Minutes City of Carrollton Planning & Zoning Commission March 7, 2013

A meeting of the City of Carrollton Planning & Zoning Commission was held on March 7, 2013 at 7:00 p.m. in the Council Chambers at City Hall with the following members present:

None

Commission Members Present:

Commission Members Absent:

Rick Pfeil, Chair
Jerry Sylo, Vice Chair
Glen Blanscet
Barbara McAninch
Jack Stotz
Mark Nesbit
Kimberly Daniel-Nix (arrived at 7:23 p.m.)
David Halloin
Lisa Loreto

Staff Members Present:

Regina Edwards, 1st Asst. City Attorney Christopher Barton, Chief Planner Mike McCauley, Senior Planner Tom Hammons, Transportation Eng. Div. Mgr. Lydia Tormos, Admin. Support Rob Guarnieri, Senior Engineer Lorri Dennis, Arborist

(Note: * = designation of a motion)

CALL MEETING TO ORDER: 7:14 PM

- 1. MINUTES: Approval of the minutes of February 7, 2013.
- * McAninch moved to approve the minutes of February 7, 2013; second by Nesbit and the vote was cast 8-0, Daniel-Nix absent.

INDIVIDUAL CONSIDERATION

2. Discuss and consider approval of a **Replat to combine two adjoining vacant lots into one**. The approximate 0.115 acre is located at the northeast corner of N. Denton Drive and Pear Street and is currently zoned (SF-7/14) Single Family Residential District. Case No. 03-13RP1 New Carrollton Replat/Arthur Surveying Co., Inc. Case Coordinator: Michael McCauley.

McCauley described the two lots stating the request is consistent with the subdivision ordinance and stating that staff recommends approval.

Pfeil invited the applicant to present the case.

Michael Greig, Habitat Construction, 4347 W Northwest Hwy, #120-343, Dallas, TX, stated they were asking to replat the property in order to build a single family detached structure.

There being no questions, Pfeil called for a motion.

* McAninch moved to approve Case No. 03-13RP1 New Carrollton Replat with staff stipulations; second by Sylo and the vote was cast 8-0, Daniel-Nix absent.

PUBLIC HEARINGS

3. Hold a public hearing and consider approval of a request for approval of an **Alternate Landscape Plan** for the new building proposed for 1825 W. Belt Line Road. The 16.25-acre site is located on the south side of Belt Line Road between SH 190 and Westgate Drive and is zoned for (LI) Light Industrial District. Case No. 03-13MD1 1825 W. Belt Line Rd. (Alternate Landscaping)/Pritchard Associates, Inc. Case Coordinator: Lorri Dennis.

Barton advised that the alternate plan proposes to install the 15' landscape buffer in the turnpike right-of-way. He also advised that although the applicant was not able to provide an additional area offsite, they are providing a significantly improved landscaping element within that buffer by planting larger trees and by substituting shade trees for the ornamental trees, which will provide better screening of the dock doors on the east side of the building.

Mark Potter, Pritchard Associates, 2500 Routh St., Dallas, TX, was present and there were no questions.

Pfeil opened the public hearing and invited speakers to the podium. There were no speakers.

Sylo asked staff what will happen if NTTA denies the alternate landscape plan. In response, Barton advised that the applicant would be required to put the standard 15' landscape buffer on their own property.

Pfeil noted that Commissioner Daniel-Nix arrived.

- * McAninch moved to close the public hearing and approve Alternate Landscape Plan, Case No. 03-13MD1 as presented; second by Loreto and the motion was approved 9-0.
- 4. Hold a public hearing and consider approval of a **Special Use Permit for an Accessory Use on a Lot Separate from the Main Use**. The approximately 3.55-acre site is located on the north side of Crosby Road between IH-35E and the Burlington Northern & Santa Fe Railroad and is currently zoned for the (FWY) Freeway Commercial District with the IH-35E Interstate Overlay District. Case No. 01-13SUP1 Edwards Mail Service/Studio & Crew, Inc. Case Coordinator: Michael McCauley.

Pfeil stated the public hearing was continued from the previous meeting and invited the applicant to present the request.

