

CITY OF ALAMO HEIGHTS
CITY COUNCIL
July 24, 2017

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, July 24, 2017.

Present and composing a quorum were:

Mayor Bobby Rosenthal
Mayor Pro Tempore Lawson Jessee
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 V. Mendoza
City Attorney Mike Brenan
Finance Director Robert Galindo
Community Development Services Department Director Jason Lutz
Human Resources Manager Lori Harris
Police Chief Rick Pruitt
Public Works Director Pat Sullivan

Absent were:

Councilmember Wes Sharples
City Secretary Jennifer Reyna

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Mayor Rosenthal opened the meeting at 5:30 p.m.

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Item # 1 Approval of Minutes

Mayor Rosenthal asked City Council for any revisions to the minutes of the June 26, 2017, Council Meeting. A motion was made by Councilmember Fred Prassel to approve the minutes of May 8, 2017. The motion was seconded by Councilmember John Savage and passed by unanimous vote.

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Item # 2 Citizens to be heard concerning items not on the agenda

Margaret Houston, resident, encouraged Council to vote wisely on upcoming construction projects as they can make long-term effects to the community.

Tiffany Long, Planning & Zoning Committee member, stated she moved into Alamo Heights because of the walkability. She commented walking on streets is becoming difficult due to developments and traffic. She observed congestion in the neighborhood, in particular Montclair, and there is a need of sidewalks for safety and to promote walkability for pedestrians and children riding their bicycles.

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Items for Individual Consideration

Item # 3 Mayor Rosenthal read the following caption.

Architectural Review Board Case # 670F, request of Keith Norman, applicant, representing JAS Development Corp., owner, for the compatibility review of the proposed replacement structure located at 320 Alta Ave. under Demolition Review Ordinance No. 1860 in order to construct a new single-family residence with detached accessory structure

Community Development Services Department Director Jason Lutz made a PowerPoint presentation that included background information, proposed site plan, photos, renderings, elevations, existing/proposed street views, and original/modified designs.

Mr. Lutz identified the project and stated the applicant is seeking to construct a new single-family residence with a detached accessory structure located at 320 Alta. Council approved the demolition of the previous structure on February 13, 2017. The existing and proposed Residential Design Standards (RDS) were reviewed. Building materials include stucco, board and baton (gable area), and a standing seam metal roof. The proposed site plan, renderings, elevations, and existing/proposed street views were presented.

On June 20, 2017, the Architectural Review Board (ARB) reviewed and approved the applicant's request with one condition: a simplified roof at the rear elevation to include the gable area. The proposed replacement structure's original/modified designs were presented. Mr. Lutz noted that changes to the roof were changed with the exception of the gable area because the design was part of the upper story of the structure. The roof lines now blend with other roofs within the community. Staff received one postcard in support of the project and none in opposition.

Councilmember Lynda Billa Burke thanked ARB in recommending the changes as she noted the community is losing their unique style of architecture.

Councilmember John Savage stated the neighbor at 324 Alta had expressed concern with flooding and the possible impact.

Mr. Lutz responded the drainage plan and grading noted no significant increase to impervious cover to trigger regulations. He stated flooding should not be an issue but will be monitored.

A motion for approval was made by Mayor Pro Tem Lawson Jessee. The motion was seconded by Councilmember John Savage and passed by unanimous vote.

Item # 4 Mayor Rosenthal read the following caption.

Resolution No. 2017R - 089

A Resolution in opposition to state legislative proposal to prohibit municipalities from enacting tree ordinances

Mayor Rosenthal stated he and Councilmember Billa Burke attended a local meeting with other entities that were in the similar stance of the proposed legislation and requested a presentation for a resolution to consider.

City Manager Mark Browne made a PowerPoint presentation that included background information of the upcoming proposed legislation.

Mr. Browne stated currently the legislation special session is considering prohibition of a city, county, or other political subdivision to enact or enforce any ordinance, rule, or other regulation that restricts the ability of a property owner to remove a tree or vegetation on the owner's property. Currently, the City of Alamo Heights has adopted local tree protection ordinances and mitigation program to protect the removal and replacement of heritage or larger trees. Mr. Browne stated research surfaced 50 cities within Texas have local ordinances for tree protection.

Mayor Rosenthal stated this action is to speak in opposition of the legislation. Councilmember Billa Burke added the citizens need to hear about this and encouraged citizens to call representatives about their concerns regarding this proposed legislation.

The following citizen spoke on this matter:

Bill Kiel, resident, shared that he called and mailed a letter to his representative. He stated trees are on every survey that residents are intrigued with.

