

**CITY OF SHAVANO PARK
PLANNING & ZONING COMMISSION MEETING
CITY HALL, COUNCIL CHAMBERS
900 SADDLETREE COURT, SHAVANO PARK, TEXAS 78231
June 3, 2020**

6:30 P.M.

**SUPPLEMENTAL NOTICE OF MEETING BY LIVESTREAM / TELEPHONE
CONFERENCE:**

**THIS MEETING WILL BE A LIMITED TO APPROXIMATELY 10 IN-PERSON
ATTENDEES IN ORDER TO MAINTAIN SOCIAL DISTANCING.**

In accordance with Order of the Office of the Governor issued March 16th, 2020, the governor has suspended various provisions of the Open Meetings Act pursuant to his state disaster authority, which now authorize the participation of a meeting by live-video stream or telephone. The City of Shavano Park Planning & Zoning Commission will conduct the Regular Meeting on Monday, June 3, 2020 at 6:30 p.m. at 900 Saddletree Court, Shavano Park Council Chambers in part by Livestream / telephone conference in order to advance the public health goal of limiting face-to-face meetings (also called “social distancing”) and slow down the spread of the Coronavirus (COVID-19).

Livestream Participation. The livestream available via the GoToMeeting website from your computer, tablet or smartphone at: <https://youtu.be/mLY3iwXad3Y>

Telephone Participation. The public toll-free dial-in number to participate in the telephonic meeting is 1-877-568-4106 and requires access code 273-656-205. Participants should mute their phone when not speaking. If you have issues accessing Telephone Participation or Livestream, please call City Secretary Zina Tedford at 210-787-0366.

The Livestream / telephone conference will be available to join at 6:00 p.m. (30 minutes prior to the meeting). If you have issues accessing Telephone Participation or Livestream, please call City Secretary Zina Tedford at 210-787-0366.

The public will be permitted to offer comments telephonically as provided by the agenda during Citizen’s to be Heard. Citizens who want to speak during this period, should sign up to speak prior to the beginning of the meeting by stating their intent and providing Name, Address, and Topic to be addressed. Follow the guidelines under agenda item 3. If unable to participate in the meeting, you may submit public comments by email to ztedford@shavanopark.org.

The meeting agenda and agenda packet are posted online at www.shavanopark.org.

A recording of the meeting will be made, and will be available to the public in accordance with the Open Meetings Act upon written request.

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. The Planning and Zoning Commission welcomes “Citizens to be Heard.” If you wish to speak, you must follow these guidelines. **As a courtesy to your fellow citizens and out of respect to our fellow citizens, we request that if you wish to speak that you follow these guidelines.**
 - Pursuant to Resolution No. R-2019-011 citizens are given three minutes (3:00) to speak during “Citizens to be Heard.”
 - Members of the public may only speak once and cannot pass the individual’s time allotment to someone else
 - Direct your comments to the entire Commission, not to an individual member
 - Show the Commission members the same respect and courtesy that you expect to be shown to you

The Chairman 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 Mayor that the individual leave the meeting, and if refused, an order of removal. In compliance with the Texas Open Meetings Act, no member of the Commission may deliberate on citizen comments for items not on the agenda. (Attorney General Opinion – JC 0169)

4. Consent Agenda:
 - A. Approval - Planning & Zoning Commission minutes, March 3, 2020
5. Public Hearing - The purpose of the public hearing is to receive comments from members of the public regarding proposed amendments to correct a scrivener error in side setback requirements of Willow Wood Planned Unit Development in Ordinance 100-12-03
6. Discussion / action - Correction of scrivener error in Ordinance 100-12-03 regarding side setback requirements in Willow Wood Planned Unit Development - City Manager
7. Public Hearing - The purpose of the public hearing is to receive comments from members of the public regarding proposed amendments to the City of Shavano Park Code of Ordinances, Chapter 36 – Zoning, regarding allowed uses of accessory buildings in residential zoning districts
8. Discussion / action - Possible amendments to the City of Shavano Park Code of Ordinances, Chapter 36 - Zoning, regarding allowed uses of accessory buildings - City Manager
9. Discussion - Possible amendments to Chapters 6 and 36 regarding front fencing for homes fronting NW Military Highway - City Manager
10. Report / update - City Council items considered at previous City Council meetings and discussion concerning the same - City Manager

11. Chairman Announcements:

- A. Advise members to contact City staff to add new or old agenda items.
- B. Advise members of pending agenda items, as follows:
 - i. Public Hearing - The purpose of the public hearing is to receive comments from members of the public regarding proposed amendments to the City of Shavano Park Code of Ordinances, Chapter 36 regarding MXD & PUD site plan approval to comply with House Bill 3167 from the 86th Texas Legislature
 - ii. Discussion / action - Amendments to Chapter 36 regarding MXD & PUD site plan approval to comply with the 30-day shot clocks from Texas Legislature - City Manager

12. 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 this the 29th day of May 2020 at 8:15 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 Aleman called the meeting to order at 6:30 p.m.

PRESENT:

Albert Aleman

Carla Laws

Kerry Dike

Konrad Kuykendall

Shawn Fitzpatrick

ABSENT:

Jason Linahan

Bill Simmons

Damon Perrin

William Stipek

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 Laws and a second made by Commissioner Fitzpatrick, the Planning & Zoning Commission voted four (4) 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**

No one signed up to address the Planning & Zoning Commission.

4. **Consent Agenda:**

A. Approval - Planning & Zoning Commission minutes, February 5, 2020

Upon a motion made by Commissioner Kuykendall and a second made by Commissioner Dike, the Planning & Zoning Commission voted four (4) for and none (0) opposed to approve the Planning & Zoning Commission February 5, 2020 minutes as corrected to reflect Commissioner Kuykendall was not present. The motion carried.

5. **Discussion / action - Possible amendments to the City of Shavano Park Code of Ordinances, Chapter 36 – Zoning, regarding allowed uses of accessory buildings - City Manager**

Upon a motion made by Commissioner Dike and a second made by Commissioner Fitzpatrick, the Planning & Zoning Commission voted four (4) for and none (0) opposed to direct staff to prepare recommended changes as discussed to the City of Shavano Park Code of Ordinances, Chapter 36 – Zoning, regarding allowed uses of accessory buildings. The motion carried.

6. **Discussion - Correction of scrivener error in Ordinance 100-12-03 regarding side setback requirements in Willow Wood Planned Unit Development – City Manager**

City Manager Hill briefed the Planning & Zoning Commission regarding the discovery of a scrivener error in Ordinance 100-12-03 regarding side setback requirements in Willow Wood Planned Unit Development. Staff will prepare the necessary documents for public hearing and draft correction to the ordinance.

7. Report / update - City Council items considered at previous City Council meetings and discussion concerning the same - City Manager

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

8. Chairman Announcements:

- A. Advise members to contact City staff to add new or old agenda items.
- B. Advise members of pending agenda items, as follows:

- i. April, 2020 - Amendments to Chapter 36 regarding MXD & PUD site plan approval to comply with the 30-day shot clocks from Texas Legislature.

9. Adjournment

Upon a motion made by Commissioner Dike and a second made by Commissioner Kuykendall, the Planning & Zoning Commission voted four (4) for and none (0) opposed to adjourn the meeting at 7:29 p.m.

