

PLANNING & ZONING COMMISSION

PLANO MUNICIPAL CENTER

1520 K AVENUE

January 4, 2010

ITEM NO.	EXPLANATION	ACTION TAKEN
1	<p>6:30 p.m. - Dinner - Planning Conference Room 2E</p> <p>7:00 p.m. - Regular Meeting - Council Chambers</p> <p>The Planning & Zoning Commission may convene into Executive Session pursuant to Section 551.071 of the Texas Government Code to Consult with its attorney regarding posted items in the regular meeting.</p> <p>Call to Order/Pledge of Allegiance</p>	
2	<p>Approval of Agenda as Presented</p>	
3	<p>Approval of Minutes for the December 21, 2009, Planning & Zoning Commission meeting</p>	
4	<p>General Discussion: The Planning & Zoning Commission will hear comments of public interest. Time restraints may be directed by the Chair of the Planning & Zoning Commission. Specific factual information, explanation of current policy, or clarification of Planning & Zoning Commission authority may be made in response to an inquiry. Any other discussion or decision must be limited to a proposal to place the item on a future agenda.</p> <p><u>PUBLIC HEARINGS</u></p>	
5 LH/TF	<p>Public Hearing: Zoning Case 2009-24 - Request to rescind a portion of the H-05 Heritage Resource Designation on 0.1± acre located on the west side of K Avenue, 355± feet south of 18th Street. Zoned Downtown Business/Government with Heritage Resource Designation #5. Applicant: Bill Squiric</p>	

<p>6 KP</p>	<p>Public Hearing - Replat: Kings Ridge Addition, Phase Three, Block A, Lots 2R & 3R and Block G, Lot 6R - Two Planned Development-160-Patio Home lots and one open space lot on 1.2± acres located at the northwest corner of Spring Creek Parkway and Kings Manor Lane. Zoned Planned Development-160-Patio Home. Neighborhood #25. Applicant: Prosper Land Company, Ltd.</p>	
<p>7 EH</p>	<p>Public Hearing - Preliminary Replat: Plano Chinese Alliance Church Addition, Block A, Lot 1R - Religious facility on one lot on 6.0± acres located at the southwest corner of Custer Road and Bay Hill Drive. Zoned Neighborhood Office. Neighborhood #34. Applicant: Plano Chinese Alliance Church</p>	
<p><u>END OF PUBLIC HEARINGS</u></p>		
<p>8</p>	<p>Training on Zoning Basics, Types of Zoning, and Zoning Process - Review and discussion of the zoning process and types of zoning.</p>	
<p>9</p>	<p>Items for Future Discussion - The Planning & Zoning Commission may identify issues or topics that they wish to schedule for discussion at a future meeting.</p>	
<p>Council Liaisons: Mayor Pro Tem Harry LaRosiliere and Council Member Pat Miner</p>		

ACCESSIBILITY STATEMENT

Plano Municipal Center is wheelchair accessible. A sloped curb entry is available at the main entrance facing Municipal Avenue, with specially marked parking spaces nearby. Access and special parking are also available on the north side of the building. Requests for sign interpreters or special services must be received forty-eight (48) hours prior to the meeting time by calling the Planning Department at (972) 941-7151.

**CITY OF PLANO
PLANNING & ZONING COMMISSION
PUBLIC HEARING PROCEDURES**

The Planning & Zoning Commission welcomes your thoughts and comments on these agenda items. The commission does ask, however, that if you wish to speak on an item you:

1. **Fill out a speaker card.** This helps the commission know how many people wish to speak for or against an item, and helps in recording the minutes of the meeting. **However, even if you do not fill out a card, you may still speak.** Please give the card to the secretary at the right-hand side of the podium before the meeting begins.
2. **Limit your comments to new issues dealing directly with the case or item.** Please try not to repeat the comments of other speakers.
3. **Limit your speaking time so that others may also have a turn.** If you are part of a group or homeowners association, it is best to choose one representative to present the views of your group. The commission's adopted rules on speaker times are as follows:
 - 15 minutes for the applicant - After the public hearing is opened, the Chair of the Planning & Zoning Commission will ask the applicant to speak first.
 - 3 minutes each for all other speakers, up to a maximum of 30 minutes. Individual speakers may yield their time to a homeowner association or other group representative, up to a maximum of 15 minutes of speaking time.

If you are a group representative and other speakers have yielded their 3 minutes to you, please present their speaker cards along with yours to the secretary.

- 5 minutes for applicant rebuttal.
- Other time limits may be set by the Chairman.

The commission values your testimony and appreciates your compliance with these guidelines.

For more information on the items on this agenda, or any other planning, zoning, or transportation issue, please contact the Planning Department at (972) 941-7151.

CITY OF PLANO
PLANNING & ZONING COMMISSION

January 4, 2010

Agenda Item No. 5

Public Hearing: Zoning Case 2009-24

Applicant: Bill Squiric

DESCRIPTION:

Request to rescind a portion of the H-05 Heritage Resource Designation on 0.1± acre located on the west side of K Avenue, 355± feet south of 18th Street. Zoned Downtown Business/Government with Heritage Resource Designation #5.

REMARKS:

Removal of a Heritage Resource Designation is a zoning process that requires action by the Heritage Commission, as well as the Planning & Zoning Commission and City Council. The Heritage Commission considered this request on October 27, 2009, and recommended removal of a portion of the designation on this property.

Heritage Resource Designation #5, the Forman House (also known as the Wooden Spoon), is located at 1617 K Avenue. The site once belonged to one of Plano's oldest families, the Forman's. Joseph Forman was Plano's first mayor. This site was designated in 1983 because of its significance to Plano's history. At that time, the house was not included in the designation because of several inappropriate alterations that had been made to the structure. Only the land was designated. In 1998, after restoration had been completed, the house was designated. The Forman House is documented as Plano's oldest existing structure.

