

**OFFICIAL MINUTES OF THE CITY COUNCIL  
LAGO VISTA, TEXAS  
DECEMBER 6, 2012**

**BE IT REMEMBERED** that on the 6<sup>th</sup> day of December, 2012 the City Council and the Planning and Zoning Commission held a Joint Public Hearing at 6:30 P.M., at City Hall, 5803 Thunderbird, in said City, there being present and acting the following:

Randy Kruger	Mayor	Bill Angelo	City Manager
Darrel Hunt.	Council Member	Frank Robbins	Assistant City Manager
Dale Mitchell	Council Member	Danny Smith	Police Chief
Richard Bohn	Council Member	Christina Buckner	City Secretary
D'Anne Gloris	Council Member	Dave Stewart	Assistant Public Works Director
Ron Smith	Council Member		
Ed Tidwell	Council Member		

Mayor Kruger called the Joint Public Hearing to order and recognized that all Council Members were present.

Tara Griffin  
Jim Moss  
Bob Besett  
Joe Gudka  
Gary Zaleski  
Lisa Marie Contaldi

Tara Griffin recognized that all members of the Planning and Zoning Commission were present except Paul Smith and a quorum exists.

**PUBLIC HEARING:**

1. Mayor Kruger stated the purpose of the public hearing is to receive citizen input concerning the rezoning of a 2.5135 acre lot, Lot 33, Section 1, Lago Ranchos, located at 6300 La Paloma (southeast of the intersection of Lohman Ford and La Paloma) from C-2 Commercial to R-2 Two Family.

Frank Robbins stated the applicant has requested rezoning from C-2 to the existing use. He stated there are two single family structures on the lot. The applicant has stated his reason for down zoning is due to a substantial increase in his property taxes and he thinks the down zoning may help him with those taxes. Frank Robbins stated a summary of the policies that might be used by the Council and Planning and Zoning Commission to evaluate the property was provided in their back-up information. He stated the future land use map in this area calls for the property to be commercial but the infrastructure of the roads, water, and sewer is not in place, nor is there a market for commercial in this area. He stated staff finds this is an appropriate down zoning to the existing use.

Mayor Kruger opened the floor for comments from the Council and Commission.

Jim Moss questioned whether the dwellings were acquired before the city annexed the property.

Mr. Timoshenko stated when the city annexed the property, no one knew about it, and the city wouldn't give him a building permit because they said it was not in the city so he built it without a permit. He stated he later built another house on the same property for his son. He stated the old ordinance allowed a house on every half acre. He stated he has 2.5 acres and two houses. He stated he lives in one house and his son lives in the other one.

D'Anne Gloris questioned whether the original lot included the property on Lohman Ford Road or whether it was always platted this way.

Mr. Timoshenko stated it was always on LaPaloma and has nothing to do with the property on Lohman Ford Road.

Frank Robbins stated they are two separate lots and they were platted that way originally.

D'Anne Gloris clarified that he also owns the property where Bam's is but they are not the same platted lot.

Frank Robbins stated that was correct.

Tara Griffin questioned whether this lot, of the lots that front on La Paloma, is the only one zoned commercial.

Frank Robbins stated that is correct.

Mr. Timoshenko stated his lot is the only lot in Lago Ranchos that was annexed.

Mayor Kruger questioned whether the adjacent lots are in the city limits.

Frank Robbins stated the adjacent lot to the north is zoned U1, which is the church, and the properties to the south are out of the city limits.

Mr. Timoshenko stated he didn't know about it for 16 years because the city denied it was ever in Lago Vista. He stated he's been paying city taxes for 16 years but never had any services from the city.

Bill Angelo stated Mr. Timoshenko does have water service from the city which is why the property was originally annexed. He stated the city does not provide water service to any properties outside the city.

Tara Griffin questioned whether the other lots on La Paloma have city water service.

Bill Angelo stated no, only his lot.

Lisa Marie Contaldi asked Mr. Timoshenko how he accesses his property and questioned whether he accesses it through La Paloma.

Mr. Timoshenko stated he has access through La Paloma but can't use it because it's a dirt road and has potholes and rocks. He stated he owns the front lot on Lohman Ford Road where Bam's is and he has a driveway through it to his back lot.

Dale Mitchell questioned whether it is normal to have commercial only one lot deep on a thoroughfare like Lohman Ford Road and what was considered when the City came up with the land use map along Lohman Ford Road considering it would probably be commercial continuing forward.

Frank Robbins stated the future land use map in this area is derived from the zoning and there was no analysis beyond that for this particular property. All the property in the city that was zoned C district commercial was shown on the future land use map so the zoning and future land use map would line up. He stated there are some standards in the ordinance about depth off of a major arterial like Lohman Ford Road for commercial property. He stated these lots are narrow and he guesses that over the very long term, when the infrastructure is in place, and the market conditions in Lago Vista have changed, and we double or triple our population, the market and relatively shallow depth of these lots will lend the property between LaPaloma and Lohman to commercial.

Dale Mitchell questioned whether, if this property is rezoned to R-2, the owner could come back in the future, when there's a demand for commercial, and request to rezone it to commercial again.

Frank Robbins stated yes.

Tara Griffin questioned whether Mr. Timoshenko has access from LaPaloma.

Mr. Timoshenko stated yes he does.

Tara Griffin questioned Mr. Timoshenko whether he is requesting to change the zoning on his front lot.

