

**PLANO CITY COUNCIL**  
**February 23, 2004**

**COUNCIL MEMBERS**

Pat Evans, Mayor  
Steve Stovall, Mayor Pro Tem  
Shep Stahel, Deputy Mayor Pro Tem  
Phil Dyer  
Scott Johnson  
Sally Magnuson  
Jean Callison  
Ken Lambert

**STAFF**

Thomas H. Muehlenbeck, City Manager  
Frank Turner, Executive Director  
Bruce Glasscock, Executive Director  
Rod Hogan, Executive Director  
Diane C. Wetherbee, City Attorney  
Elaine Bealke, City Secretary

Mayor Evans convened the meeting into open session on Monday, February 23, 2004, at 7:08 p.m., in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. All Council Members were present.

The invocation was led by Pastor Leonard Allgood First Assembly of God.

The Pledge of Allegiance was led by Jr. Girl Scout Troop 503 St. Mark's Catholic School.

**PROCLAMATIONS AND SPECIAL RECOGNITION**

Mayor Evans recognized the contributions of Thelma Rice Sproles. A presentation was made by the Younger Generation Chorus. Mayor Evans received a presentation from Texas Commission on the Arts, recognized the Council's Volunteer of the Month – Lauren Wallace and presented a proclamation recognizing "Taste of Plano."

Ms. Perez was not present to accept her Certificate of Appreciation for service on the Plano Housing Authority.

## **GENERAL DISCUSSION**

John Myers, citizen of the City, spoke regarding traffic and parking generated by the dog park on Old Orchard Drive north of Spring Creek Parkway and requested consideration of a no-parking zone on the east side of Old Orchard to prevent accidents. Mayor Evans requested the City Manager respond to the request.

The Council resumed discussion of the Preliminary Open Meeting.

## **Comprehensive Monthly Financial Report**

Director of Finance McGrane advised the Council that most revenues are at or ahead of last year and that expenditure funds are at or below last year's level with the exception of the Golf Course and Downtown Center funds. Mr. McGrane spoke to the upward trend of sales tax collection since August/September of 2003, advising the Council that the \$6.1 million collected in January 2004 is the highest monthly total in recent history. He spoke regarding the decline in unemployment in the City, positive news regarding existing home sales this quarter and the foreclosure market being down as compared to last quarter.

## **Personnel Appointment – Plano Housing Authority**

Mayor Evans advised that this item would be deferred.

## **Council Items for Discussion/Action on Future Agendas**

Mayor Evans requested the Finance Committee and the City Manager review the policy regarding the sale of property that may have been purchased or donated for roadways, overpasses or easements that are no longer needed for any public purpose.

## **Consent and Regular Agendas**

No items were discussed.

## **Council Reports**

Deputy Mayor Pro Tem Stahel spoke regarding the recent groundbreaking ceremony held at First Christian Church.

## **CONSENT AGENDA**

Upon a motion made by Council Member Dyer and seconded by Mayor Pro Tem Stovall, the Council voted 8-0 to approve and adopt all items on the Consent Agenda as recommended and as follows:

**Approval of Minutes** [Consent Agenda Item (A)]

February 9, 2004  
February 12, 2004

**Award, Rejection of Bids/Proposals, Conditional Acceptance of Lowest Responsible Bid/Proposal and Designation of Alternate Lowest Responsible Bid/Proposal when applicable on the following:**

**Bid No. C028-04** for a fixed-price contract for Water Meter Boxes, Covers and Rings in the estimated annual amount of \$29,966 for an annual contract with two optional one-year renewals. [Consent Agenda Item (B)] (See Exhibit “A”)

**Bid No. B048-04** for the Bob Woodruff Park – Lake Restoration Conventional Dewatering in the amount of \$1,200,376. [Consent Agenda Item (C)] (See Exhibit “B”)

**Rejection of Bids**

**Bid No. B017-04** - Rejection of Bids/Proposals for Retirement Security Plan Benefit Calculation Software. [Consent Agenda Item (D)] (See Exhibit “C”)

**Bid No. B049-04** Rejection of Bids/Proposals for the Bob Woodruff Park – Lake Restoration Mechanical Dewatering. [Consent Agenda Item (E)] (See Exhibit “D”)

**Adoption of Resolutions**

**Resolution No. 2004-2-13(R):** To authorize the purchase of two Yazaki 100-ton gas absorption chillers/boilers in an amount not to exceed \$142,145 from Yazaki Energy Systems, Inc., the sole source provider of such equipment; authorizing the City Manager to take such action and execute such documents as necessary to effectuate the purchase of two gas absorption chillers/boilers; and providing an effective date. [Consent Agenda Item (F)]