Recently, the owner of the Forman House (1617 K Avenue) sold the northwest portion (0.1± acre) of the lot to the adjacent property owner at 1705 K Avenue (Ad Pages). This portion has been replatted as part of 1705 K Avenue known as Original Donation Addition, Block 2, Lot 5R. 1705 K Avenue is not locally designated. The owner of 1705 K Avenue is requesting removal of the H-05 Heritage Resource Designation from this 0.1± acre portion of his property, and an amendment to the heritage resource designation boundary at 1617 K Avenue to exclude this 0.1± acre area.

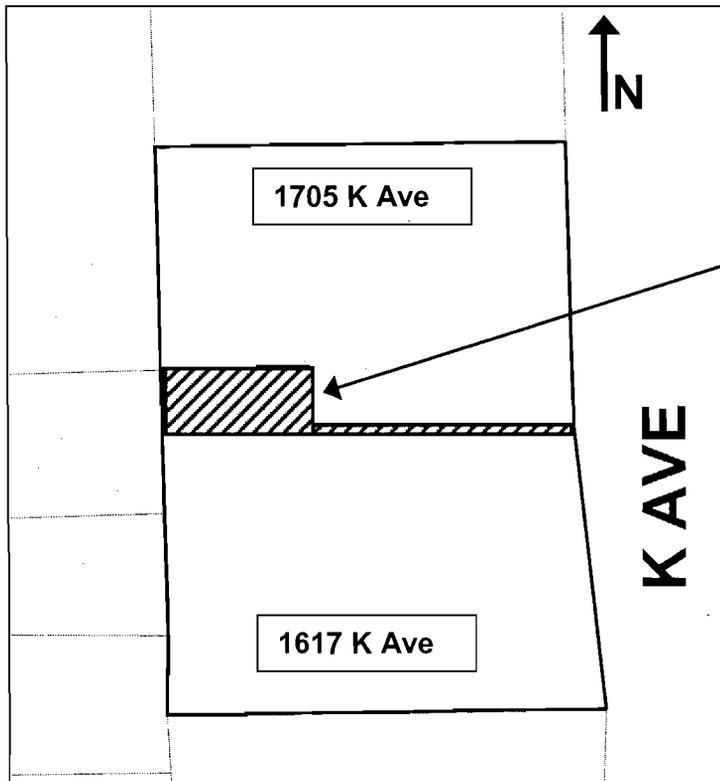
A non-historic garage/outbuilding was formerly located on this 0.1± acre parcel. During the October 27, 2009, meeting, the Heritage Commission approved the demolition of the garage due to its non-historic status and hazardous condition. Both this 0.1± acre

portion of the property and the garage that had previously existed there do not meet any of the criteria for designation and do not contribute to the overall character of the historic Forman House site. Also, the garage structure did not contribute to the initial designation of the 1617 K Avenue site. Therefore, the removal of the Heritage Resource Designation on this 0.1± acre parcel will not affect the historic status of the Forman House site. The Forman House site will continue to remain designated as H-05.

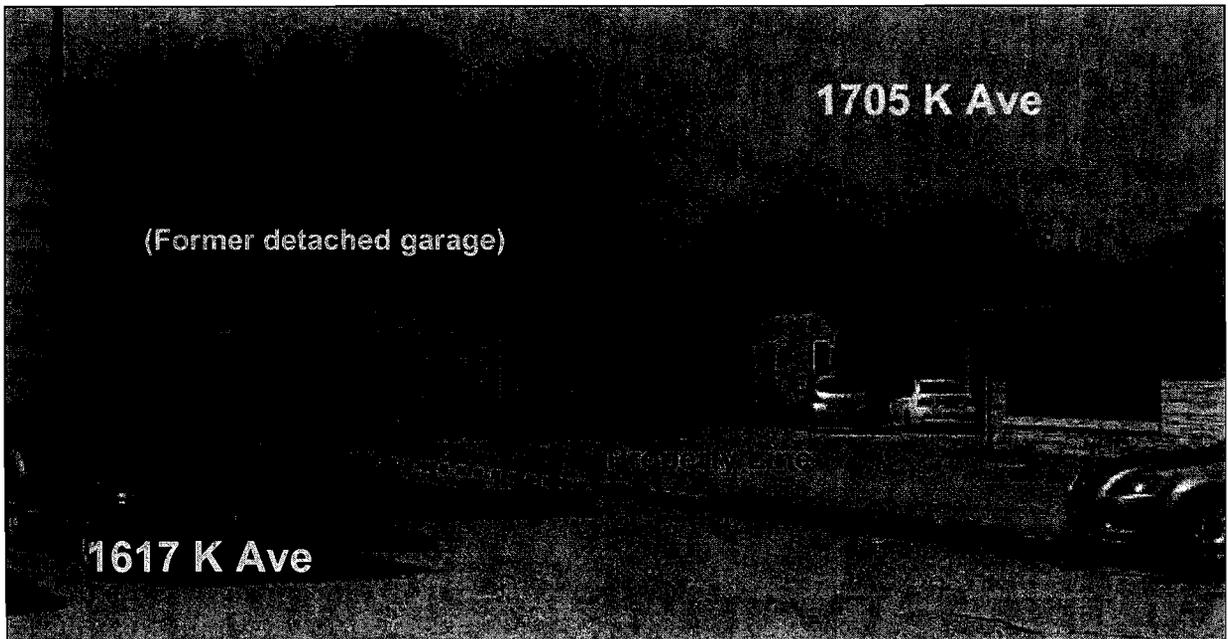
RECOMMENDATION:

Recommended for approval as submitted.

Supplemental Information: 1617 & 1705 K Avenue



0.1± acre area in question.
The shaded area was formerly part of 1617 K Ave, but now belongs to 1705 K Avenue. The detached garage as shown below was located here. Applicant would like to remove the H-05 designation from the shaded area.