Albert Aleman
Chairman

Zina Tedford
City Secretary

PLANNING AND ZONING STAFF SUMMARY

Meeting Date: June 3, 2020

Agenda item: 5 / 6

Prepared by: Curtis Leeth

Reviewed by: Bill Hill

AGENDA ITEM DESCRIPTION:

5. Public Hearing - The purpose of the public hearing is to receive comments from members of the public regarding proposed amendments to correct a scrivener error in side setback requirements of Willow Wood Planned Unit Development in Ordinance 100-12-03

6. Discussion / action - Correction of scrivener error in Ordinance 100-12-03 regarding side setback requirements in Willow Wood Planned Unit Development – City Manager

X

Attachments for Reference:

- 1) 6c Draft Willow Wood Scrivener Error Fix
- 2) 6b Ordinance No. 100-12-03
- 3) 6c Table No. 2 from Chapter 36 Zoning

BACKGROUND / HISTORY: In 2017 City passed Ordinance O-2017-022 amending the code of ordinances' zoning tables to add missing setback lines / zoning regulations from the City's various PUD ordinances (attachment 6b). The goal was to make those PUD ordinance regulations more accessible for developers, builders and residents. The regulations for Willow Wood's CE-PUD copied into the zoning table from Ordinance 100-12-03 (attachment 6a) as 40 feet additive side setback. Staff at the time noticed the bad examples and assumed bad math of the writer in 2003.

Exhibit I

COPY

Shavano Park Zoning Restrictions

Unit-18 A-2 CE, PUD

These requirements are to be imposed in conjunction with the rezoning to CE:

- 15,000 sq ft minimum lot size
- 40 ft minimum additive total side set back with a minimum of ten feet on any one side; i.e., side yards can be 10 and 20, 15 and 15, 12 and 18, etc.
- 30 ft front yard setback
- 21 ft rear yard setback
- Minimum 2500 sq ft for one story residence
- Minimum 3000 sq ft for two story residence
- All garages will side load; i.e., front facing garage doors are not allowed.

In January 2020 the City building official sees the 40 foot additive side setback in the online code of ordinances when reviewing building plans for one of the three final homes in Willow Wood (triggering a plan review comment). The home builder challenged the comment stating they have built multiple homes in Willow Wood and all were 30 feet additive setbacks.

The home builder provided three examples of homes they built in Willow Wood. Staff in response researched some additional examples. All lots in Willow Wood researched have a 30 or more additive feet side setback.

Builder Examples	Legal Lot Descriptions	Side Setbacks			Additive
103 Penns Way	CB 4782E (SHAVANO PARK UT-18B PH 3), BLOCK 26 LOT 2195	20	10		30
104 Penns Way	CB 4782E (SHAVANO PARK UT-18B PH 3), BLOCK 42 LOT 2201	21	10		31
123 Penns Way	CB 4782E (SHAVANO PARK UT-18B PH 3), BLOCK 42 LOT 2197	20	10		30
Staff Examples					
108 Penns Way	CB 4782E (SHAVANO PARK UT-18B PH 3), BLOCK 42 LOT 2200	21	10		31
120 Penns Way	CB 4782E (SHAVANO PARK UT-18B PH 3), BLOCK 42 LOT 2197	20	10		30
131 Penns Way	CB 4782E (SHAVANO PARK UT-18B PH 3), BLOCK 26 LOT 2202	20	10		30
219 Granville Way	CB 4782E (SHAVANO PARK UT-18B PH II), BLOCK 42 LOT 2218	20	10		30

Staff researched the 2003 meeting notes from Mayor Tommy Peyton and those contemporary notes show a 30 additive feet. Another piece of evidence is staff asked the both the current Mayor (who was on P&Z in 2003) and former Mayor Peyton what they remembered the side setbacks were and both reported 30 additive feet.

Lastly staff found that in 2008 Willow Wood HOA amended the covenant and deed restrictions for Phase 1 of subdivision to amend to 40 foot additive side setback (originally it was 30 foot additive side setback). If the Ordinance was 40 side additive feet there would be no need to amend the covenants.

All this evidence plus the inconsistency in the examples within the ordinance itself leads staff to conclude the “4” is a mistyped “3,” a scrivener error, that was only realized once the PUD ordinance regulations were made easily accessible online.

At the March 3, 2020 Commission meeting the Commission was briefed on staff’s findings and no action was taken.

As required by ordinance, On May 20, 2020, 131 property owners within and around Willow Wood were mailed notices of the public hearing. In addition on that day the paper notice was completed.

DISCUSSION: After discussion with attorney, it was determined the best legal route to correct this error was with a zoning ordinance, requiring public hearings and public notice.

COURSES OF ACTION: Recommend approval of the correction of a scrivener error in Ordinance 100-12-03 regarding side setback requirements in Willow Wood Planned Unit Development; or alternatively decline and provide further guidance to staff.

FINANCIAL IMPACT: N/A

MOTION REQUESTED: Recommend approval of the correction of a scrivener error in Ordinance 100-12-03 regarding side setback requirements in Willow Wood Planned Unit Development.

SECTION I REPEAL

Exhibit I of Ordinance No. 100-12-03 is hereby repealed to correct a scrivener's error of "40 foot" in the minimum additive total side setbacks of the district.

SECTION II REPLACE

The following is hereby adopted as Ordinance No. 100-12-03's Exhibit I (2020 corrected version) to correct the scrivener's error:

Shavano Park Zoning Restrictions

Unit 18 A-2 CE PUD

- 15,000 sq ft minimum lot size
- **30** ft minimum additive total side setback with a minimum of ten feet on any one side; i.e., side yards can be 10 and 20, 15 and 15, 12 and 18, etc.
- 30 ft front yard setback
- 21 ft rear yard setback
- Minimum 2500 sq ft for one story residence
- Minimum 3000 sq ft for two story residence
- All garages will side load, i.e., front facing garage doors are not allowed

III CODE AMENDMENT

In accordance with Sections 1 – 2 of this Ordinance, Table No. 2 of Article VI. – Tables of Chapter 36. – Zoning of the City of Shavano Park Code of Ordinances is hereby amended to read as follows:

Table No. 2 CE Cottage Estates Residential District and MXD Mixed Use District

- (a) *Specifications.* In a CE Cottage Estates Residential District, each residence shall have a minimum gross floor area of not less than 2,000 square feet.
- (b) *Height regulations.* No building shall exceed two stories in height and the permitted maximum vertical height shall not exceed 45 feet.
- (c) *Area regulations.*
 - (1) *Lot area.* All building lots in this district shall contain not less than 0.15 acres of land and have not less than 55 feet of average width per lot. The average width

shall be calculated based on the linear width of such lot measured at the front property line and the rear property line. If any property line is curved, the measurement shall be based on a straight line running from the corners of such lot.

