

MINUTES  
ZONING BOARD OF ADJUSTMENT  
June 29, 2022

After determining that a quorum was present, the Zoning Board of Adjustment of the City of Denton, Texas convened in the first of two Special Called Meetings on Wednesday, June 29, 2022, at 5:35 p.m. in the Council Chambers at City Hall, 215 E. McKinney Street, Denton, Texas.

PRESENT: Chair Amber Briggie, Vice Chair Jennifer Lane, and Members Candi Harris, Michael Redwine, Kate Lynass, and Jessica Pharr

ABSENT: Member Lauren Fischer and Princewill Njoku Jr.

**REGULAR MEETING**

**1. PLEDGE OF ALLEGIANCE**

- A. U.S. Flag
- B. Texas Flag

**2. ITEMS FOR INDIVIDUAL CONSIDERATION**

**A. ZBA22-039:** Consider the approval of the May 16, 2022 minutes.

Vice-Chair Lane moved to approve 1 of 2 meeting minutes. Motion seconded by Member Harris. Motion carried.

Member Lynass moved to approve 2 of 2 meeting minutes. Motion seconded by Vice-Chair Lane. Motion carried.

AYES (6): Chair Briggie, Vice Chair Lane, and Members Harris, Redwine, Lynass, and Pharr

**3. PUBLIC HEARINGS**

**A. AA22-0003:** Hold a public hearing and consider an appeal of an administrative decision regarding the approval of a Zoning Compliance Plan (ZCP21-0051) for a multi-family development. The subject property is approximately 7.61 acres generally located on the south side of Interstate Highway 35 East, approximately 1,500 feet south of Lillian B Miller Parkway in the City of Denton, Denton County, Texas. (AA22-0003, Millennium Crest Appeal, Hayley Zagurski)

Chair Briggie opened the public hearing at 5:39 p.m.

Staff presented the item and a discussion followed.

James Perry, Appellant, spoke on the item.

Jerry Drake, Neighbor, 2504 Shiloh Road, spoke on the item.

Lance Vanzant, Property Owner/Representative of Pinnacle Development and McAdams Engineering, 512 W. Hickory Denton, TX, spoke on the item.

Ken Gold, Neighbor, 2512 Nachesa Trace, spoke on the item.

Kristen Bran, Public Speaker, 1204 Cordell, spoke on the item.

After the presentations, discussion followed:

Scott McDonald, Development Services Director, and Tina Firgens, Deputy Director of Development Services, explained the definitions of the Zoning Compliance Plan and the International Fire Code.

Tina Firgens, Deputy Director of Development Services/Planning Director, spoke on the item and explained that certain level of detail and standards of the Zoning Compliance Plan, platting and DDC requirements were met and submitted by the Property Owner/Developer. Specifically, the International Fire Code, as it requires two points of fire access for multi-family developments that have greater than 200 units. The Zoning Compliance Plan demonstrated it has two points of emergency access, the second point of access has a 24-foot access easement by separate instrument. The Zoning Compliance Plan, if plan is approved, Property Owner/Developer is required to complete an easement acquisition for the emergency access through Brookdale, as it is required to be obtained by the time of platting. If the Developer does not obtain the necessary offsite access easement and all the required criteria's is not met, the City of Denton will not issue a building permit.

The Applicant demonstrated compliance with the Zoning Compliance Plan and met and exceeded the development code requirements for tree preservation and landscaping planting upon submittal.

Additionally, the DDC encourages preservation of 30% of the DBH (Diameter Breast Height) of heritage and quality trees on the property. The DDC authorizes any development to decrease the preservation of those trees to 20% of the DBH, with that reduction of the tree preservation, if a higher mitigation ratio is applied to the number of inches being decreased below the 30% of the DBH, the difference must be mitigated by planting of additional trees on property or pay in leu of.

Firgens also explained the applicant did follow compliance with other applicable regulations, specifically, the compliance with D106.d of the Fire Code and Fire Apparatus Access Road (fire lane, public street, private street, parking lot lane, and access roadway).