CITY OF PLANO
PLANNING & ZONING COMMISSION

January 4, 2010

Agenda No. 6

Public Hearing - Replat: Kings Ridge Addition, Phase Three, Block A, Lots 2R & 3R
and Block G, Lot 6R

Applicant: Prosper Land Company, Ltd.

DESCRIPTION:

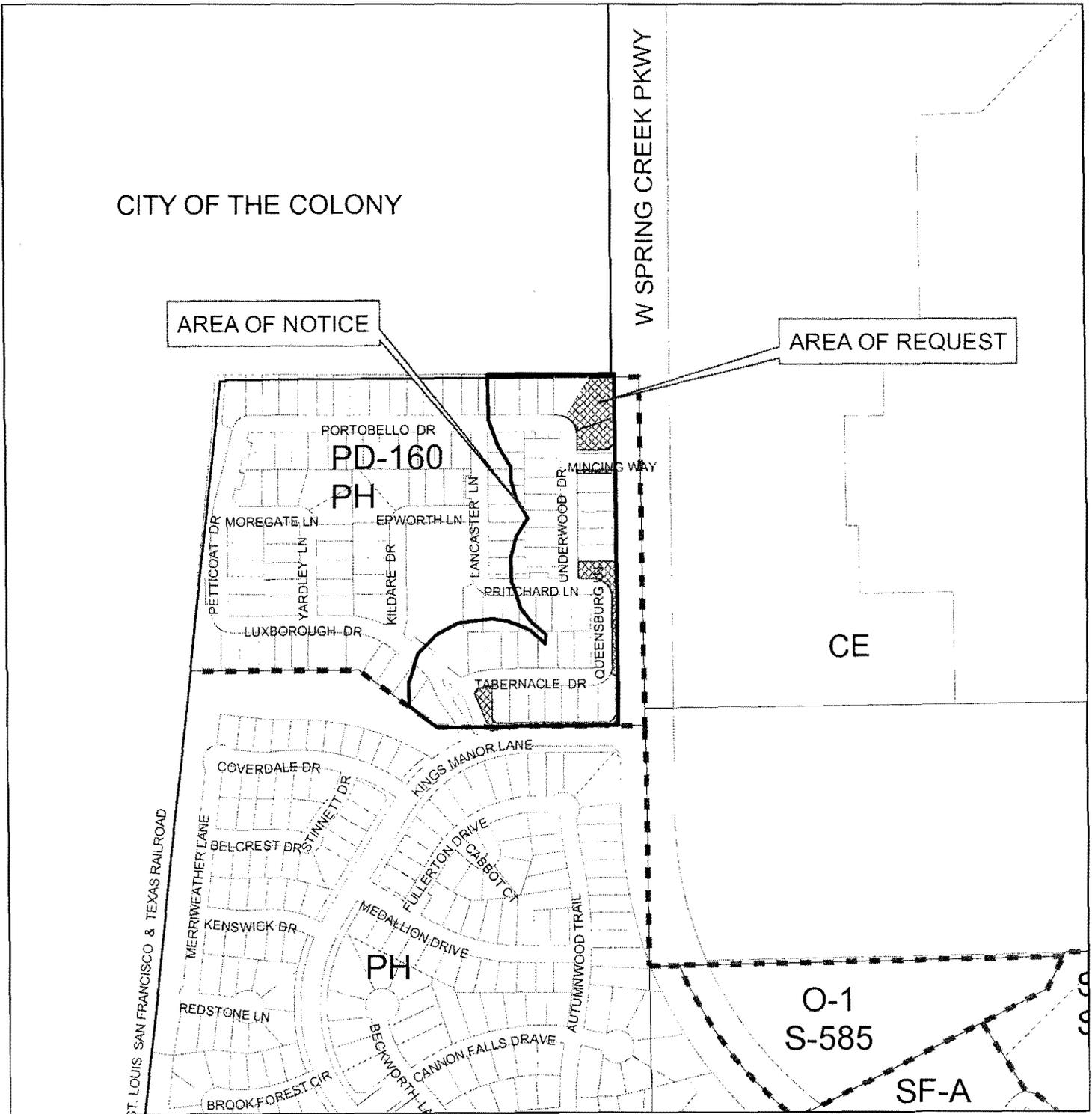
Two Planned Development-160-Patio Home lots and one open space lot on 1.2± acres located at the northwest corner of Spring Creek Parkway and Kings Manor Lane. Zoned Planned Development-160-Patio Home. Neighborhood #25.

REMARKS:

The applicant has requested to withdraw their application to allow additional time to address staff comments and due to an error in the public hearing notice.

RECOMMENDATIONS

Recommended that the Planning & Zoning Commission accept the applicant's request to withdraw the replat from consideration at this time.



Item Submitted: REPLAT

Title: KINGS RIDGE ADDITION, PHASE THREE
BLOCK A, LOTS 2R & 3R & BLOCK G, LOT 6R

Zoning: PLANNED DEVELOPMENT-160-PATIO HOME

○ 200' Notification Buffer



CITY OF PLANO

PLANNING & ZONING COMMISSION

January 4, 2010

Agenda Item No. 7

Public Hearing - Preliminary Replat: Plano Chinese Alliance Church Addition,
Block A, Lot 1R

Applicant: Plano Chinese Alliance Church

DESCRIPTION:

