Johnson greeted Council and the audience. He introduced his staff assisting him during Fiesta in obtaining their mission. He read a letter that provided a brief history of the Texas Cavaliers Charitable Foundation which was established in 1989 with the message, "the mission to encourage, foster, support and conduct activities and programs which will benefit children". He shared that since their inception, the Texas Cavaliers Charitable Foundation have donated to over 110 charities across San Antonio and Bexar County with total contribution exceeding \$3,000,000. This year over \$300,000 will be distributed to over 40 different children's charities and 12 public school art programs with the support of corporate citizens and private donations. In addition, he stated that over \$500,000 will be raised in partnership with charities with the Texas Cavaliers matching program. He expressed appreciation to Council for their service, leadership and their dedication to the spirit of Fiesta.

c. Fiesta Medal

Assistant to the City Manager Marian Vargas reminded residents that fiesta medals will be available at City Hall on April 15th. She explained the design of the fiesta medal is the building in celebration of the new city facility. Ms. Vargas stated information was published in the April's newsletter, City's website, Facebook page and twitter.

d. Evening in '09 April 18, 2015

Ms. Vargas announced the fourth annual "An Evening in '09" scheduled for Saturday, April 18, 2015 at the Alamo Heights Pool and hosted by the Alamo Heights Optimist Club. The event will begin at 5:00 p.m. to 11:00 p.m. at the Alamo Heights Pool.

e. Pooch Parade, April 25, 2015

Community Development Services Department Director Jason Lutz announced the Pooch Parade sponsored by Therapy Animals of San Antonio is scheduled for

Saturday, April 25, 2015 at the Alamo Heights Swimming Pool. The costume contest will begin at 8:15 a.m. and the three-mile walk will begin at 9:15 a.m.

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Item # 3 Citizens to be heard concerning items not on the agenda

There were no citizens that signed up to speak.

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Items for Individual Consideration

Item # 4 Mayor Cooper read the following caption.

RESOLUTION NO. 2015R - 072

A Resolution approving an interim operating agreement with Rasier, LLC (UBER) for ride-sharing services and authorizing the City Manager to execute all documents related thereto

Assistant to the City Manager Marian Vargas made a PowerPoint presentation that included background information.

Ms. Vargas referred to Uber as a vehicle for hire, a transportation network company and/or ride-sharing network. She stated the interim operating agreement permits Rasier to operate within the City of Alamo Heights subject to conditions and restrictions within the agreement until the City adopts rules addressing ride share networks services. Ms. Vargas explained the process in which Rasier operates as a transportation organization that matches drivers and riders on a prearranged basis through the Uber platform for trips provided by a "Rasier Partner Vehicle".

A motion for approval was made by Mayor Pro Tem Bobby Rosenthal. The motion was seconded by Councilmember Lynda Billa Burke and passed by unanimous vote.

Item # 5 Mayor Cooper read the following captions.

ORDINANCE NO. 2015

Public Hearing and consideration of a request by Broadway Ellwood, LLC as authorized by Section 16-105 of the Code of ordinances to close, vacate, abandon, and sell the following parcels for the purpose of mixed-use development:

Parcel 1 being a 0.370 acre, or 16,132 square feet more or less, tract of land out of Ellwood Avenue right-of-way dedicated in the Alamo

Heights subdivision recorded in Volume 105, Pages 4-10 of the Deed and Plat Records of Bexar County, Texas, said 0.370 acres being out of the W.E. Howeth Survey 4, Abstract 306, County Block 4024, said Howeth Survey 4 now all in the City of Alamo Heights, Bexar County, Texas

Parcel 2 being a 0.152 acre, or 6,606 square feet more or less, tract of land out of the Old Kampmann Avenue right-of-way dedicated in the Alamo Heights subdivision recorded in Volume 105, Pages 4-10 of the Deed and Plat Records of Bexar County, Texas, said 0.152 acres being out of the W.E. Howeth Survey 4, Abstract 306, County Block 4024, said Howeth Survey 4 now all in the City of Alamo Heights, Bexar County, Texas

Parcel 3 being a 0.082 acre, or 3,569 square feet more or less, tract of land being out of the Austin Highway right-of-way established in 1933 for State Highway 2, U.S. 81, Loop 368 under Project NRH-M-31-P II & III, said 0.082 acres being out of the 12-foot Alley of Block 67 of the Alamo Heights Subdivision recorded in Volume 105, Pages 4-10 of the Deed and Plat Records of Bexar County, Texas, and a portion of Old Kampmann Avenue now in said Austin Highway right-of-way, all in City Block 67 of the City of Alamo Heights, Bexar County, Texas and being out of the W.E. Howeth Survey 4, Abstract 306, County Block 4024, said Howeth Survey 4 now all in the City of Alamo Heights, Bexar County, Texas

Parcel 4 being a 0.040 acre, or 1742 square feet more or less, tract of land, being out of the Austin Highway right-of-way established in 1933 for State Highway 2, U.S. 81, Loop 368 under project NRH-M-31 P. II & III, said 0.040 acres being out of the north portions of Lots 16-20, Block 67 of the Alamo Heights subdivision recorded in Volume 105, Pages 4-10 of the Deed and Plat Records of Bexar County, Texas, said lots conveyed to Bexar County and now in said Austin Highway right-of-way, said Lots 16-19 (north ½) acquired from P.T. Smithey in instrument recorded in Volume 1379, Pages 415-416, said Lot 20 acquired from Fay Louise Campbell in instrument recorded in Volume 1365, Pages 194-195 and D.A. Saffarrans (Trustee) in instrument recorded in Volume 1361, Page 417-418 of the Deed Records of Bexar County, Texas. Said 0.040 acres being out of the W.E. Howeth Survey 4, Abstract 306, County Block 4024, said Howeth Survey 4 now all in the City of Alamo Heights, Bexar County, Texas.