**Adoption of Ordinances**

**Ordinance No. 2004-2-14:** To abandon all right, title and interest of the City, in and to a portion of that certain drainage easement recorded in Cabinet N, Pages 437 and 438 of the Plat Records of Collin County, Texas and being situated in the Craig Addition which is located along southbound Central Expressway approximately 3000’ south of Spring Creek in the City limits of Plano, Collin County, Texas; quitclaiming all right, title and interest of the City in a portion of such easement to the abutting property owners, to the extent of their interests; authorizing the City Manager to execute any documents deemed necessary; and providing an effective date. [Consent Agenda Item (G)]

### **Approval of Change Order**

To McMahon Contracting, L.P., increasing the contract by \$40,206 for Tollroad Service Road from Parker Road to Spring Creek Parkway, Change Order No. 3 (Bid No. 072-03) This change order is for installation of 14 barrier-free ramps at intersections along the Tollway. Ramps will be installed at Park Boulevard, Chapel Hill Boulevard and Parker Road. Also included are items related to modification of the irrigation system on the project. [Consent Agenda Item (H)]

### **Award of Contract**

To approve and authorize for the selection of NTB Associates, Inc. to provide Professional Engineering Services for an amount not to exceed \$49,946 in connection with the design of Dallas North 12 Alley Reconstruction project and authorizing the City Manager to execute all necessary documents to effectuate this contract. [Consent Agenda Item (I)]

To approve and authorize for the selection of BDS Technologies, Inc. to provide Professional Engineering Services for an amount not to exceed \$59,388 in connection with the design of Parkwood Waterline – Parkwood Tank to Spring Creek Parkway and authorizing the City Manager to execute all necessary documents to effectuate this contract. [Consent Agenda Item (J)]

### **END OF CONSENT**

**Public Hearing to receive citizen input regarding a proposal for a residential homestead ad valorem tax limitation and freeze for disabled citizens and citizens age 65 and over.**  
[Regular Agenda Item (1)]

City Manager Muehlenbeck advised that at the Council's request, this item provides a forum allowing citizens to speak regarding a proposal for a residential homestead ad valorem tax limitation and freeze for disabled citizens and citizens age 65 and over.

Mayor Evans opened the Public Hearing. Jack Lagos, citizen of the City, spoke to House and Senate members voting in full support of the bill, support displayed by the voters of the state and the City, the opportunity for citizens to petition for passage of a freeze and meeting a deadline of April 1. LaVeta Sealy, citizen of the City, asked the Council for support and consideration citing the exemption as another positive for the City and making it "senior friendly." Lyle Schnittker, citizen of the City, spoke to census numbers indicating the over-65 population is growing at a slower rate and becoming a smaller percentage of the total population, thereby diluting the impact of the freeze. He spoke regarding support by voters of the City, the value of homes owned by those over-65 and those living on fixed incomes. Mr. Schnittker urged the Council to pass the item by April 1 on a "stand alone up or down vote" without impacting other areas.

Sara Moore, citizen of the City, spoke regarding the need for seniors/disabled to maintain their homes but stated concerns that revenues will be decreased. She recommended reviewing situations on an individual, as-needed basis and offering a freeze only to those unable to pay. No one else spoke either for or against the request. The Public Hearing was closed.

Council Member Lambert spoke to supporting the wishes of voters and passage of the freeze for those over 65 and disabled.

Director of Customer and Utility Services Linda Keylon responded to Mayor Evans stating that the April 1 date primarily represents a deadline allowing the appraisal district to notify property owners of a freeze on their taxes. She advised that this date is not a legal requirement, and that the Council could wait as long as July 25 when the appraisal roll is certified, to make a decision. Ms. Keylon advised that any decision by April 1 would have no bearing on the taxes for 2004. She spoke regarding the current 20% homestead exemption and \$40,000 tax exemption for those over 65/disabled taken on the market value of houses. Mr. Muehlenbeck advised that Plano is the only City in Collin County offering a 20% homestead exemption. Ms. Keylon clarified that \$40,000 is permitted for either over-65 or disabled but not both. Mayor Pro Tem Stovall reviewed the effect of possible exemptions and Ms. Keylon advised that improvements such as a swimming pool or addition would result in additional taxes.

City Attorney Wetherbee advised that if the Council were to enact a property tax freeze it must be uniform in application and that a need's assessment would not be appropriate. Ms. Keylon advised the Council that if necessary, the current \$40,000 exemption could be removed allowing for the collection of more revenue and if that were to occur, those over-65 would then be paying more. She further advised that the proposed freeze would be a permanent revision.

