



NOTICE OF A CALLED MEETING OF THE
PLANNING AND ENVIRONMENTAL COMMITTEE
OF THE CITY OF SUNSET VALLEY, TEXAS
THURSDAY JULY 1st, 2021
6:00 P.M. - 8:00 P.M.

***Due to concerns regarding COVID-19, all meetings will be held virtually.
Please register by following this link:***

Registration URL: <https://attendee.gototraining.com/r/1371018848044025090>

You may also call into the meeting by calling:

Long Distance: +1 (510) 365-3231
Access Code: 563-916-697

Notice is hereby given that the Planning and Environmental Committee of the City of Sunset Valley, Texas will hold a called meeting on Thursday July 1st, at 6:00 P.M. via GoToTraining at which time the following items will be discussed, to-wit:

1. Call to Order
2. Citizen Comments
3. Approval of Minutes from June 3rd meeting.
4. City Council Liaison Report
5. Public Works and Environmental Services Update
6. Discussion and possible recommendation regarding a timeline for reviewing the Comprehensive Plan and Land Development Code.
 - i. Action Sought: The committee will discuss parts of the code and plan they will be reviewing and smaller items that need to be addressed.
 - ii. Action Approved:
 - iii. Next Meeting Steps:
 - iv. Adoption:
 - v. Supporting Documents:
7. Discussion and possible recommendation to council and the zoning commission regarding structures within the front setback found in Chapter 2 of the Land Development Code.
 - i. Action Sought: The committee will discuss and recommend accessory use, size, and location of structures also known as "tiny libraries".
 - ii. Action Approved:
 - iii. Next Meeting Steps:
 - iv. Adoption:
 - v. Supporting Documents:

8. Discussion and possible recommendation to council regarding exemption to impervious cover found in Chapter 4 of the Land Development Code.
 - i. Action Sought: The Committee will discuss and possible recommend to Zoning Commission those items that should be exempt from the impervious cover calculations.
 - ii. Action Approved:
 - iii. Next Meeting Steps:
 - iv. Adoption:
 - v. Supporting Documents:
9. Discussion regarding future agenda items.
 - a. Comprehensive Plan next stage

10. Adjourn

A quorum of the City Council may attend the meeting, however, no official action by the City Council shall be taken.

I certify that the above notice of meeting was posted at City Hall, 3205 Jones Road, Sunset Valley, Texas, on the 28th day of June at 6:00 PM.

Matt Lingafelter
City Secretary

The City of Sunset Valley is committed to the compliance with the American with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request.



NOTICE OF A CALLED MEETING OF THE
PLANNING AND ENVIRONMENTAL COMMITTEE
OF THE CITY OF SUNSET VALLEY, TEXAS
THURSDAY JUNE 3rd, 2021
6:00 P.M. - 8:00 P.M.

Community Members Present:

Alice Duffy, Committee Member
Melissa Gonzales, Committee Member
Jay Hargrave, Committee Member
Katherine Johnson, Committee Vice Chair
Zoe Trieff, Committee Chair
Lisa Versaci, Committee Member
Karen Medicus, City Council Liaison
Carolyn Meredith, Parks and Natural Resource Manager

1. Call to Order
Meeting called to order at 6:03.
2. Citizen Comments
Zoe commented on Terry Cowan's idea of a cross committee collaboration with the Arts Commission to develop an art installation/interactive nature activity behind the community garden. Katherine spoke about the possibility of Public Works doing a curbside brush pickup. Residents have also complained that TDS has not been picking up brush as they should be by contract. Melissa reported that the information presented on parking a few meetings back was not accurate and was for urban core and not for areas like Sunset Valley. Jay asked for more internal analysis of capacity and demand regarding parking, basically where we are for each area of development. Lisa reported that some houses don't have a place to put brush on the street.
3. Approval of Minutes from May 6th, 10th, and 19th meetings.
Jay motioned, Alice seconded. Melissa commented on Mayor Mills comments send to her by text regarding the impervious cover presentation. The comments will be included in an amendment to the minutes and included on the story page for the committee. All in favor. Katherine abstained.
4. City Council Liaison Report
Councilmember Medicus reported on the Capital Improvement Plan that is on the website. June 8th is the next council meeting and it will include the presentation from Ampersand for City-wide branding. Council is planning to reconvene in-person meetings on June 22nd.
5. Public Works and Environmental Services Update
The committee was updated on Public Works activities including storm response and wastewater management.
6. Discussion and possible recommendation regarding posting signs at the entry to the Greenspaces and Conservation Area alerting individuals that camping is not allowed.
 - i. Action Sought:

