

**CITY OF SHAVANO PARK  
PLANNING & ZONING COMMISSION MEETING  
CITY HALL, COUNCIL CHAMBERS  
900 SADDLETREE COURT, SHAVANO PARK, TEXAS 78231  
August 7, 2019**

**6:30 P.M.**

**AGENDA**

1. Call to order
2. Vote under Section 36-69 of the Shavano Park City Code (“Code”) concerning a finding that each of the items following item 2 on the agenda are “planning issues” or otherwise prescribed Planning & Zoning Commission duties under 36-69(l) of the Code or the severance of one or more of such items for an individual vote on such item or items.
3. Citizens to be heard – Rules for Citizen’s Comments: The Planning & Zoning Commission welcomes citizen participation and comments at all of their meetings. As a courtesy to your fellow citizens and out of respect to Board members; we request that if you wish to speak that you follow these guidelines.
  - A. Direct your comments to the entire Board, not to an individual member;
  - B. Limit your discussion to one or two issues that you wish to address rather than a generalized statement; and
  - C. Show the Board the same respect and courtesy that you expect to be shown to you.
  - D. As stated in Resolution No. 04-11, residents are given three (3) minutes to speak during Citizens to be heard. Residents are only allowed to speak once and cannot pass their time allotment to someone else.

The Presiding Officer will rule any disruptive behavior, including shouting or derogatory statements or comments, out of order. Continuation of this type of behavior could result in a request by the Presiding Officer that the individual leave the meeting, and if refused, an order of removal.

**Note:** The Commission may not debate any non-agenda issue, nor may any action be taken on any non-agenda issue at this time; however, the Board may present any factual response to items brought up by citizens [Attorney General Opinion – JC 0169]

4. Consent Agenda:
  - A. Approval - Planning & Zoning Commission minutes, June 5, 2019
5. Discussion / update – Semi-annual presentation by Denton Communities regarding residential and commercial development in Shavano Park and surrounding areas and discussion concerning same – Commissioner Janssen.
6. Discussion / action – Possible amendments to Chapter 36 – Zoning and Chapter 32 – Traffic and Vehicles to clarify if port cochere, porches and other entryway features are allowed in residential front setbacks – City Manager

7. Discussion / update – Update on results of the July 16, 2019 TxDOT public open house meeting regarding the improvements to NW Military Highway and discussion concerning the same – City Manager Hill.
8. Report / update – City Council items considered at previous City Council meetings and discussion concerning the same - City Manager Hill.
9. Chairman Announcements:
  - A. Advise members to contact City staff to add new or old agenda items.
  - B. Remind members concerning the September 1, 2019 Boards / Commissions application deadline.
  - C. Advise members of pending agenda items, as follows:
    - i. September, 2019 – Consider rezoning of three tracts vicinity of Lockhill Selma and Huebner Road to B-2 Planned Unit Development (PUD)
    - ii. September, 2019 – Consider proposed changes to Sec. 24 of the City of Shavano Park Code of Ordinances regarding signs.
    - iii. October, 2019 – Welcome to new commissioners and thank you departing members.
    - iv. October, 2019 – Nomination and appointment of Chairman.
    - v. October, 2019 – Nomination and appointment of Vice-chairman.
    - vi. February, 2020 – Semiannual presentation by Denton Communities regarding residential and commercial development in Shavano Park and surrounding areas and discussion concerning the same.
10. Adjournment

**Accessibility Statement:**

The City of Shavano Park City Hall is wheelchair accessible. The entry ramp is located in the front of the building. Accessible parking spaces are also available in the front and sides of the building. Sign interpretative services for meetings must be made 48 hours in advance of the meeting. Call the A.D.A. Coordinator at 817-447-5400 or TDD 1-800-735-2989.

**Decorum Required:**

Any disruptive behavior, including shouting or derogatory statements or comments may be ruled out of order by the Presiding Officer. Continuation of this type of behavior could result in a request by the Presiding Officer that the individual leave the meeting, and if refused, an order of removal.

**Action by Commission Authorized:**

The Planning and Zoning Commission may vote and/or act upon any item within this Agenda. The Commission reserves the right to retire into executive session concerning any of the items listed on this Agenda, pursuant to and in accordance with Texas Government Code Section 551.071, to seek the advice of its attorney about pending or contemplated litigation, settlement offer or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas conflict with the Open Meetings Act and may invoke this right where the City Attorney, the Mayor or a majority of the Governing Body deems an executive session is necessary to allow privileged consultation between the City Attorney and the governing body, if considered necessary and legally justified under the Open Meetings Act. The City Attorney may appear in person, or appear in executive session by conference call in accordance with applicable state law.

**Executive Sessions Authorized:**

This agenda has been reviewed and approved by the City's legal counsel and the presence of any subject in any Executive Session portion of the agenda constitutes a written interpretation of Texas Government Code Chapter 551 by legal counsel for the governmental body and constitutes an opinion by the attorney that the items discussed

therein may be legally discussed in the closed portion of the meeting considering available opinions of a court of record and opinions of the Texas Attorney General known to the attorney. This provision has been added to this agenda with the intent to meet all elements necessary to satisfy Texas Government Code Chapter 551.144(c) and the meeting is conducted by all participants in reliance on this opinion.