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

Item # 5 Mayor Rosenthal read the following caption.

Architectural Review Board Case # 571F, request of James West, RA, of GFF Architects, applicant, representing AH MF Land, LP, owner, for the final design review of the proposed mixed-use development at

the properties located at 5514 Broadway and 200, 202, & 206 Ellwood (5500 Broadway), under Chapter 2 Administration for Architectural Review

Mayor Rosenthal stated items Nos. 5, 6, and 7 are related in regard to compliance with the Specific-Use Permit (SUP), final design, maintenance agreement and replat, and will be considered individually.

Community Development Services Department Director Jason Lutz made a PowerPoint presentation that included background information, proposed site plan and improvements on Circle and Fenimore, renderings, and elevations.

Mr. Lutz identified the project and stated the applicant is seeking to develop a four story mixed-use development consisting of multi-family and retail land uses. The properties are zoned Multi-Family District (MF-D) and located at 5514 Broadway, 200/202 and 206 Ellwood. The final design is based on the SUP and Right-of-Way (ROW) abandonment approved by Council on April 13, 2015.

The mixed-use development project includes 5,100 square feet retail and 150 unit apartment. There are 11 efficiencies, 82 one-bedroom, 45 two-bedrooms, and 12 three-bedrooms for a total of 219 bedrooms. Mr. Lutz reviewed the setbacks, lot coverage and building height. Parking requirements were defined: 150 units X 1.5 per unit equals 225 parking spaces and there are 17 parking spaces for retail calculated at 5,100 square feet divided by 300 square feet. There are a total of 259 off-street parking spaces provided and 242 are required. In addition, twenty-four parking spaces are provided on Circle and Fenimore based on proposed improvements.

The project has trees proposed in the public realm. Street trees are planted at 25' intervals around the property and along Fenimore. There is a requirement of 5' planting strip, 6' sidewalks along Austin Highway, and 10' sidewalks along portions of Broadway.

Mr. Lutz highlighted the soil retention system for the construction. A construction technique (insertion of rebar and grouted into place) that utilizes a series of anchors set below grade stabilizes soil walls during the excavation process. The City's engineer will review the soil retention system as part of the final review process. Due to setbacks on the site, the anchors may extend onto City property (triangular parcel) and public ROW. The contractor will need to coordinate with local utilities to prevent any damage to existing infrastructure. An agreement indemnifying the City may be executed by the City Manager. A proposed site plan and improvements on Circle and Fenimore were identified to display the reconfiguration of Ellwood to keep open to Broadway, off-street parking, and removal of grass area for parking onto pavement. Council requested 26' of street pavement for fire access and the applicant complied. Renderings on Broadway and Ellwood, and elevations were presented.

Staff made recommendations on the proposed improvements along Circle: 1) proposed 16' parking stalls designed for compact spaces be changed to 18' in depth. It

may be accomplished by pushing the sidewalk location back an additional 2'. Where there is insufficient row, sidewalks may be reduced from 5' to 3' provided they meet American with Disabilities Act (ADA) requirements. The goal of reconfigured parking spaces are to maintain adequate fire access through Circle to Fenimore. A map highlighted proposed parking improvements.

On June 20, 2017, ARB approved the final design of the project with the following recommendation: the original roof architectural feature be added back to the design. The architectural feature would not be habitable space and is for aesthetic purposes only. The code does not allow for architectural features to exceed maximum height (by a maximum of 8'). Staff received one postcard in support and eight in opposition of the request.

There were citizens that spoke on this matter regarding proposed roof architectural feature, importance of the architectural feature, grass/brick pavers for parking spaces, adherence to code in planting street trees, appropriate signage identifying unloading zone for Paloma Blanca Restaurant, flooding impact, impact to school, increased criminal activity, renderings available on the website, density, traffic congestion, a plan for construction traffic, noise study, occupancy number of apartment, and a plan for control and dust. Four citizens spoke in opposition of the project, two in support and three citizens expressed concern in relation to compliance to SUP and other expressed concerns.

Mayor Rosenthal asked Mr. Lutz about any issues regarding the SUP.

Mr. Lutz stated the plans that were submitted comply in its entirety on the architectural element with the SUP. He noted the ARB's recommendation on the additional feature does not comply with the SUP. Mr. Lutz noted comments on traffic control measures were received and being reviewed. He introduced John Burnham, Argyle Residential Developer, to answer questions.