Parcel 5 being a 0.023 acre, or 1,016 square feet more or less, tract of land being out of the Austin Highway right-of-way established in 1933 for State Highway 2, U.S. 81, Loop 368 under project NRH-M-31 P. II & III, said 0.023 acres being out of the 12-foot Alley of Block 67 of the Alamo Heights Subdivision recorded in Volume 105, Pages 4-10 of the Deed and Plat Records of Bexar County, Texas, now in said Austin Highway right-of-way, all in City Block 67 of the City of Alamo

Heights, Bexar County, Texas, and being out of the W.E. Howeth Survey 4, Abstract 306, County Block 4024, said Howeth Survey 4 now all in the City of Alamo Heights, Bexar County, Texas

Item # 6

Public hearing and consideration of a request by Broadway Ellwood Co, LLC for approval of a Specific Use Permit (SUP) that includes public right-of-way (approximately 0.667 total acres including 0.370 acres of Ellwood Avenue; 0.082 acres of Ausway Lane right-of-way; 0.040 acres of Ausway Lane right-of-way; 0.023 acres of Ausway Lane right-of-way; and 0.152 acres of Old Kampmann Avenue right-of-way) and private property (approximately 0.84 total acres located at CB 4050, Block 67 Lots 1 thru 15) for a proposed mixed use project to allow for the following: 1.) a restaurant/retail uses 2.) a density of one unit per 437.6 square feet; 3.) no front setback; 4.) no side setback; 5.) five (5) feet rear setback; 6.) eighty (80) percent lot coverage; 7.) a height of up to fifty six (56) feet and four (4) stories; 8.) an off-street parking ratio for multi-family of 1.5 spaces per unit plus thirty seven (37) for the restaurant totaling two hundred and sixty two spaces (262) with two hundred and fifty three spaces (253) provided in the parking garage; 9.) a reduction in parking stall size from 9 ft. x 20 ft. to 9 ft. x 18 ft. and; 10.) landscape buffers on all sides (varies in width); 11.) no required alley or service easement on the property; 12.) Main entrance not located on Broadway or Austin Hwy.

Mayor Cooper announced the rules for tonight's presentation that included the applicant's presentation followed by a public hearing for no more than two hours. Council and audience are not to interrupt the applicant's presentation. He reminded the audience there will be no shouting or hand raising or you'll be asked to leave.

Community Development Services Department Director Jason Lutz presented Items # 5 and 6 as one PowerPoint presentation that included background information and site plan.

Mr. Lutz informed Council that Broadway Ellwood Co, LLC requested a Specific Use Permit (SUP) that included public right-of-way, which had been requested for abandonment, (approximately 0.667 total acres including 0.370 acres of Ellwood Avenue; 0.082 acres of Ausway Lane right-of-way; 0.040 acres of Ausway Lane right-of-way; 0.023 acres of Ausway Lane right-of-way; and 0.152 acres of Old Kampmann Avenue right-of-way) and private property (approximately 0.84 total acres) located at 5514 Broadway. He stated tonight's public hearings will consider the 1) abandonment request of public rights-of-way and 2) a specific use permit (SUP) for a mixed-use development allowing multi-family, retail, and restaurant land uses.

Mr. Lutz explained the necessary steps for the abandonment of the rights-of-way that included an easement since public utilities are located in Ausway Lane. The property must be replatted and the easement would be provided on the plat for public

utilities. The Planning and Zoning (P&Z) Commission conducted a public hearing on this request on March 2, 2015 and the abandonment request was presented on April 6, 2015. P&Z recommended approval of requested abandonments for parcels 3-5. P&Z recommended the abandonment of parcel 1, with the condition that the developer find a way to keep Ellwood open as a functioning street with a minimum pavement width of 26'. P&Z recommended the abandonment of parcel 2 (located in floodway), with the condition of approval by the San Antonio River Authority (SARA) and Federal Emergency Management Agency (FEMA) prior to the abandonment. Staff received six responses in support and fourteen responses in opposition.

Mr. Lutz identified the project as he presented the site plan and provided information on the SUP request. The SUP consisted of 1) mixed use (restaurant/retail uses); 2) multi-family uses with a density of 100 units per acre - maximum of 150 units; 3) no front setback; 4) no side setback; 5) five feet rear setback; 6) 80% lot coverage; 7) a height of up to 56 feet (4 stories); 8) an off-street parking ratio for multi-family of 1.5 spaces per unit plus thirty-seven (37) for the restaurant, totaling two hundred and sixty-two (262) spaces with two hundred and fifty-three (253) spaces provided in the parking garage; 9) a reduction in parking stall size from 9'x20' to 9'x18'; 10) landscape buffers on all sides (varies in width); 11) no required alley or service easement on the property; and 12) main entrance not located on Broadway or Austin Highway. P&Z conducted a public hearing on March 2, 2015 and considered the request on April 6, 2015.