- ii. Action Approved: *Motion to approve placing signs in the greenspaces and conservation areas. Melissa motioned, Alice seconded. All in favor*
 - iii. Next Meeting Steps:
 - iv. Adoption:
 - v. Supporting Documents:
7. Discussion and possible recommendation regarding the draft Capital Improvement Plan.
- i. Action Sought: Committee will discuss possible projects related to the capital improvement plan, specifically those related to open spaces and planning.
 - ii. Action Approved: *Committee made recommendations as listed in the comments on the committee workbook. Melissa motioned; Jay seconded. All in favor.*
 - iii. Next Meeting Steps:
 - iv. Adoption:
 - v. Supporting Documents: Draft CIP
8. Discussion and possible recommendation to council and the zoning commission regarding structures within the front setback found in Chapter 2 of the Land Development Code.
- i. Action Sought
 - ii. Action Approved: *Table to the next meeting.*
 - iii. Next Meeting Steps:
 - iv. Adoption:
 - v. Supporting Documents:
9. Discussion and possible recommendation to council regarding Chapter 4 of the Land Development Code.
- i. Action Sought
 - ii. Action Approved: *Table to the next meeting.*
 - iii. Next Meeting Steps:
 - iv. Adoption:
 - v. Supporting Documents:
10. Discussion regarding future agenda items.
- a. Comprehensive Plan next stage
 - b. *Next meeting is July 1st.*
11. Adjourn
Meeting adjourned at 8:03.

COMMITTEE MEETING DATE: JULY 1ST, 2021



PLANNING AND ENVIRONMENTAL COMMITTEE

AGENDA ITEM #7

STAFF PREPARER/CONTACT INFORMATION: Carolyn Meredith
cmeredith@sunsetvalley.org

SUBJECT: PUBLIC WORKS AND ENVIRONMENTAL SERVICES

DESCRIPTION: Discussion and possible recommendation to council and the zoning commission regarding structures within the front setback found in Chapter 2 of the Land Development Code.

BACKGROUND: An issue has been raised regarding "tiny libraries" and their location on a lot in Sunset Valley. At the request of a resident citing safety concerns for traffic and pedestrians in a no parking section of Pillow Road, the City Attorney issued an opinion regarding the "tiny library" located on Pillow Road, stating they are considered a building as per the City of Sunset Valley Land Development Code and therefore must comply with all applicable sections of the code. (See attached Attorney Opinion)

Building – Chapter 1

In Section 1.201, Definition, of the Land Development Code, Sunset Valley includes structure as *"Building": Any structure, either temporary or permanent having a roof or other covering, and designed or used for the shelter or enclosure of any person, animal or property of any kind, including tents, awnings or vehicles situated on private property and used for purposes of a building. The word "building" includes the word structure."*

The tiny library stores and protects books, and is hence classified as a building.

Accessory Structures – Chapter 2 Zoning

Accessory structures are those customary and incidental to the use of the principal structure, or residential home. There is a question as to whether a tiny library is customarily associated with a residential use.

To further complicate the matter, Chapter 2, Zoning, regulates the location and size of accessory structures.

Section 2:506 (a) (10):

All accessory buildings and structures, other than detached garages, must be located in the rear yard behind the principal building or structure, except where the principal building or structure is more than 75 feet from the front lot line. If the principal building or structure is more than 75 feet 2-38 from the front lot line, an accessory building or structure may be located in front or to the side of principal building or structure provided that the accessory building or structure is more than 75 feet from the front lot line. Unless the accessory building or structure is architecturally compatible in construction materials, color, and design to the principal building or structure, it must be screened by landscaping from being seen from the front or side lot lines. The landscaping providing the screening must be located within 25 feet from the front and side(s) of the accessory building or structure.

Definitions from Chapter 1:

"Accessory Structure": means a structure that is on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure.