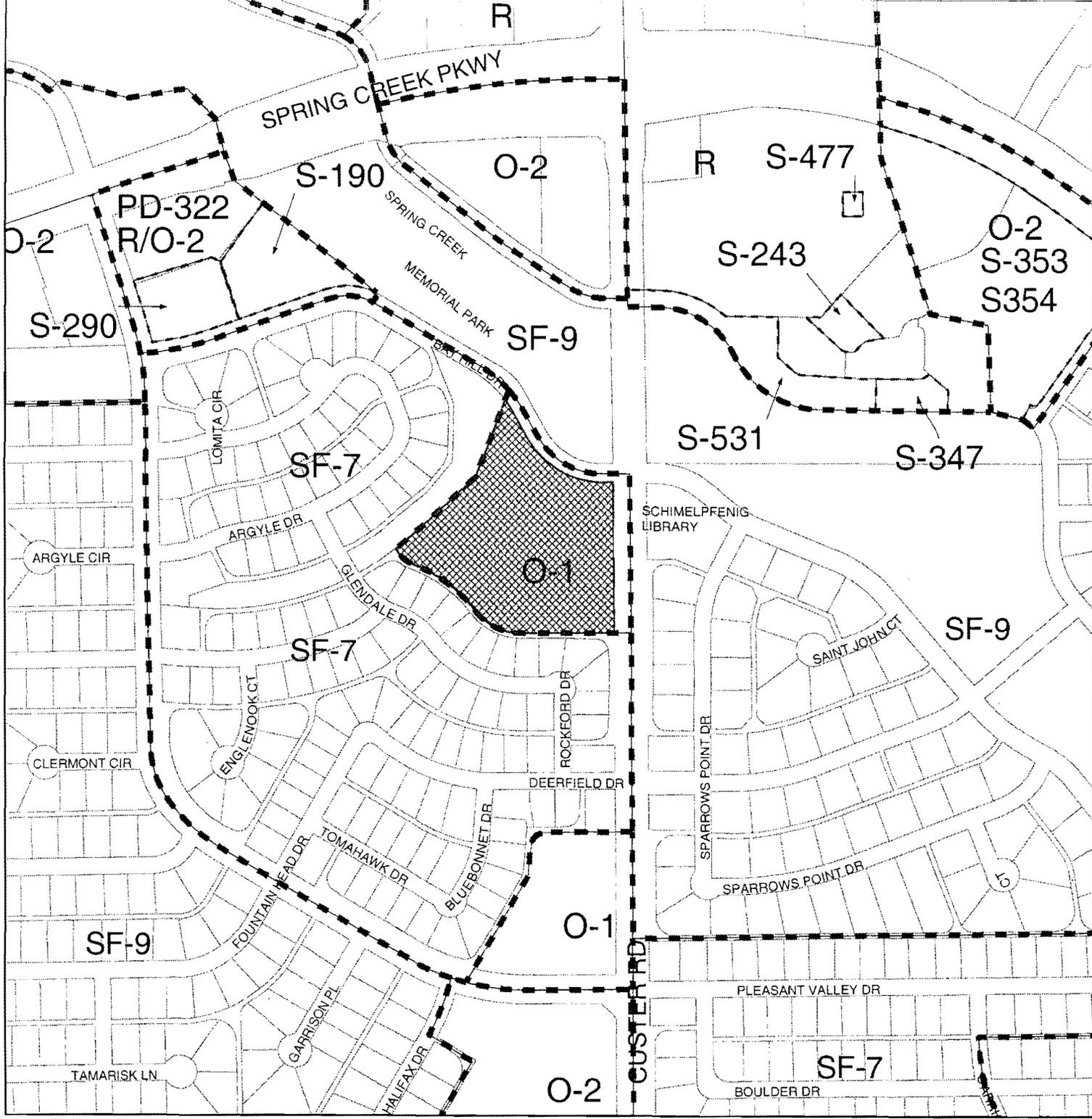
Religious facility on one lot on 6.0± acres located at the southwest corner of Custer Road and Bay Hill Drive. Zoned Neighborhood Office. Neighborhood #34.

REMARKS:

The purpose for this preliminary replat is to abandon fire lane, water and utility easements and propose fire lane, water and utility easements necessary for the expansion of the existing religious facility.

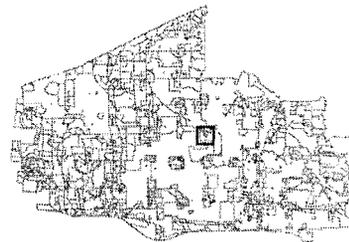
RECOMMENDATION:

Recommended for approval subject to additions and/or alterations to the engineering plans as required by the Engineering Department.



Item Submitted: PRELIMINARY REPLAT

Title: PLANO CHINESE ALLIANCE CHURCH ADDITION
BLOCK A, LOT 1R



Zoning: NEIGHBORHOOD OFFICE



○ 200' Notification Buffer

CITY OF PLANO
PLANNING & ZONING COMMISSION

January 4, 2010

Agenda Item No. 8

Training on Zoning Basics, Types of Zoning, and Zoning Process

DESCRIPTION:

Review and discussion of the zoning process and types of zoning.

REMARKS:

During this training session, we will discuss the history and purpose of zoning as a regulatory tool for cities, the different types of zoning, processes and procedures, and the importance of focusing on land use when considering zoning petitions.

Attached you will find an outline on zoning basics and some issues to keep in mind when you are considering a zoning change or SUP request. We will discuss these and use some past zoning cases as examples.

Zoning Outline

1. Definition –

- “The division of a jurisdiction into districts within a jurisdiction within which permissible uses are prescribed and restrictions on building height, bulk, layout and other requirements are defined.” Developers sometimes speak of their “zoning rights”, but zoning actually is a limitation on the use of land.

2. Historical Context

- Control of Noxious Uses - By 1860’s, several cities such as San Francisco were attempting to separate tanneries, slaughterhouses and other noxious uses from residential areas. In 1916, New York City adopted the first comprehensive zoning ordinance. Other cities soon followed suit. Dallas had a rudimentary form of zoning as early as 1921. The 1920’s was a period of time in which open government, city planning and public participation were valued as a reaction to “boss” and “ward” politics and uncontrolled growth.
- Euclid vs. Ambler Realty - 1926 - This case, heard by the U.S. Supreme Court in 1926, came from the city of Euclid, Ohio’s attempts to institute zoning. The Court ruled that zoning is a constitutional exercise of the police power.