Director of Finance McGrane responded to the Council stating that population figures to the year 2020 are net numbers provided by the Council of Governments (COG) and that projections in the growth of the over-65 population are calculated using these figures. Ms. Wetherbee advised that it is a prevailing theory that if a tax freeze is passed, and a current exemption is reduced or repealed at a later date, the change of the exemption would not apply to those covered by the tax freeze; thus allowing for special grandfather protection. Deputy Mayor Pro Tem Stahel spoke to the possibility of adjusting the current \$40,000 exemption. Mr. Lambert spoke to the effect on figures if those over 65 were to downsize/upsized, be institutionalized or live with family members and to the difficulty of quantifying a reasonable number. He stated that assumptions are based on the tax rate staying the same and that the only real impact would be if it were necessary to substantially raise the rate. Mr. Lambert spoke to the stability of the City's tax rate over the last 20 years. Mayor Evans spoke regarding the growth that has occurred during that time. Mr. McGrane spoke to the possibility of the freeze being passed on to a spouse and stated that approximately one-half of seniors are homeowners and qualify for the property tax freeze.

Mayor Pro Tem Stovall spoke to concerns that a freeze might cause the City to raise the tax rate, to having accurate projections and hearing from members of the community. He spoke to other communities where younger people are organizing in opposition to the freeze due to the effect it may have on their taxes. Mayor Evans spoke to the impact a freeze may have on those under 65 and its permanency.

Council Member Magnuson spoke to gathering more information about taxes in communities with similar demographics and to providing information to citizens in order to make an educated decision. Mayor Evans spoke to the importance of continued discussion and to putting information on the web site regarding what the City currently offers as compared to other communities. Mr. Stovall spoke to holding additional Public Hearings, creating information that can be easily interpreted, placing information on the web site for access by citizens and regarding the current 20% and \$40,000 exemptions currently offered.

Council Member Lambert spoke regarding the exemption passed in 1982 providing a higher deduction at that time, having faith in management, Staff and Councils to adapt and determine appropriate taxes to provide basic services in an efficient manner and to the current tax rate staying nearly the same for twenty years. He spoke to the input already received from citizens both at this Public Hearing and by their vote and moving forward stating that changes will begin small and if the tax rate needed to increase it would only be about one-quarter of one cent.

Mayor Evans and Council Member Callison stated concern regarding the effect over the next twenty years. Ms. Keylon advised that should property values decline, so would tax bills, but stated that they would never exceed the level at which they were frozen.

Mayor Evans requested information be provided on the City's web site, and that Staff continue gathering information from other cities and spoke to scheduling another Public Hearing. Mayor Pro Tem Stovall spoke to Staff providing information through homeowners/senior citizens' groups, verifying projections for net growth of senior citizens and to the possibility that this percentage of the population will grow quickly. Deputy Mayor Pro Tem Stahel spoke to giving citizens an opportunity to review the information and bringing the item back at the second meeting in March.

**Public Hearing and adoption of Ordinance No. 2004-2-15 to amend the Project and Financial Plan for Tax Increment Financing ("TIF") Reinvestment Zone Number Two** to fund the renovation of the Cox School Building, the Courtyard Theater and other infrastructure improvements in the TIF District; and providing an effective date. [Regular Agenda Item (2)]

Director of Finance McGrane advised the Council that the amendment to the TIF Project and Financial Plan would allow the City and Plano Independent School District (PISD) to recoup the cost of additional improvements to the Courtyard Theater, Cox Building, and other infrastructure improvements from the TIF fund in the amount of \$5.8 million for the school and \$7.1 million for the City. City Manager Muehlenbeck advised the Council that any action tonight would be contingent on PISD approval.

**Ordinance No. 2004-2-15 (cont'd)**

Mayor Evans opened the Public Hearing. No one spoke either for or against the request. The Public Hearing was closed.

Upon a motion made by Council Member Lambert and seconded by Deputy Mayor Pro Tem Stahel, the Council voted 8-0 to fund the renovation of the Cox School Building, the Courtyard Theater and other infrastructure improvements in the TIF District; and providing an effective date; and further to adopt Ordinance No. 2004-2-15.