Mr. Timoshenko stated he is thinking of selling the front lot and then he won't have access through Lohman and will have to use LaPaloma.

Jim Moss questioned what the effect would be if Mr. Timoshenko sells his lot on Lohman Ford since he is now using it for access and utilities, and asked how he would continue to get water.

Mayor Kruger stated he is still in the city limits.

Frank Robbins stated that wouldn't change that at all.

Bill Angelo stated there is an issue in that the water line on the property also provides water service to Bam's.

Frank Robbins stated those are private issues and the sale wouldn't affect that.

Mayor Kruger opened the floor for comments from the audience.

Jeff Hegedus, owner of property on Dos Amigos in Lago Ranchos, stated he just found out that this property was annexed. He stated the roads in Lago Ranchos are rough. He questioned whether Mr. Timoshenko is requesting to build a duplex.

Mr. Timoshenko stated he has no intention of building any more.

Mayor Kruger stated he has two houses.

Jeff Hegedus expressed concern that Mr. Timoshenko has 2.5 acres, and under the current regulations of .5 acres per multi family dwelling, he could build 5 duplexes on his property.

Mayor Kruger stated that would not be allowed under R-2 zoning.

Jeff Hegedus questioned why the city doesn't maintain the roadway on La Paloma since they annexed this property.

Mayor Kruger stated the city has not annexed anything but that piece of property and LaPaloma is not in the city.

Mr. Timoshenko stated the police will not go on La Paloma and they have no jurisdiction there. He stated only his lot was annexed but he doesn't know how it happened. He said nobody knows and the city still hasn't given him an answer. He stated he's been paying city taxes for sixteen years but was not in Lago Vista.

Mayor Kruger stated he believes there was probably a petition from someone to provide water to that property. He stated the city does not provide water to people outside of the city limits and if they asked, they probably submitted to an annexation. He stated they did the same thing for a church off of Boggy Ford Road.

Mr. Timoshenko stated he had to ask for water after the property was annexed. He stated had to pay to bring the water across Lohman Ford Road (about 800') which cost him \$5,000 plus the city charged him double for the meter because his property was not in Lago Vista.

Mayor Kruger stated he may have misspoken but typically, annexation is considered to provide water to properties outside the city limits. He stated the lot is annexed and Mr. Timoshenko is asking to down zone his property to R-2 which does not allow duplexes.

Jeff Hegedus questioned whether Mr. Timoshenko intends to build more.

Mr. Timoshenko stated no.

Bill Angelo stated he cannot under R-2 zoning.

Dale Mitchell stated R-2 only allows 2 living units.

Lisa Marie Contaldi questioned whether this was Mr. Timoshenko's first time applying for this zoning change.

Mr. Timoshenko stated he saw the Council twice and saw Bill Angelo and they couldn't find any records or letters and this has gone on since the beginning of the year. He said he finally spoke with a lawyer who told him to go ahead and de-annex if the property if he can.

Dave Stewart stated he was reading meters back then and the city provided water service to a number of properties across the road but then the council passed an ordinance that said if you want to have water you have to be in the city. He stated since then, they we have moved the services from the Lago Vista side of the road over to their property.

Mayor Kruger stated the real question tonight is whether or not to rezone the property to R-2. He stated there will not be an answer until the Planning and Zoning Commission meets.

Mr. Timoshenko requested the City write him a letter so he has a record of the city's decision.

Mayor Kruger stated the city would provide him with a letter.

Frank Robbins stated the Planning and Zoning Commission will consider his request at their meeting next Thursday at 7:00 p.m.

Ron Smith questioned whether the property taxes of the lot to the south of Mr. Timoshenko are substantially less than his.

Frank Robbins stated he didn't know and also noted we don't know what the appraisal district will do with Mr. Timoshenko's property taxes as a result of this action.

Ron Smith stated if he were deannexed, he would be in the same condition as the property immediately to the south of him.

Bill Angelo stated he could not receive city water service if he were deannexed.

Jeff Hegedus questioned whether the city will provide clear roads to that property should he decide to sell his property on Lohman Ford.

Bill Angelo stated he has access to his property from Lohman Ford Road and he can maintain access even if he sells the property.

Mayor Kruger stated that is a private matter.

Jeff Hegedus stated the City of Lago Vista should have to maintain the road into his property.

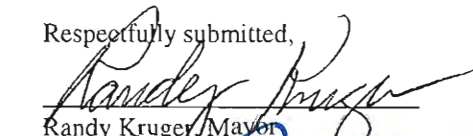
Dale Mitchell questioned that the annexation rule says they have to be approved roads.

Bill Angelo stated yes, those roads are not recognized by the County because the whole thing was an illegal subdivision and the county has never accepted any responsibility for it as a result.

Jeff Hegedus stated as long as Mr. Timoshenko has no desire to build duplexes he has no problem with the rezoning.

There being no further comments, Mayor Kruger closed the Public Hearing and adjourned the meeting at 6:53 p.m.

Respectfully submitted,

  
Randy Kruger, Mayor

  
Tara Griffin, Chairperson  
Planning and Zoning Commission

ATTEST:

  
Christina Buckner, City Secretary

On a motion by Council Member Darrel Hunt, seconded by Council Member Richard Bohn, the above and foregoing instrument was passed and approved this 3<sup>rd</sup> day of January, 2013.

The above and foregoing instrument was passed and approved by the Planning and Zoning Commission on the 10<sup>th</sup> day of January, 2013.