



PLANNING AND ZONING COMMISSION MEETING

March 9, 2023 | 6:30 PM

Council Chambers

City Hall | 665 Country Club Road, Lucas, Texas

Call to Order

The meeting was called to order at 6:30 pm and the Pledge of Allegiance was recited.

Commissioners Present:

Vice Chairman Tommy Tolson
Commissioner Peggy Rusterholtz
Commissioner Joe Williams
Alternate Commissioner James Foster *(voting member)*
Alternate Commissioner Chris Bierman *(voting member)*

Staff Present:

City Manager Joni Clarke
Assistant City Manager Kent Souriyasak
Development Services Director Joe Hilbourn
City Attorney Courtney Morris
Management Analyst Joshua Menhennett

Commissioners Absent:

Chairman Dusty Kuykendall
Commissioner Adam Sussman

City Council Liaison Present:

Mayor Jim Olk

Regular Agenda

1. Discuss accessory building regulations in the City of Lucas.

Development Services Director Joe Hilbourn presented, advising that City Attorney Courtney Morris has attempted to draft ordinance language that would encompass all of the Planning and Zoning Commission and the City Council’s recommendations. Mr. Hilbourn advised that there was one homeowner who requested a change allowing accessory buildings in the front yard detached from the main structure provided they were set back 300 feet from the edge of pavement.

Vice Chairman Tolson asked Mr. Hilbourn’s opinion on accessory buildings in the front yard. Mr. Hilbourn indicated his concern would be unsightly metal buildings being in the front yard.

Alternate Commissioner Bierman indicated it would be better to leave out allowing accessory buildings in the front yard and have residents come before the Board of Adjustment for approval. Commissioner Rusterholtz advised that many residents in the city have the same issue of needing an accessory building in the front yard.

Jared Bunn, 253 East Blondy Jhune Road, spoke advising that his property is just over 19 acres and his family has been burglarized several times. Mr. Bunn advised their home is at the back of the property with 16 to 19 acres in the front. Vice Chairman Tolson asked what Mr. Bunn is trying to build. Mr. Bunn advised it will be a 50 by 70 foot barn to hold farm equipment.

Commissioner Rusterholtz asked if this issue could be approached as a specific use permit. City Attorney Courtney Morris indicated requiring a specific use permit would be the preference from a legal standpoint.

After some discussion, the Planning and Zoning Commission gave the direction that accessory buildings in the front yard should be a specific use permit request process.

Vice Chairman Tolson read Commissioner Adam Sussman's feedback received via email as he was not able to come to the meeting. Commissioner Sussman requested to simplify the language in the proposed ordinance to remove the need for specific use permits for additional square footage and recommended setting maximum size of accessory dwelling units (ADU) to a combined 600 square feet, with a specific use permit per lot size.

City Attorney Courtney Morris gave an update regarding the Legislative Session, which proposes House Bill 2789 and Senate Bill 1412 that, if passed, would severely restrict the city's ability to regulate ADUs. Ms. Morris advised if either bill passes after this ordinance is approved, the ordinance would have to be stricken. Ms. Morris gave some examples of restrictions cities would have if the bill is passed, including; cities will not be allowed to prohibit selling or renting an accessory dwelling unit, set a minimum lot size, require separate parking, or set a minimum setback requirement of more than five feet.

Alternate Commissioner Bierman asked about the calculation of square footage not including existing non habitable space. Commissioner Rusterholtz clarified that if a resident wants to use a small section of an existing building as a habitable area, then that should be allowed. Alternate Commissioner Bierman asked if separate meters would be allowed. Commissioner Rusterholtz opined that not allowing separate meters will not prevent people from renting out ADUs. Commissioner Williams agreed that being restrictive on utilities will not prevent people from renting out ADUs. Commissioner Bierman advised he was in agreement with not restricting utilities. Vice Chairman Tolson advised having a regulation on meters would be consistent with some surrounding cities.

Alternate Commissioner Bierman asked where the number of 600 square feet came from. Mr. Hilbourn responded that 600 square feet is an adequate size for an apartment or guest home. Commission Rusterholtz advised she is in agreement with the 600 square feet regulation, with anything larger requiring a specific use permit.

Commissioner Rusterholtz advised another issue that has been discussed is only allowing accessory dwelling units in R2 zoned properties. Commissioner Rusterholtz advised if they are not allowed in all zoning, that the definition would need to be cleaned up to clarify. Commissioner Rusterholtz indicated that another concern she has is that the proposed ordinance references that occupants of the accessory dwelling unit must be the owner/occupant of the main structure, and that additional family members should be included. Mayor Jim Olk advised the existing conditions in the ordinance were to give the Planning and Zoning Commission grounds to approve or deny a specific use permit. Commissioner Rusterholtz suggested changing language referring to "agricultural users" to "agricultural zoned".

