

MINUTES
PLANNING AND ZONING
June 14, 2017

After determining a quorum was present, the Planning and Zoning Commission of the City of Denton, Texas convened in a Work Session on Wednesday, June 14, 2017 at 5:30 p.m. in the City Council Work Session Room at City Hall, 215 E. McKinney Street, Denton, Texas at which time the following items were considered:

PRESENT: Chair Jim Strange, Vice-Chair Devin Taylor, Commissioners: Larry Beck, Steve Sullivan, Andrew Rozell and Margie Ellis.

ABSENT: None.

STAFF: Shandrian Jarvis, Munal Mauladad, Jennifer DeCurtis, Aaron Leal, Bob Makowski, Haywood Morgan, Jim Jenks, Muzaib Riaz, Julie Wyatt, Hayley Zagurski and Cathy Welborn.

WORK SESSION

1. Clarification of agenda items listed on the agenda for this meeting. This is an opportunity for Commissioners to ask questions of staff on the Consent and Regular Agenda items, which may include a full briefing on an item in the order it appears on the regular session agenda. Any such briefing will be repeated in regular session.

Chair Strange opened the Work Session at 5:30 p.m.

Munal Mauladad, Director of Development Services, asked the Commissioners if they had any questions regarding the meeting minutes from May 24, 2017. The Commissioners had no questions.

Julie Wyatt, Senior Planner, presented Consent Agenda item 3A. Commissioner Ellis questioned if lot 18X should be listed in the notes section. Wyatt stated yes lot 18X should be included in the notes section and she would have the applicant correct it.

Mauladad asked the Commission if they had questions regarding Consent Agenda item 3B. Chair Strange asked if this plat is in regard to a sewer facility. Muzaib Riaz, Associate Planner stated yes it is the location for a water/ wastewater facility. Jim Jenks, Senior Engineer, stated this is a City project that will accommodate the peaks during wet weather.

Mauladad stated that Chair Strange has made some changes to the order of the Public Hearings, which are: item 4A has become 4B, 4B has become 4C, 4C has become 4F, 4D will remain as 4D, 4E will remain as item 4E, item 4F will become 4A, and item 4G will remain as item 4G. Mauladad noted the applicant has requested Public Hearing item 4F be continued to the June 28, 2017 meeting.

Mauladad asked the Commissioners if there were any questions regarding Public Hearing item 4B. Commissioner Beck questioned if this property is being divided to accommodate individual businesses. Hayley Zagurski, Associate Planner, stated from her understanding the individual businesses were leasing the space but could now be able to purchase the lots.

Zagurski presented Public Hearing item 4C. Zagurski stated the request is to replat lot 10R for Rayzor Ranch to split one large lot and create three out parcel lots that will be considered lots 23, 24 and 25. Commissioner Beck questioned if this is the intent of the large lots at Rayzor Ranch is to parcel it out gradually. Zagurski stated Rayzor usually sets it up as large lots but as individual business come in and seek ownership that is when they are subdivided into individual lots.

Riaz presented Public Hearing item 4D. Riaz stated the intent is to divide one lot into two lots. It is located in the Ridge of South Ridge subdivision. Riaz stated it was previously two lots but the owner did an amendment to remove the lot line between lot 11 and lot 12 in 2012 and change it into lot 11R. Now the owner is coming in to replat into two lots again as Lot 11R-1 and Lot 11R-2.

Mauladad asked the Commissioners if there were any questions regarding Public Hearing item 4E. The Commissioners had no questions.

Wyatt presented Public Hearing item 4F. Wyatt stated the intent of the replat is to divide one large lot into two lots to allow for a commercial development. Commissioner Beck requested Wyatt to explain why the Planning and Zoning Commission is unable to protect the trees on the lot. Wyatt stated this plat does meet the technical requirements of the Denton Development Code (DDC) and is able to be approved in its current form. Commissioner Beck questioned what obligations the applicant has towards salvaging these trees. Wyatt stated the applicant will have to meet the current DDC requirements for tree preservation.