P&Z recommended approval of the SUP request with the following modifications, conditions, and findings: 1) approved the mixed use development (multi-family, retail/restaurant); 2) multiple family dwelling three-stories and over: 12,000 square feet for first ten units plus 600 square feet for each added unit; 3) a) 20% unit bonus based on the provision of underground parking and b) the inclusion, in the calculation of overall site SF, of the triangular public green space that is bounded by Broadway, Austin Highway and the adjacent proposed project property line; 4) the project must not include more than 150 units, the developer had pledged to improve and maintain the public green space for 40 years; 5) setbacks shall be as follows: along Broadway: 0', along Austin Highway: 0', along Ellwood (from Fenimore to Old Kampmann Road): 8', along Kampmann: 0', along Ellwood (between Broadway and Fenimore): 0'; 6) project may built to the minimum setbacks, as indicated, along each street, up to a maximum of 80% lot coverage; 7) one and a half (1.5) parking spaces per apartment unit, and in addition, the project must fully comply with existing code requirements for off-street parking spaces for retail and restaurant uses; 8) parking stall sizes of 9'x18' with minimum 24' drive lanes; 9) along each street, the areas between the building and the property lines must be fully landscaped, with not more than 40% of these areas to receive impervious cover (to minimize water usage, all landscaping must use native and adaptive species per LEED guidelines); 10) no alley or service easement required; 11) main entrance (retail/restaurant) on Broadway and main entrance (apartments) on Ellwood; 12) at the applicant's expense, overhead utilities located within the area bounded by Broadway, Austin Highway, and Ellwood Avenue, as shown on the diagram presented on April 6, 2015 must be buried; 13) along each street, the project must provide: a) a minimum 5' continuous planting strip adjacent to the curb, b) canopy

trees planted 20' to 25' on center within the planning strip (or where there is continuous pedestrian paving in front of retail/restaurant uses on Broadway), c) canopy trees planted within minimum 5'x8' tree openings; 14) a minimum 6' wide pedestrian sidewalk that is parallel to the curb and located between the planting strip (or tree openings) and the building; 15) project must employ "dark sky" lighting fixtures including any exterior building lights and pedestrian/street lights; 16) project must manage on-site storm water so as not to increase the quantity of storm water leaving the property, as measured from a baseline condition when four structures and driveways previously stood on the property; 17) project must purchase additional perpetual water rights of at least 18.43 acre feet from the Edwards Aquifer Authority; project must include all expected uses (residential/retail/restaurant/pool) in its estimated usage and purchase consistent with the project's estimated water usage analysis, the project must use low-flow water efficient plumbing fixtures and high efficiency drip irrigation systems; 18) project must pursue and achieve LEED certification at the level of LEED certified or better and periodic progress reports must be submitted in the form of updated LEED scorecards and comments to City staff and P&Z at 100% Design Development, 100% Construction Documents, 50% Construction, substantial completion, and upon formal certification by USGBC; 19) project must be documented and constructed consistent with the design intent, materials, and overall quality illustrated in the site plan, elevations, sections and renderings presented to P&Z on March 2nd and April 6, 2015; 20) during all phases of construction, the owner/contractor must provide off-street parking for construction workers and sub-contractors at a suitable off-site or on-site location approved by the Director of Development Services, parking by construction workers on neighborhood streets is prohibited; 21) during all phases of construction, all deliveries, trucks, and heavy equipment must arrive and depart from the construction site using Austin Highway only; construction access to the site via Fenimore Avenue and Broadway is prohibited; and 22) garage exhaust fans must not be located on Ellwood Street. Staff received six in support of the project and fourteen in opposition.

Mr. Lutz introduced the John Burnham, Managing Director, Argyle Residential. Mr. Burnham identified the partners in the project: Argyle Residential, developer; Pape-Dawson, civil engineer, and Overland Partners Architects and Good Fulton & Farrell as architects.

Mr. Burnham presented project information. The proposed site plan was presented that identified ownership of parcels. Mr. Burnham explained the setbacks along Ellwood had increased since the presentation made to P&Z on April 6, 2015. The project consists of 150 apartment units, 276 parking spaces (255 in garage 21 at grade), 175,000 square foot (sf) of residential, 5,100 sf of ground floor retail, and 7,000 sf of ground floor amenity space. The project's proposed floor-to-area (FAR) ratio is 3.0 and the lot coverage is at 80%. Floor plans were briefly presented. Photos of local and national structures were presented that represented the applicant's vision, to enhance the public realm. Elevations were presented for enhanced greenspace and the applicant shall maintain greenspace after 40 years after SUP approval. He shared 17 parking spaces will be located on Fenimore. Photos of the proposed interior within the apartments were

presented that highlighted 10-foot ceilings, granite tabletops, 42-inch cabinets and washer/dry sets for the proposed luxury apartments.

Mr. Burnham reviewed P&Z's summary of the project: land use: (MF-D), density: 20% bonus for underground parking; add the triangle park into density calculation if purchasing or maintain the parcel as public open space; front set back: 0' on Broadway and Austin Highway; side set back: 0'; rear set back: 8' maximum lot coverage: 80%; height: 56' and parking ratio: 1.5 space/unit for residential parking. He confirmed that they accepted P&Z's recommendations.