**Attendance by Other Elected or Appointed Officials:**

It is anticipated that members of City Council or other city board, commissions and/or committees may attend the meeting in numbers that may constitute a quorum of the other city boards, commissions and/or committees. Notice is hereby given that the meeting, to the extent required by law, is also noticed as a meeting of the other boards, commissions and/or committees of the City, whose members may be in attendance. The members of the boards, commissions and/or committees may participate in discussions on the same items listed on the agenda, which occur at the meeting, but no action will be taken by such in attendance unless such item and action is specifically provided for on an agenda for that board, commission or committee subject to the Texas Open Meetings Act.

I, the undersigned authority, do hereby certify that the above Notice of Meeting of the governing body of the above named Shavano Park Planning and Zoning Commission is a true and correct copy of said Notice and that I posted a true and correct copy of said Notice on the bulletin boards, of the City Hall of said City Shavano Park, Texas, a place convenient and readily accessible to the general public at all times, and said Notice was posted on 29<sup>th</sup> day of July 2019 at 9:30 a.m. and remained so posted continuously for at least 72 hours preceding the scheduled time of said meeting.

ZINA TEDFORD  
City Secretary

**1. Call to order**

Chairman Janssen called the meeting to order at 6:30 p.m.

PRESENT:

Konrad Kuykendall

Carlos Ortiz

Albert Aleman

William Stipek

Carla Laws

Kerry Dike

Bill Simmons

Michael Janssen

ABSENT:

Jason Linahan

**2. Vote under Section 36-69 of the Shavano Park City Code (“Code”) concerning a finding that each of the items following item 2 on the agenda are “planning issues” or otherwise prescribed Planning & Zoning Commission duties under 36-69(l) of the Code or the severance of one or more of such items for an individual vote on such item or items.**

Upon a motion made by Commissioner Ortiz and a second made by Commissioner Laws, the Planning & Zoning Commission voted seven (7) for and none (0) opposed to approve the agenda as it was provided as Planning & Zoning Commission issues. The motion carried.

**3. Citizens to be heard**

Citizens Pierce, Hass-Dreher, Willing, Ryckman and Kusch addressed concerns regarding the Cliffside trail head, parking and safety concerns.

**4. Consent Agenda:****A. Approval - Planning & Zoning Commission minutes, May 8, 2019**

Upon a motion made by Commissioner Aleman and a second made by Commissioner Stipek, the Planning & Zoning Commission voted seven (7) for and none (0) opposed to approve the Planning & Zoning Commission May 8, 2019 minutes as presented. The motion carried.

**5. Public Hearing – The Planning & Zoning Commission shall conduct a public hearing to receive testimony and comments from members of the public for potential improvements and conditions for access to the Salado Creek Greenway from Cliffside Drive as directed by City Council – City Manager Hill.**

Public hearing opened at 6:45 p.m.

City Manager Hill presented an overview of the potential improvements and conditions for access to the Salado Creek Greenway from Cliffside Drive as directed by City Council.

A numbers of residents addressed their concerns and regarding the trail head to include parking, increase in traffic to the area, safety, and to have the city closely monitor these concerns.

Public hearing closed 7:04 p.m.

6. **Discussion / action – Proposed improvements and conditions for access to the Salado Creek Greenway from Cliffside Drive as directed by City Council– City Manager Hill.**

Upon a motion made by Commissioner Kuykendall and a second made by Commissioner Simmons, the Planning & Zoning Commission voted seven (7) for and none (0) opposed to recommend the proposed improvements and conditions as outlined for access to the Salado Creek Greenway from Cliffside Drive to City Council. The motion carried.

7. **Public Hearing – The Planning & Zoning Commission shall conduct a public hearing to receive testimony and comments from members of the public regarding proposed amendments to Sec. 36-39 regarding covered parking regulations in O-1, B-1, and B-2 zoning districts – City Manager Hill.**

Public hearing opened at 7:27 p.m.

City Manager Hill presented an overview of the proposed amendments to Sec. 36-39 regarding covered parking regulations in O-1, B-1, and B-2 zoning districts.

Public hearing closed at 7:40 p.m.

8. **Discussion / action – Proposed amendments to Sec. 36-39 and Sec. 36-132 regarding covered parking regulations in O-1, B-1, and B-2 zoning districts – City Manager Hill.**

Upon a motion made by Commissioner Laws and a second made by Commissioner Dike, the Planning & Zoning Commission voted seven (7) for and none (0) opposed to approve proposed amendments to Sec. 36-39 and Sec. 36-132 regarding covered parking regulations in O-1, B-1, and B-2 zoning districts. The motion carried.

9. **Discussion / action – Possible rescheduling of the July 3, 2019 Planning & Zoning Commission meeting to July 10, 2019 – Commissioner Janssen.**

Upon a motion made by Commissioner Dike and a second made by Commissioner Kuykendall, the Planning & Zoning Commission voted seven (7) for and none (0) opposed to reschedule the July 3, 2019 Planning & Zoning Commission meeting to July 10, 2019. The motion carried.

10. **Report / update – City Council items considered at previous City Council meetings and discussion concerning the same - City Manager Hill.**

City Manager Hill provided an overview of items considered at the previous City Council Meeting.

11. **Chairman Announcements:**

- A. Advise members to contact City staff to add new or old agenda items.
- B. Remind members concerning the August 30, 2019 Boards / Commissions application deadline.
- C. Advise members of pending agenda items, as follows:
  - i. July 2019 – Planning for potential trail head / restricted access to Salado Creek on Cliffside Drive.
  - ii. August, 2019 – Remind members concerning the August 30, 2019 Boards / Commissions application deadline.