**Public Hearing and adoption of Ordinance No. 2004-2-16 as requested in Zoning Case 2003-68** – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, so as to rezone 17.5± acres located on the east side of Custer Road, 170± feet north of Legacy Drive in the City of Plano, Collin County, Texas, from Retail to Planned Development-149-Patio Home; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Neighborhood #12. Applicant: Custer Road (Dallas) Investors L.P. [Regular Agenda Item (3)]

Director of Planning Jarrell advised the Council that this property is the remainder of a retail corner that never fully developed and that an existing automotive inspection station and veterinary clinic on corner lots are not a part of the zoning request. She advised that the requested zoning is consistent with the Comprehensive Plan and reflects the goals and recommendations of the *Retail Study of Underperforming and Vacant Retail Areas Report* for the redevelopment of underutilized, vacant land for productive uses. Ms. Jarrell advised that the Planning and Zoning Commission recommended approval subject to the following stipulations:

1. Minimum lot area shall be 3,500 square feet.
2. Minimum lot width shall be 35 feet; for corner lots, the minimum lot width shall be 40 feet.
3. Minimum open space shall be five percent of the gross platted lot area, consolidated into one area.
4. All residential lots must be located within 1,000 feet of usable open space as measured along a street.

Ms. Jarrell responded to Council Member Dyer stating that if the request were revised to require a minimum open space of ten percent and 40-foot lots the developer would achieve 98 lots and that the current proposal is for 123. She responded to Mayor Pro Tem Stovall that with five percent open space and 40-foot lot width the number of lots would be 107.

**Ordinance No. 2004-2-15 (cont'd)**

Ms. Jarrell advised that this property was chosen as part of the *Retail Study* to demonstrate the possibilities of patio home development with a lesser open space requirement. She advised that the applicant has chosen to put residential lots along Legacy Drive, that there would be 4.5 units per acre and that the adjacent development is Single-Family-6 zoned. Ms. Jarrell advised regarding other locations where lots of differing sizes share alleyways and stated that the number of "trips" per home/per day would not differ based on home size.

Mayor Evans opened the Public Hearing. Cheryl Williams of Zone Systems, representing the applicant, advised the Council that the request is to develop a patio home neighborhood targeted toward empty nesters and spoke regarding pricing and amenities. She spoke regarding the City's efforts in addressing issues of excess retail property and stated that the density of the proposal is less than that recommended in the *Retail Study*. Ms. Williams spoke to lots adjacent to current residential zoning being larger with smaller lots in the interior and stated that applying current patio home zoning would only add four additional units to the proposal. She spoke regarding the additional alley exits included to address traffic concerns, support from the community and requested approval by the Council. Ms. Williams responded to the Council stating that the open space would be maintained by a homeowners' association, units will have two-car garages, and that the intended market is those people who have been accustomed to homes with a lot of amenities. She responded to the Council stating that target customers would have less vehicles per unit, that she had contacted residents in the adjacent community and spoke regarding the average appraisals of adjacent homes.

Bruce Dunn, citizen of the City, spoke in opposition to the lot dimensions proposed, excess traffic, the number of homes being placed along the alleyway and opposition expressed by adjacent homeowners. He spoke to the Council denying the increased density and responded to Council Member Lambert that he was aware of the retail zoning at the site when his home was purchased but that high-density housing may be a worst-case scenario. Shelby Chesnut, citizen of the City, spoke in support of the proposal citing its desirability when compared to retail zoning. She spoke to the number of homeowners in favor and stated concern with underdeveloped retail. Mary Lou Fairchild, of Air Park Estates spoke to offering one-story residences for seniors on larger lots and the possibility that this development would attract younger families. Ms. Williams spoke to some models having a master bedroom downstairs and restated that larger lots will be along the perimeter. She responded to the Council that if all perimeter lots were 40-feet in width four units would be lost. No one else spoke either for or against the request. The Public Hearing was closed.

Ms. Williams responded to Council Member Dyer that an additional turn lane could be added to an exit from the subdivision onto Custer Road. She responded to Mayor Pro Tem Stovall that there must be 123 lots for the project to be viable. Mayor Evans spoke in support of the decision not to develop retail on Legacy Drive and its impact on the economics of the development. Mayor Pro Tem Stovall spoke to changes in the real estate market and Ms. Williams spoke to the "hard costs" of infill developing.

**Ordinance No. 2004-2-15 (cont'd)**

Council Member Magnuson spoke to focusing on coming up with good alternate plans for empty retail corners and stated support for this request. She spoke to the developer talking to adjacent homeowners about adding a living screen that might help to buffer the neighborhood.

Council Member Magnuson made a motion to approve the request which was seconded by Council Member Lambert. No vote was taken at this time.

Council Member Dyer requested that the Custer Road entrance be reworked on the plat.