Chuck Edwards, Edwards Mail Service, 900 W Crosby Rd., Carrollton, TX, provided a history of the site and stated they are requesting the special use permit to park their equipment until there is more clarity about what TxDOT intends to do with the property.

Pfeil noted staff stipulations and stated the plan proposed by the applicant would not be compliant with the landscaping ordinance. Dennis stated that while it does not meet the letter of the ordinance, it meets the intent of the ordinance, and if the Commission approved, staff stipulations 2 and 3 could be deleted. Mr. Edwards requested 120 days rather than 90 days to complete the plan.

Pfeil opened the public hearing - there were no speakers.

- * Stotz moved to close the public hearing and approve Case No. 01-13SUP1 Edwards Mail Service with staff stipulations 1, 4 and 5, with an amendment to No. 4 to read "all improvements shall be completed within 120 days of Council approval" and make the SUP for a period of one year following Council approval; second by Daniel-Nix. Discussion was held regarding the stipulations. The motion was approved with a 5-4 vote, Nesbit, Loreto, Sylo, and McAninch opposed.
- 5. Hold a public hearing and consider approval of a **Special Use Permit for Accessory Buildings Not Meeting the Façade Masonry Requirement**. The approximately 3.9-acre site is located at 3918 Old Denton Road and currently is zoned PD-89 for the (O-2) Office District. Case No. 02-13SUP1 Dallas Agape Mission Church/Pastor Chang Youn. Case Coordinator: Michael McCauley.

McCauley stated staff recommends denial of the request, but if the Commission feels the request is appropriate, staff recommends approval of the stipulations listed in the case report.

Jones Ray, Dallas Agape Mission Church, 3918 Old Denton Rd., Carrollton, TX, stated they were asking for the permit to be able to offer Sunday school for the children and discipleship training for adults. He felt that if the church continues to grow as it did the past year, they might be able to build a new church. He stated they do not have a master plan for construction but are in agreement with the staff stipulations. He stated his understanding that the temporary buildings would have to be removed if the permit were to be revoked or not renewed.

Pfeil invited speakers to the podium and there were no speakers.

Sylo felt the two temporary buildings adding 7,500 sq. ft. was in essence a new building with a huge impact on the property. He cited the different businesses nearby that have made improvements to their sites and stated it was his opinion that temporary buildings do not have the same positive impact. He felt it was an affront to those businesses that reinvest in the

community. He underscored that the issue was not the church; it was the temporary buildings and stated he was not in favor of the request.

Nesbit stated that he understood the current temporary buildings were placed by the previous owners and were not legal. Since they are in violation, he asked if the City will proceed with the code complaint or would the buildings be "grandfathered". McCauley stated code enforcement will treat it as any other type of violation.

Daniel-Nix asked if the church considered using the funds to expand the current building rather than purchasing temporary buildings and Mr. Ray replied that he didn't know.

* McAninch moved to close the public hearing and to deny the request for accessory buildings in Case No. 02-13SUP1; second by Sylo.

Blanscet stated he was troubled with the request because there is no plan in place for the future and was why he would deny the request. Mr. Ray stated the temporary buildings were all they could afford and if they could have until 2016, they could move forward.

Daniel-Nix asked the applicant if he was willing to meet with the building committee about removing the current temporary buildings and using those funds to expand the current main building. Mr. Ray responded he could do that but wanted to know what would happen in that case. Pfeil explained that if the case is denied, he would have 10 days to appeal to the City Council.

Chang H. Youn, 2011 Carpenter Street, Corinth, TX,Pastor, stated they were requesting the permit for three years and thereafter they would either remove the temporary building for a new construction or at the very least they would comply with the 80% stonework requirement.

Pfeil responded to the Pastor that the plan was not very defined and doesn't quite meet what the City is looking for in a plan.

- * The motion was approved with a vote of 8-1, Daniel-Nix opposed.
- 6. Hold a public hearing and consider approval of a **Special Use Permit for a Used Car Dealership with Accessory Automobile Repair Service or Garage.** The approximately 2.5-acre site is located at 1010 Hutton Drive and currently zoned for the (LI) Light Industrial District. Case No. 03-13SUP1 Certified Autoplex/Kami Akhaveissy. Case Coordinator: Michael McCauley.