- iii. August, 2019 – Semiannual presentation by Denton Communities regarding residential and commercial development in Shavano Park and surrounding areas and discussion concerning the same.
- iv. September, 2019 – Consider proposed changes to Sec. 24 of the City of Shavano Park Code of Ordinances regarding signs.
- v. October, 2019 – Welcome to new commissioners and thank you departing members.
- vi. October, 2019 – Nomination and appointment of Chairman.
- vii. October, 2019 – Nomination and appointment of Vice-chairman.
- viii. February, 2020 – Semiannual presentation by Denton Communities regarding residential and commercial development in Shavano Park and surrounding areas and discussion concerning the same.

## 12. **Adjournment**

Upon a motion made by Commissioner Dike and a second made by Commissioner Simmons, the Planning & Zoning Commission voted seven (7) for and none (0) opposed to adjourn the meeting. The meeting adjourned at 7:51 p.m.

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MICHAEL JANSSEN  
Chairman

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ZINA TEDFORD  
City Secretary

## PLANNING AND ZONING STAFF SUMMARY

Meeting Date: August 7, 2019

Agenda item: 5

Prepared by: Curtis Leeth

Reviewed by: Bill Hill

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### **AGENDA ITEM DESCRIPTION:**

Presentation – Semiannual presentation by Denton Communities regarding residential and commercial development in Shavano Park and surrounding areas and discussions concerning the same.



**Attachments for Reference:** 1)

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**BACKGROUND / HISTORY:** Bitterblue / Denton traditionally present a semi-annual update of Residential and Commercial Development.

Bitterblue / Denton last presented at the February 6, 2019 Planning & Zoning meeting.

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**DISCUSSION:** Presentation will be by Mr. Lange and Mr. Rittenhouse of Bitterblue.

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**COURSES OF ACTION:** N/A

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**FINANCIAL IMPACT:** N/A

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**MOTION REQUESTED:** N/A

## PLANNING AND ZONING STAFF SUMMARY

Meeting Date: August 7, 2019

Agenda item: 6

Prepared by: Curtis Leeth

Reviewed by: Bill Hill

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### **AGENDA ITEM DESCRIPTION:**

Discussion / action – Possible amendments to Chapter 36 – Zoning and Chapter 32 – Traffic and Vehicles to clarify if porte cochere, porches and other entryway features are allowed in residential front setbacks – City Manager

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#### **Attachments for Reference:**

- 1) 6a Memo – Front Setbacks & Entryway Features
- 2) 6b Proposed Amendments

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### **BACKGROUND / HISTORY:**

Recently staff received a permit request for a covered entryway over the door of a primary residence. The front of the home in the permit was not directly on the front setback line and therefore the permit was approved. During review, however, staff became confused if a porte cochere, porch, covered entryway and other entryway features are allowed to extend from the front setback of a residential lot.

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### **DISCUSSION:**

Staff prepared a Memo analyzing the confusion and minor inconsistencies in the City's Codes in attachment 6a. This memo shows that the definition for *Front Yard* are inconsistent between Chapters 32 and 36 and that code is not explicit in whether a porte cochere, porch, covered entryway or other entryway feature is allowed into the front setback. The provisions of Chapter 36 only put distance limitations on how far a porte cochere or porch may extend from the building.

Staff has prepared proposed amendments to Chapters 32 and 36 to alleviate the confusion. These amendments make the *Front Yard* definition consistent between the chapters and provides explicit allowance for some extension of entryway features into the front setback (see attachment 6b for full code with proposed amendments).

### **Sec. 32-19. - Definitions.**

*Front yard* means an area extending along the whole length of the front lot line between the side lot lines, and being the minimum horizontal distance between the street line and the main building and any projections there~~of from~~, other than any steps, planter boxes, open porch, covered entryway or porte cochere.

**Sec. 36-1. - Definitions.**

*Yard, front,* means an area a-yard extending along the whole length of the front lot line between the side lot lines, and being the minimum horizontal distance between the street line and the main building or any projections thereof, other than any steps, planter boxes, ~~and~~ open porch, covered entryway or porte cochere.

**Sec. 36-36. - A-1, A-2, A-3, A-4 and A-5 PUD Single-Family Residential Districts.**

...

- (6) Entryway Features. Entryway features such as steps, planter boxes, an open porch, covered entryway or porte cochere are allowed to extend from the primary residence into the front setback with the following limitations:

a. A porte cochere must be attached to the main building, remain open on three sides and must not project more than 25 feet from the main building.

b. A porch or covered entryway must not project more than ten feet from the main building. Only an open porch is allowed to extend into the front setback.

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**COURSES OF ACTION:** Provide staff further guidance.

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**FINANCIAL IMPACT:** N/A

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**MOTION REQUESTED:** Give guidance to staff.

## Memo

### Are Porte Cochere, Porches, and other entryway features allowed in Residential front setbacks?

**Issue:** There is confusion whether or not Porte Cochere, Porches and other entryway features are allowed by City Ordinance to extend from the primary residence into the front setback of a residential lot.

**Analysis:** *Staff interpretation is that Porte Cochere, Porches and other entryway features are allowed to extend into the front setback.* In addition, staff notes that there is inconsistency in City Ordinances creating the confusion. Staff recommends amendments to Chapter 36 and 32 to ensure these regulations are consistent and transparent.

**Code Review:** Analysis is in [Blue](#).

The City's Code references Front Yard / Setbacks and Porte Cochere, Porches and other entryway features in both Chapters 32 and 36. In Chapter 36 – Zoning, the City defines both a *Building Setback* and *Front Yard* and establishes additional regulations.

#### Chapter 36 – ZONING, Article I. – IN GENERAL

##### Section 36-1. – Definitions

...