"Structure": "Structure": Anything, constructed or erected, which requires location on the ground, or attached to something having a location on the ground, but not including, advertising signs, billboards, and poster boards. The word "building" includes the word "structure." For purposes of the flood loss control provisions of this Code, "structure" means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Exemptions – Chapter 6 Building Permits

Sec. 6.105 Exemptions The following are exempt from the requirement of a building permit pursuant to this Chapter 6 (but must comply with all other applicable requirements of this Code):

- (1) One-story detached accessory structures not greater than 120 square feet measured along exterior walls that are intended and used for storage and similar uses;
- (2) Fences not over seven (7) feet high that do not obstruct the flow of storm water;
- (3) Retaining walls not located in the Critical or Transitional Water Quality Zones, which are not over four ((4) feet in height measured from the bottom of the footing to the top of the wall and are not greater than 75% of a single side of a single lot or separate tract in length and do not obstruct or alter the flow of storm water;

(4) Rainwater harvesting systems whose sole purpose is for the collection, treatment, and/or storage of rainwater for on-site use that have the following features: No tank exceeds five thousand (5,000) gallon capacity; no tank is pressurized; and the area of all tanks collectively does not exceed three hundred and fifty (350) square feet;

(5) Painting, papering, tiling, carpeting, installation of cabinets, counter tops, similar finish work, and minor repairs to existing structures;

(6) Swings and other playground equipment that are not located within any easements or within a vegetative buffer and do not substantially obstruct the flow of water;

(7) Prefabricated swimming pools that are unheated and are less than twenty-four (24) inches deep;

(8) Decks not exceeding two hundred (200) square feet in area, that are no more than twenty-four (24) inches above grade at any point, are not attached to a dwelling and do not serve an exit door, are in compliance with setback requirements for structures and are not located in any easements;

(9) Roof repair or replacement made with the same or similar materials to be repaired or replaced.

As per Chapter 6, Section 105 (1), a tiny library is generally less than 120 sq. ft and is therefore exempt from a building permit, however it is not exempt from the location called in the Zoning Chapter.

Path Forward

The Committee will discuss and make a recommendation to the Zoning Commission regarding these type of small structures as to:

Use

- Whether it is incidental and customary to a residential use

Size and Location

- Reduce the exemption size to less than 10 sq. feet for this use
- Due to the reduced size, exempt it from the accessory structure location requirement.

APPLICABLE CODE SECTIONS: City of Sunset Valley Land Development Code

STAFF RECOMMENDATION: For the library on Pillow Road, Staff offered a compromise in the location of the library. The structure could be moved back closer to the property line offering visitors parking on the property owner's driveway, out of the flow of traffic and thus resolving the safety concern. The resident who raised the safety concern, was amenable to the resolution. However,

that will require an amendment to the Zoning Chapter of the Land Development Code regarding location of the structure.

SUPPORTING MATERIALS PROVIDED: Attorney Opinion to the City of Sunset Valley.

INTEROFFICE LEGAL MEMORANDUM

TO: CITY ADMINISTRATOR, SYLVIA CARRILLO
CITY OF SUNSET VALLEY, TEXAS

FROM: ROXANA I. PEREZ STEVENS, CITY ATTORNEY

SUBJECT: LITTLE LIBRARY ON PILLOW ROAD

DATE: NOVEMBER 6, 2020

**PRIVILEGED AND CONFIDENTIAL ATTORNEY/CLIENT COMMUNICATIONS AND
ATTORNEY WORK PRODUCT**

ISSUES:

Please accept this memorandum as a supplementation for the first memorandum on this issue dated July 23, 2020. Please take note that the first memorandum offering an opinion on a little library considered a little library in the general sense and addressed two general issues. The general issues being: "Is the Little Library located on a private residence prohibited and is it violating the current parking ordinance?" At the time of the first opinion rendered I did not have specific information including a picture of any particular little library for the review nor was it described as having any alleged signage. The only specific information I had was that there was a little library on Pillow Road. Further, I was not presented with any evidence, facts or documentation (i.e. police reports, pictures, etc.) establishing facts that would indicate that there were any accidents or other incidents related to the little library.

I have been asked to further review this matter based on a citizen's inquiries. The citizen inquiry raises two (2) issues. The first being that (1) the legal opinion does not properly apply the Land Development Code and the little library is in violation of Section 3.306 of the Land Development Code and the second being that (2) the legal opinion with regard to the safety issue (violation of the parking ordinance and car accidents) is unprofessional, unreasonable and ignorant. The citizen inquiry provides rebuttals to the legal memorandum and provides allegations and statements, but no supporting documentation or specific facts. I will address these new issues as they were not addressed in the first memorandum.