Deputy Mayor Pro Tem Stahel spoke to the plan being good but stated support for listening to the concerns of the abutting residential neighborhood. He stated he would be in opposition to the request unless the lots adjacent to current residential zoning were expanded to 40-foot widths with the exception of those needing curvature to meet the alley.

Council Member Lambert stated concern that new retail developments draw tenants at the expense of older centers and regarding the cost of the report done to determine how to utilize these areas.

Mayor Pro Tem Stovall stated concern regarding the applicant not taking the concerns of adjacent property owners into consideration and stated that while he supports the concept, he is in opposition to this request without a reduction of four lots.

Mayor Evans restated the motion by Council Member Magnuson and seconded by Council Member Lambert to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, so as to rezone 17.5± acres located on the east side of Custer Road, 170± feet north of Legacy Drive in the City of Plano, Collin County, Texas, from Retail to Planned Development-149-Patio Home as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2003-68; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date; and further to adopt Ordinance No. 2004-2-16. The Council voted 6-2 with Mayor Pro Tem Stovall and Deputy Mayor Pro Tem Stahel voting in opposition. The motion carried.

**Consideration of Implementation Strategies for the Tri-City Retail Study** – Review and consideration of strategies and programs to address vacant and underperforming retail centers and properties in the City. [Regular Agenda Item (4)]

Director of Planning Jarrell advised the Council regarding the Planning and Zoning Commission's consideration of critical factors including the effect of national trends and keeping the retail base vital.

Ms. Jarrell advised that even when cities are proactive, reinvestment often does not translate into a corresponding increase in lease rates; owners of undeveloped sites are often willing to wait until the market swings to make their properties attractive, even if development may be years away; lease clauses, multiple ownerships and deed restrictions often override efforts to reuse or redevelop existing centers; and public resources are limited.

Ms. Jarrell stated that the Planning and Zoning Commission recommends three proposals to address these issues which include concentrating public efforts to assist developers and property owners in transitioning to alternative uses as opposed to trying to manipulate or predict future market trends; designating Staff to work directly with developers and property owners to identify other realistic measures that the City can take to improve the productivity of retail properties; and removing major regulatory barriers by amending the "Retail" district of the Zoning Ordinance to allow greater use flexibility including the addition of certain residential uses by right. She requested the Council provide direction to the Commission. Ms. Jarrell responded to Deputy Mayor Pro Tem Stahel stating that it would take a number of months of meeting with all property owners to develop incentive programs.

Council Member Lambert made a motion which Deputy Mayor Pro Tem Stahel seconded to adopt the procedures, however no vote was taken at this time.

Mayor Pro Tem Stovall requested reviewing issues related to the transition between properties of differing residential densities and spoke to the Council providing a consensus on direction for the item. Council Member Lambert and Deputy Mayor Pro Tem Stahel withdrew the motion and second.

The Council came to a consensus directing Staff to examine the recommended steps in detail and come back to the Council with a program for consideration.

**Public Hearing and consideration of Zoning Case 2003-67** – A request to amend Subsection 2-815 (R-Retail) of Section 2-800 (District Charts), Section 2-500 (Permitted Uses), and other sections of the Zoning Ordinance as needed to expand the number of uses allowed by right and by specific use permit (SUP), increase the maximum height of independent living facilities from two to three stories, and adjust setbacks and other related standards in the Retail zoning district. City of Plano [Regular Agenda Item (5)]

Director of Planning Jarrell advised the Council that the proposed zoning changes are intended to increase the flexibility for developing retail zoned property especially when market areas are saturated with existing retail space. She stated that the major changes include allowing patio homes, townhouses and duplexes by right in the Retail district if minimum land area requirements are met; houses would need to be built on individually platted lots; retirement housing would continue to be allowed by right with a maximum height of three stories and would be subject to residential setback requirements; and light manufacturing uses would be allowed by SUP with loading facilities meeting the same regulations that apply to the Research/Technology (RT) district. Ms. Jarrell advised that the Planning and Zoning Commission recommended approval as follows:

**Zoning Case 2003-67 (cont'd)**

2-815.1 Retail

- A. Purpose - The "R" district is primarily intended to provide areas for neighborhood, local and regional shopping facilities for the retail sales of goods and services including convenience stores, shopping centers and regional malls but not including wholesaling or warehousing.
- B. Permitted Uses (See Section 5-100 for site plan requirements and Subsection 2-502, Schedule of Permitted Uses, for a complete listing.)