*Building line* or *setback* means the line within a lot defining the minimum horizontal distance between **a building** and the adjacent street and/or property line.

This definition could be interpreted to mean that the front setback extends to **the front face of the building** regardless of any protrusions (such as a Porch). It could also be interpreted that a protrusion (like a porch) itself extends the front face of the building. In this case, steps, planters, a porch, or a porte cochere would not be allowed extend into the front setback.

...

*Yard, front,* means a yard extending along the whole length of the front lot line between the side lot lines, and being the minimum horizontal distance between the street line **and the main building** or any projections thereof, **other than any steps, planter boxes, and open porch or porte cochere.**

This definition for *Front Yard* allows a variety of entryway features to extend into the front yard. However, the *Front Yard* definition does not state if a *Front Yard* is the same as a *Front Setback*. Definition uses the same verbiage "minimum horizontal distance the main building" like the *Building Setback definition* but adds the qualifier "or any projections thereof." The

qualifier (other than ...) seems to authorize four (4) specific protrusions. The fact that steps (stairs, porches, and porte cocheres) leading up to the main building are routinely within the front setback across the entire city, would indicate the authors of the ordinance intended to allow these protrusions within the front setback. In fact, one home measures, the front face of the building is placed exactly on the front setback line. However, there are several stairs that lead from ground level to the main entrance door and these stairs already protrude into the front setback

## **Sec. 36-36. - A-1, A-2, A-3, A-4 and A-5 PUD Single-Family Residential Districts.**

. . .

(6) A porte cochere must be attached to the main building, remain open on three sides and must not project more than 25 feet from the main building. A porch must not project more than ten feet from the main building.

The Zoning Chapter also establishes limitations on how far a porte cochere or a porch may extend from the main residence. This regulation makes no mention if the extension is allowable into the front setback, but one interpretation is that by establishing a size limitation, the ordinance was intended to allow this protrusion into the front setback. This raises the questions as to why would a size limitation be created if a protrusion was not allowed in the front setback?

## **Chapter 32 – TRAFFIC AND VEHICLES, Article I. – IN GENERAL**

### **Section 32-19. – Definitions.**

. . .

*Front yard* means an area extending along the whole length of the front lot line between the side lot lines, and being the minimum horizontal distance between the street line and the main building and any projections therefrom, other than any steps, open porch or porte cochere.

. . .

Chapter 32 also defines *Front Yard*, but is not consistent with Chapter 36's definition in several ways (differences in red). Chapter 32 definition adds the qualifier "or any projections thereof" just like Chapter 36. It does not clearly state if a *Front Yard* is the same as *Front Setback*.

### **Chapter 36**

*Yard, front*, means a **yard** extending along the whole length of the front lot line between the side lot lines, and being the minimum horizontal distance between the street line and the main building or any projections **thereof**, other than any steps, **planter boxes**, and open porch or porte cochere.

### **Chapter 32**

*Front yard* means an **area** extending along the whole length of the front lot line between the side lot lines, and being the minimum horizontal distance between the street line and the main building and any projections **therefrom**, other than any steps, open porch or porte cochere.

Proposed amendments to clarify front setbacks in relation to entryway features  
Edits are in Red.

## **Chapter 32 – TRAFFIC AND VEHICLES, Article II. - STOPPING, STANDING AND PARKING**

### **Sec. 32-19. - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*A-1 District* means single-family residential, one-acre minimum lots.

*All weather surface* means concrete, asphalt, concrete or brick pavers, compacted gravel base, compacted road base, interlocking pavers, or any similar materials approved by the City.

*Compact parking space* means a parking space that is designated for use by compact vehicles with minimum dimensions of eight feet in width and 16 feet in length. Compact parking spaces are not an allowed use in any zoning district and will only be considered through a planned unit development as described under section 36-40.

*Driveway* means an area surfaced with concrete, asphalt or similar all-weather material and shall lead from an authorized curb cut (or if there is no curb cut from the City street) to a garage, carport, or required parking space.

*Front yard* means an area extending along the whole length of the front lot line between the side lot lines, and being the minimum horizontal distance between the street line and the main building and any projections there~~of from~~, other than any steps, planter boxes, open porch, covered entryway or porte cochere.

*Motor vehicle* means any titled or previously titled vehicle.

*Parking space* means an area surfaced with concrete, asphalt, or similar all-weather material being not less than ten feet by 20 feet, enclosed or unenclosed, that is sufficient in size to store, at minimum, one motorized vehicle together with a driveway connecting the parking space with the street or alley and permitting ingress and egress. For all nonresidential parking spaces, the parking space size shall not be less than nine feet by 18 feet.

*Rear yard* means an area extending along the side lot line from the front yard to the rear yard, being the minimum horizontal distance between any building sidewall and projections therefrom, other than any steps or open porch.

*Side yard* means an area extending along the side lot line from the front yard to the rear yard, being the minimum horizontal distance between any building sidewall and projections therefrom, other than any steps or open porch.

## **Chapter 36 – ZONING, Article I. – IN GENERAL**

### **Sec. 36-1. - Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning; terms not expressly defined herein are to be construed in accordance with customary usage in municipal planning and engineering practices:

*Accessory building or use* means an enclosed four-wall building or use customarily incident to a principal building or principal use; and is subordinate in area, extent and purpose to the comfort, convenience and necessity of occupants of the principal building or principal use served; and contributes to the comfort, convenience and necessity of and is located on the same building lot as the principal building or principal use served. An accessory use may be part of the principal building.

*Administrative official* means any official designated to perform administrative functions that involve, relate to and/or have an effect on this chapter.

