

CITY OF DENTON PLANNING AND ZONING MINUTES
September 12, 2018

After determining that a quorum is present, the Planning and Zoning Commission of the City of Denton, Texas convened in a Work Session on Wednesday, September 12, 2018 at 5:00 p.m. in the Council Work Session Room at City Hall, 215 E. McKinney Street, Denton, Texas at which time the following items were considered:

PRESENT: Chair Andrew Rozell, Commissioners Alfred Sanchez, Larry Beck, Jason Cole, Mat Pruneda, and Margie Ellis.

ABSENT: Commissioner Tim Smith.

STAFF: Cathy Welborn, Kelly Robinson, Athenia Green, Karen Hermann, Hayley Zagurski, Scott McDonald, Cindy Jackson, Ron Menguita, Richard Cannone, Julie Wyatt, Sean Jacobson, Deborah Viera and Jerry Drake.

WORK SESSION

Chair Rozell opened the Work Session at 5:03p.m.

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.

Richard Cannone, Deputy Director of Development Services, stated Consent Agenda item 2C has been postponed by the Applicant, due to some conflicts with the lease holder.

Cannone requested Public Hearing item 3B the final replat be heard before item 3A the initial zoning request for Creekside. The Planning and Zoning Commissioners agreed to the change.

Chair Rozell questioned if there were any questions regarding the Consent Agenda.

Commissioner Ellis requested clarification on the two entries accessing Country Club Rd for Consent Agenda item 2A. Hayley Zagurski, Senior Planner, stated the preliminary plat had been through a couple of revisions related to access locations. The applicant and staff have settled on one access on Country Club and the second point of access for emergency services will be on Meadowlands Drive.

The Commission had no further questions regarding the Consent Agenda.

Cindy Jackson, Senior Planner, presented Public Hearing item 3B. Jackson stated this is a request to replat one lot into two lots, the property is located in the City of Denton's extraterritorial justification (ETJ).

Cindy Jackson, Senior Planner, presented Public Hearing item 3A. Jackson stated this is a request to make a recommendation to City Council for the initial zoning designation of Neighborhood Residential 3 (NR-3). This property was part of a Pre-Annexation Development Agreement (PADA) ordinance 2016-215, which was approved by City Council in 2016. The Ordinance governs the sequence of the site for each phase of development. The plat for the property was approved on March 21, 2018, and the property was recently annexed into the City of Denton.

Jackson stated staff recommends approval as this zoning change is compatible with the surrounding property and is consistent with the requirements set forth in the Pre-Annexation Development Agreement ordinance 2016-215.

Chair Rozell questioned if the PADA restricts the Planning and Zoning Commission from making any changes to the proposed zoning of the property. Jerry Drake, First Assistant City Attorney, stated in the Development Agreement the City of Denton will pursue or initiate zoning and the applicant will not object to the decision.

Chair Rozell questioned why the zoning was not approved prior to plat approval. Cannone stated that the plat was approved prior to the annexation into the City of Denton. Jackson agreed with Cannone and also added, when the applicant applied for the plat it was discovered they had a non-annexation agreement, and per the non-annexation agreement when you develop a site you have to annex into the City of Denton prior to development.

Commissioner Beck stated his concerns of feeling as if the Planning and Zoning Commission had their hands tied in this case. Drake stated he suspects this was an effort to accommodate a desired development and use in a way that would not be controversial. Commissioner Ellis agreed with Commissioner Beck and hopes for a better way to approve zoning for an annexed property than the PADA process.

Commissioner Beck stated the surrounding neighbors have voiced their concerns about the traffic issues. Jackson stated Traffic Engineering is currently in the process of conducting traffic counts on Ryan Rd.

Chair Rozell stated the concerns residents are having regarding the traffic issue and how construction was able to start before the determination of the zoning. Jackson stated the applicant is granted a grading permit once the plat has been approved.

Drake stated if a property is outside the city limits of Denton then the City of Denton has no zoning control and the applicant is able to develop without any control from the City of Denton. But with the PADA in place it allows some means for the City of Denton and the Commission to provide feedback.

The Commission had no further questions on this item.

Hayley Zagurski, Senior Planner, presented Public Hearing item 3C. Zagurski stated the Environmentally Sensitive Area (ESA) being discussed is an undeveloped floodplain ESA.

Zagurski stated the current zoning is Neighborhood Residential 3 (NR-3).

Commissioner Beck questioned if the applicant developed 124 lots, would they still negatively impact the undeveloped floodplain. Zagurski stated yes, due to the location of the floodplain they would still impact it.

Zagurski stated phase two will be developed after the Texas Department of Transportation (TxDOT) updates plans for Country Club Road.

