

## CITY OF HORSESHOE BAY

### PLANNING AND ZONING COMMISSION NOTICE OF REGULAR PUBLIC MEETING

October 1, 2019

Notice is hereby given to all interested members of the public that the Horseshoe Bay Planning and Zoning Commission will hold a Regular Public Meeting on Tuesday, October 1, 2019 in the City Council Chambers at City Hall, #1 Community Drive, Horseshoe Bay, Llano County, Texas. The Regular Public Meeting will begin at 3:00 p.m. The agenda for the Regular Public Meeting is to discuss and/or act on the following:

1. Call the Meeting to Order and Establish a Quorum
2. Public Comments (Those who wish to speak are asked to limit their comments to three minutes)
3. Approval of Minutes of the August 13, 2019 Special Meeting
4. Public Hearing and recommendation to City Council on a request to rezone a 0.708 Acre Tract out of Out Tract 14 and out of Tract 3 Summit Rock Golf Course Plat No. 1.1 from A-1 Recreational to GUI Governmental, Utility & Institutional to allow location of a temporary 5,000 gallon LP gas tank, to be followed later by a permanent 30,000 gallon LP gas tank to serve Tuscan Village in Summit Rock
5. Staff information on HB 2439 regarding local regulation of exterior building materials and HB 3167 regarding the so-called 30 day shot clock for responses to developers regarding subdivision plats, subdivision infrastructure construction plans, replats and site plans
6. Adjournment

  
Eric W. Winter, Development Services Dir.

The Planning and Zoning Commission may go into closed session, if necessary and appropriate, pursuant to the applicable section of the Texas Open Meetings Act, Texas Government Code, Chapter 551, Subchapter D, on any matter that may come before the Commission that is listed on the Agenda and for which a closed session is authorized. No final action, decision, or vote will be taken by the Commission on any subject or matter while in closed session. Any action, decision or vote will be taken by the Commission only in open meeting.

**CITY OF HORSESHOE BAY****PLANNING AND ZONING COMMISSION  
MINUTES OF REGULAR MEETING**

August 13, 2019

The Planning and Zoning Commission of the City of Horseshoe Bay held a Regular Meeting in the Council Chambers at City Hall, located at #1 Community Drive, Horseshoe Bay, Llano County, Texas, on August 13, 2019, in accordance with the duly posted notice of said meeting.

The posted agenda for this meeting is made a part of these minutes by attachment and the minutes are herewith recorded in the order the agenda items were considered, with the agenda subject and item number shown preceding the applicable paragraph.

**1. Call the Meeting to Order and Establish a Quorum**

Vice Chairman Pat Bouchard called the meeting to order at 3:00 p.m. with a quorum of Commission Members as follows:

Present:

Vice-Chairman Pat Bouchard  
Commission Member Scooter Lofton  
Commission Member Mike Thuss

Absent:

Commission Member Neil Andrew  
Commission Member Brent Lane

**2. Public Comments (Those who wish to speak are asked to limit their comments to three minutes)**

No one in attendance wanted to speak at this time. Comments were reserved by the public to address public hearing items on the agenda.

**3. Approval of Minutes of the July 2, 2019 Regular Meeting**

Motion was made by Pat Bouchard, seconded by Scooter Lofton to approve the Minutes as written as written. Motion approved unanimously (2-0). Mike Thuss was not a Commission Member at the July 2 meeting and could not vote on this item.

**4. Public Hearing and recommendation to City Council on a request to rezone all lots fronting on the west side of Cats Eye and all lots on Silica and Shale from R-2 Two Family Residential to R-1 Single Family Residential, for Lot Nos. W12007 A & B of Horseshoe Bay West Plat No. 12.6, Lot Nos. W12008-W12031 of Horseshoe Bay West Plat No. 12.1, and Lot Nos. W13001-W13021 of Horseshoe Bay West Plat No. 13.1**

Pat Bouchard opened the public hearing at 3:05 p.m.. Mike Barker has owned of a lot on Cat's Eye since 2004, and stated he looks forward to building a multi-family home. He said he was disappointed that the community members have requested this rezoning. He highly encouraged

the Commission to not recommend the rezoning to Council. Jim Bellevue, an attorney representing an owner of 5 lots on Cat's Eye, stated his client opposes the request for downzoning. He agreed with Mr. Barker, understood people's concern, and Mike Riley's position. He pointed out that around 16 people live within 500 feet of the affected properties. He said that downzoning the lots would be spot zoning. He read a letter that Horseshoe Bay Resident John Speights sent that agrees with his points. He said that his client purchased lots anticipating being able to use them for R2 uses.