*Alley* means a minor public right-of-way not intended to provide the primary means of access to abutting lots and, which is used primarily for vehicular service access to the back or side of properties otherwise abutting on a public or private alley and affords only secondary means of access to property abutting thereon.

*Assisted living facility* means an establishment under Tex. Health and Safety Code Ch. 247 that furnishes food and shelter to four or more persons who are unrelated to the proprietor of the establishment and provides personal care services. Types of assisted living facilities as established by the State of Texas are as follows:

- (1) *Type A.* In a Type A facility, a resident:
  - a. Must be physically and mentally capable of evacuating the facility unassisted. This may include mobile or ambulatory persons such as those who are in wheelchairs or electric carts and have the capacity to transfer and evacuate themselves in an emergency;
  - b. Does not require routine attendance during nighttime sleeping hours; and
  - c. Must be capable of following directions under emergency conditions.
- (2) *Type B.* In a Type B facility, a resident may:
  - a. Require staff assistance to evacuate;
  - b. Be incapable of following directions under emergency conditions;
  - c. Require attendance during nighttime sleeping hours; or
  - d. Not be permanently bedfast, but may require assistance in transferring to and from a wheelchair.

*Basement* means a story, wholly or partly, at least 50 percent, measured from floor to ceiling, below the average level of the ground surrounding the building. A basement or cellar is not counted when measuring the height of a building.

*Block* means an area within the City enclosed by streets and occupied by or intended for buildings.

*Board* , unless otherwise specified, means the Board of Adjustment of the City of Shavano Park.

*Breezeway* means a covered passage one standard story in height connecting a main building and an accessory building.

*Building line* or *setback* means the line within a lot defining the minimum horizontal distance between a building and the adjacent street and/or property line.

*Building lot* or *lot* means an undivided tract or parcel of land having frontage on a public or private street and which is, or in the future may be offered for sale, conveyance, transfer or improvement; or which is designated as a distinct and separate tract, and which is identified by a tract or lot number or symbol in a duly approved subdivision plat which has been properly filed of record.

*Carport* means a covered parking area that is open on two or more sides.

*CC uses* means uses approved by the City Council, after Planning and Zoning Commission hearings, permitting specific uses as authorized in the district and prescribing conditions of such use.

*Commercial vehicle* means any motor vehicle or piece of equipment one ton and over designed for or used primarily in connection with a commercial business enterprise.

*Commission* means the Planning and Zoning Commission of the City of Shavano Park, Texas.

*Community Homes for Disabled Persons* as used in this Chapter shall mean a shared residential living arrangement which provides a family type environment for up six persons with disabilities, supervised by no more than two primary care givers and qualifies as a Community Home under Tex. Human Resources Code § 123.004, as amended.

- (1) As used in this section "person with a disability" means a person whose ability to care for himself, perform manual tasks, learn, work, walk, see, hear, speak, or breathe is substantially limited because the person has:
  - a. An orthopedic, visual, speech, or hearing impairment;
  - b. Alzheimer's disease;
  - c. Pre-senile dementia;
  - d. Cerebral palsy;
  - e. Epilepsy;
  - f. Muscular dystrophy;

- g. Multiple sclerosis;
- h. Cancer;
- i. Heart disease;
- j. Diabetes;
- k. Mental retardation;
- l. Autism; or
- m. Emotional illness.

*Compact parking space* means a parking space that is designated for use by compact vehicles with minimum dimensions of eight feet in width and 16 feet in length. Compact parking spaces are not an allowed use in any zoning district and will only be considered through a Planned Unit Development as described under section 36-40.

*Constructed landscape structures* means any element of nature that would normally be found in a natural state but is artificially created for the purposes of adding the natural element as a feature to a yard.

*Convenience Store* means a retail store with inside grocery and small convenience sales and may include outdoor pay at the pump gasoline sales and stand-alone self-service car wash.

*Court* means an open, unoccupied space, bounded on more than two sides by the walls of a building. An inner court is a court entirely surrounded by the exterior walls of a building. An outer court is a court having one side open to a street, alley, yard, or other permanently open space.

*Covered vehicle/equipment* means any vehicle or equipment covered with a cover or tarp type material with or without framework.

*District* means a geographical zoned area of the City, that has regulations governing the height, numbers of stories, and size of buildings and other structures; the percentage of a lot that may be occupied; the size of yards, courts and other open spaces; population density and the location and use of buildings, other structures and land.

*Dwelling, single-family*, means a building containing only one dwelling unit and occupied by only one family. The term does not include a mobile home.

*Dwelling unit* means a structure or portion of a structure which is arranged, occupied or intended to be occupied as human living quarters.

*Family* means any number of individuals living together as a single housekeeping unit, in which not more than two individuals are unrelated by blood, marriage or adoption.

*Farm* means an area of five acres or more, which is used for growing, for personal use, customary farm products such as vegetables, fruits, trees, and grain (not for profit) and their storage on the area, as well as the raising thereon of customary farm poultry and farm animals, such as horses, cattle, and sheep, and including dairy farms with the

necessary accessory uses for treating and storing the produce; provided, however, that the operation of such accessory use shall be secondary to that of the normal activities.

*Fence* means a freestanding structure of metal, masonry, or wood, or any combination thereof, resting on or partially buried in the ground and rising above ground level, and used for confinement, screening, landscaping, or partition purposes, but which does not pose a threat to public safety or health.

*Garage, attached,* means a structure designed to house motor vehicles and is attached to the main dwelling house either as an integral part thereof or by a connection such as a breezeway.