McCauley presented the case explaining the improvements proposed, and recommending approval with stipulations outlined in the staff report. He further reported that the applicant is in agreement with the stipulations.

Kami Akhaveissy, part owner, 15510 Midway Rd., Addison, TX, stated they are in the business of selling high quality used cars and stated they would be in compliance with all

stipulations. With regard to the front parking area, he stated they plan to replace the existing fence with wrought iron, resurface and stripe the lot, and landscape and irrigate the front area in the right-of-way. He asked about stipulation No. 13 requiring a 7" thickness of concrete because their plan was only to resurface the lot; not install concrete.

Pfeil asked for clarification from staff. Rob Guarnieri, Senior Engineer, stated that the Fire Code views the new canopies as an expansion to the building, which triggers the concrete driveway requirement. Barton stated the applicant is planning to construct a second building for their maintenance and is what is triggering the reexamining of the driveway ordinance. He advised that generally staff works with an applicant when they are redeveloping to find a solution that works for both sides to get them closer into compliance.

Sylo stated he has confidence in the staff to work with the applicant to reach a solution beneficial for everyone.

Michael Denton, 4851 LBJ Freeway, Dallas, TX, representing the seller, spoke in support of the applicant and provided a history of the site which was constructed in 1981 with heavy duty concrete. He stated that the majority of the interest in the property is by construction related companies; many doing business in the area because of the freeway projects.

In response to Stotz, Mr. Akhaveissy stated they would move their business to Carrollton if the SUP is approved.

McAninch felt the business would be a great addition to Carrollton and encouraged staff to work with the applicant regarding the parking lot.

Pfeil opened the public hearing and there were no speakers.

- * Sylo moved to close the public hearing and approve Case No. 03-13SUP1 Certified Autoplex with staff stipulations and recommendations; second by Nesbit and the motion was approved 9-0.
- 7. Hold a public hearing and consider approval of a **Change in Zoning for Mustang Park Tract 9** to the (SF-5/12) Single-Family Residential District with modified development standards. The approximately 26-acre site is located on the south side of Plano Parkway abutting the west side of the Burlington Northern & Santa Fe Railroad and the north side of the Kansas City Southern Railroad and is currently zoned PD-175 for the (MF-18) Multi-Family Residential District. Case No. 03-13Z2/Dowdy Anderson & Associates. Case Coordinator: Christopher Barton.

Pfeil noted that a request to continue from the applicant was received.

Traci Shannon Yost, Dowdy Anderson & Assoc., 5225 Village Creek Dr., Plano, TX, representing the applicant, requested the case be continued to the April 4 meeting.

Pfeil asked if there were any comments from the audience and there were none.

- * McAninch moved to keep the public hearing open and continue Case No. 03-13Z2 Mustang Park Tract 9 Zoning, to the April 4, 2013 meeting; second by Blanscet and the motion was approved 9-0.
- 8. Hold a public hearing and consider approval for an **Amendment to the Future Land Use Map** to change the future land use designation from High Intensity Commercial to Mixed Use/Urban uses. The approximately 6.93-acre site is located at the northwest corner of MacArthur Drive at Trinity Mills Road and is currently zoned for the (LI) Light Industrial District. Case No. 05-12MD2 MacArthur at Trinity Mills (comp plan)/MacArthur-SH 190 Ltd. Case Coordinator: Christopher Barton.
- 9. Hold a public hearing and consider approval of a **Change in Zoning to Establish a New Planned Development District** for the (TC) Transit Center District. The approximately 6.93-acre site is located at the northwest corner of MacArthur Drive at Trinity Mills Road and is currently zoned for the (LI) Light Industrial District. Case No. 05-12Z1/MacArthur-SH 190 Ltd. Case Coordinator: Christopher Barton.

Pfeil stated that Items 8 and 9 were companion items and the public hearings would be held simultaneously.

Barton presented the two requests and deferred to the applicant.