Mayor Olk asked Mr. Hilbourn if there were any commercial uses currently in non-commercial zones. Mr. Hilbourn advised that there are several currently that are in Agriculture zoning. Mayor Olk suggested having language in the ordinance referring to the temporary use of commercial trailers would possibly prevent commercial uses on residentially zoned properties.

Commissioner Rusterholtz suggested the section relating to buildings for agricultural purposes be updated to include that habitable space would not be allowed in those buildings. Commissioner Rusterholtz also suggested some changes to the numbering to make the ordinance cleaner.

Vice Chairman Tolson indicated an area of concern is having more than one single family home on a lot, and another concern is discouraging ADUs from being a short term or long-term rental. Vice Chairman Tolson opined that having restrictions on utilities is one way to discourage rentals. Vice Chairman Tolson asked if allowing a kitchen in ADUs in R2 zoned properties is a necessity. Vice Chairman Tolson also opined that dropping specific use permits requirements and instead having people come before the Planning and Zoning Commission and the City Council would lessen the amount of specific use permits being issued. Vice Chairman Tolson addressed the language referring to ADUs having to meet the requirements of the International Residential Code (IRC), advising that some of the City ordinances go above and beyond the IRC's requirements, and therefore the language should also direct residents to have to follow all City ordinances. Mayor Olk indicated that the intention was that ADUs have to meet health and safety requirements of the IRC and to prevent unsafe buildings from being built. Mr. Hilbourn advised there are very few portions of the codes that would not apply with the way the ordinance is written.

Vice Chairman Tolson discussed his concern of slopes on ADUs not conforming to the slope requirement on a single-family home. Mr. Hilbourn advised the intent of the slope regulation on single family homes was to limit manufactured housing being in the area, but that it did not specifically relate to ADUs. Vice Chairman Tolson asked what the minimum slope is on an ADU. Mr. Hilbourn advised there is currently not a minimum standard.

Mayor Olk opined that regulating the size of an ADU is going to be more effective in dissuading renting out an ADU, rather than restricting how an ADU is built regarding slopes.

Vice Chairman Tolson asked about supporting structures on ADUs referenced in the ordinance, and indicated there might be an inconsistency in the language. Commissioner Rusterholtz clarified that one section is referring to setbacks and the other is referring to square footage. City Attorney Courtney Morris indicated that a patio is included in the square footage of the building, but they are exempted from the other regulations. Mayor Olk suggested putting language in the ordinance that would indicate that patios would not be excepted from the section relating to square footage.

Commissioner Rusterholtz suggested that if a kitchen will be allowed by right in an ADU that the definition needs to be changed, and that requiring a deed restriction could be in the ordinance. Commissioner Rusterholtz indicated it would be better to allow a kitchen by right because it would allow the City to ensure the requirements are being followed. Commissioner Williams advised that eliminating kitchens would cause people to construct the kitchen despite the ordinance.

The Commission was in agreement with the size limits indicated in the proposed ordinance, kitchens being allowed by right, size limits in Agriculture and Residential 1-Acre zones being the same, requiring a specific use permit for sizes above 600 square feet, deed restrictions on buildings above 600 square feet, and no restrictions on utilities.

Alternate Commissioner Bierman asked what the difference is between a workshop area and a vehicle storage area. Commissioner Rusterholtz explained that the interconnection within the building will determine the type of building. Mayor Olk further explained that as long as there is no interconnection it is clear what type of building it is.

Vice Chairman Tolson asked to have the clean draft of the ordinance sent to the Planning and Zoning Commission as early as possible and gave a deadline of March 17, 2023.

MOTION: There was no motion needed for this item.

2. **Consider approval of the minutes of the February 9, 2023 Planning and Zoning Commission meeting.**

MOTION: A motion was made by Commissioner Williams, seconded by Commissioner Rusterholtz to approve the minutes of the February 9, 2023 Planning and Zoning Commission meeting as presented. The motion passed unanimously by a 5 to 0 vote.

Vice Chairman Tolson asked for an item to be placed on the next agenda giving an update of Barratt Lakes Estates' progress on their outstanding items to be completed.

3. **Adjournment.**

MOTION: A motion was made by Commissioner Williams, seconded by Commissioner Rusterholtz to adjourn the meeting at 8:17 pm. The motion passed unanimously by a 5 to 0 vote.



Dusty Kuykendall, Chairman



Erin Day, City Secretary

