

**OFFICIAL MINUTES OF THE CITY COUNCIL  
LAGO VISTA, TEXAS  
MAY 2, 2013**

**BE IT REMEMBERED** that on the 2<sup>nd</sup> day of May, 2013 the City Council held a Joint Public Hearing at 6:40 P.M., at City Hall, 5803 Thunderbird, in said City, there being present and acting the following:

Randy Kruger	Mayor	Frank Robbins	Assistant City Manager
Richard Bohn	Mayor Pro Tem	Danny Smith	Police Chief
Dale Mitchell	Council Member	Christina Buckner	City Secretary
Darrel Hunt	Council Member		
D'Anne Gloris	Council Member		
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  
Lisa Marie Contaldi  
Bob Besett  
Paul Smith  
Jim Moss

Tara Griffin recognized that all members of the Planning and Zoning Commission were present except Gary Zaleski, Richard Brown, and Vernon Reher and a quorum exists.

**PUBLIC HEARING:**

1. Mayor Kruger stated the purpose of the public hearing is to receive citizen input concerning the amendment of a Planned Development District (PDD) on a 183.5 acre development known as Montechino located at the intersection of Lohman Ford Road and Shoreline Road along Lohman Ford Road, Shoreline Road and between Austin Blvd. and Lohman Ford Road.

Philip Wanke with BWM Group spoke on behalf of the request. He stated the current PDD is predominantly single family residential. He indicated several areas on the existing plan, stating there a denser condominium regime of 60 units with a restaurant, an area along Austin Blvd. that is primarily residential, a community center, a commercial area and a green belt area. He stated the proposed amendments involve relocating the 60 unit condominium product and restaurant to another area and producing 60 units of single family garden homes with green belt and no restaurant. This will take traffic off of Austin Blvd. and move it closer to Lohman Ford Road. He stated it reduces and relocates some of the commercial and the community center moves to the top of the development. He stated the number of units has not changed but it has been relocated and reconfigured.

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

Lisa Marie Contaldi asked what they classify as masonry.

Matt Ridgeway, with Northshore Homes, stated stucco and stone.

Bob Besett asked why they dropped the restaurant.

Philip Wanke stated it didn't fit in with the plan for single family residential garden homes. He stated a restaurant could still be located in the commercial area.

Jim Moss stated the proposal has a net increase of 60 lots and questioned whether that was correct.

Philip Wanke stated yes but noted there is no increase in units.

Jim Moss questioned what type of people they presumed would be moving into the smaller sized residences.

Matt Ridgeway stated it is geared toward low maintenance and more of an adult living setting like a miniature Sun City.

Lisa Marie Contaldi questioned what the minimum lot width is.

Matt Ridgeway stated he believed that section was 55 feet.

Tara Griffin questioned Matt Ridgeway's reference to a miniature Sun City and asked whether they would have age requirements.

Matt Ridgeway stated they would not have age requirements.

Mayor Kruger questioned what phase this PDD is in.

Frank Robbins stated they are displaying the entire development but noted that it would be done in phases as stated in the Development Agreement.

Brian Adams, with Northshore Homes, stated they are also looking at easing some of the projected congestion on

Austin Blvd. because some of the lots will be served by a private drive as opposed to multiple driveways going onto Austin Blvd. and they are including a lot of green space in the garden home area.

Frank Robbins stated, with the way these small lots are laid out, he would consider this to be a true cluster development. He stated the lots will have zero rear lot lines and the homes back up to common open space. He stated they are small lots with small setbacks.

Jim Moss stated the private drive at top of the illustration is a long distance to go in the event of the need for emergency evacuation, and asked what their plans are along those lines.

Philip Wanke stated that is how they plan to develop it but stated they will speak with the Fire Marshall to ensure it is adequate to serve those houses. He stated they would put gates in the middle if needed to handle that.

Frank Robbins stated the plat regulations require an emergency access out and they will see that when the property is platted.

Lisa Marie Contaldi questioned whether the subdivision will be gated and whether they will have garages.

Philip Wanke stated it is a gated community and they will have garages.

Ron Smith questioned whether the Fire Department has weighed in on this yet.

Frank Robbins stated no.

Mayor Kruger opened the floor for comments from the audience.

Randy Goldsmith, resident of 18313 Ridge Road in Lakeshore Ranch Subdivision, questioned where (what lot) Ridge Road comes into the development.

Philip Wanke stated he is not familiar with where Ridge Road is.

Frank Robbins attempted to locate Ridge Road on a map.

Dorothy Gudgell stated she believed Mr. Goldsmith's property is close to the area that was previously proposed for condominiums and stated she believed his concern was with regard to what is now proposed for that property. She stated there is a density problem in the development as a whole.