- (2) *Parking spaces.* Off-street parking space shall be provided on the lot to accommodate a minimum of two motor cars for each dwelling unit. For purposes of computing the required number of parking spaces for any improvements, no "parking space" located on public land, such as the public right-of-way of a street or alley, shall be included, except for parking in a utility or drainage easement area, whether public or private.
- (3) *Setback lines* for CE and CE-PUD (Bentley Manor Cottage Estates North) and CE-PUD (Bentley Manor Cottage Estates South):
 - a. Front: Minimum front setbacks shall be as follows:
Front entry garages: 25 feet.
20 feet - Cul-de-sac lots.
Side entry garages: 15 feet; ten feet, cul-de-sac lots.
 - b. Side: Minimum side setbacks shall be ten feet on one side and zero feet on the side abutting an adjoining lot having a minimum ten-foot setback; provided that no side setback shall be required on any lot if there is at least a ten-foot separation between buildings with no side setback less than five feet.
 - c. Rear: The minimum rear setback shall be ten feet.
- (d) *CE-PUD Cottage Estates Planned Unit Development* (Willow Wood) (established by Ordinance 100-12-03).
 - (1) *Specifications.*
 - a. One story residence: minimum 2500 square feet.
 - b. Two story residence: minimum 3000 square feet.
 - (2) *Area regulations.*
 - a. Lot area. 15,000 square feet minimum lot size.
 - b. Setback lines.
 1. Front: 30 feet.
 2. Side: ~~40~~30 feet additive total side set back with a minimum of ten feet on any one side; i.e., side yards can be 10 and 20, 15 and 15, 12 and 18, etc.
 3. Rear: 21 feet.
- (e) *Mixed Use District* (see Section 36-41 for zoning regulations in full). The height, density, commercial intensity, setbacks, parking and other requirements shall be established pursuant to an approved MXD site plan, provided, however, the following regulations shall apply:

- (1) A ten-foot minimum building setback shall be required where a non-single-family residential use within the MXD District abuts a single-family use or single-family zoning district.
 - (2) A 20-foot minimum setback shall be required for front-load residential garages and a ten-foot minimum setback shall be required for side-load residential garages.
 - (3) A ten-foot minimum building setback shall be required where any residential or nonresidential use abuts a public or private street.
- (f) *Fences.*
- (1) *Fences in general.* All fences shall comply with the other applicable ordinances of the City.
 - (2) *Front fences.* Except where deed restrictions do not permit front fencing, front fencing shall be permitted. Front gates must be wide enough as to provide access for any and all emergency vehicles. Any front fence must not encompass any fire hydrant that may be present.
- (g) *Swimming pools.*
- (1) *Definitions.*
 - a. Swimming pools shall mean and include all in-ground pools, including swimming, wading and lap pools, and all in-ground and above-ground water spas.
 - b. Swimming pool edge shall mean the edge formed where the swimming pool water meets the adjacent wall of the swimming pool.
 - (2) *Restrictions.* The setback requirements set forth in Section C.3. above shall not apply to swimming pools in Unit 18 of the CE District and the following regulations shall apply. The pool edge shall be located no closer than:
 - a. Ten feet from the main residence building.
 - b. Ten feet from any side lot line.
 - c. The existing width of any easement located along or parallel to the rear property line unless a waiver is granted by the easement holder, but in no event closer than ten feet from the rear lot line.
 - d. Ten feet from the rear lot line if there are no easements adjacent to or parallel to the rear lot line.
 - e. Three feet from the rear lot line if the lot abuts a greenbelt or street right-of-way adjacent or parallel to the rear lot line.
 - f. Above ground water spas and other swimming pool appurtenances shall be limited to no more than 30 inches in height for all areas within the prescribed setbacks.

COPY

ORDINANCE NO. 100-12-03

**AMENDING ORDINANCE NO. 100-03-99 OF THE CITY OF SHAVANO PARK
(WHICH CONSTITUTES THE CITY'S ZONING ORDINANCE) TO APPROVE
THE RE-ZONING OF CERTAIN PROPERTIES.**

WHEREAS, Chapter 211 of the Vernon's Local Government Code empowers a city to enact zoning regulations and provide for their administration, enforcement and amendment; and

WHEREAS, the City has previously deemed it necessary and desirable to adopt zoning regulations to provide for the orderly development of property within the City in order to promote the public health, safety, morals and general welfare of the residents of the City, and

WHEREAS, Ordinance No. 100-03-99 of the City of Shavano Park which constitutes the City's Zoning Ordinance requires property to be zoned in accordance with proper designations as defined by this ordinance; and

WHEREAS, Denton Communities filed as application with the City of Shavano Park Planning and Zoning Commission to re-zone properties as more particularly described in Exhibit A attached hereto and incorporated herein for all purposes ("Property"); and

WHEREAS, the Property has been zoned as A-2-PUD; and

WHEREAS, the Planning and Zoning Commission of the City of Shavano Park provided adequate notice and held a public hearing in accordance with Section X(C)(1)(d) of Ordinance No. 100-03-99 and has considered Denton Communities application for the re-zoning of properties specified in Exhibit "A"; and

WHEREAS, the Planning and Zoning Commission of the City of Shavano Park has been presented the request and has subsequently forwarded the request to the City Council; and

WHEREAS, the City Council of the City of Shavano Park has also held a public hearing regarding the re-zoning on affected properties and has issued adequate notice to all the affected parties; and

WHEREAS, the City Council of the City of Shavano Park believes the re-zoning of affected properties will not adversely effect the character of the area of the neighborhood in which it is proposed to locate; will not substantially depreciate the value of adjacent or

nearby properties; will be in keeping with the spirit and intent of the ordinance; will comply with applicable standards of the district in which not adversely affect traffic, public health, public utilities, public safety and the general welfare of the residents of the City of Shavano Park,

COPY

THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SHAVANO PARK:

SECTION 1. The following parcel is rezoned and the zoning ordinance and map are amended as follows:

1. 46.48 acre tract, the balance of Unit 18, from A-2 PUD CE PUD, with specific restrictions.

SECTION 2. The field notes and exhibits for the tract are attached to the ordinance along with an overall zoning map detailing the areas of the proposed change. This includes the following:

1. Field Notes and Exhibits for the tract;
2. An overall zoning map detailing the area of the proposed zoning change;

SECTION 3. The City Council, after notice to all parties affected, held a public hearing in accordance with Articles X and XII of Ordinance No. 100-03-99 of the City of Shavano Park which constitutes the City's Zoning ordinance, and hereby determines the re-zoning of residential properties:

- (i) Will not adversely affect the character of the area or the neighborhood in which it is proposed to locate.
- (ii) Will not substantially depreciate the value of adjacent and nearby properties,
- (iii) Will be in keeping with the spirit and intent of the Ordinance,
- (iv) Will comply with applicable standards of the zoning district in which it is located, and
- (v) Will not adversely affect traffic, public health, public utilities, public safety, and the general welfare of the residents of the City of Shavano Park.

SECTION 4. The Denton Communities application for re-zoning of residential properties within the areas depicted in Exhibit "A" is hereby approved and granted.

SECTION 5. Ordinance No. 100-03-99 and the Zoning District Map incorporated thereto are hereby amended to reflect the approved changes subject to the conditions set forth herein.

SECTION 6. All other provisions of Ordinance No. 100-03-99, as remain in full force and effect, including the penalties for violation provided in Article XIV of Ordinance No. 100-03-99.

COPY

SECTION 7. The City Manager shall amend the zoning records, maps, and Ordinance 100-03-99 to reflect this amendment and the re-zoning of residential properties as depicted in Exhibit "A" attached hereto in accordance herewith. The Master Plan shall be amended to condition amending zoning on adoption of the Exhibit "T" as an attachment amending the Master Plan.

SECTION 8. It is officially found, determined and declared that the meeting at which this ordinance amendment is adopted was open to the public, and that notice of the time, place, and subject matter of the public business to be conducted at such meeting, including this amendment, was given to all as required by the Texas law and the City of Shavano Park's Ordinance No. 100-03-99.