John Burnham, Argyle Residential Developer, applicant, stated they are working with Rampart Construction to do what was promised related to construction, traffic, and off-street parking. He stated a lease across Austin Highway had been coordinated for lay down area and contractor parking. He explained excavation contractors will come from the north of Austin Highway head southbound looping back north. The construction traffic will remain off Broadway and neighborhood streets as outlined in the SUP. He emphasized this is an excavation construction project not blasting so a noise/vibration study is not required. He noted the soil is wet-like soil and streets will be cleaned and hosed down.

Mayor Pro Tem Jessee stated the stormwater prevention plan will be adhered to and asked what is the monitoring frequency.

Mr. Lutz responded to Mayor Pro Tem Jessee that the stormwater prevention plan will be monitored on a daily basis and a third-party contractor will assist with inspection as well.

Councilmember Prassel asked if the contractor found a location to redirect the limestone that surfaces.

Ben McGilton, Rampart Construction, Preconstruction Manager, responded to Councilmember Prassel that during excavation limestone is not expected; however, the contractor has identified sites to dump, purchase or possibly reuse limestone as part of the process. He stated moisture conditioning of existing soils will be conducted.

Mayor Rosenthal asked Mr. Burnham about the construction site.

Mr. Burnham stated the applicant committed to a 6' opaque fence on the entire construction site and may have a few areas that are taller than 6'.

Mayor Pro Tem Jessee asked Mr. Lutz if the applicant in compliance with tree planting. He also asked about the loading and unloading area for Paloma Blanca Restaurant.

Mr. Lutz provided confirmation that the applicant is in compliance and noted there may be a give and take related to driveways. He stated street trees around the project for the facility are tighter on Fenimore. He stated concerns at Paloma Blanca Restaurant are existing enforcement issues and noted work performed needs to be done early morning or after hours. Mr. Lutz stated he will need to talk to Mr. Richard Peacock, owner of Paloma Blanca Restaurant, regarding deliveries at the restaurant. He shared the drive-through lane will be eliminated in the future. He stated the applicant agreed to provide bigger parking spaces and label head in parking spaces "To Go".

Mr. Burnham stated he will review tree locations. He shared Mr. Peacock stated he will contribute tree shrubs on the property to keep some light that are trespassing from his property or his employees' vehicles onto neighbors' homes. He summarized Mr. Peacock is committed to being a good neighbor.

Councilmember Savage asked if grass or brick pavers are considered.

Mr. Burnham stated pavers were considered. He stated grass pavers do not work well; however, a synthetic may be considered. Brick pavers are an additional cost; creating a paver intersection for paver crosswalks is an option. He stated it is not wise to spend that much money on brick pavers and perhaps consider another option. Councilmember Savage added that it needs to look pleasant.

Mr. Lutz added staff is still reviewing the plan sets to ensure all items are addressed. He shared comments have been made and stated no permit will be issued until all items are in compliance.

Mr. Burnham stated the architectural feature was originally presented to match what was highlighted in the SUP. He noted due to the Technical Code the original architectural feature was not allowed and the architectural feature needed to shrink. He

commented the architectural feature was re-introduced and a recommendation by ARB was provided. He summarized the applicant would like to build with the original design intent with the larger architectural feature.

Jim West, architect and applicant began a PowerPoint presentation that contained a brief history of the project's process and highlights. In March 2015, the architectural tower feature is displayed in project renderings. In May 2017, the revised roof without the architectural feature is displayed as it was presented to ARB. He stated the architectural structure, at its peak is 12' above the 8' maximum allowed for features of this type. Councilmember Prassel noted the tower element (architectural feature) is a cupola. Mr. West stated it is a void with no habitable space or windows. He noted the arches have an accent color. He summarized it is 20' higher than the original design that portrayed the 8' architectural feature.

Mayor Rosenthal shared that ARB member Jill Souter submitted comments to him and read them. She commented lack of the tower element was alarming and she believes the tower should remain as it is complementary, a focal point, and provides uniqueness to the building (defining feature).

Councilmember Billa Burke stated ARB enjoyed the element feature and voted unanimously in support as it looked better in comparison.

Mayor Rosenthal asked the Planning and Zoning (P&Z) Commission thoughts.

Richard Garison, P&Z member, stated P&Z wanted to be informed if the design was in compliance with the SUP and to know why the change of the architectural element as it was different on what was displayed on the City's website.

Mayor Rosenthal asked if any modifications to the structure's features change the sun's impact.

