

CITY OF HUNTERS CREEK VILLAGE, TEXAS
MINUTES OF THE PLANNING AND ZONING COMMISSION
MARCH 2, 2009

The Planning and Zoning Commission of the City of Hunters Creek Village, Texas, convened in a regular session on March 2, 2009 at 7:00 p.m. in City Hall at #1 Hunters Creek Place, Hunters Creek Village, Texas.

The meeting was called to order at 7:00 p.m. by Chairman David Weaver. In attendance were David Weaver, Nancy Parks, Bill Dalton, Jim Pappas, Tod Dimitry, and David Childers. Also in attendance were Deborah Loesch, City Secretary and John Hightower, City Attorney.

1. Discussion with possible action to approve the minutes of the November 3, 2008 meeting.

A motion was made by Tod Dimitry with a second by Nancy Parks to approve the minutes with the noted corrections. The motion carried unanimously.

2. (a) Presentation and discussion of the proposed preliminary re-plat of Lots 17 and 18, Country Lane Subdivision, a subdivision of 1.0124 acres being Lots 17 and 18 and a 0.3911 acre tract of Country Lane Addition, an unrecorded subdivision situated in the Robert Vance Survey, Abstract No. 77 of Harris County, Texas, to create two (2) single-family residential lots, 2 lots, 1 block.

Mr. Patrick McCarthy presented their position on the need to replat the 2 lots as he recently purchased the property from the pipeline company and the configuration of the 2 lots created a very unusual shape lots. The purpose of the replat is to adjust the property lines into rectangular sites with different acreage and lot dimensions in order to have a buildable site for new construction and improvements. The acreage of the 2 lots would change very little. Some of the Commission members had questions regarding the existing pipeline easement and the conveyance of that easement with the sale of the property and what is the status of that easement.

- (b) Public Hearing for the purpose of receiving testimony for and against the approval of the final re-plat described in Item 2(a) above.

Chairman Weaver opened the public hearing for comments. Hearing none, the public hearing was closed.

- (c) Discussion and possible action to grant approval of the preliminary re-plat of Lots 17 and 18, Country Lane Subdivision, a subdivision of 1.0124 acres being Lots 17 and 18 and a 0.3911 acre tract of Country Lane Addition, an unrecorded subdivision situated in the Robert Vance Survey,

Abstract No. 77 of Harris County, Texas, to create two (2) single-family residential lots, 2 lots, 1 block.

A motion was made by Bill Dalton with a second by Jim Pappas to approve the preliminary plat as presented with notations required on the final plat: (1) show the pipeline easement and (2) note that the building set backs reflect the requirements set out in the deed restrictions. The motion carried unanimously.

3. Discussion and possible action to consider a report and recommendation to submit to Council to amend the regulations governing property maintenance and establish new regulations for substandard buildings and structures.

The Commission was received a request from the City Council to review the current provisions regarding property maintenance and make any recommendations that could strengthen the regulations and enforcement to require property owners to maintain their property so not to be an unhealthy, a hazard, or an eye source to the citizens. In addition, the Council requested that they recommend new regulations for enforcing substandard buildings and structures. Deborah Loesch, City Secretary, prepared some proposed language based on regulations used by the City of Bunker Hill and Hedwig Village. Ms. Loesch explained that there is concern that the current regulations were difficult to enforce as written and that there were no provisions for enforcing the repairs or demolition of substandard buildings and structures. The Commission reviewed the proposed language and made the following recommendations:

- (1) A motion was made by Tod Dimitry with a second by Bill Dalton to recommend the following changes to the current provisions in the form of an ordinance to be submitted to Council, the motion carried unanimously.

“Article IV of Chapter 18 of the Code of Ordinances of the City of Hunters Creek Village, Texas, is hereby amended to read as follows:

ARTICLE IV. PROPERTY MAINTENANCE

Sec. 18-82. Definitions.

For the purposes of this Article, the following words, terms, and phrases shall have the meanings ascribed thereto unless the context clearly indicates otherwise.

Nuisance shall mean whatever is dangerous to life or health, and whatever renders the ground, the water, the air or any food or drink unhealthy and a hazard to life or health.

Sec. 18-83. Enumerated Conditions.

The following, without limiting the definition in Section 18-82 above, are specifically declared to be public nuisances, and as such are liable to be abated, and the person guilty of causing, permitting or suffering any such nuisance upon any land, or within building, owned, occupied or controlled by such person, or in or upon any street, alley, sidewalk or gutter immediately adjacent to such premises, shall be deemed in violation of this Article:

- (1) Accumulation of unwholesome or impure matter, or stagnant water;
- (2) Swimming pools containing stagnant, untreated or impure water, or swimming pools or swimming pool structures on unoccupied property that have not been secured from ready access by minors;
- (3) Carrion, garbage, trash or refuse, dead brush or trees, or other objectionable, unsightly, or unsanitary matter;
- (4) Weeds or grass over eight (8) inches in height;
- (5) Any condition liable to produce disease; and
- (6) Any condition that harbors or would be likely to harbor rats, snakes, vermin, mosquitoes or other disease-bearing animals or insects.

