

**City of Lockhart
Planning and Zoning Commission
September 14, 2016**

MINUTES

Members Present: Philip Ruiz, Bill Faust, Christina Black, Manuel Oliva, Adam Rodriguez

Members Absent: Steve Visage, Phil McBride

Staff Present: Dan Gibson, Christine Banda

Visitors/Citizens Addressing the Commission: Lydia Serna, Kathy Scott, Beatrice Backett, Chuck Keplar, Tex Cordova, Damian Corpus, Rick Davidson, Clemente Medellin Rosa Oliva, Lucy Knight, Todd Blomerth, Cathy Roland, Kent Black, Patty Payne, Conley Covert, Mark Buffler, Geoff Peveto

1. Call meeting to order. Vice-Chair Ruiz called the meeting to order at 7:05 p.m.
2. Citizen comments not related to a public hearing item. None.
3. Consider the Minutes of the August 24, 2016 meeting.

Commissioner Black moved to approve the August 24, 2016, minutes with a correction from Chair McBride to Vice-Chair Ruiz calling the meeting to order. Commissioner Rodriguez seconded, and the motion passed by a vote of 4-0.

4. ZC-16-05. Hold a PUBLIC HEARING and consider a request by James Quezada for a Zoning Change from CMB Commercial Medium Business District to CCB Commercial Central Business District on part of Lots 1 and 6, Block 28, Original Town of Lockhart, consisting of 0.185 acre located at 109 West Walnut Street.

Mr. Gibson explained that a little over a year ago the applicant, Lydia Serna, who rents the subject property from the owner, Mr. Quezada, requested a change to the zoning of the same property because she was relocating her business, Lilly's Bar, from its previous location on Main Street. The number of off-street parking spaces in the lot behind the building was nonconforming in the current CMB zoning, and was no longer grandfathered because the building had been vacant longer than six months. The proposed CCB zoning would have eliminated that nonconformity because the CCB district does not require off-street parking. The zoning change was not approved, though, and Ms. Serna subsequently applied for a special exception to prevent an inadvertent taking of the property. The special exception was approved with regard to the parking, but a condition was added that alcoholic beverages could not be sold for on-premise consumption. Mr. Gibson said that if the zoning change is approved this time, the special exception would be void because the CCB district does not require off-street parking and, therefore, the condition prohibiting the sale of alcoholic beverages would no longer apply. This would allow the restaurant to apply for a TABC

Mr. Gibson also noted that the existing building and the adjacent buildings were non conforming in the CMB district because they have no front or side setbacks, whereas that district requires a minimum 25-foot front setback and a minimum five-foot side setback. The requested CCB classification would make the buildings conforming because it doesn't require front or side building setbacks. He displayed a map illustrating that owners of more than 20 percent of the property within 200 feet of the subject had submitted written opposition to the proposed zoning change. Staff had received two letters in opposition, and 188 letters of support. He reiterated that the zoning change would correct nonconformities with regard to both the off-street parking and the building setbacks. The question of whether or not a bar is an appropriate use of the property is not pertinent to the zoning change, but is better addressed if the applicant applies for a specific use permit in the future to allow a bar at this location. At that time, the public hearing notice would be sent to the same owners of property who received a notice for the zoning change.

Commissioner Oliva arrived at 7:33 p.m.

Vice-Chair Ruiz opened the public hearing and asked the applicant to come forward.

Lydia Serna of 251 Wildbuffalo Drive in Kyle said she reapplied for the zoning change so that her restaurant would have the opportunity to apply for a TABC permit to serve alcoholic beverages for on-premise consumption. They currently allow customers to bring their own alcohol, and the restaurant provides ice, soft drinks, coffee, and burgers. It is her understanding that the TABC will hold her accountable for the ratio of food and alcohol sales to verify compliance with her permit. She mentioned that she had tried on numerous occasions to visit with her neighbors who oppose the rezoning but, unfortunately, they would not speak to her. She said that the new Lilly's is a restaurant, and is not run like the old Lilly's Bar. Ms. Serna stated that she wanted to have a respectable place of business and continue to use the name Lilly's out of respect for her mom. She said that she felt bullied by the other businesses nearby, and would like it for it to stop.

Kathy Scott of 1312 Hausman Drive said she appreciates Lydia for having bike night. She and her son enjoy the food and company. She said she likes to have a beer with her burger.

Beatrice Backett of 813 Picasso Drive said that she had been coming to Lockhart for ten years because Lilly made it a point to emphasize the good character of Lockhart. She also mentioned to the Commission that Lockhart is going through a revitalization right now, and it would benefit the city to keep the business open.