ANALYSIS:

I will address the second issue first. With regard to the safety issue, the citizen inquiry alleges and provides that the citizen knows "of at least one collision between two vehicles where one of the vehicles was illegally parked on Pillow Rd. for the sole purpose of accessing the Little Free Library." I have requested further information from the citizen regarding the assertions of this particular instance of a car accident and illegal parking but the response that I received did not

provide specific details and again provided a general assertion. In light of this, I researched police reports related to incidents around the area and location of the little library on Pillow Road. The accident report that I was able to find in that area involved the resident on Pillow across from the residence with the Little Library wherein he had collisions with other vehicles while he was coming out of his private driveway. None of these accident reports that I was able to find are related to the Little Library. Therefore, I have found no documented evidence or specific facts that would establish that there has been documented illegal parking and/or documented car accidents that are specifically caused by or related to the little library on Pillow Road. Even if there has been a car accident in the area of the little library on Pillow Road, the proximate cause of the accident would have to be analyzed and established. Without any further information or specifics, the proximate cause of any accident alleged by the citizen inquiry has not been and cannot be established.

With regard to traffic safety on Pillow Road, Texas common law provides that every motorist has a duty to keep a proper lookout for dangers which might reasonably be anticipated. *Lynch v. Ricketts*, 158 Tex. 487, 314 S.W.2d 273 (1958); *De Winne v. Allen*, 154 Tex. 316, 277 S.W.2d 95, 99 (1955). The Texas Transportation Code Section 545.155 of the Texas Transportation Code states that an operator of a vehicle about to enter or cross a highway (defined as a public roadway) from an alley, building, or private road or driveway shall yield the right-of-way to a vehicle approaching on the highway to be entered. Section 541.401 defines “park” or “parking” as to stand an occupied or unoccupied vehicle, other than temporarily while loading or unloading merchandise or passengers. Further, there is an ordinance prohibiting parking on portions of Pillow Road pursuant to Chapter 72 Schedule I. Specifically, there is a prohibition of parking on Pillow Road from (1) its intersection with Jones Road, on the west side of Pillow Road, to a point 50 feet south of Jones Road and (2) from its intersection with Jones Road, on the east side of Pillow Road, to a point 50 feet south of Jones Road; and no parking to a point 525 feet south of Jones Road unless the vehicle displays a valid residential permit issued pursuant to division (H) of Schedule I. A vehicle that is standing occupied or unoccupied, other than temporarily while loading or unloading merchandise or passengers, on those portions of Pillow Road would be in violation of the parking ordinance. If there are any instances of perceived illegal parking or perceived safety issues related to the little library or in any other case, a citizen is encouraged to call and report the specific instance to the police department for handling.

Moving on to the first issue raised by the citizen inquiry and the application of the Ordinances and the Land Development Code, the following authorities apply. Section 10.02 of the City of Sunset Valley Ordinances provides the method of interpretation for the Ordinances themselves (including the Land Development Code) and specifically states, “[U]nless otherwise provided herein, or by law or implication required, the same rules of construction, definition and application shall govern the interpretation of this code as those governing the interpretation of state law.” Texas Government Code Chapter 311 entitled the “Code Construction Act” provides the general rules and laws for the interpretation of Texas state law. Common law also provides the application and statutory interpretation of the law, but common law is not static as it changes and evolves through the reevaluation of common law concepts in light of the current conditions and distinguishing facts and circumstances of each case. The most commonly stated rule today is that the “plain meaning” of the statute is to control. In determining the plain meaning of the statute where there may be ambiguities, you must look to the legislative intent of the statute.

That being said, it is not established or documented anywhere that “little libraries” were considered by the City Council at the time the land development code was last written and amended.

Using the above reasoning and legal standards, I take into consideration the assertions made by the citizen regarding this new issue. The Citizen inquiry and rebuttal asserts the position that the following definitions in the Land Development Code apply to the Little Library at issue:

City of Sunset Valley Land Development Code
Section 1.201

...

“Accessory Structure”: means a structure that is on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure.

...

“Building”: Any structure, either temporary or permanent having a roof or other covering, and designed or used for the shelter or enclosure of any person, animal or property of any kind, including tents, awnings or vehicles situated on private property and used for purposes of a building. The word “building” includes the word structure.

"Building/Accessory Use": A subordinate building or use, the use of which is clearly incidental to and customarily found in connection with the main building or principal use of the land.

...