Mauladad stated she has provided a memo regarding this lot to the Planning and Zoning Chair and Commissioners. Mauladad stated staff has conducted thorough research regarding the trees located on this property and there is no documentation in the form of an agreement between property owners or the City of Denton protecting the trees. Mauladad continued to state that the ordinance that was in place in 1995 did not include tree preservation requirements.

Commissioner Beck stated from his perspective it does not appear they will be able to preserve any trees. Mauladad stated development regulations will be looked at during the site plan process which will include lot coverage, building height, tree preservation, and tree mitigation. However from Mauladad's understanding the development will be able to comply with the tree mitigation plan and perhaps relocate some of the trees.

Vice-Chair Taylor questioned what triggers an application to fall under a new ordinance for a property that is already classified under a different ordinance. Jennifer DeCurtis, Deputy City Attorney, stated the vested rights doctrine applies when there are multiple permits for the same project, but that when there is a new project it may or may not apply.

Wyatt presented Public Hearing item 4G. Wyatt stated the request is to rezone approximately 29 acres from Regional Center Residential 1 (RCR-1) and Regional Center Commercial Downtown (RCC-D) to a Commercial Mixed Use (CM-G). The proposed use is for large retail. Chair Strange questioned how the overpass will be improved. Jenks stated Lakeview Boulevard will be a primary major arterial which is a six-lane road.

Commissioner Rozell questioned if the Planning and Zoning Commission could request Kroger to make the improvements to Shady Shores Dr. Jenks stated Shady Shores is on the City of Denton mobility plan as a collector street.

Wyatt stated staff does recommend approval of this request as it is compatible with the surrounding land uses and is consistent with the goals and objectives of the Denton Plan 2030.

Commissioner Rozell questioned how many people showed up for the neighborhood meeting. Wyatt stated around 40, some were happy with the development, where as some had concerns regarding the zoning. Commissioner Ellis questioned if a buffer would be required at the Rails to Trails area. Wyatt stated the code would not require a buffer because there is not a use adjacent to the property that requires a buffer.

Vice-Chair Taylor questioned if the applicant has considered leaving a portion of the flood plain out of the development to provide more of a buffer. Wyatt stated the applicant will be available to answer that question in the Regular Meeting, but before they impact the Environmentally Sensitive Area (ESA) they would have to get approval from the Planning and Zoning Commission as well as City Council.

Chair Strange closed the Work Session at 6:10 p.m.

REGULAR MEETING

The Planning and Zoning Commission convened in a Regular Meeting on Wednesday, June 14, 2017 at 6:30 p.m. in the City Council Chambers at City Hall, 215 E. McKinney at which time the following items were considered:

Chair Strange opened the Regular Meeting at 6:35 p.m.

1. PLEDGE OF ALLEGIANCE

A. U.S. Flag B. Texas Flag

2. CONSIDER APPROVAL OF THE PLANNING AND ZONING COMMISSION MINUTES FOR:

A. PZ17-101 Consider approval of the Planning and Zoning Commission meeting minutes.

Commissioner Larry Beck motioned, Commissioner Margie Ellis seconded to approve the May 24, 2017 meeting minutes. Motion approved (5-0-1). Vice-Chair Devin Taylor "aye", Commissioner Larry Beck "aye", Commissioner Steve Sullivan "aye", Commissioner Andrew Rozell "aye", and Commissioner Margie Ellis "aye". Chair Jim Strange "abstained".

3. CONSENT AGENDA

A. Consider a request by Country Lakes West, LLC for approval of a final plat of Carnegie Ridge, Phase III. The approximately 24.31 acre site is located north of Crawford Road, approximately 1,560 feet west of John Paine Road. (FP16-0027, Carnegie Ridge, Phase III, Julie Wyatt)

B. Consider a request by the City of Denton for approval of a Final Plat of the Hickory Creek Detention Addition, Lot 1, Block A. The 66.411 acre site is generally located west of Country Club Road and KCS Railroad, east of Fort Worth Drive, north of Ryan Road, and south of Bent Creek Park and Bent Creek Estate subdivision. (FP17-0011, Hickory Creek Detention Addition, Muzaib Riaz).

