

**CITY OF BRENHAM  
PLANNING AND ZONING COMMISSION MINUTES  
FEBRUARY 24, 2025**

*The meeting minutes herein are a summarization of meeting procedures, not a verbatim transcription.*

A regular meeting of the Brenham Planning and Zoning Commission was held on February 24, 2025, at 5:15 pm in the Brenham Municipal Building, City Council Chambers, at 200 West Vulcan Street, Brenham, Texas.

Commissioners present:

M. Keith Behrens, Chair  
Deanna Alfred, Vice Chair  
Chris Cangelosi  
Darren Heine  
Calvin Kossie

Commissioners absent:

Cayte Neil  
Cyndee Smith

Staff present:

Stephanie Doland, Development Services Director  
Shauna Laauwe, City Planner  
Kim Hodde, Planning Technician

Citizens/Media present:

Donald W. Lampe,	DaShawn Wright
Connie Wilder	Duane Ahrens
Angela Miller	Randy Bayer
Blaine Hayes	Sarah Forsythe, Brenham Banner
Stacey Hayes	Joshua Blaschke, KWHI
Roger Hayes	

**1. Call Meeting to Order**

Chairman Behrens called the meeting to order at 5:15 pm with a quorum of five (5) Commissioners present.

**2. Public Comments**

There were no public comments.

**3. Reports and Announcements**

There were no reports or announcements.

#### **4. Statutory Consent Agenda**

The Statutory Agenda includes non-controversial and routine items that the Commission may act on with one single vote. A Commissioner may pull any item from the Consent Agenda in order that the Commission discuss and act upon it individually as part of the Regular Agenda.

- 4-a. Minutes from January 27, 2025, Planning and Zoning Commission Meeting.**
- 4-b. Case Number LOTLINE-25-0003: A request by Comcast Cable Communication Management, LLC for approval of a Replat (Commercial) of Tract 1 of the Brian O’Leary Division No. 1 to create Tract 1R, being 1.491-acres, and further described as part of the Phillip Coe Survey, A-31, in Brenham, Washington County, Texas.**
- 4-c. Case Number SUBPRE-25-0001: A request from Ronnie Gibson, Sr. and Jorge Luis Vega-Flores for approval of a Preliminary Plat of the Gibson & Vega Subdivision creating Lot 1 containing 1.000-acres and Lot 2 containing 2.132-acres, being further described as part of the James Walker Survey, A-106 in Brenham, Washington County, Texas.**
- 4-d. Case Number SUBFIN-25-0001: A request from Ronnie Gibson, Sr. and Jorge Luis Vega-Flores for approval of a Final Plat of the Gibson & Vega Subdivision creating Lot 1 containing 1.000-acres and Lot 2 containing 2.132-acres, being further described as part of the James Walker Survey, A-106 in Brenham, Washington County, Texas.**

Chairman Behrens called for a motion for the statutory consent agenda. A motion was made by Commissioner Cangelosi and seconded by Commissioner Alfred to approve the Statutory Consent Agenda (Items 4-a to 4-d), as presented. The motion carried unanimously.

#### **REGULAR SESSION**

- 5. Public Hearing, Discussion and Possible Action on Case Number LOTLINE-25-0002: A request by Cornelia Wilder for approval of a Replat of Lot 38 of the West Main Street Addition to create Lot 38A containing 0.258-acres and Lot 38B containing 0.256-acres, being a total of 0.514-acres currently addressed as 409 W. Alamo Street, and further described as part of the A. Harrington Survey, A-55, in Brenham, Washington County, Texas.**

Shauna Laauwe, City Planner, presented the staff report for Case No. LOTLINE-25-0002. Ms. Laauwe stated that the property owner and applicant is Cornelia Wilder and the surveyor is Donald W. Lampe / Lampe Surveying, Inc. The subject property, currently identified as Lot 38 of the West Main Street Addition, is approximately 0.514-acres total and is generally located on the south side of W. Alamo Street and extends south through to Peabody Street. The property is currently developed with an existing single-family residence and several accessory buildings. The property owner would like to replat the existing lot into two lots with proposed Lot 38A being 0.258-acres and proposed Lot 38B being 0.256-acres for the future development of an additional single-family residence on proposed Lot 38B.