*Gross floor area* means the total interior area of a building lying within the outside dimensions of the building at each floor level, excluding, however, the floor area of basements or attics not used for residential or commercial purposes.

*Height.* The "height" of a building or portion of a building shall be measured from the average finished ground level to the highest point of the roof's surface if a flat surface; or to the deck line of mansard roofs; or to the mean height level between eaves and ridge for hip and gable roofs. In measuring the height of a building, the following structures shall be excluded: chimneys, cooling towers, ornamental cupolas, domes or spires, parapet walls not exceeding four feet in height, and basements.

*Home occupations* means any occupation or activity that is clearly incidental and secondary to the use of the premises for dwelling purposes.

*Landscaping* means any plant material, including, but not limited to, grass, ground covers, shrubs, vines, hedges, trees or palms; and nonliving durable material commonly used in landscaping, including, but not limited to, rocks, pebbles, sand, walls or fences, but excluding permanent, nonporous paving, except for pedestrian walkways.

*Long-term rental* means a rental of real property for a period of 90 or more consecutive days whereby the owner of the real property and tenant have entered into a written rental or lease agreement in which the tenant acquires the right to reside in the single-family residence for a period of 90 or more days and in which the tenant is required to pay the owner periodic monthly based rent for the privilege of residing in the residence, including a fractional payment for the first and/or last month of such residence. In the event an owner sells such property to a new owner and immediately following the sale date the selling party continues to occupy such real property as a single-family dwelling, then notwithstanding the rental period and payment terms, such occupancy shall be deemed a long-term rental. In the event a written rental or lease agreement authorizes a tenant to sublease real property and a tenant enters into a sublease agreement, such tenant shall be treated as the owner when applying this definition. Except as provided above, all rental or lease agreements shall be treated as short-term rentals.

*Lot means* land occupied or to be occupied by a building, its accessory building, and including such open spaces as are required under this chapter, and having its principal frontage upon a public or private street; or an area of land designated as a lot on a plat of a subdivision recorded pursuant to statutes of the State of Texas with the County Clerk

of Bexar County, Texas; or, an area of land in single ownership described by metes and bounds upon a deed recorded or registered with the Bexar County Clerk.

*Manufactured home* means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

*Manufactured home park or subdivision* means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. Manufactured homes shall only be allowed to be placed in a manufactured home park.

*Mobile home* means a structure constructed before June 15, 1976; built on a permanent chassis; designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities; transportable in one or more sections; and in the traveling mode, at least eight body feet in width or at least 40 feet in length or, when erected on site, at least 320 square feet. The structure includes the plumbing, heating, air conditioning, and electrical systems of the home.

*Nonconforming use* means the use of any building, structure, or land that is prohibited by any zoning, building, or other regulatory ordinance, but which lawfully existed prior to the effective date of such ordinance.

*Open storage* means the storage of any equipment, machinery, commodities, raw or, semi-finished materials, and building materials, not accessory to a residential use, which is visible from any point on the building lot line when viewed from ground level to six feet above ground level.

*Parking space* means an area surfaced with concrete, asphalt, or similar all-weather material being not less than ten feet by 20 feet, enclosed or unenclosed, that is sufficient in size to store, at minimum, one motorized vehicle together with a driveway connecting the parking space with the street or alley and permitting ingress and egress. For all nonresidential parking spaces, the parking space size shall not be less than nine feet by 18 feet.

*Portable building* means a building designed and built to be movable rather than permanently located. See section 6-95 for portable building regulations. All portable buildings not meeting the requirements of section 6-95 will be regulated as accessory building(s).

*Portable construction building* means a structure transportable in one or more sections, which is built on a permanent chassis and is used solely as a construction office with or without a permanent foundation when connected to the required utilities. The structure shall not provide for and shall not be used as a temporary or permanent dwelling unit.

*Portable on-demand storage structures* means any container, storage unit, shed-like container or other portable structure that can or is used for the storage of personal property of any kind and which is located for such purposes outside an enclosed building

other than an accessory building or shed complying with all building codes and land use requirements. See section 36-45 for portable on-demand storage structure regulations.

*Recreational vehicle* means a vehicle or piece of equipment designed or intended for recreational use, including but not limited to all terrain vehicles, airplanes, golf carts, boats, floats, camping or travel trailers, motor homes, detachable travel equipment of a type adaptable to light duty trucks, boat trailers, utility trailers over eight feet in length, and other equipment or vehicles of similar nature.

*Religious, cultural and fraternal activity* means a use or building owned or maintained by organized religious organizations or nonprofit associations for social, civic or philanthropic purposes, or the purpose for which persons regularly assemble for worship.

*Screening device.* A "screening device" shall consist of a barrier of stone, brick (pierced or block), uniformly colored wood, or other permanent affixed material of quality character, density, and acceptable design, where the solid area equals at least 65 percent of the wall surface, including an entrance gate or gates. Such screening device shall be regularly maintained.

*Short-term rental* means a rental of real property for a period shorter than 90 consecutive days. Except as specifically permitted under the definition of long-term rental, short-term rental of real property is considered for all purposes a commercial use of real property. Short-term rental includes vacation rentals and similar uses as well as rental for a period during which renters pay the owner, or such other person with authority to lease the property, a fee to stay in the residence or other structure.

*Sign.* The definition of signs is set forth in Ordinance No. 100-02-07, City of Shavano Park Sign Ordinance, as may be amended from time to time.