Commissioner Andrew Rozell motioned, Commissioner Larry Beck seconded to approve the Consent Agenda. Motion approved (6-0). Vice-Chair Devin Taylor "aye", Commissioner Larry Beck "aye", Commissioner Steve Sullivan "aye", Commissioner Andrew Rozell "aye", Chair Jim Strange "aye", and Commissioner Margie Ellis "aye".

4. PUBLIC HEARINGS

Chair Strange stated the order of the Public Hearings has been changed to 4A has become 4B, 4B has become 4C, 4C has become 4F, 4D will remain as 4D, 4E will remain as item 4E, item 4F will become 4A, and item 4G will remain as item 4G.

A (F). Hold a public hearing and consider a request by Not Quite 4A Properties LP for a Specific Use Permit to allow for a multi-family use on approximately 0.9 acres. The property is generally located on the north side of the Riney Road and Riney Court intersection. (S16-0007, Riney Road Apartments, Hayley Zagurski).

Chair Strange stated the applicant has requested this item to be continued to a date certain of June 28, 2017.

Commissioner Andrew Rozell motioned, Commissioner Steve Sullivan second to continue Public Hearing Item A to the June 28, 2017 meeting. Motion approved (6-0). Vice-Chair Devin Taylor "aye", Commissioner Larry Beck "aye", Commissioner Steve Sullivan "aye", Commissioner Andrew Rozell "aye", Chair Jim Strange "aye", and Commissioner Margie Ellis "aye".

B (A). Hold a public hearing and consider a request by Shady Oaks P/S for approval of a Final Replat of Lots 1R, 2R, and 3R Block A of the Shady Oaks Industrial Park; being a replat of Lot 1A, Block A of the Shady Oaks Industrial Park. The approximately 5.62 acre property is generally located on the north side of the Teasley Lane and Duncan Street intersection in the City of Denton, Denton County, Texas. (FR17-0002, Shady Oaks Industrial Park, Hayley Zagurski).

Chair Strange opened the Public Hearing.

Hayley Zagurski, Associate Planner, stated this is a final replat of Shady Oaks Industrial Park. The purpose of the final replat is to subdivide one large lot into three smaller lots. There was no further discussion. There was no one to speak on this item.

Chair Strange closed the Public Hearing.

Commissioner Larry Beck motioned, Chair Jim Strange seconded to approve Public Hearing item 4B. Motion approved (6-0). Vice-Chair Devin Taylor "aye", Commissioner Larry Beck "aye", Commissioner Steve Sullivan "aye", Commissioner Andrew Rozell "aye", Chair Jim Strange "aye", and Commissioner Margie Ellis "aye".

C (B). Hold a public hearing and consider a request by DB Denton II, LLC for approval of a Final Replat of Lots 10R-2, 23, 24, and 25, Block A of the Rayzor Ranch Town Center; being a replat of Lot 10R-1A, Block A of the Rayzor Ranch Town Center. The approximately 57.94 acre property is generally located on the southeast corner of University Drive and Interstate Highway 35 intersection in the City of Denton, Denton County, Texas. (FR17-0008, RR Town Center, Hayley Zagurski).

Chair Strange opened the Public Hearing.

Hayley Zagurski, Associate Planner, stated the intent of the final replat is to create three outparcel lots, within what was formerly lot 10R. There was no further discussion. There was no one to speak on this item.

Chair Strange closed the Public Hearing.

Vice-Chair Devin Taylor motioned, Commissioner Margie Ellis seconded to approve Public Hearing item 4C. Motion approved (6-0). Vice-Chair Devin Taylor "aye", Commissioner Larry Beck "aye", Commissioner Steve Sullivan "aye", Commissioner Andrew Rozell "aye", Chair Jim Strange "aye", and Commissioner Margie Ellis "aye".