A Public Hearing Notice was published in the Banner Press and notices were mailed to property owners within 200 feet of the subject properties on February 6, 2025. Three written citizen comments were received in support of the request from Cheryl and Frank Dutil of 501 W. Main Street, Sean Phillips of 410 W. Alamo Street, and Suzanne Callaway of 501 Peabody Street.

Chairman Behrens closed the regular session and opened the public hearing at 5:20 pm. There were no public comments.

Chairman Behrens closed the public hearing and re-opened the regular session at 5:20 pm.

A motion was made by Commissioner Alfred and seconded by Commissioner Kossie to approve the request by Cornelia Wilder for approval of a Replat of Lot 38 of the West Main Street Addition to create Lot 38A containing 0.258-acres and Lot 38B containing 0.256-acres, being a total of 0.514-acres currently addressed as 409 W. Alamo Street, as presented. The motion carried unanimously.

## **WORKSHOP AGENDA**

### **6. Discussion and Possible Direction to Staff on Case No. P-25-WKSHP-001: Concerning a Text Amendment to Appendix A – Zoning of the Code of Ordinances, specifically to Section 5.02 Definitions, to add definitions for Vape Shop and Smoke Shop, and to the B-2, Commercial, Research and Technology District to allow Vape Shops and Smoke Shops as a Permitted Use.**

Shauna Laauwe, City Planner, presented the staff report for Case No. LOTLINE-25-0001. Ms. Laauwe stated that the Development Services Department is researching amendments to the Code of Ordinances, Appendix A – Zoning, to regulate the use of vape and smoke shops in the City of Brenham. In recent years, the City of Brenham has seen an increase in the number of permits for vape and smoke shops that are currently an undefined use and have been simply regarded as a general retail use in current commercial zoning districts to include the B-1, Local Business/Residential Mixed-Use District and downtown districts. The City of Brenham currently has seven (7) businesses that primarily sell vape and other tobacco products. The staff report said that there were eight; however, one of these is a convenience store and vape products are not their main source of business. These numbers do not include the recently closed Lucky's Hookah Lounge that was located at 216 E Main Street in downtown and Smoke World Smoke Shop that is now listed as temporarily closed.

Electronic cigarettes, also known as e-cigarettes and vapes, were invented in 2003. E-cigarettes come in a variety of shapes and sizes, but the components typically include a battery, heating element, and a place to hold liquid. The liquid, that may contain nicotine, flavorings, and other chemicals, is heated to make an aerosol that is breathed into the lungs.<sup>1</sup> Though considered smokeless, bystanders may also breathe in the aerosol when the user exhales into the air.<sup>2</sup> It has also been found that since 2014, e-cigarettes have been the most used tobacco product among youth and young adults.<sup>3</sup> In addition, the Centers of Disease Control studies show that e-cigarettes appeal to young people due to flavoring and taste, curiosity, and low perceptions of harm. Due to concerns of the growing number of vape and smoke shop businesses that have formed over the last few years, many Texas communities have adopted ordinances restricting vape shops and similar tobacco businesses based on the concerns for the health, safety and welfare of their residents. In 2023, State laws were enacted that prohibit vaping in public schools and regulated the use of vape products to individuals over the age of 21. The current 89<sup>th</sup> Texas Legislature Session has seen many bills introduced that could potentially enact minimum distances of vape and smoke shops from uses such as public schools, churches, similar uses, and residential neighborhoods. Currently there are nine (9) bills being considered by the Texas Legislature.

In researching municipal vape shop regulations, city staff compared the requirements of seven cities throughout Texas. Please refer to Appendix A that summarizes the explicit standards regarding vape and tobacco shops that have been adopted in the researched cities since 2023. The regulations found are

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<sup>1</sup> Centers for Disease Control and Prevention. (2024). About E-Cigarettes

<sup>2</sup> Ibid.