3. Authority to Zone

- Standard Enabling Act - One of the early challenges to zoning was that cities did not have the power to zone. Cities are presumed to have powers only as granted by the state. In 1921, the U.S. Department of Commerce, under Herbert Hoover’s leadership, appointed an advisory Committee on Zoning. A Standard Zoning Enabling Act that could be adopted by states came out of this committee in 1927. Texas adopted its version in 1927, officially delegating zoning authority to cities, but not to counties. In many parts of the country, counties also have authority to regulate land uses. In 1987, the enabling act was codified as Chapter 211 of the Texas Local Government Code.
- Police Power - As noted earlier, zoning is presumed valid as an exercise of police power. Chapter 211 grants zoning powers to cities for the purpose of promoting public health, safety, morals or general welfare. The chapter goes further to allow protection and preservation of places and areas of historical, cultural or architectural importance and significance. Courts have given cities fairly broad leeway in linking regulations to these general goals. As long as regulations relate to and are rationally connected to a legitimate governmental goal and are not unreasonable, they can be justified as a legitimate exercise of the police power.

- Chapter 211 of Texas Local Government Code - This chapter also includes requirements for home rule cities to appoint a planning and/or zoning commission, sets out the public notice requirements for zoning hearings, and delineates the responsibilities of the board of adjustment. The chapter actually has more requirements for and powers of the Board of Adjustment than planning commissions. The chapter speaks to the establishment of zoning, and the necessity that new zoning ordinances be based on a comprehensive plan. This would be applicable to cities such as Victoria or Pasadena (and Houston) if they at some point decided to adopt zoning regulations.

4. Standards for Consideration

- Legislative Action vs. Administrative - Unlike site plan or plat regulation, zoning is considered to be a legislative action versus an administrative action. As such, the P&Z and City Council have more leeway in decision making than in simply determining whether or not a plan meets established ordinances.
- Broad Discretion - The P&Z and City Council may take into account a variety of factors in making a decision on a zoning request, including the testimony of the public.
- Rational Basis under Due Process and Equal Protection - The constitutional basis for zoning requires that applicants be given due process and equal protection in the process. Procedural due process means that the zoning process itself must be fair, open and conducted in an orderly, judicious and impartial manner. Procedural due process consists of adequate notice, unbiased decision makers, an opportunity to be heard, the right to present evidence, prompt decision making, decisions based on facts presented in the record, and a factual record of the proceeding. Substantive due process is met if regulations imposed by the government rationally and reasonably advance a legitimate public purpose. Assuring due process is also where you must be careful in your actions and conversations outside the public meetings by not appearing to be biased through contact with homeowners, applicants and others who may want to discuss the application. Equal protection means that the applicant is not discriminated against because of race, ethnic background, sex, age or other similar factors.

5. Role of Planning & Zoning Commission

- Advisory Body - Chapter 211 defines the P&Z's role as an advisory committee to the City Council on zoning decisions. The Council may not take action on a zoning case until the Commission has forwarded a recommendation.

- Updates to Regulations - The Commission also plays a vital role in making sure that regulations are kept up-to-date, that they reflect comprehensive plan goals, and that they respond to changing needs and forces in the community.

6. Relationship to Other Documents

- Comprehensive Plan - Zoning is inherently linked with the Comprehensive Plan. Zoning changes are reviewed in accordance with the recommendations of the Future Land Use Plan, the Adequate Public Facilities policy, and other policy recommendations contained in the plan. A zoning decision which is in conformance with an adopted plan may be easier to defend if challenged in court.
- Subdivision Regulations - The Zoning Ordinance works in tandem with the Subdivision Ordinance in determining the quality, design and appearance of public and private development and infrastructure.
- Building/Fire Codes - Many zoning regulations mirror or enhance regulations contained in the Building Code and Fire Code. Staff works with both departments to ensure that zoning amendments do not create conflicts with either code.

7. Major Elements of a Zoning Ordinance

- Zoning Map or Atlas - The Zoning Atlas depicts the zoning established for each parcel of land within the city limits. The Zoning Atlas is published twice yearly. Zoning information is also available on the Planning & Engineering Department web page.
- Development Standards and Criteria - The ordinance also includes the height, setback, bulk, parking requirements and other regulations for development within the city.
- Administrative Procedures – Article 6 of Plano’s Ordinance contains the specific procedures for dealing with zoning cases and variances, including public hearing requirements and appeals.

8. Process

- Initial Establishment of Zoning Ordinance – As parcels of land are annexed into the city, zoning is established by going through the same process as for any other tract of land. Frequently, newly annexed property is zoned “Agricultural” unless the owner has determined another desired designation.
- Rezoning
 - Owner Initiated - The owner of the property may petition the city to amend the zoning on his tracts. Other parties, such as neighboring land owners or homeowner groups, do not have the authority to initiate zoning or rezoning.
 - City Initiated - The Planning & Zoning Commission or City Council may also initiate rezoning at any time by calling a public hearing.

- Text Amendments - The Commission and City Council may also request changes in the text and regulations contained within the ordinance. Staff frequently requests the Commission to call a public hearing for this purpose as well.
- Public Hearing Requirements - Plano's ordinance requires that written notice must be mailed at least 20 days in advance of the public hearing before the Planning & Zoning Commission to all property owners within 200 feet of the property being requested for rezoning. (State law only requires notices to be mailed 10 days in advance of the hearing.) Notice must be published in the newspaper at least 15 days in advance of the City Council's public hearing on the item. If a text amendment is being considered, notice before the Commission's hearing is published in the newspaper.