Deborah Viera, Assistant Director of Environmental Services, stated the applicant has stated they will be developing only at the edges on the undeveloped flood plain.

In 2015 staff conducted a field assessment and determined north of the existing driveway, the stream was channelized and the floodplain was included in the Letter of Map Revisions (LOMR) for Regency Oaks. The Up-stream Riparian Buffer, which is approximately one-third of the assessed area, is not a defined stream but rather a series of pools that lack wetland vegetation and downstream two-thirds of the site is a riparian stream ESA.

Viera stated the applicant has provided the following Mitigation strategies: **1.** Fill material will be placed outside the driplines of the existing trees along the creek or the boundary of the Riparian Buffer ESA. **2.** Grading would be concentrated on the northern portions of the site. **3.** Street layout minimizes disturbance of the Riparian buffer and undeveloped floodplain. **4.** Removal of invasive species and re-vegetation with native species. **5.** Earthen channel along the developed floodplain. **6.** Low number of residential lots.

Zagurski stated staff does recommend approval with following conditions: 1. Disturbance of the ESA shall not exceed fill in excess of 190,450 square feet of the Undeveloped Floodplain ESA. 2. Invasive species within the ESA areas shall be removed. 3. Plants installed as a part of the proposed native flora revegetation are to be installed and maintained by the current property owner/developer for a period of three (3) years following installation. Any plants that are removed, destroyed, or die within that three (3) year period are required to be replaced by the current property owner/developer. 4. No encroachment into areas designated as Riparian buffer ESA.

Hayley Zagurski, Senior Planner, presented Public Hearing item 3D. Zagurski stated the request is for a rezoning from Neighborhood Residential 2 (NR-2) to Neighborhood Residential 4(NR-4) which is consistent with the existing development pattern in use and scale.

Chair Rozell called a recess at 6:13 p.m.

Chair Rozell reconvened the Work Session at 6:21 p.m.

2. Work Session Reports

A. PZ18-150 Receive a presentation and hold a discussion regarding the Project Types considered by the Planning and Zoning Commission

Julie Wyatt, Senior Planner, presented Work Session Report 2A.

Work Session item 2A will be continued to a later date.

Chair Rozell closed the Work Session at 6:29 p.m.

REGULAR MEETING

Chair Rozell opened the Regular Meeting at 6:40 p.m.

The Planning and Zoning Commission convened in a Regular Meeting on Wednesday, September 12, 2018 at 6:30 p.m. in the City Council Chambers at City Hall, 215 E. McKinney at which time the following items were considered:

1. PLEDGE OF ALLEGIANCE

A. U.S. Flag B. Texas Flag

2. CONSENT AGENDA

A. PP17-0001 Consider a request by Forestridge Inv. Ltd. for approval of a Preliminary Plat of the Country Club Road Estates Addition. The 35.52-acre site is generally located on the east side of Country Club Road, approximately 270 feet south of Regency Court in the City of Denton, Denton County, Texas.

B. PP18-0009 Consider a request by Denton Exchange LLC for approval of a Preliminary Plat of Lots 1 & 2, Block A of the Fisher 59 Addition. The 49.99-acre site is generally located at the northwest corner of the intersection of W. University Drive and N. Masch Branch Road in the City of Denton, Denton County, Texas.

C. FP18-0017 Consider a request by Raymond L. Wood for approval of a Final Plat of the Wood Lands Addition. The 10.03-acre site is generally located on the west and north side of Fincher Road, west of the intersection of Fincher Road and Cedar Creek Road in the Extraterritorial Jurisdiction of the City of Denton, Denton County, Texas.

Chair Rozell stated Consent Agenda Item 3C has been postponed by the applicant for a later date.

Commissioner Margie Ellis motioned, Commissioner Larry Beck seconded to approve the Consent Agenda. Motion approved (6-0). Commissioner Alfred Sanchez "aye", Commissioner Larry Beck "aye", Commissioner Jason Cole "aye", Chair Andrew Rozell "aye", Commissioner Mat Pruneda "aye", and Commissioner Margie Ellis "aye".

3. PUBLIC HEARINGS

Chair Rozell stated Public Hearing item 3B has been moved to be heard before Public Hearing item 3A.

A. Z18-0020a Hold a public hearing and consider making a recommendation to City Council regarding a request for an initial zoning designation of Neighborhood Residential 3 (NR-3) District. The 47.466 acre site is generally located on the south side of E. Ryan Road, east of the intersection of E. Ryan Road and Andrew Avenue, in the City of Denton, Denton County, Texas.

Chair Rozell opened the Public Hearing.

Cindy Jackson, Senior Planner, presented Public Hearing 3A. Staff recommends approval of Z18-0020 as it conforms to established requirements, including the requirements of the Pre-Annexation Development Agreement (PADA).