“Setback”: As applied to a sign, the distance from the closest portion, whether the support or edge of the sign, to the property line.

...

“Sign”: Any device or surface on which letters, illustrations, designs, figures or symbols are painted, printed, stamped, raised, projected or in any manner outlined or attached and used for advertising purposes. Also, a name, identification, image, light device, figure, painting, drawing, message, plaque, poster, billboard, description, display or illustration which is affixed to, painted or represented directly or indirectly upon a building, picture, window, or piece of land, and which directs attention to an object, product, place, activity, facility, service, event, attraction, person, institution, organization or business which is visible from any street, right-of-way, sidewalk, alley, park or other public property. Customary displays of merchandise or objects and material without lettering which are placed behind a store window are not signs or parts of signs. The term “Sign” includes the term “Outdoor Advertising.”

“Structure”: Anything, constructed or erected, which requires location on the ground, or attached to something having a location on the ground, but not including, advertising signs, billboards, and poster boards. The word “building” includes the word “structure.” For purposes of the flood loss control provisions of this Code, “structure” means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

In my legal opinion and using the standard for interpretation of laws provided by the Ordinances and state law, the definitions found in the Land Development Code for accessory structure, building, building/accessory use and structure do apply to a “little library”. For instance, a “building” defined in the Land Development Code is any structure, either temporary or permanent having a roof or other covering, and designed or used for the shelter or enclosure of any person, animal or property of any kind, including tents, awnings or vehicles situated on private property and used for purposes of a building. It goes to further state that “building” includes the word “structure”. Section 1.200 (a) states that words used in the Land Development Code and not defined therein shall have the meaning established by Texas statutory or case law or, if not defined in Texas law, their ordinarily accepted meaning. Using the plan language of the statute, a “little library” does qualify as a “structure” or “building” under this definition. A little library, in its commonly accepted definition, is a free book-sharing box where anyone may take a book or share a book. It normally resembles type of mailbox.

Therefore, as the “little library” does fall under the definition of a “building” or “structure”, Section 3.306 (e) regarding minimum building setbacks does apply to the “little library” as well as any other section of the Land Development Code dealing with “buildings” or “structures”. This, in of itself, does not prohibit “little libraries” but does place standards, limitations as well as requirements or exemptions therefrom on the “little libraries”. If a “little library” is placed within the setback, then it would be in violation of the minimum building setbacks pursuant to Section 3.306 and must be corrected. Therefore, if the “little library” located on Pillow Road is placed less than the minimum fifty (50) feet setback (as this is not a corner lot), it would be in violation of Section 3.306(e) and the “little library” would need to be moved.

The Sign Regulations in Chapter 14 of the Land Development Code hold the following:

Section 14.200

This chapter shall not be construed, applied, interpreted, nor enforced in a manner to violate the First Amendment rights of any person, and the building official shall seek the advice and recommendation of the city attorney prior to taking any action to enforce any provision of this ordinance with respect to any non-commercial sign or speech by any person. No provision in this chapter shall be construed in a manner as to violate Section 216.903 of the Texas Local Government Code (protecting certain political signs).

The definition of a sign includes the requirement that it be “used for advertising purposes” pursuant to Section 1.201 of the Land Development Code as cited above. Again, a “little library”, in its

commonly accepted definition, is a free book-sharing box where anyone may take a book or share a book. As stated above and to continue the parallel example of a mailbox, some mailboxes are commonly labeled “mail”. The “little library” located on Pillow Road does have “little library” written on it. It could be argued that this is a label rather than a sign used for advertising purposes such as would be the case of a mailbox labeled with “mail”. Another example would be if a resident wished to display a decorative wishing well on their property with the terms “wishing well” on their property, I don’t believe that would fall under the definition of a sign either. If the “little library” were to state something more than just the label “little library” and somehow “advertise” something such as for example “please stop and take a free book from this little library” then that may possibly be construed as advertising rather than a label. Using the plain meaning of section and applying the above logic, I am of the opinion that the “little library” in its current condition does not fall under the current definition of a sign and therefore, the sections of the Land Development Code regarding “signs” does not apply to the “little library”.

Again, this is a legal opinion based on the current language of the Land Development Code and the “little library” at issue. The Land Development Code and “little libraries” are issues that the Council may consider and address if they chose to do so.

CONCLUSION:

Therefore, based on the foregoing and considering the additional information and issues presented, I present the above opinions and stand by my previous memorandum and its opinions.