Firgens added the general criteria that the appellant claims were not satisfied, was applied at the level of detail appropriate for a ZCP. The ZCP reflects compliance with all DDC and IFC standards, and the ZCP was therefore approved as required.

Member Harris inquired to Mr. Perry, if his concerns were if all the criteria that was presented in the DDC had not yet been satisfied, and if for that reason, the site should have not been approved? Mr. Perry stated, that according to the DDC 2.4.5.a, all shall be satisfied prior to staff approval.

Harris responded that only the first part of the project has been approved by City staff. Harris added Perry's concern were about the International Fire Code having specific standards for the width that the building needs for fire lanes, although what the applicant submitted exceeds those standards.

Jerry Drake, demonstrated and explained his concern of the unqualified approval of the application, Zoning Compliance Plan and the International Fire Code, like shown on the attached handout on exhibit 18. Drake reviewed sections 2.4.5 – E and mentioned that perhaps City staff did not review the application appropriately, due to no conditions or qualifications stated to demonstrate why multi-family developments should be approved.

Lance Vanzant, explained the SUP submittal to the City of Denton on October 2021. Mr. Vanzant stated he understands staff approval is given at different phases of the plan/development submittal and mentioned they will go through the required Zoning Compliance Plan which includes the preliminary platting process, civil engineering plans and final plot process. Those plans will also include the points of access, follow the International Fire Codes/fire lanes and is asking the City to be allowed to build the use they have for the property under the standards that were in place the time the multi-family development was applied for.

Commissioner Pharr, inquired about the landscaping plan/enumeration plan. McDonald responded and explained, following the Certificate of Occupancy guidelines, no one can occupy or use a building until they comply with all the laws, rules, ordinances and or any outstanding fees for anything including the mitigation requirements.

Vice-Chair Lane, inquired about what the appellant was referencing to on the submitted application regarding adaptations of a locked gate. Firgens stated it's related to an appropriate access in case of an emergency and explained what the City of Denton and other cities throughout the region allow.

Member Redwine, inquired about the 6 stages of the approval process of the multi-family development and verified if the City of Denton has the right to withhold occupancy rights if the developer does not follow the second easement requirements. McDonald stated, following the review process of the Zoning Compliance Plan, approval of the current phase is based on what is submitted by the developer, in this case, they must provide the required access to move on to the next phase or getting any other permits and or approvals to have the final plat and easement approvals to start building.

Member Pharr, inquired about the 8-month work that was mentioned related to the emergency easement and verified if it's currently under construction for the multi-family development or if it was an existent worksite for another project? Firgens clarified the second point of access into the development and the required paved emergency easement have both been constructed. But in order for citizens to drive across the neighbor's property, an easement is required to grant the legal access right. Currently the developer is still needing to obtain the easement to satisfy the notation that is on the Zoning Compliance Plan. The Zoning Compliance Plan acknowledges that the access easement will be by separate instrument. The developer must finish the process of acquiring the

easement to have the legal rights to have the access across the neighbor's property. The developer must secure and obtain the easement right, to eventually get a building permit to start construction.

Hilary Negron, explained the difference of physical/driving access required versus legal right of access, which is if the property owner will permit and allow to use the piece of land and or road in case of a private road. In the secondary fire access what is being reviewed is confirming the legal right of access which consist of negotiating with two private parties.

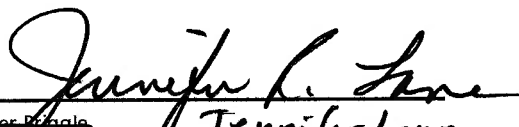
Chair Briggie inquired about what are the minimum fire accesses required for the multi-family development and if the site-plan met those standards? McDonald stated the Developer is required to provide a minimum of two fire access, the Fire Department will have the final approval of the accesses, locked gates or not and the width.

Chair Briggie reviewed the e-comment cards, a total of 8.

Chair Briggie closed the public hearing at 7:19 p.m.

#### **4. CONCLUDING ITEMS**

With no further business, the meeting was adjourned at 7:20 p.m.

X   
~~Amber Briggie~~ Jennifer Lane  
Zoning Board of Adjustment Chair

X   
Monica Salcedo  
Administrative Assistant