9. Specialized Types of Zoning

- Specific Use Permits - Specific Use Permits are required for uses that may be appropriate in a given zoning district in certain locations, but not in all locations. Specific use permits are most frequently requested for private recreation centers in subdivisions, arcades and day care centers.
- Planned Development Zoning - Applicants may request a planned development zoning district to establish special development regulations for a property. PD zoning should be used only when the physical characteristics of the land require special attention or the applicant's specific project is worthwhile but cannot be accomplished through the regular zoning ordinance requirements.
- Heritage Designation - The Zoning Ordinance also regulates the establishment of heritage resource districts for recognition of the city's historic districts, buildings and sites. The Heritage Commission will recommend that a property or area be designated. The designation process is the same as for rezoning.

10. Regulatory Aspects

- Setbacks, lot size, parking, etc. - Each zoning district contains specialized development requirements.
- Special Requirements - The Zoning Ordinance also contains special requirements for day care centers, private clubs, arcades, and other uses that frequently require a Specific Use Permit
- Site Plan Review Process - To begin construction on a building allowed by the zoning on a certain property, the developer must follow the site plan review process outlined in Article 5 of the Zoning Ordinance.

11. Special Zoning Issues

- Contract Zoning - Extracting promises from an applicant in exchange for zoning may be considered "contract zoning" and may be determined to be illegal. In contract zoning, the governing body has bargained away its legislative favor in exchange for payment by the applicant.

- “Spot” Zoning – Spot zoning is the rezoning of land to a district which is inconsistent with the surrounding uses and the city’s comprehensive plan. Below are four commonly used tests for spot zoning:
 - Is the rezoning substantially inconsistent with the zoning of the surrounding area?
 - What is the suitability of the tract for the use?
 - Does the zoning bear a substantial relationship to the public health, safety and general welfare?
 - Is it in accordance with a comprehensive plan?
- Alcoholic Beverage Regulation - An election in 2005 made almost all of Plano’s territory “wet” for the purchase of beer and wine for off-premise consumption. Beverage stores are regulated by the Texas Alcoholic Beverage Code, and not local regulation. For service at restaurants, most businesses now choose to operate with a mixed beverage permit, also authorized by the voters in 2005. The Zoning Ordinance contains regulations for private clubs, but it is rare now for a restaurant to request a specific use permit for a private club.
- Group Homes - The State of Texas does not allow cities to regulate the location of nor require specific use permits for group homes and personal care facilities for the elderly and disabled if the home provides care for six or fewer residents, with no more than two live-in caretakers. Plano’s ordinance was recently amended to allow up to eight residents in single-family districts by right, in accordance with fair housing laws.
- Pawn Shops - The State of Texas requires that pawn shops be allowed in at least one zoning district by right.
- Licensed Massage Therapy - The State of Texas requires that licensed massage therapy be allowed in the same zoning districts as medical offices.
- Sexually Oriented Businesses - “SOB’s” are regulated by a separate ordinance administered by the Police Department. The primary purpose of the business must be sexually oriented to be classified as a sexually oriented business under the terms of the ordinance.

12. VariANCES

- Role of Board of Adjustment - The Board of Adjustment is the only group authorized to grant variances from the Zoning Ordinance. The Planning & Zoning Commission does not have this ability. The Board’s decisions may not be appealed to City Council, but must be appealed through the courts.
- Hardship Criteria - The Board of Adjustment must grant variances based on certain hardship criteria of the land itself, not economic or self-imposed hardships.

13. Non-Conforming Uses and Structures

- Definition - A non-conforming use is a use of a property that does not conform to existing regulations within the zoning ordinance, but was lawfully constructed in conformance with prior regulations.

- Continuation - Non-conforming uses may be continued indefinitely, as long as the use is not abandoned for more than six months. Non-conforming uses may not be expanded without approval from the Board of Adjustment
- Amortization - Non-conforming uses may be amortized out of business on a time schedule approved by the Board of Adjustment. The time frame must be established to allow owner to recoup a reasonable investment in the property.

14. Recent Criticisms of Zoning

- Rigid Separation of Uses is Outdated
- Enforces Middle-Class Values
- Contributes to Sprawl and Dependence on Automobile

Zoning Topics

Land Use as the Focus of Zoning

Over the years, zoning ordinances around the country, including Plano's, have become increasingly complex and include regulations on everything from the gallon size for new shrubs to the reflectivity of glass. With all of this detail, it is easy to lose track of the original objective of zoning, which was and still is to regulate the location of different land uses. In the heat of a controversial zoning case, it is often difficult to look past the promises of the applicant and the fears of the opponents to focus on whether or not the proposed land use itself is appropriate. There are several guidelines to keep in mind when considering a zoning case:

Rely on the Comprehensive Plan Recommendations – The Future Land Use Plan should be your general guide in making zoning decisions, along with the policy statements and strategies contained within the plan. There may be occasions when it is appropriate to approve a zoning request that conflicts with the plan, but those are rare.

Remember that Zoning Districts Allow a Wide Range of Uses – An applicant may be proposing a certain type of use, but keep in mind that the zoning district also will allow other uses. If a property is not appropriate for all of these uses, then the zoning request should be denied.

Don't Be Influenced by the Pretty Pictures – Applicants often display elaborate exhibits, renderings and even 3-D visualizations of their proposed development when requesting a zoning change. Keep in mind that circumstances change and the zoning applicant may not be the party that ultimately develops the property.

Look Beyond the Individual Applicant and His Particular Operation – Especially with Specific Use Permits, it is easy to get sidetracked by how the applicant operates his particular business. Your decision should be based on whether or not the location would be appropriate for any day care center or mini-warehouse development.

ZONING TOPICS

Planned Development Zoning

Planned development zoning districts allow cities to address properties that may have unique characteristics or accommodate specific development proposals. PD's are a form of hybrid zoning designed to address the rigidity of standard zoning districts. Through the creation of a planned development district, a city may amend regulations of the Zoning Ordinance and other regulatory ordinances as they apply to the subject property. PD's have traditionally been used to guide the development of large tracts of land, especially the phasing of projects, and to tie down the particular design requirements proposed by the developer.