Larry Moser, 4427 Glenwick Lane, Dallas, TX, representing the applicant, was present to answer questions. He provided a brief history of the site and stated that due to the transit plans and the City's plans for the area, it is appropriate to request better zoning. He stated that the property has more relevance to the DART station, and the success of the downtown station has brought more interest. He advised that they have been talking to a number of developers who are ready to proceed and are happy with the demographics. In response to McAninch, Moser felt that the property would be a mixture of multi-family and commercial, possibly with office and medical use.

Pfeil asked if an "ownership" rather than "rental" requirement would hinder the development and Mr. Moser felt it would. He felt the residents would be people who work along the Green Line and Denton.

Pfeil invited speakers to come forward and there were no speakers.

- * Sylo moved to close the public hearing and approve Case No. 05-12MD2 MacArthur at Trinity Mills (comp plan) as recommended by staff; second by Loreto and the motion was approved 9-0.
- * Sylo moved to close the public hearing and approve Case No. 05-12Z1, 1458 MacArthur at Trinity Mills, Zoning with staff stipulations; second by Loreto and the motion was approved 9-0.

- 10. Hold a public hearing and consider an **Amendment to the Future Land Use Map** to change the future land use designation from Medium Intensity Commercial and Multi-Family Residential to Single-Family Detached. The approximately 8.8317-acre tract is located on the southeast corner of the Sam Rayburn Tollway/State Highway 121 and Chickasaw Drive (proposed) and is currently zoned PD-123 for the (LR-2) Local Retail and (MF-18) Multi-Family Residential Districts. Case No. 03-13MD2 Chickasaw at SH 121 (comp plan)/WPD Acquisitions. Case Coordinator: Christopher Barton.
- 11. **Hold a public hearing and consider an Amendment to PD-123** changing the base zoning to the (SF-5/12) Single Family Residential District. The approximately 8.8317-acre tract is located on the southeast corner of the Sam Rayburn Tollway/State Highway 121 and Chickasaw Drive (proposed) and is currently zoned PD-123 for the (LR-2) Local Retail and (MF-18) Multi-Family Residential Districts. Case No. 03-13Z1 Chickasaw & SH 121/WPD Acquisitions. Case Coordinator: Christopher Barton.

Pfeil advised that Items 10 and 11 are companion cases and the public hearings would be held simultaneously.

Barton presented the two cases and pointed out that staff received a request from the applicant to continue the zoning case to the April meeting to allow for further work on the conceptual lot layout. Staff recommended the request be honored and recommended proceeding with the request to amend the Comprehensive Plan.

Sylo stated his preference to table both requests so they can be heard at the same time.

Pfeil invited speakers to come forward and there were no speakers.

- * Sylo moved to continue Case No. 03-13MD2 to the April 4 meeting, and to leave the public hearing open; second by Halloin and approved 9-0.
- * McAninch moved to hold the public hearing open and continue Case No. 03-13Z1 Chickasaw at 121 Zoning to the April 4 meeting; second by Stotz and the motion was approved 9-0.
- 12. Hold a public hearing and consider approval of **Text Amendments to the Comprehensive Zoning Ordinance** regarding adding new provisions regulating renewable energy systems in single-family zoning districts. Case No. 01-13ZT1 Single-Family Residential District Amendments/City of Carrollton. Case Coordinator: Michael McCauley.

Pfeil noted that the case was a continuance from the last two meetings.

McCauley presented the case specifically responding to the Commission's previous question with regard to roof mounted panels on the front of homes. He advised that staff recommends the first option (A) requiring approval of a special exception by the Property Standards Board.

Pfeil noted that the Commission has had a lot of time to review the item and appreciated staff's work. He commented that the item is something that hasn't been done yet by many other cities and it would place parameters for growth and capture renewable resources.

McAninch stated she preferred Option B because it doesn't require homeowners to go to the Property Standards Board but would allow the homeowners to complete a form on line showing that the alternate location increases the estimated annual energy production by 10 percent, as determined by using a publicly available tool provided by the National Renewable Energy Laboratory. This form would then be submitted with the application for the permit.