Chuck Keplar of 424 Plum Street said he had been a patron of Lilly's for a long time. He had personally helped with the motorcycle events, which have raised a lot of money for different charities. He chose Lockhart to raise his daughter, and stayed here even after his divorce because he likes the community. He loves the growth he is seeing downtown and had read many positive articles lately about Lockhart. He has faith that the city government will make the best decision for the city.

Tex Cordova of 936 West Prairie Lea Street said that he knew Lilly well, and believes that Lydia would run a business with good intentions. He said he was also a patron of the Pearl, and could easily see folks leaving the place just like if they left from the original Lilly's.

Damiana Corpus said that Lilly was her Aunt. She works at Lilly's, and knows that if folks get out of control they are handled appropriately. She does not understand why folks hate her cousin for trying to run a business in Lockhart. She asked the Commission to give her a chance to continue her mom's legacy. She said the patrons are blue collar workers and good people.

Rick Davidson of 499 Sandhill Road in McMahan said he is one of Lilly's bikers. He was in favor of the zoning change.

Clemente Medellin, Lydia Serna's husband, said that he and his wife are just middle class folks trying to run a business. They would like to succeed and make future plans in the city. He had seen the politics involved here surrounding their case, and it is very discouraging, but hopefully change will come.

Rosie Olivo of 1033 Teron Drive in San Marcos said everyone would like to have the American dream, and she is not sure why there is so much opposition in this case.

Vice-Chair Ruiz asked for any other speakers in favor of the application. Seeing none, he asked for any speakers in opposition to come forward.

Lucy Knight of 1532 Parkview Drive said she a member of the Episcopal Church but was not speaking on behalf of the church. She said she wants the condition imposed by the Zoning Board of Adjustment to remain. Another concern was having the rear door as the main entrance, which would encourage people to gather in the parking lot, thereby creating more noise to the neighboring home that is occupied by a family. She also believes the business causes an unsafe environment for the dance studio located across the street. Ms. Knight stated that parking in the area is also a problem. Since the restaurant had opened there is less parking for church members or other businesses. She stated that she has no racial biases at all, and that her main concern is about those who have had too much to drink.

Todd Blomerth of 1105 Spruce Lockhart Street said he is also a member and on the vestry of the Episcopal Church. He repeated that this case is the same issue as last year when the City Council upheld the Commission's recommendation for denial. He said that the original Lilly's Bar had over 800 calls from police records over the past 15 years. Lilly's had drug paraphilia in the restrooms and fights in the streets. The new owner Lydia chose to rent a space across from a church for her new business. He said that, as a result of the Zoning Board of Adjustments action, Lydia was able to open up as a restaurant, but the ultimate intent is for it to become a bar. He believes they are using a loophole to allow customers to bring in their own alcohol, and that he had personally seen intoxicated people exiting the property as he left bible study at the church. He believes that given the history of Lilly's that nothing will change and that there will still be public urination and broken beer bottles at the new location.

Cathy Roland of 1407 Fourth Street said she owns the DCU dance studio across the street from Lilly's. She is opposed to selling beer on the premises because her clients have expressed concerns about their safety and about the parking issues they are experiencing. She mentioned that her main entrance is in the alleyway at the back of the building, and that she does not allow parents to park there. Some of Lilly's patrons are parking there now and causing problems.

Commissioner Rodriguez asked if parking had always been an issue, or is it just now since Lily's opened.

Ms. Roland replied that parking has become more of a problem over the past year.

Kent Black, President of Black's BBQ, said that his family has owned the surrounding buildings since the 1930's. He said Black's had always been a supporter of Lilly's charity events and is a member of the Hispanic Chamber of Commerce. He expressed his concerns about the history of Lilly's bar with the fights and drugs associated with it. He said from past experience Lilly's had not been a good neighbor, and he was concerned for patrons at the surrounding businesses.

Patty Payne of 1105 Spruce Street said she had been a resident of Lockhart since 1981. She said she practiced law in town and was a neighbor of the original Lilly's bar. She witnessed a lot of events at Lilly's over the years, and was concerned with protecting property values and parking problems. She said she was not here for any vendetta, but is generally concerned for the health and safety of Lockhart. She pointed out that Lydia knowingly chose an undesirable location to move her mother's business where there was not adequate parking or correct zoning for a bar. She said the proposed zoning change would set a bad precedent.