Sec. 18-84. Abatement.

If any person who owns any lot or building within the City who does not abate a nuisance as described in this Article within seven (7) days after notice to such person, as provided in Section 18-86 below, the City may do or cause to be done that which will abate the nuisance, and may pay the expense therefore, and charge such expenses incurred in doing such work or having such work done or improvements made to the person who owns such lot or building. If such work is done or improvements made at the expense of the City, such expenses shall be assessed on the real property upon which such expense was incurred as provided in Section 18-87 below.

Sec. 18-85. Notice.

- (a) The notice required in Section 18-85 above shall be given:

- (1) Personally to the owner in writing;
 - (2) By letter addressed to the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located; or
 - (3) If personal service cannot be obtained:
 - a. By publication at least once;
 - b. By posting the notice on or near the front door of each building on the property to which the violating relates; or
 - c. By posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates.
- (b) If the City mails a notice to a property owner in accordance with subsection (a)(2) above, and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice shall not be affected, and the notice shall be considered as delivered.
- (c) In the notice provided under this Section, the City may inform the owner by regular mail and a posting on the property that if the owner commits another violation of the same kind or nature that poses a danger to the public health and safety on or before the first anniversary of the date of the notice, the city without further notice may correct the violation at the owner's expenses and assess the expense against the property. If a violation covered by a notice under this subsection occurs within the one-year period and the City has not been informed in writing by the owner of an ownership change then the City, without notice, may take any action permitted, and assess the expenses therefore, as provided by Section 18-87 below.

Sec. 18-86. Collection of expenses.

The Mayor or City Secretary shall file a statement of expenses giving the amount of such expense, the date on which such work was done, and a description of the premises upon which such work was done or improvements made with the county clerk. The City shall have a privileged lien on such lot or real estate upon which such work was done, or improvements made, to secure the expenditures so made, in accordance with §342.007, Health & Safety Code, as amended, which lien shall be second only to tax liens or liens for street improvements, and such amount shall bear ten percent interest from the date the statement is filed. For any

such expense and interest suit may be instituted, and recovery and foreclosure of such lien may be had in the name of the City. The statement of expenses, so made, or a certified copy thereof, shall be prima facie proof of the amount expended for such work or improvements.”

- (2) A motion was made by David Weaver with a second by Tod Dimitry to recommend adopting the following new provisions regulating substandard buildings and structures in the form of an ordinance to be submitted to Council, the motion carried unanimously.

“The Code of Ordinances of the City of Hunters Creek Village, Texas, is amended by adding a new Article IX to Chapter 18 to read as follows:

ARTICLE IX. SUBSTANDARD BUILDINGS AND STRUCTURES.

Sec. 18-224 Incorporation of provisions of state law.

This article is adopted under authority of Chapter 214, Subchapter A of the Texas Local Government Code. Where any provision of this Article is inconsistent with any provision of Subchapter A, the applicable provision of Subchapter A shall control.

Sec. 18- 225. Definitions.

When used in this Article, the following words, terms, and phrases are defined as follows.

- (a) *Building*. Any structure designed or built for the support, enclosure, shelter, or protection of persons, animals, or property of any kind.
- (b) *Structure*. Anything constructed or erected which requires location on the ground or is attached to something having a location on the ground including, but not limited to, signs, fences, walls, poles, and buildings, whether of a temporary or permanent nature.

Sec. 18-226. Substandard buildings and structures.

Any building or structure which has any of the following defects shall be deemed a substandard building or structure and constitute a hazard to the health, safety, and welfare of the citizens:

- (a) Any building or structure that has become deteriorated or damaged through exposure to the elements including, without limitation, flood, wind, hail, or rain, or damage through fire, or damage by any other cause, to the extent that either the roof, windows, or doors, or portions of the house, building, or structure which protect

from the weather will no longer reasonably protect from the weather.

- (b) Any building or structure which is so structurally deteriorated or damaged that it is in danger of collapse or which cannot be expected to withstand the reasonably anticipated storms.
- (c) Any building used for the occupancy of one or more persons which is not connected to an approved public sanitary sewer.
- (d) Any building or structure not constructed or maintained in conformity with applicable fire, electrical, plumbing, or building codes of the City of Hunters Creek Village, Texas, when the nonconformity constitutes a serious hazard to the safety of persons or property.
- (e) Any building or structure so constructed or maintained as to constitute a menace to the health or safety, including:
 - (1) All conditions conducive to the harboring of rats, snakes, mice, other disease-carrying animals, or insects reasonably expected to spread disease; or
 - (2) Conditions hazardous to the safety of persons or property, such as the presence of deteriorated materials, or inadequate bracing, structural support, or construction; or
 - (3) Conditions constituting an attractive nuisance creating a hazard to the health or safety of minors.