Mr. Burnham stated the community's feedback was heard as well as the Boards and Commission. He noted the challenge in the right-of-way and private property ownership of interested properties. He shared the importance of pedestrian connectivity and Mr. Burnham explained that Ellwood will continue to be open which required the project to be realigned. He briefly shared information about the opportunity to increase surface parking. Ten spaces along Circle is gained, net increase of 10 spaces by converting existing parallel spaces into head in spaces along Fenimore, and 51 parking spaces in the Paloma Blanca restaurant parking lot. He explained the need to have an additional landscape buffer, maintaining the heritage oak tree located on the southern end of Paloma Blanca restaurant parking lot, not pushing the right-of-way north. Mr. Burnham shared 4,000 gross square feet was lost and of that amount, 1,000 square feet loss was identified in commercial, residential, leasing office, and amenities due to new alignment. He concluded the presentation with the many benefits of the project and stated the project is a catalyst of the revitalization of Broadway, to the City and the Alamo Heights Independent School District (AHISD).

Mr. Burnham requested Council hear a group of five individuals that represent the overall support of the project as they condensed their comments for the benefit of time and repetition. He commented there are at least 50 supporters present and obtained support from 380 individuals on their website. There was a brief discussion among Council regarding process of "Citizens to be heard". They agreed to allow Lori Becknell, Chair of P&Z to share her comments and thereafter citizens to be heard to include a group of five individuals representing support for the project.

Lori Becknell, Chair, P&Z, thanked Mr. Burnham and Broadway Ellwood LLC for listening to P&Z. She thanked P&Z members for dedicating themselves on their position and responsibilities. She informed Council that P&Z agreed keeping Ellwood open, addressing flooding issues, and alignment with the Comprehensive plan which are desired for quality commercial development in Alamo Heights which generated modifications to allow the project to go forward.

Mayor Cooper opened the public hearing at 6:27 p.m.

There were forty-four (44) individuals that came to speak on this matter. Fifteen (15) citizens were in support of the project and twenty-nine (29) citizens were in opposition of the project.

Mayor Cooper thanked the public for their comments and closed the public hearing at 8:02 p.m. Councilmember Billa Burke noted that supporters of the project gave up their time in order for those opposing to be heard. Mayor Cooper announced a break at 8:05 p.m. and Council reconvened at 8:15 p.m.

Mayor Cooper invited Sam Dawson, CEO, Pape-Dawson, to share his expertise as citizens had expressed their concern regarding flooding.

Mr. Sam Dawson, referenced Article VIII of the City of Alamo Heights Code, and stated the project will satisfy requirements outlined in Chapter Seven of the City of Alamo Heights Code when completed. He noted there are multiple checks and balances for approval. He stated the following entities will review the documents on the project: SARA, FEMA and City of Alamo Heights. He commented that he would address the community's concerns. Mr. Dawson stated the terms "floodway" and "floodplain" are synonymous within the community because the City of Alamo Heights is a zero rise community which means that whatever development is proposed the water surface will not be increased. Mr. Dawson provided an example of a filled bath tub and the amount of water displaced by a rock. He stated the project captures an equal amount of water that is displaced by development in the floodplain. He explained the project has ½ of an acre of increase due to increased impervious cover which increases runoff. Mr. Dawson stated there are plans to install two vaults; one is to capture displacement of the building and another to capture the increase of impervious cover. The development is committed to capture the volume of the increased runoff and not discharging it during the flood event so there is no increase from the project during a 100-year storm.

Council asked Mr. Dawson questions related to the process of assurance of the Mobil property being flooded, water being displaced, documentation review by SARA and FEMA, and complications with the building encroaching a 100-year flood plain. Councilmember Bobby Hasslocher expressed concern on the possibility of flooding.

Mr. Dawson responded there are checks and balances to ensure a property will not be flooded. He stated SARA and FEMA will review the consultant's reports for the project and could take a minimum of 9 months up to a year to obtain amended maps. He commented that properties outside a 100-year area are not declared within 100-year flood plain. Mr. Dawson stated there will be no impact to the property with the building encroaching a 100-year area. He explained the difference between floodway and flood plain. Mr. Dawson emphasized the project does not impact any flooding and stated there is no hesitation from a drainage perspective not to develop the proposed project.

Mr. Burnham commented that Freese & Nichols had reviewed the engineer's report and shared that they will meet SARA and FEMA's requirements.

Mayor Pro Tem Rosenthal asked Fire Chief Buddy Kuhn to express his concerns and thoughts on public safety. He also asked if one ladder truck can address a fire for a building with that capacity.

Fire Chief Kuhn responded to Mayor Pro Tem Rosenthal that an alternate option was provided by the developer. He stated keeping Ellwood open at a width of 26' and the developer committing to other requested conditions is an improvement to public safety. He stated the proposed building is not a fire hazard to the neighbors as some had indicated, and noted it would be a state of the art project to include fire sprinkler and fire alarm systems. After concerns arose that the Fire Department may need an additional ladder truck to protect this building, Fire Chief Kuhn stated that purchasing an additional ladder truck was too expensive and unnecessary, a joint pool of adjoining communities' firefighting resources can assist in controlling a fire.

Councilmember Prassel asked Mr. Burnham the possibility of parking a large vehicle into a parking stall.

Mr. Burnham responded that they considered a combination of oversized parking spaces and small cars.