Philip Wanke stated that area has been converted to single family homes. He stated they will be large lots with custom homes.

Henry Dreesen asked what size homes they are proposing on Lohman Ford Road.

Matt Ridgeway stated they will be 1,500 square foot to 2,200 square foot single story and two story homes.

D'Anne Gloris question if they were referring to the garden homes.

Philip Wanke stated yes.

Mrs. Goldsmith questioned whether there was a minimum square foot requirement for the larger home lots that are near their property.

Matt Ridgeway stated they are 3,500 square foot minimum.

Jim Otwell questioned whether they are planning to build in the same phases as per the Development Agreement.

Philip Wanke stated they are now planning to build 18 homes and 10 homes (indicating the areas on the PDD map) as Phase 1.

Matt Ridgeway stated Boxwood Bend is already paved and they will be installing the gate on that as well.

Jim Otwell clarified that they are changing the phasing from what was originally planned.

Frank Robbins stated that was correct.

Lisa Marie Contaldi clarified that they are considering building the small homes first.

Philip Wanke stated yes, that's the market they want to currently open up to.

Matt Ridgeway stated they will offer three products, garden homes and 2,000 and 3,000 square foot custom homes, so they will have a variety of homes for people to choose from.

Lisa Marie Contaldi questioned whether they will have a mobile trailer.

Matt Ridgeway stated there is already one set up there.

Jim Otwell stated there was a long legal battle over this and it was meticulously set up so it would happen in phases and these phases go against the mediated settlement.

Frank Robbins stated he believes the terms "phases" comes from the 2006 Subdivision Construction Agreement. He stated the agreement is still active, and it describes infrastructure going in in Phase I. He then indicated the area on a map. He then indicated the area of the proposed PDD on a map. He stated what's being built here and at Boxwood is what is described as part of Phase 2 in the Subdivision Construction Agreement. He stated they will be visiting with the applicants about the potential of amending the Subdivision Construction Agreement and the Development Agreement. He stated those two things will have to be dealt with as the process develops.

Mayor Kruger stated the Settlement Agreement is big consideration in this thing. He stated their proposal is logical if you do not considering the Settlement Agreement. He stated it has been his posture that the city would not allow anything going forward that would violate that settlement agreement. He stated there are outstanding issues in the Settlement Agreement such as trash heaps and pulling the dry utilities in. He requested a surety from the developer in terms of a letter of credit that covers all of this being done within a time frame. He stated he is hoping they can ultimately reach an agreement with the folks that have signed off on the Settlement Agreement, but if not, then they probably won't proceed with the development.

Mickey Redwine, owner of property at 4801 Mira Lago Drive, stated he would not be opposed to anything they want to do as long as it does not breach the Settlement Agreement and questioned whether the surety bond would cover the issues he brought to the Council's attention at their last meeting.

Mayor Kruger stated that is what he is proposing. He stated they have a reasonable plan in terms of the debris removal, stating they would like to turn it into useable material, but it will take time. He stated he is proposing they post a letter of credit that would cover the cost of removing the debris piles. He stated there is discussion as to whether all of that cable had been pulled through and that needs to be determined and they need to determine how much it will cost to complete it. He stated the letter of credit should also cover the cost to install all of the infrastructure and roads they have to build.

Mickey Redwine stated he is not in disagreement but he would like to visit with them personally. He stated he won't be unreasonable and he has some ideas that might save them some money and satisfy him and some of the other property owners. He stated he tried to meet with them previously regarding the debris piles but they refused. He asked the city to let them know what's going on as this progresses.

Mayor Kruger stated they will, because the city is also a signator of the Settlement Agreement, and he will not be drug into court over the Agreement again. He stated they will need a new agreement from the signators of the Settlement Agreement, which needs to be covered with some sort of surety that everything will be accomplished in a time frame agreed upon by all parties. He stated he is aware that Dorothy Gudgell is not a part of the Settlement Agreement and that she has a separate agreement with Brian Atlas which he cannot enforce. He stated the Agreement does not cover the PDD, but what they're asking for in the PDD makes sense if it weren't for the Settlement Agreement. He stated if everyone can't get together it's not going to fly.

Matt Ridgeway stated he didn't want to meet with Mr. Redwine until he was sure he understood everything and had a game plan of how they're going to address the issues.

Mayor Kruger stated he had previously suggested to Mr. Redwine that he list his areas of concern with regard to the Agreement but he hasn't done that.

Mickey Redwine stated he addressed that with Frank verbally.

Frank Robbins agreed.