Vicki Adcock spoke in favor of the rezoning and as a member of the group that created a petition for the rezoning. Ms. Adcock said that the petition they provided has 131 signatures, 56 within 500 feet. She outlined the location of the homeowners who signed the petition. Petitioner concerns are centered around the zoning density, light pollution, increased traffic, and loss of naturalscapes to name a few. Ms. Adcock supports the need for multifamily housing in a location where it makes sense. Mike Riley, a property owner on Cats Eye and a partner in the petition pointed out that this area was first zoned in the 1970's. He urged the P&Z members to follow the FLUM. He does not want anything hindering the growth of their neighborhood.

Jason Speight was concerned that when people start to change the zoning of land they don't own, it is very unjust and very unfair. He felt it puts the public at risk, that the PZ stated in the past they would not use the FLUM to suggest rezoning and pointed out that now we are seemingly going against that. He felt that the City should take the issue seriously and consider lawsuits that would ensue if property values are decreased based on City decisions.

Don Hunt, a resident who lives on Cats Eye pointed out that the zoning was established 40 years ago and that at that time, people generally purchased property for their homestead, not for investment. He stated that the decision the City makes will have ongoing effect for the next forty years and that the previous decision made for R-2 zoning here was arbitrary. He felt that if the zoning stays the same, that the surrounding properties will decrease in value. He stated that density and light pollution and traffic will be minimized if the rezoning is approved. He stated that with certainty, property values will increase with the rezoning.

Denise Brazil, owner of property at Applehead under renovation and who is currently living on Cats Eye stated that the street is very narrow, and it is a beautiful area. She felt that there will be parking issues and that the traffic will increase. She felt rezoning will cause an increase in property values. Marsha Bernard, lives on Onyx and felt that there is a concern for short term rentals with VRBO and Airbnb. She felt that there will be less control over the demographics of people, and that they will not have a concern for the community of Horseshoe Bay, referencing a rise in rental properties.

Heidi Barker said that a duplex does not have to be a negative connotation. She felt that it should be viewed as a multigenerational property. She wants to build with her husband Mike and have her parents move in the duplex unit next to hers.

Pat Bouchard closed the public hearing at 3:35 pm. City Attorney Rex Baker pointed out what the PZ Commission's options were. He noted that the PZ is an advisory Commission and that there will be no binding decision made today. He noted that only a recommendation would be made

that will be passed on to City Council. This commission is required to give a final report to City Council and the P&Z is required to decide what will be in the report going to Council.

Commission Member Scooter Lofton asked Rex Baker for the Commission's options on the item. Rex Baker stated that zoning changes can be proposed in one of two ways – by the property owner or by the Council. He stated that the term spot zoning is brought up often and that there are certain times when spot zoning is allowed and when it is not. He stated that the PZ needs to decide if the zoning change is appropriate or if it is not.

Vice Chairman Pat Bouchard stated that the information that has been presented here is different from the last meeting. He stated that he felt that the Commission was given only a biased opinion at the last meeting. He stated that his opinion has changed given the new information from the west side property owners. He stated that he is no longer in favor of the change. He felt that the onus is on the petitioners to change the opinion of the property owners. He felt that there may be some disadvantages to the density proposed on this street. He felt that there are advantages and disadvantages to the rezoning but that there is not enough information to support that the current property owners should have their current zoning taken away.

Commission Member Mike Thuss stated that he has carefully read the letters and heard the opinions at the meeting today. He stated that the petitioner's information given at the meeting today is accurate. He was thankful for the Barkers' appearance at the meeting and for their opinion as a military family. He stated that he and his wife Patty have had their own dealings with the Llano County Appraisal District and that appraisals go up with the market and that it doesn't matter what is across the street. He stated that he heard from Bob Lange who said it would be dishonest to revoke an existing rule that convinced him and his neighbors to purchase these lots. He said he has a note from Douglas McKinney that is opposed to the change because it would limit his development options. He addressed the traffic and parking. He said that he thought the Cats Eye coalition comments were arbitrary. His opinion is that there are not completely ideal situations for everyone. He felt that the quality of construction and the building codes and that what is built there will be in accordance with the Codes and the ACC. The FLUM shows that the plan for Cats Eye is to be single family use. He noted from the Resort that the FLUM is in conflict with the CCRs and should be revised. He noted that the FLUM shows that there are over 600 lots in conflict with the FLUM.