Mayor Pro Tem Rosenthal asked P&Z members regarding the P&Z meeting in which the item was considered. He asked about the maintenance of the green space, the right turn lane heading coming from Austin Highway heading north, and the redesign of the project.

Ms. Becknell shared that earlier presentations included additional details with specific information and consisted of longer PowerPoints compared to tonight's presentation. Jim Taylor, P&Z member, added that the first presentation was made by developer and 11 topics of concerns were identified. He stated then the developer responded to the concerns at the next presentation. Mr. Taylor stated the maintenance of the green space was not discussed and commented the 40-year maintenance commitment of the green space was assumed that it was coordinated with the City and defer a final decision to Council and City Attorney.

Mr. Taylor responded to Mayor Pro Tem Rosenthal that the engineer's recommendation was accepted, noting that it will improve traffic related to the right turn from Austin Highway. He shared that P&Z failed to include in their motion the project would follow the recommendations of the traffic impact analysis and the project would pay for the improvements for a right turn lane and changes in signalization. He recommended Council reattach the right turn during consideration. Mr. Taylor stated P&Z did not see the redesign and stated it will allow the City to address.

Mr. Burnham stated Fire Chief Kuhn physically took the ladder truck for the testing of movement and was satisfied with the right turn. He shared a video was taken of the exercise.

Councilmember Billa Burke stated she attended the P&Z meetings and thanked P&Z for working diligently and asking questions. She highlighted that the boards and commission members are volunteers that are residents too.

Mayor Pro Tem Rosenthal asked about Architectural Review Board's (ARB) comments/concerns.

Mr. Lutz shared that ARB expressed the design was good and sought specific information related to landscape/irrigation plans, and building samples after presented to Council.

Mayor Pro Tem Rosenthal asked about the parking on Fenimore, extra spaces and measurements of the street.

Mr. Lutz stated the parking is at the developer's expense and the developer would cut into the drive-way between Paloma Restaurant parking lot and provide head-in parking spaces. Mr. Burnham stated the amount of parking spaces was net 8 with the closure of Ellwood and now it is a net gain of 7 parallel parking spaces. He summarized that new parking spaces were lost with the new configuration.

Mayor Cooper asked Mr. Burnham to clarify the amount of land to purchase since Ellwood would be open and amount of purchase.

Mr. Burnham responded to Mayor Cooper that the total amount of land desired for purchase is now approximately 4,000 less square feet. He stated the abandonment of less property is in Parcel 1 while keeping Ellwood open. Mr. Burnham stated the purchase rate would be at Council's discretion and commented the developers are willing to pay more than the appraised value.

Mayor Pro Tem Rosenthal inquired about the maintenance of the greenspace and the owners' involvement during the construction of the project.

Mr. Burnham responded the maintenance of the greenspace could be considered perhaps under a maintenance agreement. He acknowledged that he would like the City to keep the triangular green space. He noted that Argyle Residential are general partners during the transaction and Broadway Ellwood LLC would be limited partners.

There was a brief discussion among Council regarding the appraisal process of the desired properties. City Manager stated the process was initiated and the report resulted in the appraisal. Mr. Taylor added that he researched appraisal values and shared that if the market value is not utilized then the property value of the adjacent property may be utilized to establish a purchase rate. Councilmember Billa Burke suggested \$20 per square feet and stated it is higher than the appraisal value. Councilmember Hasslocher asked Mr. Lutz the calculation used to set a base amount for the sale of the properties. Mr. Lutz explained the calculation process and noted he used the adjacent properties which consist of properties of Paloma Blanca Restaurant and Trey King Realty to incorporate an average that resulted the amount of \$18.33 per square feet. Mr. Burnham noted parcel # 5 shall be excluded from the sale and included part of the triangular green space. Councilmember Billa Burke called the question for the price of the desired properties.

A motion was made by Councilmember Billa Burke for the City to accept a price of \$20.00 per square foot for abandonment of all five parcels and payment for the parcels will occur at the time they are usable by the developer. The motion was seconded by Councilmember John Savage. The vote was as follows: Ayes: Mayor Pro Tem Rosenthal, Councilmembers Prassel, Billa Burke, and Savage; Nays: Councilmember Hasslocher. The motion carries.

Mayor Cooper asked about the construction of the garage and amount of time for the entire project.

Mr. Burnham estimated that excavation is a 15-week exercise averaging 40 trucks a day, entering and exiting off Austin Highway/Ausway. He stated an opaque fence will shield the construction and as a courteous gesture to the neighbors. Mr. Burnham stated there is no construction activity for the first 12-18 months to allow coordination with SARA/FEMA and building review. He noted construction is most likely a 20-month duration.

Mr. Brenan stated he provided Council two different motions based from P&Z meeting and an alternate motion that includes amendments. Council reflected on consideration of a motion.