D. Hold a public hearing and consider a request by Todd Lee Gerwig and Typhony Dawn Gerwig for approval of a Final Replat of Lots 11R-1 and 11R-2, Block A of the Ridge of Southridge; being a replat of Lot 11R, Block A of the Ridge of Southridge. The 0.926 acre property is generally located at Hollyhill Lane, approximately 155 feet west of Lillian Miller Parkway, and approximately 560 feet northeast of Southridge Drive. (FR17-0009, The Ridge of Southridge, Muzaib Riaz).

Chair Strange opened the Public Hearing.

Muzaib Riaz, Associate Planner, presented Public Hearing item 4D. There was no further discussion. There was no one to speak on this item.

Chair Strange closed the Public Hearing.

Commissioner Andrew Rozell motioned, Commissioner Larry Beck seconded to approve Public Hearing item D. Motion approve (6-0). Vice-Chair Devin Taylor "aye", Commissioner Larry Beck "aye", Commissioner Steve Sullivan "aye", Commissioner Andrew Rozell "aye", Chair Jim Strange "aye", and Commissioner Margie Ellis "aye".

E. Hold a public hearing and consider a request by Greenway Enterprise, Inc. for approval of a Final Replat of 6 lots from Lot 13R-1 to Lot 13R-6, Block 1 of the East Ponder Estates; being a replat of Lot 13, Block 1 of the East Ponder Estates. The 13.12 acre property is generally located at Seaborn Road, approximately 1920 feet east of Kelly Lane, in the City of Denton ETJ. (FR17-0005, East Ponder Estates, Muzaib Riaz).

Chair Strange opened the Public Hearing.

Muzaib Riaz, Associate Planner, presented Public Hearing E. Riaz stated this item is a final replat of the East Ponder Estates to turn lot 13 into six individual lots. Commissioner Rozell questioned if the applicant is able to develop in the extra territorial jurisdiction (ETJ). Riaz stated yes they can develop in the ETJ. There was no further discussion. There was no one to speak on this item.

Chair Strange closed the Public Hearing.

Vice-Chair Devin Taylor motioned, Commissioner Larry Beck seconded to approve Public Hearing item E. Motion approved (6-0). Vice-Chair Devin Taylor "aye", Commissioner Larry Beck "aye", Commissioner Steve Sullivan "aye", Commissioner Andrew Rozell "aye", Chair Jim Strange "aye", and Commissioner Margie Ellis "aye".

A. (F.) Hold a public hearing and consider a request by Not Quite 4A Properties LP for a Specific Use Permit to allow for a multi-family use on approximately 0.9 acres. The property is generally located on the north side of the Riney Road and Riney Court intersection. (S16-0007, Riney Road Apartments, Hayley Zagurski).

Chair Strange stated Public Hearing item A would have to be opened and voted on again due to time conflicts with notifications.

Chair Strange opened the Public Hearing.

Commissioner Andrew Rozell motioned, Commissioner Margie Ellis second to continue Public Hearing Item A to the June 28, 2017 meeting. Motion approved (6-0). Vice-Chair Devin Taylor "aye", Commissioner Larry Beck "aye", Commissioner Steve Sullivan "aye", Commissioner Andrew Rozell "aye", Chair Jim Strange "aye", and Commissioner Margie Ellis "aye".

F (C). Hold a public hearing and consider a request by Wal-Mart Real Estate Business Trust for approval of a final plat of Lots 1A-1 and 1A-2, Block 1 of the Wal-Mart Addition; being a replat of Lot 1A, Block 1 of the Wal-Mart Addition. The approximately 23.906 acre property is generally located at the southeast corner of Loop 288 and Brinker Road in the City of Denton, Denton County, Texas. (FR17-0004, Wal-Mart Addition, Julie Wyatt).

