

PLANO CITY COUNCIL
May 9, 2005

COUNCIL MEMBERS

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

STAFF

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

Mayor Evans convened the meeting into open session on Monday, May 9, 2005, at 7:03 p.m. in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. All Council Members were present.

The invocation was led by Dave Jobe, Sr. Pastor, Willow Bend Church.

The Pledge of Allegiance was led by Girl Scout Troop 678, Hendrick Middle School and Collin Creek Community Church.

Mayor Evans presented proclamations recognizing the Paul Standberry Scholarship recipients Helen Pavlik and Fnan Gelai; Public Service Recognition Week – May 9 thru May 15, 2005; Building Safety Week – May 8 to May 14, 2005; National Public Works Week; Outdoor Air Quality Awareness Month – 2005; National Nurses’ Week; Neurofibromatosis Awareness Month – May, 2005; American Legion Auxiliary Poppy Month and National Historic Preservation Month.

Mayor Evans recognized the Employee of the Year – 2005; Plano Students Traveling to Hsin Chu City, Taiwan; the Plano Senior Cup and Winners of the Outdoor Air Quality Poster Contest.

Council Members Stovall and Dyer recognized Executive Administrative Assistant Wright.

Mayor Evans administered an oath of office to Christopher Griffith as a member of the Cultural Affairs Commission.

GENERAL DISCUSSION

No one appeared to speak.

CONSENT AGENDA

Council Member Dyer advised that due to a possible conflict of interest, he would be stepping down on Regular Agenda Item "4."

Upon a motion made by Mayor Pro Tem Stahel and seconded by Council Member Dyer, 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)]

April 25, 2005

Approval of Expenditures

Award/Rejection of Bid/Proposal: (Purchase of products/services through formal procurement process by this agency)

Award of Bid for Bid No. 128-05 for curb and median repairs on the Repair of Major Thoroughfare Curb & Gutter, Monolithic Median Nose and Concrete and Brick Median Paving Construction Project to Jim Bowman Construction Co., LP in the amount of \$142,850. [Consent Agenda Item (B)] (See Exhibit "A")

Award of Bid for Bid No. B120-05 for the Park Erosion Control Structures – 2005 to Craig Olden, Inc. in the amount of \$496,900. The bid is for construction of gabion earth retention rock baskets and miscellaneous erosion control devices and the installation of additional parking spaces at High Point Tennis Center. [Consent Agenda Item (C)] (See Exhibit "B")

Award of Bid for Bid No. C143-05 for Athletic Field Marking to Line Pro Field Marking in the estimated annual amount of \$26,604 for an annual fixed-price contract with two optional one-year renewals. [Consent Agenda Item (D)] (See Exhibit "C")

Purchase from Existing Contract/Agreement: (Purchase of products/services through Cooperative Purchasing Interlocal Contract with another governmental/quasi-governmental agency or an additional purchase from current City of Plano annual purchase agreement).

To authorize the purchase of three (3) Kromer Athletic Field Machines in the amount of \$42,540 from Kromer Co., LLC, through the Texas Building and Procurement Commission, Contract No. 805-N1, and authorizing the City Manager to execute any and all documents necessary to effectuate this purchase. [Consent Agenda Item (E)]

Approval of Reimbursement of Oversize Participation

To approve and authorize reimbursement to Plain Old Medical, LP for oversize participation for paving improvements in Marsh Lane associated with construction of Plano/544 Business Park Addition, in the amount of \$110,441. [Consent Agenda Item (F)]

Adoption of Resolutions

Resolution No. 2005-5-1(R): To amend Resolution No. 2002-3-12(R) to increase the funding for the extension of fire sprinkler mains in historic structures located in the Plano Downtown Business District and providing an effective date. [Consent Agenda Item (G)]