Commissioner Rozell requested Jackson to address the traffic concerns from surrounding residents. Jackson stated the Traffic Engineering Department with City of Denton are currently doing traffic counts on Ryan Rd and City Council did approve funding for the mobility plan which is the first step in getting Ryan Road improved.

The following individuals spoke during the Public Hearing:

Thomas Fletcher, 5750 Genesis Court Frisco, Texas 75034. Supports this request.
Billy Caraway, 3909 Andrew Ave, Denton, Texas 76210. Opposed to this request.
Eric Clark, 3913 Andrew Ave, Denton, Texas 76210. Supports this request.
Robert Heilig, 3855 Leisure Lane, Denton, Texas 76210. Opposed to this request.
Tracy Jenkins, 801 Dayspring Dr. Denton, Texas 76210. Opposed to this request.
Ken Benjamin, 1009 Stoneway Dr. Denton, Texas 76210. Supports this request.
Betsy Kaesontae, 3933 Andrew Ave, Denton, Texas 76210. Opposed to this request.

Thomas Fletcher, the applicant, provided answers to the questions the Commission had during the Work Session. Fletcher stated the development is paying more for traffic impact fees, the development will be built internal to the original tree canopy and the developer agreed to extend the sanitary sewer line north of Ryan Road to allow the City of Denton connection.

Caraway requested what the quality of the homes in the development would be. Fletcher stated with the development and land cost the home prices will be around \$350,000.00 to \$450,000.00.

Richard Cannone, Deputy Director of Development Services, requested Fletcher describe the lot sizes of the development. Fletcher stated there will variable lot sizes, some from sixty by one hundred and thirty, and some are extended to allow for a three car garage.

Chair Rozell closed the Public Hearing.

Commissioner Larry Beck motioned, Commissioner Jason Cole seconded to approve the following request. Motion approved (6-0). Commissioner Alfred Sanchez "aye", Commissioner Larry Beck "aye", Commissioner Jason Cole "aye", Chair Andrew Rozell "aye", Commissioner Mat Pruneda "aye", and Commissioner Margie Ellis "aye".

B. [FR18-0005 Consider a request by Tony Kimbrough with Kaz Surveying representing Randall Tudor for approval of a Final Replat Lot 1R, Block A of the Hilltop Ranch Addition. The approximately 3.5 acre site is generally located on the west side of Hilltop Road, approximately 1,521 feet south of Brush Creek Road, in the Extraterritorial Jurisdiction of the City of Denton, Denton County, Texas.](#)

Chair Rozell opened the Public Hearing.

Cindy Jackson, Senior Planner, presented Public Hearing 3A. Staff does recommend approval of this request, as it meets the established requirements.

Chair Rozell closed the Public Hearing.

Commissioner Larry Beck motioned, Commissioner Alfred Sanchez seconded to approve Public Hearing item 3B. Motioned approved (6-0). Commissioner Alfred Sanchez "aye", Commissioner Larry Beck "aye", Commissioner Jason Cole "aye", Chair Andrew Rozell "aye", Commissioner Mat Pruneda "aye", and Commissioner Margie Ellis "aye".

C. [AESA16-0003 Hold a public hearing and consider making a recommendation to the City Council regarding a request by Forestridge Inv. Ltd. for an Alternative Environmentally Sensitive Area Plan for Country Club Road Estates. The approximately 35.52-acre subject property is generally located on the east side of Country Club Road, approximately 270 feet south of Regency Court in the City of Denton, Denton County, Texas.](#)

Chair Rozell opened the Public Hearing.

Hayley Zagurski, Senior Planner, and Deborah Viera, Assistant Director of Environmental Services, presented Public Hearing item 3C. Staff does recommend approval with following conditions: **1.** Disturbance of the ESA shall not exceed fill in excess of 190,450 square feet of the Undeveloped Floodplain ESA. **2.** Invasive species within the ESA areas shall be removed. **3.** Plants installed as a part of the proposed native flora revegetation are to be installed and maintained by the current property owner/developer for a period of three (3) years following installation. Any plants that are removed, destroyed, or die within that three (3) year period are required to be replaced by the current property owner/developer. **4.** No encroachment into areas designated as Riparian buffer ESA.

Lee Allison, Allison Engineering Group, the applicant, presented a presentation regarding the development.

The following individuals requested to speak:

Lee Allison, 2415 N Elm, Denton, Texas 76201. Supports the request.

Chris Beggs, 401 Regency Court, Denton, Texas 76210. Supports the request.

Stephanie Whatley, 801 Regency Court, Denton, Texas 76210. Undecided.

Jim Specht, 400 Regency Court, Denton, Texas 76210. Opposed to the request.

