



RICHMOND

EST. **TEXAS** 1837

Where History Meets Opportunity

Planning & Zoning Commission Meeting Minutes

City Commission Room | 600 Morton Street, Richmond, Texas 77469

Monday, January 3, 2023, at 5:00 P.M.

The Planning and Zoning Commission for the City of Richmond, Texas met in a regular meeting on Monday, January 3, 2023, at 5:02 p.m. A quorum was present, with the following members in attendance:

Katherine M. Graeber-Kubelka (Chair)
Juan Martinez
Aimee Frederick
David Randolph
Noell Myska

Staff in attendance: Mason Garcia, Planning Director; Helen Landaverde, Planner II; Jay Williams, Planner I; Howard Christian, Assistant City Manager; Christine Cappel, Administrative Manager; Scott Fajkus, Building Official; Gary Smith, City Attorney; Terri Vela, City Manager; and Mayor Rebecca Haas.

Commissioner Kubelka introduced agenda A2, Recite the Pledge of Allegiance to the U. S. Flag and the Texas Flag. Pledge of Allegiance to the U.S. Flag and Texas Flag was recited.

Commissioner Kubelka introduced agenda A3, Public comments, and asked if there were any public comments. Hearing no public comments, the agenda item was closed.

Commissioner Kubelka introduced agenda item B1., Review and approve minutes from the December 5, 2022, regular meeting. Commissioner Frederick moved to approve the minutes. The motion was seconded by Commissioner Myska. The vote for the motion was unanimous.

Commissioner Kubelka introduced agenda item B2., stating that the next Planning and Zoning Commission meeting would be on Monday, February 6, 2023, at 5:00 p.m.

Commissioner Kubelka introduced agenda item C1. Elect Planning and Zoning Commission Chair and Vice-Chair. Commissioner Frederick nominated Commissioner Kubelka as Chairman, and Commissioner Frederick seconded the motion. Commissioner Myska nominated Commissioner Frederick as Vice-Chairman and Commissioner Randolph seconded the motion. The vote for the motion was unanimous.

Commissioner Kubelka introduced agenda item C2., Review and recommendation of a final report to City Commission for a Final Plat – E Lox Biz Park – 3.7980 acres of land – 1 Block – 0 Lots – 2 Reserves. The subject site is located on the west side of F.M. 359 south of Blaisdale Rd. Mr. Garcia explained that this proposed plat was previously approved with conditions in 2017, however, the applicant made several

changes to the plat configuration and notes since the 2017 consideration and the plat was not recorded. He explained that the plat was resubmitted in 2022 and was approved by the City Commission. In addition, the inclusion of reserves "C" & "D" required a separate access reserve to be shown on the plat per Section 5.1B. in the Regulations of Subdivisions adopted by the Fort Bend County Commissioners Court. He further explained that the applicant has reclassified reserves "C" & "D" to drainage and detention easements which complies with the applicable Fort Bend County subdivision regulations. Mr. Garcia also mentioned that there was a new Fort Bend County Commissioner. As a result of the election, beginning on January 1, 2023, Commissioner Dexter L. McCoy has been appointed to replace Commissioner Ken Demerchant. Staff recommends approval of this Final Plat conditioned upon addressing the comments. Commissioner Myska moved to forward Staff's recommendation of a conditional approval to the City Commission. The motion was seconded by Commissioner Frederick. The vote for the motion was unanimous.

Commissioner Kubelka introduced agenda item C3a. Public hearing to receive comments for or against a request by Ammi Miller for a Conditional Use Permit to allow for a massage establishment. The subject site is located at 515 Austin Street, south of Austin Street and east of South 6th Street. Mr. Garcia provided an overview of the Conditional Use Permit (CUP), which was recently codified into the Unified Development Code (UDC) and adopted on September 20, 2021. In his presentation, he explained that Joe Madison, Executive Director of Demand Disruption, and Rhonda Kuykendall, Chairman of the Fort Bend County District Attorney Human Trafficking Team, presented a proposal to the City on February 15, 2021 to establish and enforce guidelines to prevent the establishment of illicit massage businesses within the City by adopting a conditional use process permit. Following the review of the information provided, Staff met with Mr. Madison and Ms. Kuykendall to discuss the actions taken by other municipalities to regulate massage establishments. After reviewing the provisions of the Texas Occupations Code relating to massage establishments, City Staff proposed an alternative method of permitting massage establishments through the Code of Ordinances instead of the UDC. In addition, he explained that based on guidance from the City Commission, Staff proposed the UDC amendment for the CUP Conditional Use Permit requirement for massage establishments. Mr. Garcia concluded that it was important to note the CUP has been in effect since 2021, and this is the first time the process is being conducted, and Staff wanted to ensure all parties are provided with a transparent and fair process.

Katrina Lyons spoke in support of Ammi Miller, who explains Ms. Miller has been in the industry for more than 18 years and has provided pain management services to numerous residents. She explained it is absurd and ludicrous that Ms. Miller is considered human trafficking business since she runs a day spa and is a licensed massage therapist. Further, she explained that in 2022, the day spa was voted as the best in Fort Bend County, and the City has destroyed her business. As the most affordable option, she is unsure what will happen to the residents who rely on Ms. Miller. She concluded that it is absurd that we have killed small business in this county and within this country through silly ordinances that people know are illegal, unfair, and ridiculous.