Mr. West stated the sun would possibly be blocked from the south and he displayed two slides, the rendering elevations looking from Fenimore, and stated the architectural feature will only be seen from the front of the building structure. Mr. Rick Archer, Overland Partners Architects, design architect, stated sun studies were conducted when the project was planned and there are no shadows cast with the architectural feature. He emphasized the architectural feature (cupola) is above the two-bedroom unit that is 25' X 25'. He referenced the SUP which states this is not a precedence for any project and specific only to this project.

City Attorney Mike Brenan stated the SUP may be amended or a reasonable concept is imputed to any law. He stated if there is a 1% difference (impact to small portion), it is not immaterial and within guidelines. He stated the architectural feature will be a benefit to the community and the project will look its best. ARB recommended the cupola be added and is not a violation of the spirit, intent or reasonableness or precision of the SUP. He recommended to approve the request to include ARB's recommendation

without amending the SUP. The developer may seek to amend the SUP but is not necessary.

John Gaines, ARB Chairman, stated the architectural feature was preliminarily approved in the review as he noted not all the design perimeters were final. He shared when it was returned for final review the tower feature was removed and noted that ARB observed the architectural quality was diminished. He stated ARB suggested reinstating the architectural feature because of the quality, aesthetics, focal point, and recognition of other architectural features the project provides. He stated ARB was in agreement that the architectural feature was strongly important.

There was a brief discussion among Council regarding guidelines. Council commented ARB's recommendation is reasonable and adds to the project. Councilmember Billa Burke asked if the City needs to explore code and policy.

Mr. Burnham answered additional questions from citizens related to height, perception, and high ceilings.

Councilmember Prassel stated the cupola will add a proportional element to the building.

A motion for approval was made by Mayor Pro Tem Jessee to include ARB and staff recommendations with addition of the architectural feature (cupola) no more than a maximum height of 20' above the flat roofline, 18' parking spaces, subject to indemnification policy regarding the soil retention system with the developer to be signed by the City Manager. The motion was seconded by Councilmember Prassel and passed by unanimous vote.

Item # 6 Mayor Rosenthal read the following caption.

Resolution No. 2017R - 090

A Resolution approving a Maintenance Agreement between the City of Alamo Heights and AH MF Land, LP concerning the triangular property at the northern intersection of Broadway St. and Austin Hwy

Community Development Services Department Director Jason Lutz made a PowerPoint presentation that included background information.

Mr. Lutz stated the AH MF Land, LP are seeking approval of a maintenance agreement for Lots 16-24, Block 67, CB 4050 located at the northern intersection of Broadway and Austin Highway. A map identified the location of the property.

The following are stipulations of the maintenance agreement: 1) maintenance agreement is valid 40 years from the start of construction of the project and may be extended by mutual agreement for additional terms; 2) assigns a license to AH MF Land,

LP for the purpose of installing and/or maintaining the landscaping and related hardscaping on the City property; 3) grants only a privilege not a property interest; 4) City may enter City property any time to assert its real property interest or for other purposes not interfering unreasonably with the purpose of the license; 5) license may not be assigned to others without the City's approval; 6) grants rights to plant, install, keep, operate, maintain, and replace as necessary the landscaping on City property at all times in compliance with all applicable legal requirements; 7) indemnity clause; 8) agreement may be terminated by City if AH MF Land, LP does not respond timely to correction demands. Mr. Lutz reviewed and presented the proposed planting improvements on-site to include street trees.

Mayor Rosenthal asked if there will be a timeline for the installation of landscaping and in the future will the City utilize the corner of Broadway and Austin Highway to place an aesthetically pleasing marker.

Mr. Lutz responded landscaping is part of the landscaping and will be conducted prior to certificate of occupancy. The City may utilize the corner of Austin Highway and Broadway to erect a marker.

Mayor Pro Tem Jessee asked what type of utilities are located at the triangular parcel.

Mr. Burnham responded all type of utilities are located there such as CPS Energy, AT&T, Verizon, SAWS and stated there is coordination among all respective utilities. He clarified he will not pay electricity bills generated for festive decorating; however, will irrigate the landscaping. Mr. Burnham confirmed that the maintenance agreement would run with the land highlighting the obligations fall with Argyle Residential Developer and rights with the City.

A motion for approval was made by Councilmember Fred Prassel. The motion was seconded by Mayor Pro Tem Lawson Jessee and passed by unanimous vote.

Item # 7 Mayor Rosenthal read the following caption.