Commission Member Scooter Lofton agrees that this decision is difficult. He stated that he agrees with Mike Thuss that CAD appraisals are all about the ability to sell and that it does not matter what is across the street. He commented on traffic and also felt that it will be an issue no matter what. He stated that the FLUM is a guide to future land use and that it is just a vision. He felt that the FLUM is more of a future land use "dream". He stated that the P&Z is here to preserve our heritage and plan for our future. He stated that this is what they are doing, they are trying to plan for the future of their street. He felt that by approving it, it will open a precedence that other owners next to R2s will attempt to come forward with a request to rezone in their area as well. Commission Member Pat Bouchard stated again that he felt that if the petitioners want to convince the owners to do so, they can do so at that time.

City Attorney Rex Baker told P&Z their option which are to recommend to Council either to approve, deny, or give no recommendation to City Council.

Mike Thuss commented that the petitioners have nothing to gain or lose whereas the property owners have the right to use their property as intended. Mike Thuss made a motion to deny the rezoning. There was no second and the motion failed. Commission Member Scooter Lofton made a motion to provide no recommendation to City Council, seconded by Vice Chairman Pat Bouchard. The motion was approved unanimously (3-0).

**5. Request by Ron Mitchell of Horseshoe Bay Development Company, the Declarant for Siena Creek, for a new Zoning Classification of R-1 Single Family Townhouse in Zone 10 Siena Creek (DISCUSSION ONLY)**

Ron Mitchel commented on the current status of the property and asked that this item be continued to the October P&Z meeting. Vice Chairman Pat Bouchard opened the public hearing and continued it to the October meeting.

**6. Public Hearing and recommendation to City Council on a request by Ron Mitchell of Horseshoe Bay Development Company, the Declarant for Siena Creek, to rezone Lot Nos. SC17-1 – SC17-13 and SC24-SC28 of Lot 17 Final Plat of Siena Creek Phase One in Zone 10 Siena Creek and being in the 100 Block of Maravilla Way from R-4 Multi-Family to R-1 Single Family Townhouse**

Ron Mitchel commented on the current status of the property. Mike Thuss asked to clarify if the property owners themselves had asked for rezoning, to which Ron Mitchell stated yes. Vice Chairman Pat Bouchard opened the public hearing and continued it to the October meeting.

**7. Update on the meeting with Ron Mitchell and Sam Tarbet regarding the FLUM and the CC&Rs**

Commission members acknowledged receipt of the two memos provided.

**8. Adjournment**

Mike Thuss asked to be excused for September 3 meeting, which was acknowledged. Commission Member Scooter Lofton made the motion to adjourn, seconded by Mike Thuss. The motion passed unanimously (3-0). The meeting was adjourned at 4:15 pm.

APPROVED this 1<sup>st</sup> day of October, 2019.

CITY OF HORSESHOE BAY, TEXAS

\_\_\_\_\_  
Neil Andrew, Chairman

ATTEST:

\_\_\_\_\_  
Eric W. Winter, Development Services Director



**CITY OF HORSESHOE BAY**  
**PLANNING & ZONING COMMISSION**  
**OCTOBER 1, 2019**

**To:** Planning & Zoning Commission  
**Thru:** Stan R. Farmer, City Manager  
**From:** Eric W. Winter, Development Services Director  
**RE:** Public Hearing, discussion and possible action on a recommendation to City Council regarding a request to rezone a 0.708 acre tract out of Out Tract 14 and out of Tract 3 Summit Rock Golf Course Plat No. 1.1 from A-1 Recreational to GUI Governmental, Utility & Institutional to allow installation of a temporary buried 5,000 gallon LP gas tank, to be followed soon by a buried permanent 30,000 gallon LP gas tank to serve Tuscan Village in Summit Rock, on the south side of the 200 block of Mayapple outside of the Tuscan Village entrance

Tuscan Village is installing LP gas lines to all residents in the project. A large LP gas tank is needed to provide LP gas to all residents. In order to develop the LP gas system, approval is needed both from the Texas Railroad Commission (RRC) and the City. Tuscan Village has proposed locating a temporary buried 5,000 gallon LP tank, and then replacing it in 30 days with a 30,000 gallon buried tank. The GUI classification is required for any type of public or private utility, of which the LP gas tank is an example. Tuscan Village also needs to do a 1 lot subdivision plat to create a legal lot out of the Out Tract and Golf Course plats.