Councilmember Lynda Billa Burke stated the proposed zoning motion recommending approval of a SUP for Broadway Ellwood, LLC (hereinafter referred to As "LLC") and the abandonment of public right-of-way for the SUP. I move that the petition of LLC to acquire Parcels 1, 2, 3, 4 (not currently owned by the city) and 5 (described by metes and bounds in the attached surveys) from the City of Alamo Heights (hereinafter referred to as "City" be approved because the closure, vacation or abandonment of such tracts of land would be in the public interest and will not materially and substantially impair the access of all property owners which abut the tracts to abandoned, provided however that (1) all other City approvals for the entire project are granted, (2) the Texas Department of Transportation releases the Austin Highway designation for the tracts now included in the Austin Highway right-of-way, (3) easements for any existing and projected utilities in the abandoned tracts are established, (4) the LLC indemnifies the City against all loss, cost, liability, or expense (including attorney fees) arising from or relating to the granting of the rights granted to LLC herein (including the Specific Use Permit granted herein) for LLC's exercise of such rights, including acts constituting the City's own negligence, in a form approved by the City's attorney, (5) a title report is issued by Presidio Title Company identifying the abutting property owners, 6) accurate surveys of the tracts to be abandoned acceptable to the City are furnished to the City at LLC's expense, 7) the abandoning ordinance shall provide that the tracts abandoned shall be sold to the abutting property owners in proportion to their abutting ownership, (8) the LLC pays to the City \$20 per square foot, which the City has determined to be the fair market value of the land, for the area of the tracts abandoned, except that they roadway described in 12 hereafter shall be excluded from the abandonment and payment requirements (9) the Mayor shall be authorized to execute a deed without warranty conveying the abandoned tracts, which deed shall contain all

reservations and exceptions shown in the title report, and including all restrictions, covenants, conditions, easements, rights-of-way and prescriptive rights (whether recorded or not), all recorded reservations, existing utilities, and zoning and other laws affecting the tracts to be abandoned, (10) the proceeds of the sale of the abandoned tracts shall be used only for the acquisition and improvement of property for the same uses as that sold, (11) Bexar County's interest in any property abandoned herein has been conveyed to the City, (12) the LLC constructs at its sole expense a 26 foot street to City standards for a two-way connective roadway out of Parcel 1 between Fenimore Avenue and Broadway in a location acceptable to City, and (13) prior approval for the construction of improvements by LLC on Parcel 2 is obtained from FEMA and SARA.

As part of the same motion, the LLC shall be granted a Specific Use Permit, as authorized by Section 3-87 of the Zoning Code, for development of a multi-family and restaurant/retail project on approximately 1.5 acres of property bounded by Broadway Street on the west, Ellwood Avenue on the north and Austin Highway on the east, as follows: (a) ground level retail/restaurant uses with such uses to have their main entrance on Broadway and apartments with their main entrance on Ellwood Avenue, (b) the multiple family apartment structure shall be limited to ten units for the first 12,000 square feet of land, plus one additional unit for each additional 600 square feet of land, including the land included in the triangular green space that is bounded by Austin Highway and the alley north of such area, plus a bonus of 20% more units because underground parking is being furnished, provided in no event shall the project include more than 150 apartment units, (c) no setbacks along Broadway, Austin Highway, Ellwood/Kampmann and Ellwood west of Fenimore Avenue, (d) an 8 foot minimum setback along Ellwood east of Fenimore Avenue, (e) a maximum of 80% lot coverage for the structure, (f) a maximum of 4 occupied stories, as defined and required by City of Alamo Heights Zoning Code, and a maximum height of 56 feet as defined and required by City of Alamo Heights Zoning Code, (g) an off-street parking ratio for multi-family of 1.5 spaces per apartment unit plus compliance with the existing code for the restaurant and retail uses, (h) parking spaces must be a minimum of 9 feet by 18 feet with a minimum 24 foot drive lane in the garage, except the minimum drive lane in the garage shall be 22 feet where parking is provided on only one side of the drive lane, (i) the areas between the building and the property lines must be fully landscaped along each street, with not more than 40% of such areas to receive impervious cover, and to minimize water usage, all landscaping must use native and adaptive species per LEED guidelines, (j) along Broadway and Austin Highway, the project must provide a minimum of 5 foot continuous planting strip adjacent to the curb; canopy trees planted 20 feet to 25 feet on center within the planting strip (or, where there is continuous pedestrian paving in front of retail/restaurant uses on Broadway, canopy trees planted within minimum 5 foot by 8 foot tree openings); and a minimum 6 foot wide pedestrian sidewalk that is parallel to the curb and located between the continuous planting strip (or tree openings) and the building; and along Ellwood to Fenimore trees shall be planted 20 feet to 25 feet on center within the parallel on-street parking areas with a minimum 5 feet of continuous sidewalk (if there is an Ellwood connection roadway between Broadway and Fenimore, a minimum of 5 feet continuous sidewalk is required, (k) no required alley or service easement on the property, (l) the LLC shall at its expense bury all overhead lines located

within the area bounded by Broadway, Austin Highway and Ellwood Avenue as shown on the diagram presented to the City on April 6, 2015, (m) the project must employ “dark sky” lighting fixtures, including any exterior building lights and pedestrian/street lights, (n) LLC must manage on-site storm water so as not to increase the quantity of storm water leaving the property, as measured when four structures and driveways previously stood on the property, (o) LLC must pay for the installation of any infrastructure, such as water and sewer connections or enhancements, required to support the project, (p) LLC must pursue and achieve LEED certification at the level of LEED certified or better, and must submit periodic progress reports, in the form of updated LEED scorecards and comments, to City staff and the Planning and Zoning Commission at 100% Design Development; 100% Construction Documents; 50% Construction; Substantial Completion; and upon formal certification by USGBC, (q) the project must be documented and constructed consistent with the design intent, materials, and overall quality illustrated in the site plan, elevations, sections and renderings presented to the Planning and Zoning Commission on March 2, and April 6, 2015, (r) during all phases of construction, LLC must provide off-street parking for construction workers and sub-contractors at a suitable off-site or on-site location approved by the Director of Development Services, and parking by construction workers on neighborhood streets is prohibited, (s) during all phases of construction, all deliveries, trucks and heavy equipment must arrive and depart from the construction site using Austin Highway only with construction access to the site via Fenimore Avenue and Broadway prohibited, and (t) parking garage exhaust fans must not be located on Ellwood Avenue.