Planning & Zoning Case # 392, PUBLIC HEARING, consideration, and action regarding a request by James West, RA, of GFF Architects, applicant, representing AH MF Land, LP, to replat a portion of Lots 1 through 15 and 16-24, Block 67, CB 4050, and 0.602 acres of abandoned public rights-of-way, as part of the replat, the City of Alamo Heights will continue to own a portion of Lots 16-24 which will be replatted into new Lot 26, located at 5514 Broadway and 200, 202, 206 Ellwood (5500 Broadway)

Community Development Services Department Director Jason Lutz made a PowerPoint presentation that included background information, current and proposed plat, and a plat/abandoned row diagram.

Mr. Lutz identified the project and stated the applicant is seeking to combine multiple lots and portions of abandoned public rights-of-way in order to create two lots. He stated the SUP was granted in 2015. The replat will establish Lots 25 and 26, Block 67, CB 4050. Lot 25 is a 1.413 acre lot and will be the site of a proposed mixed-use development. Lot 26 is a .408 acre lot owned by the City of Alamo Heights. He stated this is the final step in the land transfer.

The following easements had been provided: 10' Water and telephone, telephone, electric, and communications. The proposed replat meets all technical requirements established by Chapter 17 of the Subdivision Code. The current and proposed plats and plat and abandoned portion of row were presented. The plat and abandoned portion of row displayed ownership after the replat is recorded.

On July 10, 2017, P&Z reviewed and recommended approval of the replat with the following conditions: 1) a letter from CPS Energy approving/verifying service is provided to the City; 2) a letter from the Texas Department of Transportation (TxDOT) approving plat notes provided to the City; and 3) applicant pays the City all fees associated with the abandoned portions of rights-of-way. The land transfer and plat recording will not take place until all requirements of the SUP have been fulfilled and plan has been approved for construction (prior to the issuance of the building permit). Staff received one response in support and thirteen in opposition of the replat request.

Councilmember Prassel inquired about Ellwood.

Mr. Lutz stated the applicant originally requested Ellwood be closed to prevent access from Broadway. During the development and discussion, Ellwood had to remain open. The applicant proposed a 26' pavement width to allow fire access.

Mayor Rosenthal opened the public hearing at 7:40 p.m. No one signed up to speak. The public hearing closed at 7:41 p.m.

A motion for approval was made by Councilmember Savage. The motion was seconded by Councilmember Prassel and passed by unanimous vote.

Mayor Rosenthal thanked staff for their hard work and citizens for their time and input.

Item # 8 Mayor Rosenthal read the following caption.

Resolution No. 2017R - 091

A Resolution adopting Bexar County Hazard Mitigation Plan for the City of Alamo Heights

Fire Chief Buddy Kuhn made a PowerPoint presentation that included background information.

Fire Chief Kuhn stated the City must adopt a hazard mitigation plan required to receive pre-disaster and post disaster funding. The current plan was adopted in 2015 and must be updated periodically. The adoption of the hazard mitigation plan measures capability of Bexar County and participating jurisdictions to implement hazard mitigation project and identifies opportunities to integrate the hazard mitigation action plan into other plans, programs, and policies. As a stakeholder in the plan, natural and human-caused hazards were identified. Risk analysis, probability of future occurrences, impact, and vulnerability were considered.

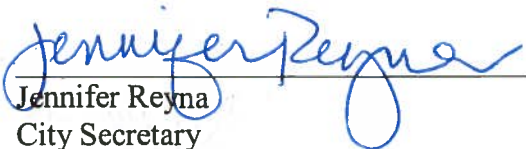
Examples of types of projects considered for funding were provided. Fire Chief Kuhn explained the Hazard Mitigation Grant Program (HMGP) is triggered by a presidential declaration of a major natural disaster and available statewide with a Federal Emergency Management Agency (FEMA) approved hazard mitigation action plan (HMAP). The Hazard Mitigation Assistance (HMA) grant award is competitive and eligible projects that are specifically identified in the HMAP will have the best chance of selection.

Adoption of the plan provides for pre-disaster and post disaster grant funding directly through FEMA and the Texas Division of Emergency Management (TDEM). It is compliant with the Federal Disaster Mitigation Act of 2000 and FEMA. The City received in excess of \$500,000 after the 1998 flood to purchase two homes in the area that is now the Alamo Heights Bark Park. The City could face significant fiscal liability with no agreement and/or guidelines for State and Federal reimbursement.

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

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There being no further business, a motion was made by Councilmember Fred Prassel to adjourn the meeting. The motion was seconded by Councilmember Billa Burke and passed by unanimous vote. Mayor Rosenthal adjourned the meeting at 7:50 p.m.


Jennifer Reyna
City Secretary


Bobby Rosenthal
Mayor