Chair Strange opened the Public Hearing.

Julie Wyatt, Senior Planner, presented Public Hearing item F. Wyatt stated the purpose of the replat is to divide one commercial lot into two commercial lots of the Wal-Mart Addition. Wyatt stated the zoning for the subject property is Regional Center Commercial Neighborhood (RCC-N).

The following individuals spoke during the Public Hearing:

Brian Bentley, 2528 Jamestown Lane, Denton Texas 76209. Opposed to this request.
Deborah Armintor, 2003 Mistywood Lane, Denton Texas 76209. Opposed to this request.

There was no one else to speak on this item.

Chair Strange closed the Public Hearing.

Vice-Chair Taylor stated without a specific use permit (SUP) or an overlay district there is nothing binding the Planning and Zoning Commission to any verbal promises from 1995.

Commissioner Beck stated he appreciates Mr. Bentley for coming and speaking regarding this item. Commissioner Beck stated he feels as if his hands were tied and motioned to table this item for 30 days to be able to conduct more research regarding this item.

Commissioner Beck requested Brian Bentley to comment on Vice-Chair Taylor's comments. Brian Bentley stated Vice-Chair Taylor is correct in a lot of ways regarding plats, the issue is if City staff is allowed to stand up and make statements in which you are unable to rely on.

Munal Mauladad, Director of Development Services stated as she clarified during the Work Session staff conducted extensive research regarding this item. Mauladad stated staff did not find any plat notes, conditions, or any notes on the general development plan regarding the protection of the trees on this lot. Mauladad stated the minutes Bentley has pointed out are not regarding the Wal-Mart zoning case in 1995, and offered to sit down with Bentley to go over all the documentation.

Chair Strange proposed for Bentley to sit down with staff to go over his concerns with all the documentation available. Commissioner Rozell stated the applicant is falling under current tree ordinances and will have to abide by current statues and tabling this item doesn't seem to be the proper move.

Commissioner Ellis questioned if there is anything else for staff to look at. Mauladad stated staff has done extensive research, but is able to look over all the same items again. Mauladad continued to state she would still come back with the same recommendation if this item (plat) was continued. Commissioner Sullivan stated he is hesitant to postpone this item when the developer is stating they are going to go by the current tree mitigation requirements.

There was no second for Commissioner Beck's motion to table for 30 days. Chair Strange stated the motion fails without a second.

Commissioner Rozell questioned if we have a developer stating he is going to protect the trees is he required to protect the trees. The applicant stated they will have to go through the site plan process and in that process the tree preservation plan is required. Mauladad stated yes the applicant is correct they will be required to submit a site plan as well as a landscape site plan with a tree survey and tree mitigation plan.

Chair Strange stated he has visited the site and every tree has been marked and tagged which indicates the tree survey has been completed.

Vice-Chair Devin Taylor motioned, Commissioner Margie Ellis seconded to approve Public Hearing item F. Motion approved (6-0). Vice-Chair Devin Taylor "aye", Commissioner Larry Beck "aye", Commissioner Steve Sullivan "aye", Commissioner Andrew Rozell "aye", Chair Jim Strange "aye", and Commissioner Margie Ellis "aye".

G. Hold a public hearing and consider a request by Di Realty, Inc. to rezone approximately 29 acres from a Regional Center Residential 1 (RCR-1) District and a Regional Center Commercial Downtown (RCC-D) District to a Commercial Mixed Use General (CM-G) District. The property is generally located on the northwest and southwest corners of Lakeview Boulevard and Shady Shores Road. (Z17-0002, Kroger Denton, Julie Wyatt).

Chair Strange opened the Public Hearing.

Julie Wyatt, Senior Planner, presented Public Hearing item G. Wyatt stated this request is to rezone approximately 29 acres from Regional Center Residential 1 (RCR-1) and Regional Center Commercial Downtown (RCC-D) to Community Mixed Use General (CM-G). The lot is located on the Northwest and Southwest corners of Lakeview Boulevard and Shady Shores Road. Wyatt stated if the developer decides to impact the Environmentally Sensitive Area (ESA) then they will have to obtain approval from Planning and Zoning Commission and City Council.