This SUP is expressly subject to additional processes and approvals, including (1) the abandonment and sale of the tracts of land described hereinabove, (2) the replatting of the property upon which the Project will be constructed, (3) approval of the architectural design of the Project, (4) issuance of a flood plain development permit, and (5) satisfaction of other governmental requirements. This SUP may be terminated by the City if the project is not constructed precisely as authorized herein, or is assigned to another entity other than an entity that includes in its ownership Argyle Interest, LLC, Delaware before it is completed and substantially occupied, provided that if the project is assigned to an entity that includes in its ownership Argyle Interests, LLC, Delaware, the assignee shall assume all rights, responsibilities and obligations related to the approval of the ordinance, including, without limitation, the obligation to indemnify the City noted above. If all forgoing conditions are not fulfilled within thirty-six (36) months from the date of this SUP, the SUP shall automatically expire unless renewed by the City Council of the City of Alamo Heights for good cause, such as delays caused by others opposed to the project. The conditions herein are developer performance conditions and not a contract between Broadway Ellwood, LLC and the City of Alamo Heights in which the City has abrogated its legislative zoning authority. This SUP is declared to be unique for a location within a radius of 500 feet of the northeast corner of Broadway and Austin Highway on a tract of land containing at least 1.4 acres of land and shall not be any sort of precedent for another SUP in the future. Approval of the SUP does not imply that the City is obliged in any manner to approve the developer’s architectural design, flood plain development and other governmental conditions.

As part of this motion, Section 3-87 of the Code of Ordinances shall be amended to include a new Subsection (20) which authorizes the SUP provisions recommended above.

As part of this motion, the terms approved herein shall be memorialized in an ordinance to be approved in form and content by the Mayor, City Secretary, City Attorney and City Manager. The ordinance shall not be returned to the City Council for further approval. The ordinance shall not be severable, so that any part of it declared to be invalid will invalidate the entire ordinance.

City Attorney Mike Brenan stated there were several amendments that needed to be discussed and made suggestions:

He referenced (b) and suggested additional language, “the reconfigured Ellwood Avenue right-of-way plus”. It should state, (b) the multiple family apartment structure shall be limited to ten units for the first 12,00 square feet of land, plus one additional unit for each 600 square feet of land, including the land included in the reconfigured Ellwood Avenue right-of-way plus the triangular green space, that is bounded by Broadway, Austin Highway and the alley north of such area, plus a bonus of 20% more units because underground parking is being furnished, provided in no event shall the project include more than 150 apartment units. Council agreed.

Mr. Brenan referenced (l) regarding overhead utilities and asked the developer to further explain as the developer informed Mr. Brenan that he did not commit to that condition. Mr. Burnham stated he understood the removal and noted the challenge of burial of utilities across a TxDOT street. Mr. Taylor acknowledged that all new utilities will need to be buried and encouraged drawings of the utility be included as exhibits to the SUP. Mr. Brenan suggested new language, (l) the LLC shall at its expense bury “new overhead utilities and remove and/or relocate overhead utilities” located within the area bounded by Broadway, Austin Highway and Ellwood Avenue as shown on the diagram presented to the City of April 6, 2015. Council and Mr. Burnham agreed.

Mr. Brenan suggested new language for (0) to read, LLC must pay for installation of any infrastructure, such as water, sewer, “and storm water” connections or enhancements, required to support the project, “and provide all mitigation measures outlined in the traffic impact analysis”. Council agreed.

Involvement related to Argyle Interests, LLC was inquired and (5) was referenced. Mr. Brenan suggested, (5) satisfaction of other governmental requirements. This SUP may be terminated by the City if the project is not constructed precisely as authorized herein, or assigned to another entity other than an entity that is “owned or controlled by principals of” Argyle Interest, LLC, before it is completed and substantially occupied, provided that if the project is assigned to an entity that “is owned by or controlled by principals of” Argyle Interests, LLC, the assignee shall assume all rights, responsibilities and obligations related to the approval of the ordinance, including,

without limitation, the obligation to indemnify the City noted above. Council and Mr. Burnham agreed.

Mayor Pro Tem Rosenthal and Councilmember Prassel recommended changes to (h) regarding parking spaces. Mr. Brenan suggested a one for one swap for large/small vehicles. Council agreed.

Mayor Pro Tem Rosenthal made the following suggestions to include a new bullet, "(u) fencing and screening covering the project at all times during construction". He referenced (5) related to conditions not fulfilled and Mr. Burnham expressed concern on time of construction. Mayor Pro Tem Rosenthal suggested, If all of the foregoing conditions are not fulfilled within thirty-six (36) months from the "start of construction", the SUP shall automatically expire unless renewed by the City Council of the City of Alamo Heights for good cause, "and shall be extended on a day-to-day basis based on any delays caused by others opposed to the project". Council and Mr. Burnham agreed.