The nearest house on Paint Brush is within 250 feet of the proposed LP tank. The proposed location is also next to the Summit Rock golf cart path on the south side of Mayapple. Staff has received some verbal comments and a written comment in opposition to this location, questioning why it wasn't located internally rather than near the residences on Paint Brush.

Surrounding zoning and land uses are:

**North:** R-1 Estate Single Family Residential, A-1 Recreational and R-1 Single Family Residential; Vacant, single family residential, and golf course

**South:** Mixed Use Residential Planned Development and A-1 Recreational; Golf course, vacant, single family residential villas and 4-plex townhouse residential

**East:** A-1 Recreational, R-1 Cottage Single Family Residential, R-1 Estate Single Family Residential; Vacant, golf course, and single family residential

**West:** Mixed Use Residential Planned Development, R-4 Multi-Family Residential and A-1 Recreational; vacant and single family residential

The FLUM shows this property as mixed use residential. When the FLUM was developed, there had been no indication in the Tuscan Village Concept Plan, or in the Planned Development Ordinance that a site for an LP gas tank and an entire LP gas system were going to be part of the project.

Although the Texas Railroad Commission issues permits and does inspections of LP gas tanks and systems, because of the small size of this system, they only do a final inspection upon completion of the tank installation and gas lines. Staff does not feel that this offers sufficient protections for the

**community regarding safety issues. If the rezoning is approved, staff will request that the Development Review Committee investigate additional safety items to protect surrounding properties, and Resort golfers using the adjacent cart path, including applicant's submittal of information addressing vapor dispersion, explosion hazard or fireball radiation distances in the event that the entire tank is ruptured or has a significant breach due to a catastrophic accident or intentional impact or explosion.**

**Enclosures: Aerial Map with Area Highlighted  
Zoning Ordinance Amendment  
Comment in Opposition**

TUSCAN VILLAGE LP GAS TANK  
REZONING REQUEST FROM A-1 TO GUI





**CITY OF HORSESHOE BAY**

**ORDINANCE NO. 2019-\_\_\_**

**AMENDMENT OF CHAPTER 14 ZONING AND THE ZONING MAP TO REZONE A 0.708 ACRE TRACT OUT OF OUT TRACT 14 AND OUT OF TRACT 3 SUMMIT ROCK GOLF COURSE PLAT NO. 1.1 FROM A-1 RECREATIONAL TO GUI GOVERNMENTAL, UTILITY & INSTITUTIONAL**

**AN ORDINANCE OF THE CITY OF HORSESHOE BAY CHANGING THE ZONING DESIGNATION FOR A 0.708 ACRE TRACT OUT OF OUT TRACT 14 AND OUT OF TRACT 3 SUMMIT ROCK GOLF COURSE PLAT NO. 1.1 FROM A-1 RECREATIONAL TO GUI GOVERNMENTAL, UTILITY & INSTITUTIONAL IN HORSESHOE BAY, LLANO COUNTY, TEXAS; AMENDING THE ZONING MAP FOR ZONE 12 SUMMIT ROCK BY CHANGING THE ZONING DESIGNATION OF A 0.708 ACRE TRACT OUT OF OUT TRACT 14 AND OUT OF TRACT 3 SUMMIT ROCK GOLF COURSE PLAT NO. 1.1 FROM A-1 RECREATIONAL TO GUI GOVERNMENTAL, UTILITY & INSTITUTIONAL; PROVIDING FOR SEVERABILITY; REPEALER; EFFECTIVE DATE; AND PROPER NOTICE AND MEETING**

**WHEREAS**, Chapter 14 Zoning of the City of Horseshoe Bay's Code of Ordinances provides the zoning classifications for all property in the city and a Zoning Map reflecting the classifications; and

**WHEREAS**, the City Council has provided public notice and has conducted a public hearing on the request to rezone 0.708 acre tract out of Out Tract 14 and out of Tract 3 Summit Rock Golf Course Plat No. 1.1 from A-1 Recreational to GUI Governmental, Utility & Institutional, as required by law;