Rick Whisenhunt, 3306 Bemont Street, Denton, Texas 76210. Opposed to the request.

Stacy Beavers, 121 Meadowlands Drive, Denton, Texas 76210. Supports the request.

Manal Omary, 201 Meadowland Drive, Denton, Texas 76210. Opposed to the request.

Specht, a representative of the Home Owners Association for the development to the north of the proposed development, stated the residents are not opposed to the development, but concerned about the drainage issues.

Allison stated they have planned to install four five by ten foot box culverts to help with the drainage issues.

Chair Rozell closed the Public Hearing.

There was no further discussion.

Commissioner Margie Ellis motioned, Commissioner Alfred Sanchez seconded to approve Public Hearing 3C with the following conditions: **1.** Disturbance of the ESA shall not exceed fill in excess of 190,450 square feet of the Undeveloped Floodplain ESA. **2.** Invasive species within the ESA areas shall be removed. **3.** Plants installed as a part of the proposed native flora revegetation are to be installed and maintained by the current property owner/developer for a period of three (3) years following installation. Any plants that are removed, destroyed, or die within that three (3) year period are required to be replaced by the current property owner/developer. **4.** No encroachment into areas designated as Riparian buffer ESA. Motion approved (6-0). Commissioner Alfred Sanchez "aye", Commissioner Larry Beck "aye", Commissioner Jason Cole "aye", Chair Andrew Rozell "aye", Commissioner Mat Pruneda "aye", and Commissioner Margie Ellis "aye".

[D. Z18-0015 Hold a public hearing and consider making a recommendation to City Council regarding a request by B.J.H. Johnson Properties LTD for a zoning change from a Neighborhood Residential 2 \(NR-2\) District to a Neighborhood Residential 4 \(NR-4\) District. The 13.48-acre site is generally located on the south side of Audra Lane, approximately 90 feet west of Barbara Street, in the City of Denton, Denton County, Texas.](#)

Chair Rozell opened the Public Hearing.

Hayley Zagurski, Senior Planner, presented Public Hearing item 3D. Staff recommends approval of this request as the zoning is consistent with the surrounding area and with the goals and objectives of the Denton Plan 2030.

The following individuals requested to speak:

Sean Faulkner, 2713 Bissonet Drive, Denton, Texas 76210. Supports the request.

Gene Finley, 2409 Whispering Oaks, Denton, Texas 76209.

John Maxwell, 2801 Howard Court, Denton, Texas 76209. Opposed to the request.
Jay Leek, 1216 Oak Valley Street, Denton, Texas 76209. Opposed to the request.
Nancy Carson, 2908 Oakshire Street, Denton, Texas 76209. Opposed to the request.
Linda Bleess, 2805 Howard Court, Denton, Texas 76209. Opposed to the request.
Charlie Rosendahl, 1001 Barbara Street, Denton, Texas 76209. Opposed to the request.
Bob Heilig, 3855 Leisure Lane, Denton, Texas 76210. Opposed to the request.
Lynette Leek, 1216 Oak Valley, Denton, Texas 76209. Opposed to the request.

Sean Faulkner of Foresite Group, the applicant, provided a presentation regarding the development.

Chair Rozell noted the concept plan provided by the applicant will not be used in the determination for rezoning the property.

Commissioner Beck questioned if the opposition count meets the requirements for a super majority vote for City Council. Zagurski stated prior to the meeting staff calculated the opposition area at 3%.

Commissioner Rozzell closed the Public Hearing.

Commissioner Beck, Commissioner Sanchez and Commissioner Ellis provided their justification for approving Public Hearing item 3D.

There was no further discussion.

Commissioner Larry Beck motioned. Commissioner Alfred Sanchez second to approve Public Hearing item 3D. Motion approved (6-0). Commissioner Alfred Sanchez "aye", Commissioner Larry Beck "aye", Commissioner Jason Cole "aye", Chair Andrew Rozell "aye", Commissioner Mat Pruneda "aye", and Commissioner Margie Ellis "aye".

4. [PLANNING & ZONING COMMISSION PROJECT MATRIX](#)
A. [PZ18-157 Planning and Zoning Commission Project Matrix.](#)

Richard Cannone, Deputy Director of Development Services, provided an update to the tree code and staff is still working on the changes.

Commissioner Beck questioned the requirement of the orange fence placed around the trees is supposed to be at the drip line. Cannone stated he needed to get with Haywood Morgan, Urban Forester, and would provide staffs determination. Commissioner Ellis requested the process of notifying business owners if they will be impacted by City updates.

Commissioner Ellis requested the process for receiving services when being annexed into the city. Cannone stated he has noted the issue and will provide feedback.

Chair Rozell closed the Regular Meeting at 9:36 p.m.