The regulations for planned development zoning in Plano are contained in Article 4 of the Zoning Ordinance.

What is a "PD"? – A planned development district is a zoning district that assigns unique conditions and requirements for development of a specific tract of land. Planned development zoning came into vogue in the 1960's as development patterns in the United States shifted to large scale, multi-phase residential development. A heightened awareness of environmental considerations also fostered the use of planned development zoning. PD's are often referred to as "Planned Unit Developments" in planning literature, reflecting the use of this type of zoning to regulate so-called "master planned communities". PD's have also been used, ironically, to allow the mixing of uses that traditional zoning prevented.

How are PD's created? – The process to create a planned development district is the same as for any zoning request. A PD may be requested by the applicant, or applied by the City Council during consideration of the case. Public notice and hearing requirements are the same as for all zoning cases.

When should a PD be considered? - Planned development zoning should be the exception, not the rule. PD's should address issues that are unique to a certain property or situation. They can be used to accommodate innovative development types that may not be allowed under a city's standard zoning ordinance. Unusual topography, vegetation or flood plain issues may also warrant creation of a PD. The status of public facilities and services in an area may be considered.

When PD's are appropriate, they may be used to define the allowed land uses, specify setbacks, heights, density and other development regulations, and provide standards and actions required to protect the environment and vegetation. PD's may also provide for the construction and timing of public facilities, streets, and the phasing of development.

Multiple requests from developers for the same types of PD regulations may signal that the base ordinance requirements need to be reviewed. For example, several years ago the Single-Family Attached zoning district was amended as a result of repeated requests from a townhouse developer to create PD's to allow reduced front yard setbacks and more flexible open space requirements. Another instance was the repeated use of PD's to allow mini-warehouse developments in the Retail zoning district, which eventually led to this use being allowed by SUP.

PD's and Redevelopment – Plano's PD ordinance was designed to address the typical uses of planned development districts --- large, phased developments of raw land or development that could not be accommodated by one of the standard zoning districts. The ordinance does not allow a PD to be created for a property less than 5 acres in size unless the City Council makes a specific finding that the PD is necessary to meet a goal of the Comprehensive Plan or related study. However, in recent years we have increasingly used PD's to accommodate redevelopment projects on small lots. Many properties that are ripe for redevelopment are too small, lack cross access, or have some other characteristic that makes it impossible to meet today's development standards. A PD may be the best method to allow these properties to redevelop and remain productive, rather than sending the developer to file for multiple variances from the Board of Adjustment.

When should a PD not be considered? – Plano's Zoning Ordinance prohibits the creation of PD's for the following reasons:

- To require construction of public improvements or the dedication or reservation of land which are not of primary benefit to development within the district or necessary to mitigate an adverse impact attributable to the development. This is to prevent the appearance of "contract zoning", which is illegal.
- Secure agreements between owners of property within the district with third parties. An example of this would be to adopt the agreements that a developer may have worked out with adjacent homeowners. This gives the appearance of the city having delegated its responsibility to be the decision-maker.
- Assign responsibility to the City for enforcement of private deed restrictions or covenants.
- Waive or modify the requirements of ordinances other than the Zoning Ordinance, except as specifically authorized by the ordinance. The Subdivision Ordinance and the Thoroughfare Standards ordinance may also be modified through a PD.

Types of PD's – Plano's ordinance specifies two types of planned developments. Overlay PD's maintain all of the regulations of the base zoning, with only the amendments specified by the PD. For example, a PD-Retail may specify a one-story height limit, but other development regulations such as lot coverage and setbacks would comply with the requirements of the Retail zoning district itself. Free-standing PD's, on the other hand, are unique to the particular property, and each development standard must be included as part of the PD stipulations. A good example of a free-standing PD covers the Haggard Square development. This PD is a PD-Mixed Use, and all of the development standards, architectural controls and signage regulations are specified within the language of the PD itself.

Submission of Development Plans – Planned development requests are accompanied by a concept plan or preliminary site plan. This allows the applicant to visually present the proposed development so that commissioners, councilmembers and the public can get a better idea of what is planned. The plan will illustrate areas where the proposed development may not conform to existing standards. Plans may be adopted as part of

the PD ordinance itself, which is an additional method of insuring that what is presented during the approval process, is what eventually gets built. Caution should be used when attaching plans as part of the PD ordinance, however; future changes to plans that are adopted as part of the PD would require public hearings and notice in the same manner as that prescribed for establishment of the PD.

The Use of Planned Development Zoning in Plano – Plano's first PD's date to the late 1970's, when zoning and development activity intensified in the area. By the late 1980's, over 400 PD's had been created. Many PD's had no special stipulations or regulations. At that time, preliminary site plans were only required for planned development districts, and the city had gotten into the habit of making all non-residential and multi-family zoning districts PD's so that the preliminary plans could be required. In the early 1990's, the ordinance was amended to require preliminary site plans for all of these types of developments, regardless of whether or not the property had PD zoning. Staff then started eliminating all of the PD's that had been created without special stipulations, much in the same way as we are now doing for private club SUP's. Despite these efforts, there are still over 400 PD's on the books, as more were created during the same time period.

The real estate bust of the late 1980's also affected PD's. Many had been created for elaborate office and retail developments which would presumably be developed by the same owner and developer. As properties went back to the banks and eventually to the federal agency created to deal with the crisis, many were split into separate ownership. This left the city and the owners with the task of trying to figure out which development rights belonged to which tract of land and which entity would be responsible for constructing streets and utilities. Many PD's were revised during this period to delineate specific development regulations to deal with the problems of multiple owners. The PD ordinance now requires that all owners in a PD must consent to any applications for amendments to the district or to plans. A recent example of a PD that has been difficult to administer because of the property being split up among different property owners is PD-20-Mixed Use for Haggar Square, noted above. The PD stipulations worked well when one property owner planned to develop all of the apartments and one property owner was to develop the commercial part of the property. PD-20 now has 13 property owners.