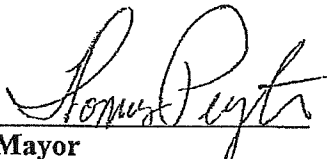
SECTION 9. This Ordinance is severable. If any part, section, paragraph, sentence, phrase or word of this amendment is for any reason held to be unconstitutional, illegal, inoperable or invalid, or if any exception to or limitation upon any general provision contained is held unconstitutional, illegal, invalid or ineffective, the remainder of this resolution shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid or ineffective.

SECTION 10. This Ordinance shall take effect immediately upon passage.

PASSED AND APPROVED this 21 day of January, 2003

APPROVE:

ATTEST:



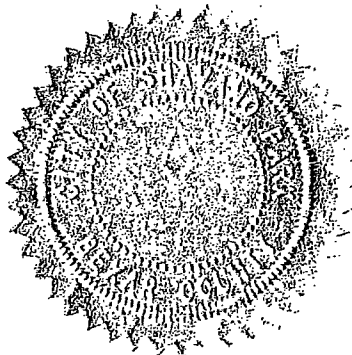
Mayor



City Secretary

APPROVED AS TO FORM:

City Attorney



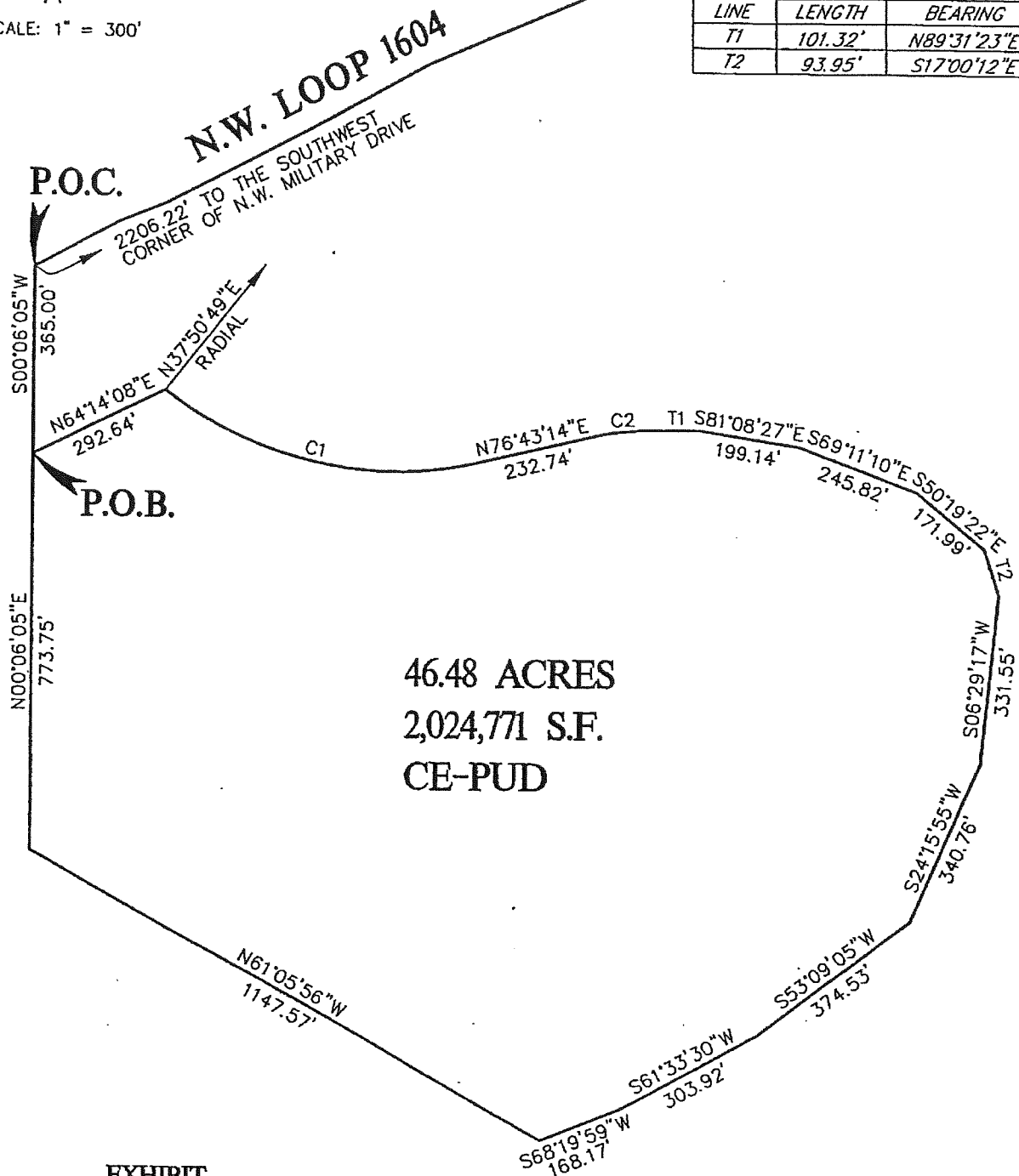


SCALE: 1" = 300'

CURVE TABLE						
CURVE	RADIUS	LENGTH	TANGENT	CHORD	BEARING	DELTA
C1	730.00'	651.39'	349.18'	630.00'		
C2	500.00'	111.72'	56.09'	111.49'		

COPY

LINE TABLE		
LINE	LENGTH	BEARING
T1	101.32'	N89°31'23"E
T2	93.95'	S17°00'12"E



**EXHIBIT
OF**

A 46.48 acre, or 2,024,771 square feet, tract of land out of a 406.8124 acre tract of land as described in instrument recorded in Volume 5553, Page 122 of the Official Public Record of Real Property of Bexar County, Texas, out of the Collin C. McCrae Survey No. 391, Abstract 482, County Block 4782 and out of the William Hotchkiss Survey No. 77, Abstract 336, County Block 4783.

PAPE-DAWSON  **ENGINEERS**
CIVIL & ENVIRONMENTAL

APR 18, 2002

JOB# 4523-02

H:\4523\02\DESIGN\EXHIBIT\REZONING.dwg

Exhibit I

COPY

Shavano Park Zoning Restrictions

Unit-18 A-2 CE, PUD

These requirements are to be imposed in conjunction with the rezoning to CE:

- 15,000 sq ft minimum lot size
- 40 ft minimum additive total side set back with a minimum of ten feet on any one side; i.e., side yards can be 10 and 20, 15 and 15, 12 and 18, etc.
- 30 ft front yard setback
- 21 ft rear yard setback
- Minimum 2500 sq ft for one story residence
- Minimum 3000 sq ft for two story residence
- All garages will side load; i.e., front facing garage doors are not allowed.