Brian Adams stated they have removed the illegal trash pile on Veranda.

Mayor Kruger stated everything needs to be in accordance with the Agreement. He stated the city is not going to allow the Agreement to be busted, but there is a way to work around it. He stated they can probably proceed if the developers meet with the property owners and provide surety that these things will be taken care of.

Mickey Redwine stated he did not disagree and he appreciated the comments. He stated he believes there's a way to satisfy all parties in this but people have to communicate.

Dorothy Gudgell stated she did not sign the Settlement Agreement and she did not complete an agreement with Mr. Atlas but the things she asked for are part of the original settlement and that's what she wants enforced.

Mayor Kruger suggested Dorothy Gudgell be included in discussions with the other signators. He stated in many ways it's their problem, but the city has to reach an agreement as to the way they want to develop the property. He stated the city truly wants this property to be developed and they will work with them. He stated the plan has merit but he is not going to stick the city's neck out again on the Agreement until he's sure it's covered and everyone's in agreement. He stated he thinks a letter of credit will help but it has to be quantified.

Matt Ridgeway stated he already has a letter of credit so that's not an issue.

Mayor Kruger stated he didn't know how much to make the letter of credit for.

Matt Ridgeway stated he has done his research and it will cover it.

Mayor Kruger suggested he have a meeting with the signators of the Agreement.

Matt Ridgeway stated he wanted to get the PDD approved first then he would meet with them.

Mayor Kruger stated nothing will get approved tonight.

Mickey Redwine requested the PDD not be approved until Montechino is brought into compliance stating it is the city's leverage.

Mayor Kruger stated "into compliance" can be a letter of credit with a timetable that covers all of that.

Mayor Kruger stated that they have had the debris piles for ten years and stated another two or three years may not affect them that bad. He stated maybe they can get the cable pulling and some of the other stuff done and asked whether Mr. Redwine agreed.

Mickey Redwine stated he offered a year but would not agree to three years.

Mayor Kruger stated that can be worked out. He stated they're asking to be able to put in 60 units without having to finish all of the infrastructure throughout the subdivision. He stated his suggestion, to post a letter of credit with a timetable, will guarantee that the work will be finished either by them or by the letter of credit.

Mickey Redwine stated approval of the PDD as proposed will breach the Settlement Agree and asked whether the Mayor agreed.

Mayor Kruger stated he did not agree. He stated the approval is only the first step on the PDD, then they have to have a Development Contract which addresses these issues.

Mickey Redwine stated if the PDD is approved the issues relating to phases alone will breach the Settlement Agreement.

Mayor Kruger stated the PDD has been modified a few times and they themselves have modified the CCRs. He questioned that Mr. Redwine stated he was not in disagreement with their proposal as long as they're meeting the Settlement Agreement.

Mickey Redwine stated he stands by that.

Mayor Kruger stated the posting of financial assurance that it will be done ought to satisfy Mr. Redwine.

Mickey Redwine agreed.

Mayor Kruger stated the Settlement Agreement has been the biggest stumbling block for the developers. He stated they need to get past the personalities, meet with everyone, see what they don't like, see how to cover that, and go develop.

Jim Awalt stated the PDD is the issue on the agenda, not the settlement agreement, and the advantage of the PDD is moving the density to the 60 garden homes.

Mayor Kruger stated the Settlement Agreement ties into this. He stated he agreed and, had this proposal, that moves the density off of the back lots, been made initially, it would have made people happy. He stated he likes the plan.

Jim Awalt stated that Brian Atlas had a \$500,000 letter of credit up and that he installed the utilities, which the city inspected. He stated Frank has that list. He stated there's a disagreement as to what has and hasn't been done. He stated everyone needs to quit worrying over legal matters and get something developed.

Dorothy Gudgell stated the utilities are not all in.

Mayor Kruger stated he is not going to argue that with her as he does not know. He stated his advice is that someone needs to take the responsibility to determine where the utilities are and what has been done and what has not been done.

Dorothy Gudgell questioned that she thought Mr. Atlas had been asked to take care of that.

Mayor Kruger stated Brian Atlas will say they're done and suggested a third party survey it and determine what has been done.

Mickey Redwine stated Brian Atlas agreed to that but never did it. He stated it would be a huge first step and all it would take is someone to do an as-built that can be verified.

Mayor Kruger stated they needed to forget personalities and address the problems.

Brain Adams stated they are still not clear on the specific path.

Mayor Kruger stated they're saying Phase 1 has to be complete before Phase 2 goes in. He stated the Settlement Agreement is mixed in with that and will have to be dealt with sooner or later.

Mickey Redwine stated the city will not know what amount to require the letter of credit to be until it has an as-built of what utilities are in.