Examples of Plano Planned Development Districts

- PD-65-Central Business-1 (Legacy Town Center) is an excellent example of a development that could not be accommodated under the base CB-1 zoning regulations. CB-1 zoning, created in 1980, anticipated and allows multi-family, retail, office and hotel uses. The district allows high density apartments and imposes no minimum front yard setbacks. However, the base zoning district does not require buildings to be brought up to the street or prevent low-density garden style apartments from being built. The mixed-use, urban style of development that characterizes Legacy Town Center is a result of the regulations devised as part of PD-65. The PD has been amended numerous times since its creation, to accommodate for-sale townhouse development, apply specialize signage requirements and impose a minimum multi-family density.
- PD-175-Retail, at the northeast corner of Custer Road and Parker Road, was created to accommodate the redevelopment of a portion of the retail corner for a

new Home Depot store. The PD stipulations reduced the parking requirements and lessened the landscaped edges required for superstore development. The redevelopment could not have occurred without these changes.

- PD-149-Patio Home is located at the northeast corner of Custer Road and Legacy Drive. This property had been zoned Retail for many years, but the only development that had occurred was two pad sites at the corner. The market for retail development had passed this corner by. The city worked with a patio home developer to craft PD stipulations that reduced the minimum lot width and reduced the 10% open space requirement to 5%. The rezoning allowed the property to be put to a productive use.
- PD-197-Downtown Business Government District is located on the east side of G Avenue, south of 15th Street. It was created to allow a 5 story condominium structure, one story taller than the 4 stories allowed by the base BG zoning district. This PD, at 0.4 acres, is probably the smallest in the city. It is an example of a PD used to accommodate redevelopment that meets the objectives established in the Downtown Transit Village plan to promote infill development and add housing units within walking distance of the DART rail platform.

PD's can be a valuable tool for assuring the type and quality of development in the city and for allowing innovative and environmentally sensitive development. At its worst, PD zoning can be viewed as nothing more than "cutting a deal" with developers or homeowners. PD's should be used sparingly, and only in those instances where the land itself or the proposed type of development warrants special treatment or attention.

ZONING TOPICS

Placement and Amount of Retail Zoning

Sufficient retail opportunities are certainly critical for cities to provide residents and businesses with needed goods and services and to support the sales and property tax base. In rapidly growing areas, a frequently voiced complaint is that commercial development lags behind residential development. Retail and other commercial centers are not planned and developed until there is a supporting market base. Inner city and first-ring suburban areas are often underserved, as retailers have moved outward seeking a larger market base and households with higher incomes.

There is no magic number as to the appropriate square footage of retail space per capita. The amount of retail space is affected by the economy's increasing reliance on consumption as its major support. Affluent areas with higher sales per capita also may support more retail development than would be expected based on population alone. In the 2003 Tri-City Retail Study, undertaken by Plano, Richardson and Carrollton, the retail space per capita for Plano was estimated to be over 50 square feet per capita. Richardson's estimate was in the lower 30's; Carrollton's in the mid 20's. Nationally, retail square footage per capita is estimated to be around 20 square feet.

How did Plano end up with so much retail? Including the two regional malls, Plano has 16 million square feet of retail space. Existing zoning would allow about 5 million additional square feet of space. Retailers are attracted to Plano and other suburban Dallas areas by the relatively high household incomes and discretionary income and sheer population growth. The Dallas-Fort Worth area is also attractive to businesses who wish to try out new restaurant or retail formats. For many years, Plano's retail market extended into North Dallas and up into Oklahoma, as well as into the rural parts of Collin County and underserved markets in Garland and Richardson. However, these areas are now developing their own retail bases, which has decreased Plano's market share.

Land use planning also contributed to the supply of retail zoning and development. Plano wisely chose to limit retail development to the intersections of major thoroughfares, rather than allowing "strip" retail development along these roadways. However, with major thoroughfares located on a 1 mile grid, this policy created plenty of opportunities for four corner retail. The population density in these neighborhood grids has never been sufficient to support the 400,000 to 500,000 square feet of retail that could potentially be built at these intersections. Early future land use plans also indicated that retail zoning was appropriate on all four corners. By the mid-1980's, the city realized that approving retail zoning on all corners was not appropriate, and the Comprehensive Plan adopted in 1987 for the first time included a policy recommendation that no more than 1 or 2 corners of a major intersection be zoned for retail development.

A shift in retailers' preferences has negatively impacted these neighborhood shopping centers as well. With the move to larger stores that served a larger market, retailers increasingly sought sites with good visibility and access along major regional roadways. During the 1990's retailing in Plano shifted to the US 75, Preston Road and Dallas North Tollway corridors. The movement of Wal-Mart from the intersection of 15th Street and Custer Road to Park Boulevard and Preston Road, now on to the store on the Dallas

North Tollway, is a good example of this shift. It is likely that neighborhood grocery stores will be affected next by these trends, as companies consolidate and superstores such as Wal-Mart and Super Target gain a larger market share. The lack of an anchor store negatively impacts remaining businesses and leads to increased vacancies in shopping centers.

Plano must now adjust to these new retail realities. The Tri-City Retail Study recommended several actions to address the oversupply of retail zoning and development. The most important of these for the Commission to keep in mind are to “prune retail zoned land” and to “recycle older retail centers”. The Commission should look for opportunities to reduce the amount of retail zoned land, and certainly avoid creating additional retail zoning except in very special circumstances. It is inevitable that some retail shopping centers will not be able to survive as markets change and decline. The Commission should look for ways to redevelop these sites for other uses. Several regulatory amendments have already been made in an attempt to address these issues, including a reduction in the number of required parking spaces and the allowance of some forms of residential development on properties with retail zoning.