*Single-family residence* means a structure designed for use as one dwelling unit and actually used for permanent or seasonal occupation by the owner, the owner's family or long term rental tenant under a written long-term rental agreement as a principal residence where the owner, owner's family or long term rental tenant intends to maintain a permanent or long-term residence. Short-term rentals are expressly excluded from this definition and shall not constitute single-family residential use.

*Street* means a public or private right-of-way, however designated, which provides vehicular access to adjacent land.

*Street line* means the dividing line between a lot, tract or parcel of land, and a contiguous street.

*Use* means the purpose or activity for which the land, or structures thereon is designed, arranged or intended, to be occupied or used, or for which it is occupied, maintained, rented or leased.

*Yard, front,* means an area a yard extending along the whole length of the front lot line between the side lot lines, and being the minimum horizontal distance between the street line and the main building or any projections thereof, other than any steps, planter boxes, ~~and~~ open porch, covered entryway or porte cochere.

*Yard, rear,* means a yard extending across the rear of a lot between the side lot lines and being the minimum horizontal distance between the rear lot line and the rear of the principal building or any projections thereof, other than any steps, balcony or open porch.

*Yard, side,* means a yard extending along the side lot line from the front yard to the rear yard, being the minimum horizontal distance between any building sidewall or projections thereof, except any steps, balcony or open porch.

*Zoning district map* means the map or maps delineating the boundaries of an area within each zoning district which map are incorporated into this chapter as part hereof by reference thereto, as amended from time to time in accordance with this chapter.

. . .

**Sec. 36-36. - A-1, A-2, A-3, A-4 and A-5 PUD Single-Family Residential Districts.**

(a) *Use regulations.* In A-1, A-2, A-3, A-4 and A-5 PUD Single-Family Residential Districts, no land shall be used and no building shall be erected for or converted to any use other than:

(1) Single-family residence.

(2) Accessory buildings.

a. Size limitations.

i. The gross floor area of all accessory buildings shall not occupy more than 20 percent of the rear yard.

ii. In no case shall any accessory building be built closer than ten feet to the principal main building. The height of an accessory building shall not exceed one story.

b. An unattached garage, as described in section 36-36(e) and section 6-91 is regulated as an accessory building.

(3) Portable construction buildings under the following conditions:

a. Authorization may be issued by the City Building Official to permit a portable construction building to be temporarily located on a lot upon which a building permit has been previously issued for construction of any building or structure.

b. A certificate of occupancy related to construction shall not be issued by the City Building Official until the portable construction building has been removed from the premises and further, that the certificate of occupancy shall not be issued until the electrical connection which served the portable construction building has been removed from the lot in question.

c. A temporary permit issued pursuant to this section shall be void upon issuance of the certificate of occupancy, or 12 months after issuance of the building permit, whichever time is shorter.

- d. In any case in which construction is not completed within the 12-month period, the City Building Official, after due consideration and determination that active construction is being accomplished, may issue an extension of time for the temporary permit, not to exceed a six-month period.
- (4) Swimming pools pursuant to all applicable City regulations.
- (5) Private tennis courts pursuant to all applicable City regulations.
- (6) Entryway Features. Entryway features such as steps, planter boxes, an open porch, covered entryway or porte cochere are allowed to extend from the primary residence into the front setback with the following limitations:
  - a. A porte cochere must be attached to the main building, remain open on three sides and must not project more than 25 feet from the main building.
  - b. A porch or covered entryway must not project more than ten feet from the main building. Only an open porch is allowed to extend into the front setback.
- (b) *Storage or parking of recreational/commercial and covered vehicles/equipment.*

Storage or parking of recreational/commercial and covered vehicles/equipment is prohibited in all residential districts. This restriction and the following requirements do not apply when any such vehicle is used for the primary transportation of the owner:

  - (1) Storage or parking of recreational/commercial and covered vehicles/equipment is allowed when such vehicles and equipment is placed within a completely enclosed/building on any residential lot;
  - (2) Any such vehicle eight feet or less in height may be placed on a residential lot behind the dwelling unit to include side setbacks, if properly screened from the view from the front property line by either a fence or screening device; or
  - (3) Any such vehicle greater than eight feet in height may be placed on a residential lot that is greater than 0.7 acre if properly screened from view by a fence that is at least eight feet in height or a screening device. The vehicle must be placed behind the front face of the dwelling unit. Side and rear setbacks may be used provided that a five-foot side and rear setback be maintained at all times.
  - (4) Properly permitted recreational vehicles and boats are excepted from the regulations of this subsection. A recreational vehicle or boat is properly permitted if the owner of a recreational vehicle or boat is issued a recreational vehicle or boat storage permit ("RVBSP") by the City prior to 90 days after approval of this ordinance by the City Council. RVBSPs are nontransferable and may be issued to an owner of [a] recreational vehicle including owners with residential lots of less than one acre upon receipt of the following:
    - a. A completed, signed, RVBSP application;
    - b. Documentary proof that the recreational vehicle or boat was purchased prior to January 1, 2011;

- c. A copy of the recreational vehicle's title; indicating owner and homeowner are the same;
- d. Proof of insurance for the recreational vehicle if applicable;
- e. The RVBSP can be transferred to a replacement recreational vehicle or boat, only when the new or replacement recreational vehicle or boat does not exceed the size in length and height of the original recreational vehicle or boat being replaced; and
- f. An administrative processing fee in the amount of \$10.00 for the original RVBSP or to transfer it to a replacement recreational vehicle or boat.

(c) *Other use regulations.* See Table No. 1.

(d) *Exterior architectural features.* Each new structure must possess an exterior in keeping with the residence and general atmosphere of the surrounding area.