<sup>3</sup> Centers for Disease Control and Prevention. (2023). E-Cigarette Use Among Youth and Young Adults. A Report of the Surgeon General. [https://www.cdc.gov/tobacco/sgr/e-cigarettes/pdfs/2016\\_sgr\\_entire\\_report\\_508.pdf](https://www.cdc.gov/tobacco/sgr/e-cigarettes/pdfs/2016_sgr_entire_report_508.pdf)

comparable to one another as each municipality amended their zoning or unified develop codes to define vape shop use, with some also defining and restricting “smoke shops” and “lounges.” The City of Sugar Land banned new vape shops, smoke shops and hookah bars outright and grandfathered existing affected shops with limits on expansions. However, most municipalities chose to place location buffers on such businesses, from between 300 to 1,000 feet from public and private schools, churches, and similar establishments, with some also restricted distances from single-family zoned property, hospitals and public parks. Lastly, about half of the researched municipalities placed limited hours of operation, with none having a closing time later than 10PM.

After reviewing the research and considering the needs and opportunities within the City of Brenham, City Staff narrowed down the vape and smoke shop recommendations for the Planning and Zoning Commission and City Council to consider. Staff chose not to regulate the hours of operation as this is hard to regulate and enforce. Staff recommends that smoke shops and vape shops should be categorized as defined uses rather than general retail uses. This is accomplished by adding a definition for each use in Appendix A: Zoning Ordinance under Section 5.02 and then listing the use as either a permitted or a specific use within a zoning district. Given the health effects and studies showing the prevalence of e-cigarette use in youth and recent State Laws, staff finds that smoke shop and vape shop uses should be listed as permitted uses in the B-2, Commercial, Research, and Technology District. As permitted uses in the B-2 District, the uses would be limited to the B-2 District and the I, Industrial District, which allows all permitted commercial uses. The smoke shop and vape shop uses would not be allowed in the B-1, Local Business and Residential Mixed-Use District, or in the downtown districts that include the B-3, Historical Central Business District and B-4 Neighborhood Business District. Existing smoke and vape shops in the B-1, B-3, or B-4 Districts would become legally nonconforming uses (grandfathered uses). There are currently three (3) existing smoke and vape shops in the B-1 Zoning District and there may be two in the B-2 district that are either too close to residential or hospital uses. The existing smoke and vape shops located in the B-1 Zoning District would be allowed to expand but only with approval of a specific use permit. If an existing grandfathered use is voluntarily discontinued for one year, the use may not be reestablished.

In addition, the proposed definitions also include use distance requirements that are like those imposed by the Texas Alcoholic and Beverage Commission (TABC) for alcohol and liquor sales. Lastly, it should be noted that lounge uses, such as cigar or hookah lounges, are not affected by these proposed regulations as they are establishments for consumption by adults that are 21 or older and not solely for the sale of e-cigarettes or tobacco products.

**Staff recommendations:**

- Defining smoke shops and vape shops, similar to the City of Leander.
  - Smoke Shop: A retail outlet whose main purpose is selling tobacco products, as that term is defined by the Food and Drug Administration, and smoking equipment. Smoke shops shall have a minimum distance (from property lines) of 300 feet from single-family residential use; and 1,000 feet from public or private schools, public parks, religious facility, public hospital, day care facility, and from another Smoke Shop that is in current operation.
  - Vape Shop: A retail outlet whose main purpose is selling vaping products. Vaping means using a vaporizer or inhalant-type device, also known as an electronic cigarette, that contains a power source and heating element designed to heat a substance and inhaling the vapor of the device directly through the mouth, whether or not the vapor contains nicotine. Vape shops shall have a minimum distance (from property lines) of 300 feet from single-family residential use; and 1,000 feet from public or private schools, public

parks, religious facilities, public hospital, public hospital, day care facility, and from another Vape Shop that is in current operation.