Resolution No. 2005-5-2(R): To approve the terms and conditions of a license agreement by and between the City of Plano and Dallas Area Rapid Transit to construct a ten (10) inch sanitary sewer line crossing the Cotton Belt Line at Plano Parkway; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (H)]

Resolution No. 2005-5-3(R): To authorize the City of Plano to participate in and receive funding through the Texas Highway Traffic Safety Program for a "Click It or Ticket" Project, to be conducted during Memorial Day Holiday period; authorizing the City Manager to execute any other documents necessary to effectuate the action taken; and providing an effective date. [Consent Agenda Item (I)]

Adoption of Ordinances

Ordinance No. 2005-5-4: To revise Section 2-376, Members, of Article XXII, Plano Transition and Revitalization Commission, of Chapter 2, Administration, of the Code of Ordinances of the City of Plano, Texas to revise reference to membership requirements and providing a repealer clause, a severability clause, and an effective date. [Consent Agenda Item (J)]

Ordinance No. 2005-5-5: To amend Section 12-101 (Prohibited on Certain Streets At All Times) of Article V (Stopping, Standing, and Parking), of Chapter 12 (Motor Vehicles and Traffic) of the City of Plano Code of Ordinances to prohibit stopping, standing, or parking of motor vehicles along both sides of Cloverhaven Way between Bright Star Way and Los Rios Boulevard and along the west side of Cloverhaven Way between Bright Star Way and a point eighty-five (85) feet north of Bright Star Way within the City limits of the City of Plano; declaring it unlawful and a Class C misdemeanor to stop, stand, or park motor vehicles in said sections of Cloverhaven Way within the limits herein defined; providing a fine for criminal penalties not to exceed \$200 for each offense; and providing a repealer clause, a severability clause, a savings clause, and an effective date. [Consent Agenda Item (K)]

END OF CONSENT:

Public Hearing and adoption of Ordinance No. 2005-5-6 as requested in Zoning Case 2005-08 to amend Subsection 3.1106 (Parking Area Standards) of Section 3.1100 (Off-Street Parking and Loading), Section 3.1200 (Landscaping Requirements) of Article 3 (Supplementary Regulations), and related sections of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, regarding storm water infrastructure improvements intended to improve storm water quantity and quality; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Applicant: City of Plano [Regular Agenda Item (1)]

Director of Planning Jarrell advised the Council that the City has adopted a Storm Water Management Program as part of the Environmental Protection Agency Non-Point Discharge Elimination System permit process. She stated that the recommendations presented are an interim step before the development of specific storm water mitigation ordinances and would allow the City Engineer to approve alternative storm water designs as part of a comprehensive plan. Ms. Jarrell stated that the Planning and Zoning Commission recommended approval of the request as follows: (Additions are indicated in underlined text; deletions are indicated in strikethrough text.)

1. Amend Subsection 3.1106 (Parking Area Standards) of Section 3.1100 (Off-Street Parking and Loading) of Article 3 (Supplementary Regulations) to read as follows:

“(1) Unless noted otherwise in this section, all required parking spaces and loading areas, together with driveways and maneuvering aisles, and additional parking areas which are routinely and customarily used on a daily or weekly basis shall be paved with a concrete or asphalt surface. Driveways and maneuvering aisles associated with single-family residences, farms, dairies, and ranches within the Agricultural and Estate Development zoning districts may be gravel construction. No minimum paving standard is required for parking areas for

Ordinance No. 2005-5-6 (cont'd)

special events and seasonal sporting events or overflow parking beyond required parking for churches. Paving and drainage shall be in accordance with city standards. Alternative pavement and drainage design intended to improve storm water quality and/or intended to decrease storm water quantity will be considered if submitted as part of a site-specific storm water management plan. Alternative pavement and drainage design shall be subject to approval by the City Engineer. All parking areas shall be maintained in good condition, free of potholes and other deterioration.