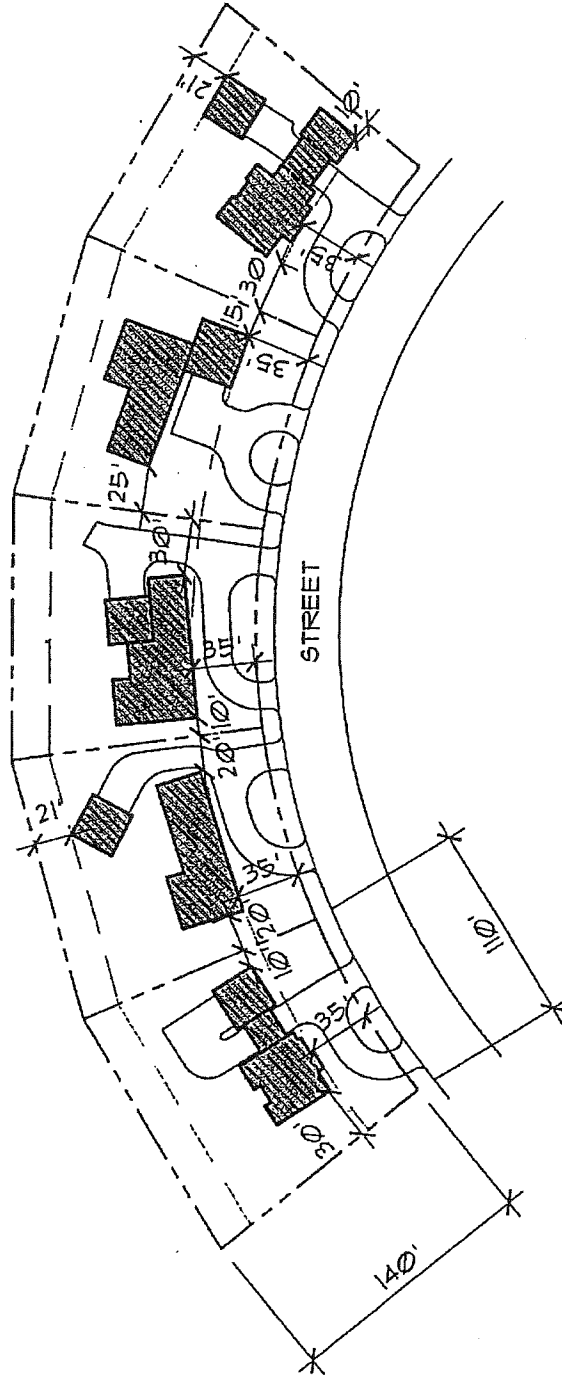
Shavano Park Unit 17 and Unit 18
Comparison of Lot Sizes, Home Product and
Building Requirements

Description	Bentley Manor Cottage Estates (CE)	Unit 18 Proposed Restricted Cottage Estates (CE)	Bentley Manor Estates (A-2)
Lot Product:			
Typical Lot Dimensions	65 ft x 120 ft	110 ft x 140 ft	150 ft x 220 ft
Minimum Lot area	7,800 sq ft	15,000 sq ft	30,500 sq ft
Required Building Setbacks:			
Front street setback	Rectangular Lot 25 ft	Rectangular lot 35 ft	Rectangular lot 56 ft
Side setback	0 + 10 ft	10 ft + 30 ft	21 ft
Rear setback	10 ft	21 ft	21 ft
Home Product:			
Range of home sizes	2400 sq ft - 3300 sq ft	2800 sq ft - 5000 sq ft	3800 sq ft - 8000 sq ft
Range of home prices	\$325,000 - \$525,000	\$450,000 - \$750,000	\$550,000 - \$1,200,000
Average lot prices	\$55,000 - \$65,000	\$85,000 - \$95,000	\$115,000 - \$125,000
Average home price	\$425,000	\$550,000	\$750,000

COPY

MINIMUM SETBACKS:

- 35' FRONT YARD
- 21' BACK YARD
- 40' COMBINED SIDE YARD
 - 10' MINIMUM (ONE SIDE ONLY)
 - NOTE ACCEPTABLE MINIMUM SIDE YARD CONFIGURATIONS BELOW



COPY

City of Shavano Park, Unit 18

$$1^n = 100^1 - 0^n$$

January 2003

ARTICLE VI. - TABLES

Table No. 1
A-1, A-1 PUD, A-2, A-2 PUD, A-3, A-4 and A-5 PUD
Single-Family Dwelling Districts

...

Table No. 2
CE Cottage Estates Residential District and MXD Mixed Use District

- (a) *Specifications.* In a CE Cottage Estates Residential District, each residence shall have a minimum gross floor area of not less than 2,000 square feet.
- (b) *Height regulations.* No building shall exceed two stories in height and the permitted maximum vertical height shall not exceed 45 feet.
- (c) *Area regulations.*
 - (1) *Lot area.* All building lots in this district shall contain not less than 0.15 acres of land and have not less than 55 feet of average width per lot. The average width shall be calculated based on the linear width of such lot measured at the front property line and the rear property line. If any property line is curved, the measurement shall be based on a straight line running from the corners of such lot.
 - (2) *Parking spaces.* Off-street parking space shall be provided on the lot to accommodate a minimum of two motor cars for each dwelling unit. For purposes of computing the required number of parking spaces for any improvements, no "parking space" located on public land, such as the public right-of-way of a street or alley, shall be included, except for parking in a utility or drainage easement area, whether public or private.
 - (3) *Setback lines* for CE and CE-PUD (Bentley Manor Cottage Estates North) and CE-PUD (Bentley Manor Cottage Estates South):
 - a. Front: Minimum front setbacks shall be as follows:
Front entry garages: 25 feet.
20 feet - Cul-de-sac lots.
Side entry garages: 15 feet; ten feet, cul-de-sac lots.
 - b. Side: Minimum side setbacks shall be ten feet on one side and zero feet on the side abutting an adjoining lot having a minimum ten-foot setback; provided that no side setback shall be required on any lot if there is at least a ten-foot separation between buildings with no side setback less than five feet.
 - c. Rear: The minimum rear setback shall be ten feet.
- (d) *CE-PUD Cottage Estates Planned Unit Development (Willow Wood) (established by Ordinance 100-12-03).*
 - (1) *Specifications.*
 - a. One story residence: minimum 2500 square feet.
 - b. Two story residence: minimum 3000 square feet.
 - (2) *Area regulations.*
 - a. Lot area. 15,000 square feet minimum lot size.

b. **Setback lines.**

1. **Front: 30 feet.**

2. **Side: 40 feet additive total side set back with a minimum of ten feet on any one side.**

3. **Rear: 21 feet.**

(e) *Mixed Use District* (see Section 36-41 for zoning regulations in full). The height, density, commercial intensity, setbacks, parking and other requirements shall be established pursuant to an approved MXD site plan, provided, however, the following regulations shall apply:

- (1) A ten-foot minimum building setback shall be required where a non-single-family residential use within the MXD District abuts a single-family use or single-family zoning district.
- (2) A 20-foot minimum setback shall be required for front-load residential garages and a ten-foot minimum setback shall be required for side-load residential garages.
- (3) A ten-foot minimum building setback shall be required where any residential or nonresidential use abuts a public or private street.

(f) *Fences.*

- (1) *Fences in general.* All fences shall comply with the other applicable ordinances of the City.
- (2) *Front fences.* Except where deed restrictions do not permit front fencing, front fencing shall be permitted. Front gates must be wide enough as to provide access for any and all emergency vehicles. Any front fence must not encompass any fire hydrant that may be present.

(g) *Swimming pools.*

(1) *Definitions.*

- a. Swimming pools shall mean and include all in-ground pools, including swimming, wading and lap pools, and all in-ground and above-ground water spas.
- b. Swimming pool edge shall mean the edge formed where the swimming pool water meets the adjacent wall of the swimming pool.