Mayor Kruger stated he agreed and he has asked Frank what the number is. He stated it is not the city's responsibility to estimate that cost but we can help as much as possible to determine what needs to be done.

Matt Ridgeway questioned what the letter of credit released by the city was for.

Frank Robbins stated it was the water and wastewater system lift stations that went in with the 2007 plat.

Matt Ridgeway questioned whether it was for Phase 1.

Mayor Kruger stated part of Phase 1.

Matt Ridgeway questioned whether the city accepts the water and wastewater utilities.

Frank Robbins stated yes.

Matt Ridgeway questioned that the only disagreement is with regard to the dry utilities.

Frank Robbins stated no.

Philip Wanke noted that the PDD states that a building permit cannot be issued until the legal issues are satisfied, stating that is another factor that ensures it will happen.

Tara Griffin questioned whether the Council will be sending this item to the Planning and Zoning Commission and asking for a recommendation prior to a letter of credit being issued and a resolution on issues with the Settlement Agreement.

Mayor Kruger stated they need to make a decision as to the validity of the request knowing there are legal issues that tie into it. He stated they need to make their recommendation and the council then has to decide how to tie everything together. He stated the Commission needs to consider the PDD based on its merit.

Frank Robbins stated the applicant has a PDD zoning case (a land use case) and the ordinance will be part of what the Commission considers. He stated the Ordinance has a statement in it that connects the Settlement Agreement and a Develop Agreement (or the 2006 Construction Agreement) to further development. He stated they need to get past the zoning first, then they will come back to the city with a development agreement and fixes to the Settlement Agreement before they can actually develop anything. He stated the land use decision is first, then infrastructure issues, such as timing and costs, will be addressed as part of the next phase. He stated this is typical of the development process.

Mayor Kruger stated Mr. Redwine's question was whether the PDD violates the Settlement Agreement. He stated he does not believe the PDD violates the Settlement Agreement.

Frank Robbins stated we have a legal opinion that it does not.

Mayor Kruger stated the Settlement Agreement comes into play before they start building and have contracts.

Mickey Redwine stated he has no problem with it if his attorney agrees with the city's attorney and asked Frank for a copy of the opinion.

Mayor Kruger stated he is suggesting they work things out without involving a lot of attorneys.

Lisa Marie Contaldi questioned whether the parties representing the Settlement Agreement could still have issues with further development if the land use is approved.

Mayor Kruger stated approval of the PPD is the first step, but there are a lot of steps to take to get things worked out and that's when the Settlement Agreement comes into play. He stated the PDD does not increase the density, and that part of the Settlement Agreement is not being violated, so he doesn't see how the PDD changes the Settlement Agreement.

Lisa Marie Contaldi stated the homeowners could have concerns with regard to whether or not approving the PDD breaks the Settlement Agreement.

Mickey Redwine questioned whether the community center was always there or whether it was new.

Philip Wanke stated it has been relocated and indicated the area on a map.

Matt Ridgeway stated it is not going to be a community center. He stated it will be park area with picnic tables, and there will not be a building, but there may be a pavilion.

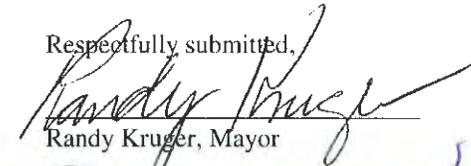
Dale Mitchell stated he is pleased to see new parties coming to the city for development of this subdivision so at least something can start moving forward on this. He stated the PPD should just be considered as part of the use and zoning of the land and it's a positive step for the community to get something started.

Mayor Kruger stated he agreed and congratulated Northshore Homes for stepping in to a bcd of quick sand.

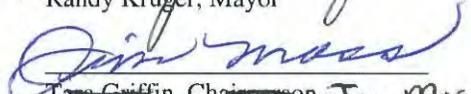
Matt Ridgeway stated they are here to resolve all of the issues and let it go forward in a positive way. He stated they want all parties to be happy.

There being no further comments, Mayor Kruger closed the Public Hearing and adjourned the meeting at 7:24 p.m.

Respectfully submitted,



Randy Kruger, Mayor



Tara Griffin, Chairperson Jim Moss, Vice Chair  
Planning and Zoning Commission

ATTEST:



Christina Buckner, City Secretary

On a motion by Council Member Darrel Hunt, seconded by Council Member D'Anne Gloris, the above and foregoing instrument was passed and approved this 6<sup>th</sup> day of June, 2013.

The above and foregoing instrument was passed and approved by the Planning and Zoning Commission on the 13<sup>th</sup> day of June, 2013.