Certain uses from the following categories are permitted:

1. Residential
2. Retail
3. Service
4. Institutional
5. Professional
6. Transportation, Utility or Communication
7. Commercial, Manufacturing, and Industrial

C. Area, Yard and Bulk Requirements

- Minimum Lot Area: None
- Minimum Lot Width: None
- Minimum Lot Depth: None
- Minimum Front Yard: 50 feet, except as provided in Section 3-500
- Minimum Side Yard: None (See Section 3-600.)--of Corner Lot: 50 feet on street side
- Maximum Side Yard: None
- Minimum Rear Yard: 10 feet where no alley abuts the rear property line (See Section 3-700.)
- Maximum Height: Two stories, 35 feet (See Section 3-800.)
- Maximum Lot Coverage: 30% (For gasoline service stations see Special District Requirements below.)
- Maximum Floor Area Ratio: 0.6:1

- D. Parking Requirements (See Section 3-1100.)
- E. Landscaping (See Section 3-1200.)
- F. Special District Requirements (ZC 2002-33; Ordinance No. 2002-8-14)

**Zoning Case 2003-67 (cont'd)**

1. For gasoline service stations, canopies shall be considered as an accessory structure and shall be included in all calculations of lot coverage. A maximum 30% of the lot may be covered by the primary and/or accessory structures.

2. For mini-warehouse/public storage developments, maximum 50% lot coverage shall be allowed.

3. For independent living the following area, yard and bulk requirements shall apply:

Minimum Lot Area: 2 acres

Minimum Lot Width: 100 feet

Minimum Lot Depth: 100 feet

Minimum Front Yard: 25 feet except as provided in Section 3-500

Minimum Side Yard: None (see Section 3-610)

Minimum Side Yard of Corner Yard: 25 feet on street side

Minimum Rear Yard: Ten feet where no alley abuts rear property line (see Section 3-800)

Maximum Height: Three stories; 45

Setbacks from residential development: See Section 3-115.

4. Patio homes, two-family residences, and single-family-attached residences shall comply respectively with standards specified in sections 2-807, 2-808, and 2-809, except that single-family attached residences shall be developed on individually platted lots only. Once properties are developed for residential purposes, no non-residential uses, other than "Home Occupation" (See Section 3.110), shall occur. Retail-zoned land proposed for residential uses shall abut residential zoned land that is not separated by a Type "C" or larger thoroughfare (per the Thoroughfare Plan of the Comprehensive Plan).

When a portion of a retail-zoned property is used for patio homes, single-family-attached, two-family, and/or independent living developments, and a residual tract has been left, it shall have a minimum of two acres and access to a median opening when located on an existing or proposed divided thoroughfare (as noted on the City's Thoroughfare Plan).

Any portion of a retail-zoned tract that is developed for patio home, single-family-attached, and/or two-family residences, shall have a minimum land area of five (5) acres.

**Zoning Case 2003-67 (cont'd)**

5. For limited assembly and manufacturing uses:

Off-street parking and loading requirements for limited assembly and manufacturing or portions of building used for limited assembly and manufacturing:

Minimum Parking: 1 space for each 300 square feet of gross floor area.

Maximum Loading Facilities

Limited Production and Manufacturing buildings in Retail districts shall not exceed the following ratios for loading spaces:

<u>Square Feet of Gross Floor Area in Structure</u>	<u>Maximum Loading Spaces or Berths</u>
<u>0-20,000</u>	<u>Four</u>
<u>Over 20,000</u>	<u>One for each additional 10,000 square feet up to a maximum of 12</u>

The design and orientation of the building(s) shall minimize the exposure of loading and trash collection areas from adjacent streets and from adjacent properties unless they are part of the same approved preliminary site plan. No loading spaces shall face streets. In addition, the Planning & Zoning Commission may require a combination of wing walls extended from a building, screening walls, landscaped berms, and plant materials to further obscure the view of loading and trash collection areas. The above screening elements shall be designed and located in conformance with applicable yard and setback requirements. Screening must extend the entire length of loading area.

Screening elements should be a minimum of eight feet in height at installation. Berms should not exceed a slope of three feet, horizontal to one foot, vertical. Retaining walls may be used on the interior side of the berm but should not face adjacent streets or properties. The height shall be measured from the top of the curb of adjacent streets or from the average grade of property lines with adjacent tracts of land. Depending upon the average grade of the adjacent streets and properties, the minimum height at installation may be increased to as high as 12 feet.

Plant materials used for screening shall include a combination of shade and ornamental trees (four-inch minimum caliper), conifers (eight-foot minimum height) and shrubs (five gallon minimum). The plant materials shall be arranged in a manner which significantly obscures the view from adjacent streets and properties.