Ammi Miller, the applicant, spoke and explained that she has been a licensed Massage Therapist since 2005. She explained that she is very involved within the County by servicing on various committees and have started their own charity organization. Additionally, she explained that her building rent had been raised by 15% and that she had been unable to continue to work in Pecan Grove. In addition, she explained that she is able to obtain references for her services from professionals and residents. She explained that she is licensed through the State with the Texas Department of Licensing and Regulation (TDLR) and the TDLR has specific regulations for their specific profession. Further, she explained how TDLR takes sex trafficking very seriously in her profession and that she is fingerprinted every two years for her license. In her explanation, she suggested that the ordinance address how licensed professionals who hold multiple licenses throughout the State of Texas are to submit their licenses to the City without having to wait two months for them to be processed by the local bureaucracy. In addition, she further stated that no small

business can afford to pay for a location and go through this process for two months. Having made it through Covid, she explained that this new ordinance has forced her to close her business and move out of City limits.

Rhonda Kuykendall, Chairman of the Fort Bend County District Attorney Human Trafficking Team, explained that they are working on and acting on legislation and ordinances in Cities to stop elicited massage businesses from becoming profitable. As part of her presentation, she provided a background of the history of this legislation and ordinance. Consequently, she concluded that managed massage businesses are not included in the ordinance. As a result of the three-minute time limit, Ms. Kuykendall's presentation was cut short.

It should be noted that Ms. Miller received three shows of support.

Hearing no further public comments, the agenda item was closed.

Commissioner Kubelka introduced agenda item C3b. Consideration of the approval of a final report to City Commission for Agenda Item C3a., above.

Ms. Landaverde gave a presentation regarding the Conditional Use Permit. She concluded by explaining pursuant to UDC Sec. 6.3.401, after a public hearing and recommendation by the Planning and Zoning Commission, the City Commission may authorize the issuance of a conditional use permit when the City Commission finds all of the following conditions present which include:

1. The establishment, maintenance, or operation of the conditional use will not be materially detrimental to, or endanger, the public health, safety, morals, or general welfare
2. The uses, values, and enjoyment of other property in the neighborhood, for purposes already permitted, shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance, or operation of the conditional use.
3. The establishment of the conditional use will not significantly impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.
5. Adequate measures have been or will be taken to provide ingress or egress, so designed as to minimize traffic congestion in the public streets; and
6. The conditional use conforms to all applicable yard area regulations of the district in which it is located.

Commissioner Myska asked when the initial application was submitted and explained that the applicant states that she has been closed for two months. Ms. Landaverde explained that they received the application in December. According to Mr. Garcia, the applicant submitted an application on November 22nd, and later that week or the next, they were notified that a CUP permit was required for the use of a massage establishment. On December 13th a preapplication meeting was held which is the first step in the CUP Process, from December 13th Staff spoke with the applicant via email and provided the requirements. In the same week Staff sent notices to the newspapers, and the 200-foot notice as required by State law, Mr. Garcia was able to place the item on the January 3rd Planning and Zoning Commission Meeting. Ms. Vela, City Manager, explained that the City offered the applicant the opportunity to approve the CO first, before the CUP so there would not be any delay in her services. Ms. Landaverde concluded Staff's recommendation of Conditional approval. Commissioner Martinez moved to forward Staff's

recommendation of a conditional approval to the City Commission. The motion was seconded by Commissioner Myska. The vote for the motion was unanimous.

Commissioner Kubelka introduced agenda item C4., Development related staff update.

The pre-application projects discussed included the following proposed projects:

- Richmond Landing Sec. 2 Reserve A (GC/WFBMD) – Car Dealer
- 405 Richmond Parkway (OT/WFBMD/H.O.D.) – Coffee Shop
- 112 Jackson Street (OT/WFBMD/H.O.D.) – Restaurant
- 515 Austin Street – (OT) Retreat Day Spa
- 505 Kosler Lane (GR) – Duplex
- 1019 N 10th Street – (GR) - Duplex

Projects under review discussed included the following proposed projects:

- 3115 River Ranch South (ETJ) – RV Boat
- 1421 FM 359 (SC/WFBMD) – Plantation Plaza
- 2406 FM 723 (ETJ) – Gas Station and C-Store

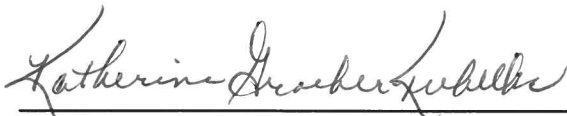
Commissioner Kubelka introduced agenda item C5., Excuse from attendance at regular Planning and Zoning Commission Meeting. All Commissioners were present.

Commissioner Kubelka introduced agenda item C6., Introduce and welcome new Planner I, Jay Williams. Commissioners welcomed Jay Williams to the City.

Commissioner Kubelka introduced agenda item C7., Consider agenda item requests by Commissioners for February 6, 2023, regular meeting. There were no suggestions from the Commission.

Commissioner Kubelka introduced agenda item C8., Adjournment. There being no further business to be brought before the Planning and Zoning Commission, Commissioner Kubelka adjourned the meeting at 5:41 p.m.

Approved:



Katherine M. Graeber-Kubelka (Chair)