- (1) *Exterior walls in A-1 Districts.* Exterior walls of residences in areas zoned in A-1 shall have a minimum of 60 percent masonry, exclusive of openings.
- (2) *Exterior walls A-2, A-3, A-4 and A-5 PUD.* Exterior walls of residences shall have a minimum of 75 percent masonry, exclusive of openings. Perm stone or asbestos shingles, concrete block and cinder block, and metal exterior wall coverings, are not acceptable except that concrete and cinder blocks may be used structurally if faced with rock, brick or stucco in accordance with the International Building Code most recently adopted by the City of Shavano Park.

(e) *Garages and carports.*

- (1) *Garages.* A minimum two-car garage shall be provided at each residence. Residential garage doors are not to exceed ten feet in height. An additional garage may be provided as an accessory building pursuant to regulations in section 36-36(a). No garage shall open onto any street, roadway or cul-de-sac unless the lot in question fronts two streets which will allow the garage to face the street perpendicular to the front of the residential structure. All attached garages shall be rear or 90-degree side loaded. Conversion of an existing garage to another use shall be permitted only where replacement garage space is provided. Doors on secondary garages for the purpose of storing recreational vehicles may be of a height necessary to store the vehicle. Detached garages shall conform to building setback lines and structural regulations and may or may not face the street final decision is the Building Official's decision), but may not be substantially visible from the street.
- (2) *Carports.* Carports may not, under any circumstances, be substituted for garage space. No carport may open on any street, roadway or cul-de-sac. In situations where a lot fronts two streets and the garage opens to the street perpendicular to the front of the structure, no carport will be allowed. All carports shall conform to all building setback lines, structural regulations and be rear or 90-degree

loaded. All carports must be built in conjunction with existing garage space and not as freestanding structures.

(f) *Fences.*

- (1) Front fencing past the front edge of a residence or building is only allowed in an A-1 zoning district.
- (2) Front fencing in A-2 zoning shall not be past the front edge of the residence or building.
- (3) Side and rear fencing is allowed in all districts provided they meet the following criteria, including front fences:
  - a. Fences not more than eight feet in height are permitted and shall be constructed of masonry, brick or stone, wood, concrete, or wrought iron. In A-1 District, chainlink and hog-wire style fences are additionally permitted.
  - b. On a corner lot, no shrubbery, when mature with a height greater than 18 inches, may be planted within the area created by a straight line connecting two points that are respectively 30 feet along the side and front property lines from a street intersection.
  - c. Fences must be constructed in such a way that does not change the natural drainage of water.
  - d. Except in A-1 District and Unit 19 (Huntington Subdivision) A-1 PUD District, fencing shall not be permitted beyond the front face of the residence. Front driveway gates shall have at least a minimum of a 12-foot opening. In A-1 District and excluding Unit 19 (Huntington Subdivision) A-1 PUD, no one shall construct fencing beyond the front face of the residence in a manner that impedes the view of persons beyond the residence's property line. In no event shall a base footer exceed 36 inches.
  - e. No shrubbery, when mature height is greater than 18 inches may be within three feet of a fire hydrant.
  - f. Front fences must not encompass any fire hydrant that may be present.
  - g. For any property within the City limits with a property line abutting one or more of the City streets known as Lockhill Selma Road, NW Military Hwy., De Zavala Road and Huebner Road (where such property presently has a solid wall along or parallel to one or more of such streets at the property line), such property owner may not construct a gate or other opening on such property line. Any property with an existing gate on property lines described above is considered a non-conforming use and may continue to exist.

(g) *Height regulations.* No residential building shall exceed the maximum vertical height specified in Tables 1, 2 and 6 of this chapter, and no residential building shall have more than two livable stories.

- (h) *Portable buildings.* Except in A-I District, a single unattached portable building (movable) constructed of light metal, wood or fiberglass used for storage only, not greater than 200 square feet in size may be erected in the rear yard providing the building is suitably screened from adjacent property, is not used temporarily or permanently as a habitation, is unattached and to a solid foundation. The highest point of the building may not exceed 12 feet from foundation. No portable building higher than eight feet in height measured from grade level base foundation to the buildings highest point shall be permitted in the building setbacks. In A-I District no more than two unattached portable buildings described in this subsection shall be permitted.
- (i) *Certain equipment allowed in setbacks.* Notwithstanding any other provision found within the City of Shavano Park Code of Ordinances, HVAC equipment and pool equipment are allowed within setbacks, so long as an unobstructed width of five feet exists to allow for emergency services access.

## PLANNING AND ZONING STAFF SUMMARY

Meeting Date: August 7, 2019

Agenda item: 7

Prepared by: Curtis Leeth

Reviewed by: Bill Hill

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### **AGENDA ITEM DESCRIPTION:**

Discussion / update – Results of the July 16, 2019 TxDOT public open house meeting regarding the improvements to NW Military Highway and discussion concerning the same – City Manager Hill



**Attachments for Reference:**

- 1)
- 2)

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**BACKGROUND / HISTORY:** On July 16, 2019 the Texas Department of Transportation (TxDOT) held a Public Hearing at City Hall to allow the public to view the latest project schematic, discuss their concerns directly with TxDOT staff and enter any comments into the official public record.

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**DISCUSSION:** The deadline for public comments is July 31, 2019. As of this writing TxDOT has not completed compiling the public comments. Staff will present results at the August 7 meeting.

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**COURSES OF ACTION:** Discussion item only.

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**FINANCIAL IMPACT:** N/A

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**MOTION REQUESTED:** Discussion item only.