- District restrictions:
  - Permitted in B-2, Research and Technology District and Industrial Districts
  
- Use Distances:
  - 1000 feet from public and private schools, public park, religious facility, public hospital, and from another vape shop that is in current operation.
  
  - 300 feet from single-family residential uses.

Based on the research and request, staff recommends that the Planning and Zoning Commission and City Council consider text amendments to restrict new vape shops and smoke shops. Staff recommends the text amendments include restricting the uses to the B-2 and I, Industrial districts, requiring a minimum distance from churches, public and private schools, public parks, day care centers, single-family residential uses, and other vape shop uses.

In conclusion, Staff is seeking feedback from the Planning and Zoning Commission regarding the proposed text amendments.

In response to Commissioner questions, Ms. Laauwe clarified the following:

- The 300' buffer to the residential is to protect the residential neighborhoods from potential nuisances similar to the existing buffer yard requirements in place between commercial and residential uses.
- The Texas Legislature may discuss and regulate separation distances but they will not discuss zoning or in which zoning districts, the use may be allowed.

Duane Ahrens lives at 70 New Wehdem Road and stated that he is with Texas Premium Hemp producers. They are not in the tobacco business; they produce hemp products (CBD). They currently have all edible products – no vapes. Their products are mainly sold for medicinal uses not recreational uses. Their products include gummies, tinctures, dog products, etc. However, the market is out there for CBD vape products. If they sold CBD vapes in a store front, would they be considered a smoke shop or vape shop since it is not a tobacco product? Stephanie Doland stated that the proposed definition describes the vaporizer or inhalant type device which would include CBD vapes; however, if vaping products are not the main purpose of the business, it would likely not be considered a vape shop.

Blaine Hayes, owner and operator of Haze Hemp, stated that he was just curious about whether his existing hemp store would be a non-conforming use / grandfathered. He stated that although they do have a nicotine license, they do not have 50% of their sales being nicotine.

Randy Bayer who owns Brown Water Cigar Bar stated that he is unsure of the definition of a smoke shop where it says the main purpose is selling tobacco. He would like it to be further clarified because he does not have a smoke shop but 65% of his business is selling tobacco (premium cigars). He does not have any cigarettes, e-cigarettes or vape sales. He only sells 100% premium cigars and pipe tobacco. Mr. Bayer stated that in August 2023, the US District Court ruled to exclude premium cigars from the FDA's regulation of cigarettes since there are distinct requirements for "premium cigars". He further stated that in Louisville, Kentucky banned smoking in all city establishments; however, the Kentucky Legislation has recently introduced a bill to allow smoking in cigar lounges. Mr. Bayer just wants to make sure that his Cigar Lounge and sale of premium cigars does not get lumped into the Smoke Shop definition to the sale of tobacco products.

Stephanie Doland stated that since on-site consumption is not allowed at smoke shops or vape shops, clarification could be added since consumption is allowed at a “lounge”.

Darren Heine stated that he doesn’t understand the real issue with the 300’ requirement from residential. Why should we be more restrictive with vape and smoke shops than we are with convenience stores. Several commissioners agreed. The consensus was not to proceed with the distance requirements to single family residential uses.

Commissioner Heine also stated that we might consider waiting until after the legislative session and incorporate any changes that might come about as a result of the Legislative Session. The next step will be a workshop presentation at the City Council meeting on March 6<sup>th</sup>.

**7. Adjourn.**

A motion was made by Commissioner Kossie and seconded by Commissioner Heine to adjourn the meeting at 5:54 pm. The motion carried unanimously.

*The City of Brenham appreciates the participation of our citizens, and the role of the Planning and Zoning Commissioners in this decision-making process.*

*Certification of Meeting Minutes:*

*M. Keith Behrens*  
Planning and Zoning Commission

*Kim Hodde*  
Attest

M. Keith Behrens  
Chair

Kim Hodde  
Staff Secretary

April 7, 2025  
Meeting Date

April 7, 2025  
Meeting Date