**Zoning Case 2003-67 (cont'd)**

Proposed screening elements shall be identified on the preliminary site plan. A detailed plan showing the angles of view and the specific placement of screening elements shall be submitted with the final site plan.

Loading areas for limited assembly and manufacturing are intended to provide for short-term pick-up and delivery. Onsite storage of delivery vehicles, including trailers and shipping containers, is prohibited. No delivery vehicles shall be parked outside of the designated loading areas.

Section 2-500 Permitted Uses

This section shall be amended to show the following use categories in the Retail District:

<u>Single-Family Residence (Attached)</u>	<u>41</u>
<u>Single-Family Residence (Detached)</u>	<u>41</u>
<u>Two-Family Residence</u>	<u>41</u>
<u>Independent Living</u>	<u>41</u>
<u>Limited Assembly and Manufacturing</u>	<u>S, R</u>

41 Single-Family (Attached), Single-Family (Detached), Two-Family and Independent Living allowed by right in Retail districts as specified in Section 2-815 (R – Retail).

S Specific Use Permit

R Residential Adjacency Standards

Ms. Jarrell responded to Council Member Lambert stating that Section F.4. recommending retail-zoned land proposed for residential uses shall abut residential zoned land that is not separated by a Type “C” or larger thoroughfare is intended to ensure that any residential development would occur within a neighborhood setting. She responded to Deputy Mayor Pro Tem Stahel stating that additional setbacks for independent living units are built into the retirement housing regulations. Ms. Jarrell responded to Council Member Dyer that assisted living facilities would be limited to two stories and are allowed by right in the retail district, 2-family residences would be on individually platted lots that are a minimum 4,000 square feet for each side, and that townhomes would be two-stories in height.

### **Zoning Case 2003-67 (cont'd)**

Ms. Jarrell responded to Deputy Mayor Pro Tem Stahel stating that the Commission discussed the option of requiring a specific use permit and regarding the motivation for the change being to reduce regulatory barriers. She stated that if an SUP were required, the developer would be uncertain as to the outcome of the process and advised that plats and site plans would still move through the Commission allowing for public input. Ms. Jarrell further stated that the request as proposed would be an incentive for developers to try and use a standard plan rather than a planned development. She responded to Council Member Dyer that the specific use permit process typically takes two to two and one-half months and that independent living facilities allow a maximum density of 45 unites per acre.

Mayor Evans opened the Public Hearing. Pat Miner, President of the Plano Homeowner's Council, spoke in opposition to the request and stated that while supporting the concept, the homeowner's council opposes allowing developers to build certain types of residential buildings by right as this can be done without advance notification and eliminates or limits the authority of the City to deny or change plans that adversely affect existing neighborhoods. He stated that the homeowner's council has adopted a resolution in opposition, spoke to concerns that undesirable uses may be built exploiting the allowances, that three-story apartment buildings could loom over their neighbors and requested consideration of a review process. Robert Miller, President of the Dallas North Estates Homeowner's Association, stated concerns that those who have lived adjacent to retail zoned areas will now have dense residential development and that the setback for three-stories is only 150 feet. He spoke to allowing neighborhoods to voice their opinions and to putting a specific use permit in place. Rich Crucknol, President of the Stoney Hollow Homeowner's Association, spoke to Plano's history of careful planning and development and allowing these uses by right removing the right of citizens to voice their opinions. He requested the Council reject the proposal as written and require specific uses permits before allowing construction that is not consistent with current zoning. Annette Swaggerty, citizen of the City, spoke in opposition to a zoning change that would allow high-density housing by right within a retail tract citing concerns that it will change the look of the City, create inconsistency and affect property values. Randy Konkel, Vice president of the Timber Brook Estates and Timber Brook Farms Homeowner's Association, spoke regarding his neighborhood and the effect this change might have on the existing wildlife, creeks and trees. He stated that while supportive of the concept of opening surplus retail tracts to residential development, he opposes allowing developers to build certain types by right and requested the Council not remove the right of notification. Kit Carker, citizen of the City, stated concern with allowing developments without advance notification, and spoke to preserving taxpayer/property owner rights. No one else spoke either for or against the request. The Public Hearing was closed.

Ms. Jarrell responded to Council Member Dyer, stating that this proposal requires any townhome development in the retail zoning district to be on an individually platted lot which would typically result in 8-10 units per acre.