Mr. Brenan inquired about parking on Fenimore and Circle Street and assumed it was at the developer's expense. Mr. Burnham confirmed; however, noted it needed to be amended since Ellwood will remain open and acknowledged improvements committed at P&Z meeting and expressed concern regarding absorbing all costs with modified reconfiguration. Mr. Taylor suggested the redesign of the street be returned for P&Z consideration and suggested an additional condition. He added the City may consider an opportunity to improve this area. There was a brief discussion among Council and Mr. Burnham regarding consideration of this portion separately and cost. Mr. Brenan suggested adding a new bullet, (v) add "LCC will pay for enhanced parking space on Fenimore and Circle as presented to P&Z minus the two parking spaces as depicted on exhibit". Council and Mr. Burnham agreed.

Mr. Brenan suggested "LLC commence to maintain or ground lease the triangular green space on terms acceptable to the City". There was a brief discussion among Council and agreed that LLC maintains triangular green space on the day of construction. Mr. Burnham suggested additional language "and the City acquiring fee interest on the triangular green space". Mr. Brenan agreed.

The purchase of water rights was briefly discussed. Mr. Burnham stated the developer agreed to the purchase of water rights however noted that any future projects should be treated the same as with this request to the developer. Ed Kopplow, developer, expressed that the city's investment is paid within two or three years time and asked for reconsideration. Council discussed about additional water rights, applicable fees, and provisions. Mr. Brenan suggested the developer to agree for now and modify once thorough information is obtained. Mr. Kopplow and Council agreed.

Discussion continued regarding what the applicant agreed to and requests. Mr. Burnham expressed concern of the lack of information which will change the calculation heights and average grade of the site. He stated for the purpose of lot coverage and height provision, requested parcel 1 be allowed to be considered as it was before. Mr.

Brenan suggested this request be considered at another meeting as it was not properly noticed. Mr. Burnham changed his mind and stated he will make it work and withdrew his request. He asked Council the triangular green space serve as a construction easement and noted it is standard practice for adjacent property to serve construction sites. Mayor Cooper asked how the developer would protect the trees on the triangular green space during construction. Mr. Burnham explained the fence would cover the tree roots. Mayor Pro Tem Rosenthal suggested a construction easement on Ausway to preserve green space. A temporary construction easement was proposed by Mr. Burnham. Council agreed a construction easement is not needed to be included in a SUP.

Mr. Taylor asked clarification on a streetscape on Ellwood, item (j).

Mr. Brenan explained to Mr. Taylor the additional language added under (j). Mr. Richard Archer, Overland Partners, explained the trade off for a private drive lane due to the modification of Ellwood extended at 26'. Mr. Archer explained that the original P&Z request as to find a way to keep Ellwood open as a functioning street. Multiple options were considered including a bridge or tunnel through the building allowing access via a private drive. Mr. Taylor stated that it should be public right-of-way. Mr. Lutz clarified that in order for that scenario to take place it would be a private drive with a public access easement. Mr. Taylor expressed in his opinion, Ellwood is a critical street that serves between the project and be a great street. Council agreed this topic be discussed at another time.

Councilmember Billa Burke called the question and requested a vote for the motion on the floor to include Mr. Brenan's modifications. The vote was as follows: Ayes: Mayor Pro Tem Rosenthal, and Councilmembers Prassel, Billa Burke, and Savage; Nays: Councilmember Hasslocher. The motion passed.

Item # 7 Mayor Cooper read the following caption.

Public hearing, consideration, and action concerning the following amendments to the zoning code: 1.) Amendment to Sec. 3-2 of the Zoning Code "Definitions" to delete the definition "Retail shops and stores other than listed"; 2.) Amendment to Sec. 3-2 of the Zoning Code "Definitions" to add the definitions "Retail General"; 3.) Amendment to Sec. 3-2 of the Zoning Code "Definitions" to add the definition "Stores Other Than Listed"; 4.) Amendment to Sec. 3-8 of the Zoning code "Use of land and buildings" to delete from the Land Use Chart "Retail shops and stores other than listed"; 5.) Amendment to Sec. 3-8 of the Zoning Code "Use of land and buildings" to add the land use category "Retail General" to the Land Use Chart and to permit the land use, by right, in the B-1, B-2, and B-3 Districts; 6.) Amendment to Sec. 3-8 of the Zoning Code "Use of land and buildings" to add the land use category "Stores Other Than Listed" to the Land Use Chart and to permit the land use, by Specific Use Permit (SUP), in the B-1, B-2, and B-3 Districts

This item was postponed until further notice.

* * *

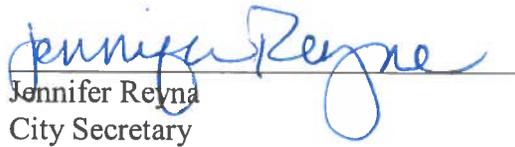
Closed Session

The City Council will convene into a closed meeting as authorized by Section 551.072 of the Texas Government Code to deliberate the value of real property for which a purchase request has been submitted.

Mayor Cooper announced a closed session was no longer needed.

* * *

There being no further business, a motion was made by Councilmember Prassel to adjourn the meeting. The motion was seconded by Councilmember Savage and passed by unanimous vote. Mayor Cooper adjourned the meeting at 10:49 p.m.


Jennifer Reyna
City Secretary



Louis Cooper
Mayor