Sec. 18-227. Declaration of Nuisance.

Any building or structure within the City that is substandard, as defined in this Article, is declared to be a public nuisance.

Sec. 18-228. Inspections and Reports.

The City building official, or other representative designated by the City Council, shall: (a) inspect any building or structure that appears to be substandard, (b) present a report of the results of the inspection to the City Council, and (c) where the building appears to be substandard, give appropriate notice to the property owner of any hearings scheduled for the purpose of taking action to remedy the situation.

Sec. 18-229. Procedures.

The following procedures shall be applicable when the City is made aware of a substandard building or structure.

(a) Emergency Procedure. When an emergency exists, as defined below, the following procedures shall apply:

(1) When it shall appear that a building or structure in the City is a substandard building or structure under this Article and that the building or structure, or the manner of its use, constitutes an immediate and serious danger to life, public safety, or property, the condition shall be deemed a hazard justifying the use of emergency measures, and the City Council may order that any of the following emergency measures be taken:

- a. Immediate vacation of the building, structure, or adjoining buildings or structures;
- b. Vacation of the danger area around the building or structure;
- c. The temporary emergency shoring and bracing of walls, roofs, and supports as are required to eliminate the immediate and serious threat of damage to life or property;
- d. The posting of notices on or near the building or structure, notifying the public of the City Council's orders and ordering all persons to keep out of the building or structure and the surrounding areas of danger.

(2) When any of the above emergency measures are ordered to be taken, notice of the order shall be given by personal service on the owner and/or occupant of the building or structure or the owner's representatives, or if the premises is unoccupied, by attaching a copy of the notice in a place of prominence on the building or structure and causing a copy of the notice to be mailed to the owner or his representative by certified mail, return receipt requested. Upon the adoption of the emergency order the City Council shall schedule a hearing and cite the owner or his representative to appear and show cause why the building or structure should not be declared a substandard building or structure and why he should not be ordered to repair, vacate, or demolish the building or structure. The citation shall be served with the notice of emergency order in accordance with the provisions of this paragraph. The hearing shall be conducted in accordance with the provisions of Subsection (b) hereof.

(b) Normal Procedure.

(1) When it shall come to the attention of the City that a building or structure in the City is substandard under the provisions of this Article, the City Council may schedule a hearing and cite the owner of the building or structure or his representative to appear and show cause why the building or structure should not be declared to be a substandard building or structure and why the owner should not be ordered to repair, vacate, or demolish the building or structure. The date of the hearing shall be not less than ten (10) days after the citation shall have been made.

(2) the citation may be served by delivery of a copy thereof to the owner and occupant, or if the premises is unoccupied, by attaching a copy of the citation in a place of prominence on the building or structure and causing a copy of the citation to be mailed to the owner or his representative by certified mail, return receipt requested.

(3) On the day set in the citation the hearing shall be conducted and on the basis of the hearing the City Council shall determine whether or not the building or structure is a substandard building or structure, and shall issue such orders as shall appear reasonably necessary to prevent the building or structure from being a hazard to life or property and to eliminate the substandard qualities.

Sec. 18-230. Standards for Orders.

The following standards may be followed by the City Council in ordering the repair, vacation, or demolition of a substandard building or structure:

- (a) If the substandard building or structure can reasonably be repaired so that it will no longer be in a condition which is in violation of the provisions of this Article, it shall be ordered repaired.
- (b) If the substandard building or structure is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants, the citizens of the City, or to the public, it shall be ordered to be vacated.
- (c) In any case where a substandard building or structure cannot be repaired so that its existence will no longer be in violation of the provision of this Article, it shall be ordered demolished.

Sec. 18-231. Remedial Action.

- (a) After the hearing, if the building or structure is found to be substandard, the City Council may direct that the building or structure be repaired or removed within a reasonable time. If the repair or removal has not been made at the expiration of the allotted time, the City may demolish and remove the building or

structures at the expense of the City and assess the expenses thereof by filing a lien on the land on which the building or structure stood or to which it was attached.

- (b) Notice of the assessment of the lien shall be signed in name of the City by the Mayor. It shall state that the City Council has ordered or directed the removal of a building or structure determined to be substandard, after notice to the owner and public hearing in accordance with this Article, and that the failure of the owner to remove the substandard building or structure has resulted in the removal thereof at the expense of the City, which expense has been assessed by the City Council on the land on which the building or structure stood or to which it was attached. The notice shall further designate and describe the property against which the lien is assessed and the amount of the assessment.
- (c) The notice shall be filed with the Clerk of the County in which the property is located with a copy served on the owner of the property or his representative by personal service or certified mail, return receipt requested.”

Adjournment

With no further business coming before the Commission, the meeting was adjourned at 8:00 p.m.

Respectfully Submitted,

Deborah L. Loesch, TRMC
City Secretary

These minutes were approved on the 6th day of April, 2009.