Pfeil invited speakers to the podium and there were no speakers.

* McAninch moved to to close the public hearing and adopt the single family residential district amendment, Case No. 01-13ZT1 with Alternate No. B on Section K 4, 4; second by Blanscet.

Pfeil noted that Edwards made a comment about the alternative language that is proposed in the motion, that the word "device" could be changed to read "system" which is more appropriate with the remainder of the ordinance. McAninch agreed.

Sylo questioned whether or not objective criteria could be developed for the Property Standards Board to decide each case and felt Option B gives the homeowner some understanding of the criteria they must meet to make this type of improvement to the home.

Halloin agreed with Sylo and stated he would be open to revisiting the issue in the future when there is more ability to define the issue. He also thanked staff for their work.

- * The motion was approved with an 8-1 vote, Nesbit opposed.
- 13. Hold a public hearing and consider approval of **Text Amendments to the Comprehensive Zoning Ordinance** regarding Article XVI (FWY) Freeway District and Article V Use of Land and Structures. Case No. 09-12ZT1 Freeway District Amendments/City of Carrollton. Case Coordinator: Christopher Barton.

Barton stated that this is a city-initiated request for approval of amendments to the Comprehensive Zoning Ordinance, amending the list of uses in Art. V, Use of Land and Structures, as permitted in the Freeway District as well as making modifications and improvements to Art. XVI for the Freeway District. He provided background information used to guide the changes and recommended approval of the case.

Pfeil noted that due to the significant changes to I-35, it is good to make these adjustments in anticipation of the future. He also noted it can be amended as needed.

McAninch thanked the staff and stated she is excited to see a move toward improving the I-35 district corridor. She felt the suggested changes would be very helpful to that end.

Pfeil asked for public comment and there were no speakers.

* Sylo moved to close the public hearing and approve Case No. 09-12ZT1 Freeway District Amendments as proposed by the staff; second by Daniel-Nix and the motion was approved 9-0.

OTHER BUSINESS:

a. Staff Reports

Barton noted that staff is always looking for ways to streamline processes and asked the Commission to give him their thoughts and preferences for receiving the meeting packet. He also stated staff is trying to make the web pages more user friendly and asked for Commission volunteers to review the site with staff.

<u>Verbatim transcript - Jerry Sylo re: daycare – March 7, 2013</u>

Sylo: Thank you Mr. Chairman. Chris, can you give us an update on what is going on with the daycare at the southwest corner of Hebron Parkway and 121.

Barton: Yes, I'm sorry. I forgot that. I did have that to say. Staff has been in contact with the contractor. Ms. Manning's' project is in his cue and she is working her way up. He is estimating a mid-April installation at this point, but we will continue to track that.

Sylo: Thank you. Ms. Edwards, with regards to that daycare and its relation to the zoning that's approved by the Council, is that use a legal use or an illegal use?

Edwards: I'll have to look at it.

Sylo: Well they, and I'm sure you know what we're talking about, they don't have the structure canopy in the play area that was a stipulation, a part of the SUP, they never have had it, and I'm just curious if, what your opinion is, whether they are a legal complying use or are they an illegal use if they don't comply with the ordinance.

Edwards: I'll go back and I'll read what the language says in this. I'm not comfortable unless I read specifically what it says. But we can do that for you for next meeting.

Sylo: Well, you know, and I brought this case, this issue up in September of last year. I forget when the SUP was approved, I believe it was sometime in the spring of last year. There is apparently no effort or minimal effort by the proprietor of the daycare to be in compliance with what the Council approved as part of the SUP. I was appalled back in September when I realized that nothing had been done; nothing continues to be done; I've been a little, I've been trying to be, for the lack of a better term, a little lenient because of the weather and it's not a big issue during the Fall and Winter time, but Summer's coming up again and I think we would be doing such a disservice to the children that go to that daycare; the toddlers, the 2-5 year olds as the applicant indicated, to not do something about this issue. And I'm going to ask for a little be of indulgence here, this was, I was looking on the Internet recently and this is an excerpt from a paper from a Dr. Paul Strickter from January 28, 2013 and I'll read a couple little things here, but I want to get these on the record and Dr. Strickter says that there are quite a few basic differences in the chemical makeup of children that make it harder for them to regulate body temperature