(2) *Restrictions.* The setback requirements set forth in Section C.3. above shall not apply to swimming pools in Unit 18 of the CE District and the following regulations shall apply. The pool edge shall be located no closer than:

- a. Ten feet from the main residence building.
- b. Ten feet from any side lot line.
- c. The existing width of any easement located along or parallel to the rear property line unless a waiver is granted by the easement holder, but in no event closer than ten feet from the rear lot line.
- d. Ten feet from the rear lot line if there are no easements adjacent to or parallel to the rear lot line.
- e. Three feet from the rear lot line if the lot abuts a greenbelt or street right-of-way adjacent or parallel to the rear lot line.
- f. Above ground water spas and other swimming pool appurtenances shall be limited to no more than 30 inches in height for all areas within the prescribed setbacks.

(Ord. No. 100-02-08, § I(exh. A), 8-12-2008; [Ord. No. O-2017-022](#), § III, 11-27-2017)

PLANNING AND ZONING STAFF SUMMARY

Meeting Date: June 3, 2020

Agenda item: 7 / 8

Prepared by: Curtis Leeth

Reviewed by: Bill Hill

AGENDA ITEM DESCRIPTION:

7. Public Hearing - The purpose of the public hearing is to receive comments from members of the public regarding proposed amendments to the City of Shavano Park Code of Ordinances, Chapter 36 – Zoning, regarding allowed uses of accessory buildings in residential zoning districts

8. Discussion / action - Possible amendments to the City of Shavano Park Code of Ordinances, Chapter 36 – Zoning, regarding allowed uses of accessory buildings - City Manager

X

Attachments for Reference:

- 1) 8a Draft Accessory Bldg Amendments
- 2) 8b Attorney-Client Memo

BACKGROUND / HISTORY: In 2015-16 the Commission conducted a thorough review of accessory and portable building regulations. This review greatly improved the clarity of regulations governing these structures on residential lots.

Recently there was confusion between staff and the building inspector when reviewing a permit for an accessory building on whether an accessory building could be used for habitation.

The current ordinances do not prohibit the use of an accessory building for habitation, for rental or home occupations. Attorney-Client Memo has been prepared discussing this (attached).

At the March 4, 2020 meeting the Commission considered draft amendments and provided guidance to staff.

DISCUSSION: Staff propose clarifying the ordinances by explicitly allowing habitation and rental of an accessory building. Staff during review also noticed a conflict between Sec. 36-44 and Sec. 36-102 regarding whether an accessory building can be used for a home occupation. Amendments also proposed resolving this conflict. Draft amendments in brief:

ARTICLE II. – DISTRICTS

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

...

(2) Accessory buildings.

a. An accessory building may be used as a dwelling unit as long as the use is customarily incident to a principal building or principal use (i.e. for habitation, but such habitation does not violate the Single-Family restriction).

b. Accessory building may be used for long-term rental.

ca. 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.

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

...

ARTICLE IV. – SPECIAL USE PERMITS

Sec. 36-102. - Special use permits for home occupations.

...

(b) Special use permit requirements.

- (1) The home occupation must be compatible with the residential use of the property and surrounding residential uses and does not alter the residential character of the premises by reason of activity, color, design, materials, storage, construction, lighting, sounds, noises, vibrations, dust, odors, noxious fumes, etc., nor shall it unreasonably disturb the peace and quiet of an individual and/or the residential neighborhood, nor interfere with area radio or television reception;

- (2) The home occupation must be confined completely within the dwelling, and occupy not more than 25 percent of the gross floor area of one floor thereof;

~~(3) Use of accessory buildings in the home occupation is not allowed;~~

- (34) The home occupation may only be carried on by members of the family occupying the dwelling, with the exception of one other person either by employment or as an independent contractor;

- (45) The home occupation must not generate pedestrian or vehicular traffic in excess of five visits a day;

- (56) The home occupation require no visible, structural, electrical or plumbing alterations in the dwelling;

- (67) The home occupation may not involve outdoor storage or on-premises outdoor advertising;

| (78) The home occupation must not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood; and

| (89) Only one commercial vehicle is allowed to be parked on-premises in the operation of the home occupation.

...

COURSES OF ACTION: Recommend approval of proposed amendments to the City of Shavano Park Code of Ordinances, Chapter 36 – Zoning, regarding allowed uses of accessory buildings; or alternatively decline and provide further guidance to staff.

FINANCIAL IMPACT: N/A

MOTION REQUESTED: Recommend approval of proposed amendments to the City of Shavano Park Code of Ordinances, Chapter 36 – Zoning, regarding allowed uses of accessory buildings.

CHAPTER 36 – ZONING

Accessory building regulations in zoning code are as follows. Amendments are in track changes.

ARTICLE I. - IN GENERAL

Sec. 36-1. - Definitions. (Excerpt of relevant 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.

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.

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

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.

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.

ARTICLE II. – DISTRICTS

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.
 - c. An accessory building may be used as a dwelling unit as long as the use is customarily incident to a principal building or principal use (i.e. for habitation, but such habitation does not violate the Single-Family restriction).
 - d. Accessory building may be used for long-term rental.
- (3) Portable construction buildings under the following conditions:
- ...
- (4) Swimming pools pursuant to all applicable City regulations.
 - (5) Private tennis courts pursuant to all applicable City regulations.
 - (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.
- (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:
- ...
- (c) *Other use regulations.* See Table No. 1.

Intent is to clarify habitation/home occupation use of an accessory buildings is allowable

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

. . .

- (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);¹⁷ 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.*

. . .

- (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.

. . .

Sec. 36-44. - Home occupations.

- (a) *General.* Home occupations shall be permitted in all residential zoning districts, provided the home occupation is clearly and obviously subordinate to the main use of dwelling for residential purposes and is not prohibited by subsection (c) and complies with the conditions set forth in subsection (b). Standards for controlling home occupations are set forth to minimize annoyance and inconvenience to neighboring property owners within residential areas. These standards are intended to allow reasonable and comfortable enjoyment of adjacent and nearby property by their owners and by occupants of neighboring residential dwellings, while providing opportunities for the pursuit of home-based businesses. Administrative, office and clerical functions performed at a residence by members of the family occupying the dwelling are specifically allowed and are not considered a home occupation.
- (b) *Conditions.*
- (1) The home occupation must be compatible with the residential use of the property and surrounding residential uses and not alter the residential character of the premises by reason of activity, color, design, materials, storage, construction, lighting, sounds, noises, vibrations, dust, odors, noxious fumes, etc., nor shall it unreasonably disturb the peace and quiet of an individual and/or the residential neighborhood, nor interfere with the area radio or television reception;
 - (2) The home occupation must be confined completely within the dwelling and/or a single accessory building, and occupy in total not more than 25 percent of the gross floor area of one floor of the residential dwelling thereof;
 - (3) The home occupation may only be carried on by members of the family occupying the dwelling, with the exception of one other person either by employment or as an independent contractor;
 - (4) The home occupation must not generate pedestrian or vehicular traffic in excess of five visits a day, with not more than two client vehicles at the premises at any one time;
 - (5) The home occupation shall require no exterior structural, electrical or plumbing alterations to the dwelling;
 - (6) The home occupation may not involve outdoor storage or on-premises outdoor signage or advertising;
 - (7) The home occupation must not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood;

Intent is to clarify habitation/home occupation use of an accessory buildings is allowable

- (8) On-premises parking of commercial vehicles, as defined in section 36-1, used in conjunction with the home occupation is prohibited, except as provided in section 36-36(b)(1) and section 36-36(b)(2); and
- (9) On-premises retail sales are prohibited.
- (c) *Prohibited home occupations.* Examples of prohibited home occupations include the following:
 - (1) Barbershops;
 - (2) Beauty shops;
 - (3) Commercial auto or boat sales, repair or maintenance;
 - (4) Auto painting;
 - (5) Sexually oriented businesses;
 - (6) Restaurants;
 - (7) Catering, or the preparation of food for resale except for Cottage Food Operations as that term is defined by the Tex. Health and Safety Code § 437.001; and
 - (8) Animal hospitals and kennels.