Vice-Chair Ruiz asked if there were any other speakers and, seeing none, he closed the public hearing and asked for the staff recommendation.

Mr. Gibson stated that, from a professional planning perspective, the proposed CCB zoning classification is more logical than CMB for the subject location. He reiterated that if the applicant wanted the business to be a bar, the same owners of property would be notified and there would be another public hearing for a specific use permit. Also, he noted that other business allowed by the current CMB zoning of the property could have the same parking impact as the current restaurant.

Commissioner Rodriguez moved to approve ZC-16-05, and Commissioner Ruiz seconded. The motion failed by a vote of 2-2-1, with Commissioners Oliva and Faust against and Commissioner Black abstaining.

5. SUP-16-14. Hold a PUBLIC HEARING and consider a request by 119 West San Antonio Street, LLC, for a Specific Use Permit to allow a Mixed Use Building, with a brewpub/restaurant, apartment, and Special Events Facility on Part of Lot 1, Block 22, Original Town of Lockhart, consisting of 0.11476 acre zoned CCB Commercial Central Business District and located at 119 West San Antonio Street.

Ms. DeVore explained that the applicant would like to apply for a two-part specific use permit where one use would be for a mixed-use building containing a restaurant, special events facilities, and a residential use. The other part of the specific use permit application was for the special events functions. She stated that no letters in opposition had been received, and mentioned members of the development team were present to answer any of the Commission's questions.

Commissioner Rodriguez asked if they would have to apply for a beer license for the facility.

Mr. Gibson said that the TABC would provide a brewery license for the facility since they would brew what they sell on the premises.

Vice-Chair Ruiz opened the public hearing and asked the applicant to come forward.

Conley Covert of 901 West 9th Street in Austin said that he is the owner of the Masur Building at 119 West San Antonio Street. He introduced the proprietors of the business who plan to lease the building.

Mark Buffler of 10020 Austral Cove in Austin said that he is the owner of South Austin Brewery.

Geoff Peveto of 1702 Nickerson Street in Austin stated he is the owner of Frank's in Austin and San Antonio.

Mr. Buffler said he would like to clarify the license. The TABC has a newly established brewpub license that will allow beer to be produced and consumed on-site as a brewpub/restaurant.

Commissioner Rodriguez asked if it had to meet the 300-foot distance from the nearest church for the alcohol consumption.

Mr. Buffler replied that such requirement did apply, and that it had already been addressed.

Mr. Covert asked Mr. Peveto to explain how the roof would be utilized.

Mr. Peveto said the beer would be brewed in the basement, and consumed on-site. The first floor would be a restaurant for food to compliment the beer. The roof will contain a beer garden with food and beer service on the deck. He said they plan to install a commercial grade elevator to the roof, and the fire escape will be extended, as well. The second floor is an open space that can be used for a variety of events, and the third floor is a residence.

Commissioner Faust asked how the brewery would handle their waste.

Mr. Buffler replied that they work well with farmers, who will pick it up daily to use for animal feed.

Vice-Chair Ruiz said that he was concerned about fire protection and the elevator. He asked what happens if the elevator goes out.

Mr. Covert replied that the building will have sprinklers installed, and that a backup generator will be used to make sure the elevator would always be operable. They are working with the building official on life safety plans, which are preliminary until the Commission approves the proposed uses.

Mr. Buffler said they are putting a lot of energy into their project to make sure everything works well.

Mr. Covert said they will support the live music scene.

Vice Chair-Ruiz closed the public hearing and asked for the staff recommendation.

Ms. DeVore said that staff recommends approval.

Commissioner Faust moved to approve SUP-16-14. Commissioner Rodriguez seconded, and the motion passed by a vote of 5-0.

6. Discuss the date and agenda of next meeting, including Commission requests for agenda items.

Mr. Gibson said the next meeting is September 28, and there is one zoning change case on the agenda.

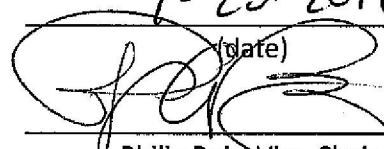
Vice-Chair Ruiz requested that an item be placed on the next agenda to discuss establishing a time limit for speakers during public hearings.

7. Adjourn.

Commissioner Oliva moved to adjourn, and Commissioner Faust seconded. The motion passed by a unanimous vote, and the meeting adjourned at 9:23 p.m.

Approved:


Christine Banda, Recording Secretary

9-28-2016
 (date)
Philip Ruiz, Vice-Chair