The following individuals spoke during the Public Hearing:

Jackie Bruce, 4215 Boxwood Drive, Denton, Texas 76208. Opposed to this request.

Deb Armintor, 2003 Mistywood Lane, Denton, Texas 76209. Opposed to this request.

Michael Clark, 6750 Hillcrest Plaza Ste. 325, Dallas, Texas 75230. Supports to this request.

Michael Clark, the applicant, stated the improvements to Interstate 35 (I-35) will be completed by the time the development is able to begin. Vice-Chair Taylor questioned the applicant, if he could explain the topographical survey they had conducted. Clark stated that a survey of the floodway conducted by the applicant generally corresponds with the Federal Emergency Management Agency (FEMA) map which Wyatt provided.

Commissioner Rozell requested staff to address any updates to I-35 and talk about the mobility increasing at I-35 and Lakeview Boulevard, as well as any updates happening on Lakeview Boulevard and Shady Shores Road. Jim Jenks, Senior Engineer, stated according to Texas

Department of Transportation (TxDOT) schematics the overpass bridge at Lakeview Boulevard and Post Oak Court will include two through lanes in both directions and two left-only lanes in both directions.

Jenks continued to state he is unaware of any updates happening on Lakeview Boulevard at this time. Jenks stated engineering will look closely at all the access during the planning stages.

Commissioner Rozell stated the state of Texas only requires 200 foot notices, the City of Denton goes above and beyond and does a 500 foot notice. Commissioner Ellis stated she echo's Commissioner Rozell's comments. Commissioner Ellis stated the Planning and Zoning Commission is trying to make improvements to the notification process.

Chair Strange read into the record the following:

Earl Armstrong opposed.

Amanda McCullough opposed

Chair Strange closed the Public Hearing.

Commissioner Larry Beck motioned, Commissioner Steve Sullivan seconded to approve Public Hearing item G. Motion approved (6-0). Vice-Chair Devin Taylor "aye", Commissioner Larry Beck "aye", Commissioner Steve Sullivan "aye", Commissioner Andrew Rozell "aye", Chair Jim Strange "aye", and Commissioner Margie Ellis "aye".

5. PLANNING & ZONING COMMISSION PROJECT MATRIX

A. PZ17-102 Planning and Zoning Commission project matrix.

Commissioner Rozell requested direction from staff on how to get the train crossing guard to cover the sidewalk. Munal Mauladad, Director of Development Services, stated staff would have to contact and gather information from the Transportation Department Director as well as Denton County.

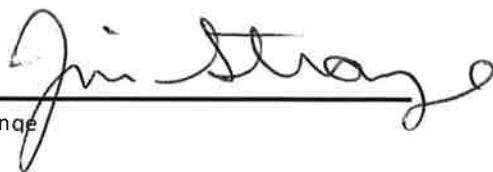
Commissioner Ellis requested a discussion on commercial recycling bins. Mauladad stated she would talk to Ethan Cox, Director of Solid Waste, to provide feedback regarding the commercial recycling bins.

Commissioner Ellis requested a discussion regarding the cost spent on a final replat as well as the Commission being allowed to place conditions. Mauladad stated there is a specific formality for replats which includes the notifications and the Public Hearing process. Mauladad offered a Work Session in order to discuss plat requirements.

Commissioner Beck requested to start moving on the tree code. Mauladad stated Shandrian Jarvis, Development Review Committee Administrator, has been working with Bob Makowski, Planning Supervisor, and Haywood Morgan, Urban Forester, to create a comprehensive urban forestry program and it should be coming forward soon.

Chair Strange closed the Regular Meeting at 8:20 p.m.

X



Jim Strange
Chair

X



Catherine Welborn
Administrative Assistant III