ARTICLE IV. – SPECIAL USE PERMITS

Sec. 36-102. - Special use permits for home occupations.

- (a) Special use permits for a home occupations shall be processed consistent with Article III of this chapter.
- (b) Special use permit requirements.
 - (1) The home occupation must be compatible with the residential use of the property and surrounding residential uses and does not alter the residential character of the premises by reason of activity, color, design, materials, storage, construction, lighting, sounds, noises, vibrations, dust, odors, noxious fumes, etc., nor shall it unreasonably disturb the peace and quiet of an individual and/or the residential neighborhood, nor interfere with area radio or television reception;
 - (2) The home occupation must be confined completely within the dwelling, and/or a single accessory building, and occupy not more than 25 percent of the gross floor area of one floor thereof;
 - ~~(3) Use of accessory buildings in the home occupation is not allowed;~~
 - (34) The home occupation may only be carried on by members of the family occupying the dwelling, with the exception of one other person either by employment or as an independent contractor;

Accessory Building Amendments – vAllowable

Intent is to clarify habitation/home occupation use of an accessory buildings is allowable

- | (45) The home occupation must not generate pedestrian or vehicular traffic in excess of five visits a day;
 - | (56) The home occupation require no visible, structural, electrical or plumbing alterations in the dwelling;
 - | (67) The home occupation may not involve outdoor storage or on-premises outdoor advertising;
 - | (78) The home occupation must not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood; and
 - | (89) Only one commercial vehicle is allowed to be parked on-premises in the operation of the home occupation.
- (c) Existing Non-Conforming Home Occupations. Any home occupation that was legally in existence as of November 1, 2015 ("the Effective Date") and that is not in full conformity with the provisions herein shall be deemed a legal nonconforming use, provided that the home occupation use was not in violation of any other local, state or federal law or regulation on that date. Proof of the existence of such home occupation use prior to the effective date of this Code may be required by the City. Any legal nonconforming use may continue until not later than December 1, 2017. After that date, nonconforming home occupations are prohibited.

PLANNING AND ZONING STAFF SUMMARY

Meeting Date: June 3, 2020

Agenda item: 9

Prepared by: Curtis Leeth

Reviewed by: Bill Hill

AGENDA ITEM DESCRIPTION:

9. Discussion - Possible amendments to Chapters 6 and 36 regarding front fencing for homes fronting NW Military Highway - City Manager

X

Attachments for Reference:

- 1) 9a Residential Fence Codes
- 2) 9b Homeowner Requests

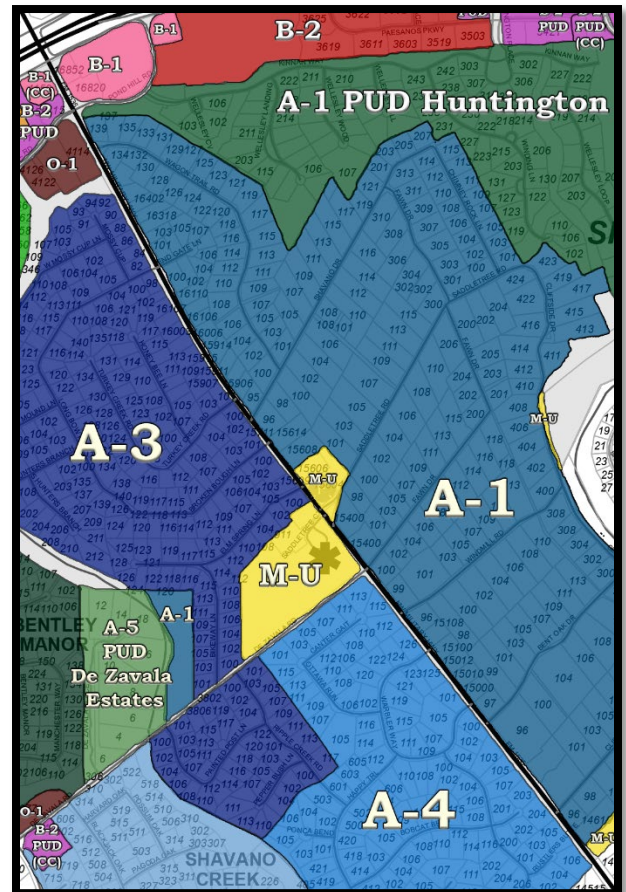
BACKGROUND / HISTORY: Recently the City took a code enforcement action against a resident on NW Military in A-1 district attempting to install solid wood fencing behind their wrought-iron fence for increased privacy and security. After the resident complied, the homeowners of 16006 and 16008 NW Military Highway (east side) requested to the City the ability to install front solid fencing (past the front of the residence) on their properties for privacy, noise abatement and security (attachment 9b).

Their primary concerns are the increasing noise and activity on NW Military. Staff anticipate these concerns will only increase once construction on the road begins in 2021.

DISCUSSION: The current fence regulations (with comments) are presented in attachment 9a. The basic regulations in regards to front fencing are as follows:

- Front fencing past the front of the house is only allowed in A-1 and A-1 PUD (Huntington)
- Solid front fencing past the front of the house is only allowed in A-1 PUD (Huntington)

Note that A-1, A-3 and A-4 residential districts are all adjacent to the NW Military. All homes in A-4 have their rear and side yards facing NW Military, while many homes in A-3 and A-1 have front yards facing NW Military. This means the residents in A-4 enjoy a solid



brick wall facing the busy highway for privacy, security and sound abatement but not other residents on NW Military.

Staff proposed scheduling for July P&Z a public hearing for draft amendments that would allow front solid fencing (past the front of the house) for all homes whose lots front NW Military and clean up inconsistencies in the fence code to improve readability.

COURSES OF ACTION: Provide guidance to staff for possible public hearing for draft amendments at July P&Z meeting.

FINANCIAL IMPACT: N/A

MOTION REQUESTED: Discussion item only.

Code Language regarding Fencing in Residential Districts

Summary: Staff recommends making Chapters 6 and 36 consistent, removing vegetation regulations out of these Fence sections in addition to amending the code to allow front fencing (and gates) past the front of the residence for homes that front NW Military. Staff added comments to the language below for Planning & Zoning Commission review.

Sec. 6-92. - Fences.

Front fencing past the front edge of a residence or building is only allowed in an A-1 zoning district. A-2, A-3, A-4, and A-5 PUD zoning districts can have front fencing but cannot be past the front edge of the residence or building. Side and rear fencing is allowed in all districts. All fencing must meet the following criteria:

- (1) Fences not more than eight feet in height are permitted, provided that said fences are constructed of wood, concrete, brick, wrought iron or other materials approved by the Building Official and the materials are architecturally and aesthetically consistent with the surrounding area.
- (2) On a corner lot, no shrubbery, when mature height is 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.
- (3) Fences should be constructed in such a way as to not be an obstruction or change the natural drainage of water. Solid front fencing is not permitted, except in A-1 PUD Zoning District.
- (4) Front driveway gates shall have at least a minimum of a 12-foot opening for emergency vehicle access.
- (5) Any shrubbery, when mature height is greater than 18 inches, must not be within three feet of a fire hydrant.
- (6) No fence shall encompass any fire hydrant.