than adults. Children have more body surface area than body weight so when the outside temperature is higher than the body temperature, children tend to gain heat faster than adults. During exercise, children generate up to 20%-25% more heat for their body weight than adults; the amount of blood pumped during exercise is less in children than adults so there is less ability to move heat to the skin to give off heat. Children have immature sweating mechanisms and also sweat less than adults so they have less ability to get rid of heat by evaporation of sweat and core body temperature in children rises higher and more quickly with dehydration and a thirst drive in a child is not as good as an adult's thirst drive. It would be such a terrible thing for something to happen to one of these kids in the summer time. We're talking 2-5 year old kids in the Texas heat; in the Texas sun; and they have no permanent shade structure over their playground area. I'm still utterly appalled and I understand that staff is trying to work with the applicant, but, like I said, I don't know if the applicant is really trying to work with staff. And I asked once before that this be placed on an agenda for us to determine whether or not we should re-evaluate the SUP. At that time, we decided that we were going to try to work with the applicant. From a physical perspective, Mr. Barton, has anything changed from when this case was first approved last year with regards to the shade structure.

Barton: Mr. Sylo, the non-conforming shade structure has been removed.

Sylo: But in terms of meeting the ordinance that was approved by the City Council, has one step been taken forward from a physical perspective on that property that the kids that are out there will have a better chance to be in the shade versus what was out there when the business first opened.

Barton: The only thing that I can say, Mr. Sylo, is staff has spoken to the contractor and the contractor is estimating a mid April installation.

Sylo: And staff spoke to the contractor last month as well.

Barton: Staff spoke to the contractor today asking about the status of Ms. Manning specifically.

Sylo: Okay, and if I need to make this as a motion, I will, but I would

Chair: I don't think we can because it's not on the agenda.

Sylo: To put it on the agenda for next month's consideration.

Chair: I think you can request that, but we can't vote on it.

Sylo: Yes and that's what I'm requesting because if we make that determination in April, that means, if this body agrees with that determination, that means this case does not come back before the Commission until May, which is, in my opinion, and granted I'm a Yankee, but I've been down here 20 some odd years; May is Summer time in Texas. And, which means, in theory, that won't go to Council till after we hear it so, I do not want to read an article in the paper or see the news out there saying that a young child died of heat stroke because somebody didn't enforce something and we were trying to work with a business owner. I mean, I think that's abhorrent, so I'm going to ask staff to please put that item on the agenda to reconsider this SUP. What I'm also going to ask staff to do, is, this portion of the meeting, I would ask the minutes to be verbatim. I

would ask those minutes to be sent to that business owner so that she understands my concerns. And I don't know about the rest of the Commission, the Commission can decide next month what their concerns are, but in my opinion, this is a phenomenally serious thing that those 2-5 year old kids have no control over. And they put 100% of their trust and those parents put 100% of their trust in the operator of that business. And we've already seen one summer that that operator apparently didn't view that what she committed to as the most important thing. And whether she can do that financially or whether she chooses not to do it because it's just a personal thing, whatever, right now, I'm, that's a secondary issue as to why it's not done. The primary issue is that it's not done and those kids are going to be the ones that are put at risk. And I don't want to see an article in the paper about it. So thank you for letting me be on my soap box.

Chair: I understand, Jerry. Thank you. Is the agenda open at this point where it can be added as he's requested.

Barton: Yes, I'll make sure that we put it on the April 4th agenda.

Chair: Alright, thank you.

Pfeil noted the vast amount of activities celebrating the City's centennial and encouraged the audience to check the City's website and to enjoy the activities.

Sylo asked Edwards to make a determination of the daycare case and include it in the Commissions packet for the next meeting.

VISITORS' COMMENTS

There were no visitors.

ADJOURNMENT

The meeting was adjourned at 9:12 p.m.

Christophe	r Barton		
Chief Plan	ner		
Rick Pfeil,	Chair		