### **Zoning Case 2003-67 (cont'd)**

Council Member Lambert spoke in support of involving neighbors with developers and the Council in order to make the best decision for the community and regarding the creation of guidelines. He stated that he would not be opposed to requiring a specific use permit for a period of time in order to address issues. Council Member Lambert stated that as a developer, he would not be opposed to going through the specific use process and spoke regarding consideration of profit margins.

Mayor Evans spoke to efforts to develop left over/odd pieces of property without having unnecessary retail backing up to neighborhoods. She stated that it is not the Council's intent to sneak in apartments and spoke to the need for senior, patio-type and townhomes in the City. Mayor Evans spoke to small properties being overlooked due to the challenges of developing these project and developers going to other cities. She spoke to this item putting in place rules and regulations to protect neighborhoods and removing some of the barriers and to the Council considering requiring the specific use permit process if it is determined that developers will still look at these parcels of land. Mayor Evans spoke to additions to the process increasing the cost of business for developers.

Ms. Jarrell stated that if a specific use permit were required it would be likely that stipulations would be attached effectively creating a planned development district. Deputy Mayor Pro Tem Stahel stated that many requests may require a planned development and that the Council's actions on the first few cases will indicate the effectiveness of the process. He stated concern regarding cases that meet the new requirements and do not require a PD designation and spoke in support of requests coming through a Public Hearing process to determine the effectiveness. Ms. Jarrell advised regarding those cases that may require a rezoning. Council Member Lambert stated concern that land owners would not be willing to allow rezoning until the developer purchased the land. He indicated he had no problem with the specific use permit process but stated concern with requiring planned development districts. Council Member Johnson spoke to good development standing on its merits and being able to move through the SUP process. Mayor Pro Tem Stovall stated concern with creating a lot of planned developments.

Ms. Jarrell advised that Staff would bring back an ordinance reflecting the Council's direction.

Upon a motion made by Council Member Lambert and seconded by Deputy Mayor Pro Tem Stahel, the Council voted 8-0 to approve Zoning Case 2003-67 – A request to amend Subsection 2-815 (R-Retail) of Section 2-800 (District Charts), Section 2-500 (Permitted Uses), and other sections of the Zoning Ordinance as needed to expand the number of uses allowed by right and by specific use permit (SUP), increase the maximum height of independent living facilities from two to three stories, and adjust setbacks and other related standards in the Retail zoning district as recommended by the Planning and Zoning Commission for Limited Assembly and Manufacturing and the following revisions to require a specific use permit for Single-Family Residences (both attached and detached), Two-Family Residences, and Independent Living facilities over two stories.

**Zoning Case 2003-67 (cont'd)**

F.3. For independent living facilities, the following area, yard and bulk requirements shall apply:

*“Maximum Height: Two stories, 35 feet allowed by right. Three stories, 45 feet allowed with approval of a Specific Use Permit.”*

F.4. “Patio homes, two-family residences, and single-family-attached residences shall comply respectively with standards specified in sections 2-807, 2-808, and 2-809, except that single-family attached residences shall be developed on individually platted lots only. Once *any* properties are developed for residential purposes, no non-residential uses, other than “Home Occupation” (See Section 3.110), shall occur...”

*“When a portion of any retail-zoned property is used for patio homes, single-family-attached, two-family, and/or independent living developments, and a residual tract has been left, it shall have a minimum of two acres and access to a median opening when located on an existing or proposed divided thoroughfare (as noted on the City’s Thoroughfare Plan).”*

F.5. “Screening elements *shall* be a minimum of eight feet in height at installation...”

Section 2-500 Permitted Uses

This section shall be amended to show the following use categories in the Retail District:

<i>“Single-Family Residence (Attached)</i>	<table border="1"><tr><td>S</td></tr></table>	S
S		
<i>Single-Family Residence (Detached)</i>	<table border="1"><tr><td>S</td></tr></table>	S
S		
<i>Two-Family Residence</i>	<table border="1"><tr><td>S</td></tr></table>	S
S		
<i>Independent Living</i>	<table border="1"><tr><td>41</td></tr></table>	41
41		
Limited Assembly and Manufacturing	<table border="1"><tr><td>S, R</td></tr></table>	S, R
S, R		

41 *“Independent Living with a maximum height of two stories, 35 feet is allowed by right as specified in Section 2-815 (Retail). Independent Living with a maximum height of three stories, 45 feet requires approval of a Specific Use Permit as specified in Section 2-815 (Retail).”*

There being no further discussion, Mayor Evans adjourned the meeting at 10: 30 p.m.

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Pat Evans, **MAYOR**

ATTEST:

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Elaine Bealke, City Secretary