Commented [CL1]: Missing A-1 PUD (Huntington)

Commented [CL2]: Suggest move to Chapter 14, Article III. – Rights-of-Way and Vegetation Protrusions

Commented [BH3]: Suggest also add to Chapter 28, Article IV – Streets and Sidewalks

Commented [CL4]: Conflicts with Sec. 36-36(f)(3)(d)

Commented [CL5]: Suggest move to Chapter 14, Article III. – Rights-of-Way and Vegetation Protrusions

Commented [BH6]: Suggest also add to Chapter 28, Article IV – Streets and Sidewalks

Code Language regarding Fencing in Residential Districts

Sec. 36-1. – Definitions.

...

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.

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

...

(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.

Commented [CL7]: Missing A-1 PUD (Huntington)

Commented [CL8]: Does not mention other zoning districts (A-3, A-4, A-5 PUD)

Commented [CL9]: Inconsistent with Chapter 6

Commented [CL10]: Missing in Chapter 6

Commented [CL11]: Suggest move to Chapter 14, Article III. – Rights-of-Way and Vegetation Protrusions

Commented [BH12]: Suggest also add to Chapter 28, Article IV – Streets and Sidewalks

Commented [CL13]: A-1 PUD (Huntington) mentioned here but not in subsection 1 above.

Commented [CL14]: Confusing wording. I believe it is trying to allow solid fencing only in Huntington.

Commented [CL15]: Missing in Chapter 6

Commented [CL16]: Suggest move to Chapter 14, Article III. – Rights-of-Way and Vegetation Protrusions

Commented [BH17]: Suggest also add to Chapter 28, Article IV – Streets and Sidewalks

Code Language regarding Fencing in Residential Districts

- 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.

Commented [CL18]: Would need to be amended to allow front gates on NW Military

...

ARTICLE VI. - TABLES

Table No. 1
A-1, A-1 PUD, A-2, A-2 PUD, A-3, A-4 and A-5 PUD
Single-Family Dwelling Districts

...

(d) Fences.

- (1) *Fences in general.* All fences shall comply with the other applicable ordinances of the City.
- (2) *Front fences.* Front gates must be wide enough as to provide access for any and all emergency vehicles. Any front fence must not encompass any fire hydrant that may be present.

Commented [CL19]: Suggest amending to add references to Sections in Chapters 6 and 36.

From: John Bradley [<mailto:bondoto@hotmail.com>]
Sent: Saturday, May 16, 2020 9:34 PM
To: Bill Hill <citymanager@shavanoopark.org>
Subject: Request for Full Front Fencing at 16008 NW Military Hwy

City Manager Bill Hill,

My name is John Bradley who resides at 16008 NW Military Hwy in Shavano Park. I am writing you this email requesting the City of Shavano Park approve full front fencing for myself and other properties along NW Military Hwy. Below are the justifications for my request.

First, is the noise issue from the heavy traffic on NW Military, which TxDot estimates the daily traffic in 2021 will be 21,300. Which is the justification for the upcoming NW Military Hwy expansion, which will result in traffic being even closer to my property with the addition of a bike path in which cyclists, runners, walkers will be just feet from my property line.

On April 26, I installed stained, cedar wooden panels to the inside of my front metal fence which I immediately noticed a dramatic decrease in road noise and increased privacy to the front of my property. On May 9th, I received a Code Compliance violation from the City for my full front fence. I then modified the wooden panels by removing 50% of the boards to bring it to compliance; in which the road noise came right back. On May 16th I emailed an amended building permit to Shavano Park Permits Department for the modified wood on the metal fence. During those two weeks, my wife and I enjoyed the peace and privacy we had in our front yard that we had not had since we moved here.

In reference to the upcoming 18 month construction period of the NW Military expansion project, there will be construction crews in front of our homes standing feet away from my metal fence, with direct access for workers to look into our properties. It is common for an increase in criminal activity during construction projects, especially thefts and burglaries. There is also large construction machinery that is loud and goes on for hours. I don't want to be sitting at my kitchen table every day staring at all this activity happening feet in front of my metal fence. All of these issues would be solved if myself and others were allowed to have a full front fence.

When looking ahead at when the NW Military Project is completed; as mentioned prior, traffic will be even closer to my house which will increase the road noise. And with the new walking / bike path, the ability for cyclists, walkers, and runners to be just feet from my front metal fence with the ability view activity of my property is a safety concern. I often work very late hours and don't want people walking in front of my house late at night who can see what lights are on inside my home. These issues would too be solved if myself and others were allowed to have a full front fence.

During the two weeks my full front fence was installed, I had nothing but compliments from neighbors, who themselves wanted this full front fence for the same reasons I discussed; and

were also very displeased with me having to remove it. The only justification given to me during a phone call from Police Chief Ray Lacy was; "this is the Code, which is strictly enforced". I've always said if you want to change a bad law, simply enforce it.

In closing, the ONLY FULL FRONT FENCING permitted in Shavano Park is in the Huntington Subdivision (Zone A-1 PUD District). Which to the best of my knowledge nobody there has a full front fence. The Huntington Subdivision is gated and heavily restricted to any through traffic. Therefore I am asking the City of Shavano Park to allow me and others living on NW Military to have full front fencing. I am willing / available to speak in front of City Council do discuss this issue. I have additionally attached photos of my full fence both inside / outside, along with photos of the after modification (which I currently have).

Please feel free to contact me with any questions, comments, or concerns.

Respectfully,

John Bradley
210-559-2406

BEFORE CODE ENFORCEMENT ACTION





AFTER CODE ENFORCEMENT ACTION (to prevent solid fencing)



From: Catherine Navarrete [<mailto:catnavarrete@gmail.com>]
Sent: Sunday, May 17, 2020 11:04 AM
To: Bill Hill <citymanager@shavanopark.org>
Cc: Timonavarrete8@gmail.com; Catherine Navarrete <cat@navarreteins.com>
Subject: Privacy Fence

Good morning Bill,

My name is Timothy Navarrete and my wife and daughter reside at 16006 NW Military Hwy. I'm reaching out to you in regards to the regulations on privacy fences for properties on NW Military. It's my understanding that this is not allowed.

As a resident of Shavano Park and more importantly a husband and father, I'd like to express my desire to get this code/law amended for the safety and security of my family and property.

With the expansion of NW Military and the addition of a jogging/biking path there will be additional pedestrian traffic outside all properties on NW Military. Not only during construction for 18 months, but once the project is completed.

My neighbor put up a privacy fence a couple weeks ago that not only gave his property privacy, but reduced traffic noise. All while enhancing the look of his existing wrought iron fence. I know this because we liked it so much we inquired about doing the same to our property.

It was then that I was informed that he was told to take it down.

In short, I'm contacting you to see what can be done to address this issue so my family can enjoy both the front and back yard of our property. So I can relax while my daughter plays and my wife gardens. So I can work in my garage without people being able to see what possessions we have in it. We can never be too careful when it comes to our families safety. As a small community we need to look out for one another. I believe there are more important things to address on NW Military right now, such as the speeding at all hours of the day and night.

Please feel free to contact me to discuss this further.

I appreciate your time.

Best regards,

Timothy Navarrete
210.872.4471