**WHEREAS**, the City Council has received a report with a recommendation from the Planning and Zoning Commission regarding the rezoning of a 0.708 acre tract out of Out Tract 14 and out of Tract 3 Summit Rock Golf Course Plat No. 1.1 from A-1 Recreational to GUI Governmental, Utility & Institutional; and

**WHEREAS**, the City Council, in the exercise of its legislative discretion has concluded that Chapter 14 Zoning and the Zoning Map for Zone 12 Summit Rock of the Horseshoe Bay City Code of Ordinances should be amended as herein described.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HORSESHOE BAY, TEXAS:**

**I. FINDINGS OF FACT**

All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

## **II. AMENDMENT OF ZONE 12 SUMMIT ROCK ZONING MAP**

The Zoning Map for Zone 12 Summit Rock is hereby amended as follows:

The 0.708 acre tract out of Out Tract 14 and out of Tract 3 Summit Rock Golf Course Plat No. 1.1 is hereby rezoned from A-1 Recreational to GUI Governmental, Utility & Institutional.

## **III. EFFECTIVE DATE**

This Ordinance shall be and become effective immediately upon and after its passage and publication as may be required by governing law.

## **IV. REPEALER**

All ordinances or parts of ordinances in force when the provisions of this Ordinance become effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed only to the extent of such conflict.

## **V. SEVERABILITY**

Should any part, sentence or phrase of this Ordinance be determined to be unlawful, void or unenforceable, the validity of the remaining portions of this Ordinance shall not be adversely affected. No portion of this Ordinance shall fail or become inoperative by reason of the invalidity of any other part. All provisions of this Ordinance are declared to be severable.

## **VI. PROPER NOTICE AND MEETING**

It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

**ADOPTED AND APPROVED** on this the 15th day of October, 2019 by a vote of the City Council of the City of Horseshoe Bay, Texas.

**CITY OF HORSESHOE BAY, TEXAS**

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**Stephen T. Jordan, Mayor**

**Attest:**

\_\_\_\_\_  
**Kerri Craig**  
**City Secretary**

## Eric Winter

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**From:** Steve Jordan <stevejordan10@gmail.com>  
**Sent:** Monday, September 09, 2019 3:41 PM  
**To:** Forrest Covin  
**Cc:** Larry Stahl; Frank Matzinger; Ron Mitchell; Stan Farmer; Eric Winter  
**Subject:** Re: Propane Tank

Forrest

I have forwarded this message to Stan Farmer and Eric Winter and copied Ron Mitchell. I will ask them to respond to Larry, Frank and you..

Please let me know if you do not receive a prompt response.

Steve

On Mon, Sep 9, 2019 at 2:32 PM Forrest Covin <[fcovin@yahoo.com](mailto:fcovin@yahoo.com)> wrote:

Steve,

It is my understanding that this will soon come up for review for a variance in zoning...I completely agree with the letter attached...locating a propane tank of this size close by homes is completely out of the question...please look at their concerns....

thank you, Forrest Covin

P.S. this letter was addressed and sent to Ron Mitchell

The residences of Summit Rock on Paintbrush have been patient, we've been assured that construction entrance is off of RT 71, but they continue to drive through the gate on Mayapple. Now it comes as a surprise that we are looking at a temporary above ground 5000 gallon LP tank, within 5' of the cart path, 30' of Mayapple and 200' of Frank Matzinger's home. This tank's dimensions are 6' X 26'! Not sure if this is the right thing for our pristine community.

As our Summit Rock POA President and President of the ACC, your prime responsibilities to the residences of the community and they are:

1. Safety.
2. Keeping construction within the guidelines of the natural beauty of the Hill Country.
3. Maintaining and growing property values (both Summit and Tuscan).

Items addressing each of the above:

1. If for whatever reason there should be an issues with the tank, our windshield sensors for the gate are currently is not working. If the fire dept. needed to get

in, I'm not 100% sure they will. This has been an on-going problem for 5 years and still continues.

2. The idea, even being temporary, of a 5000 gallon LP tank above ground anywhere in a residential zone, is absurd.
3. Those trying to sell right now, including Tuscan Village, will lose some value.

Tuscan Village has 68 areas, why right in front and near us? Let's move it!

Please look into this and support the community with the right solution.

Kin regards,  
Larry Stahl  
936-900-0453  
134 Paintbrush  
HSB

<http://hsblife.com>

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