- (2) Except as noted above, any new parking area construction or expansion of an existing parking area shall be constructed of concrete or asphalt. Properties with existing parking areas not constructed of concrete or asphalt shall conform to these requirements upon a change of property use or tenant. Alternative pavement and drainage design intended to improve storm water quality and/or intended to decrease storm water quantity will be considered if submitted as part of a site-specific storm water management plan. Alternative pavement and drainage design shall be subject to approval by the City Engineer.”

2. Amend Section 3.1200 (Landscaping Requirements) of Article 3 (Supplementary Regulations), creating a new standard (5) (Alternative Landscape Design) to read as follows and renumbering existing standards accordingly:

“(5) Alternative landscape design intended to improve storm water quality and/or intended to decrease storm water quantity will be considered if submitted as part of a site-specific storm water management plan. Alternative landscape design shall be subject to approval by the City Engineer and standards for landscape plan approval per standard (6) below.”

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 Stovall and seconded by Council Member Magnuson, the Council voted 8-0 to amend Subsection 3.1106 (Parking Area Standards) of Section 3.1100 (Off-Street Parking and Loading), Section 3.1200 (Landscaping Requirements) of Article 3 (Supplementary Regulations), and related sections of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, regarding storm water infrastructure improvements intended to improve storm water quantity and quality; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date; and further to adopt Ordinance No. 2005-5-6.

Public Hearing and an ordinance as requested in Zoning Case 2005-09 – to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, amending Specific Use Permit No. 137 so as to expand the Day Care Center on 1.8± acres of land located on one lot at the southwest corner of Hedgcoxe Road and Georgetown Drive in the City of Plano, Collin County, Texas, presently zoned Single-Family Residence-7/Planned Residential Development-2 with Specific Use Permit No. 137 for Day Care Center; 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: Montessori Children’s House [Regular Agenda Item (2)]

Director of Planning Jarrell advised the Council that concerns have been expressed regarding traffic, landscaping and lighting by residents in the area. She stated that additional letters have been received and that those in opposition represent the owners of more than twenty percent of the land area within the 200-foot notice boundary which would require a supermajority vote of the Council for approval. Ms. Jarrell advised that the Planning and Zoning Commission recommended approval as submitted.

Ms. Jarrell advised the Council that parking requirements are based on capacity and that parking is calculated at one space per five students. She stated that the state requires fencing around outdoor play areas but that it can be chain link or wrought iron. Ms. Jarrell stated that the City does have screening requirements for day care which is adjacent to residential neighborhoods and that a wall would be required if this property were zoned commercial but since the base zoning is Single Family-7 no screening wall is required.

Mayor Evans opened the Public Hearing. Phillip Morse of Edifice Architecture, representing the applicant, spoke to efforts to finalize development of the property which is very similar to what was presented and included on a previous concept site plan. He provided the Council with photos of the area and spoke to the ease of access to the facility and the natural buffer to homes on Chattham Court. Ms. Jarrell responded to Deputy Mayor Pro Tem Lambert stating that the original specific use permit (SUP) was approved in 1987 and only included a first phase. Mr. Morse responded to Council Member Dyer that the current enrollment is at 185 students and that the facility has a lot of area not dedicated to classrooms. Effat Saifi of Montessori Children’s House, spoke to building a foundation for children and approval of the concept site plan. She spoke to the intent not to maximize license capacity, staggered drop-off times for parents to reduce traffic and the staggered playground times so that a lesser number of children are outside to reduce noise. Ms. Saifi spoke to a neighboring church offering its parking lot for special occasions and adjustments made to prevent light overspill into area neighborhoods.

David Cotton, citizen of the City, spoke to those being directly affected being in opposition, frustration when trying to resolve issues with the applicant and the difficulties that will be encountered in continuation of the hike and bike trail.

Zoning Case 2005-09 (cont'd)

Ms. Jarrell spoke to a 2001 concept plan with essentially the same configuration that was approved subject to approval of an SUP which was later withdrawn. She stated that the map currently being presented is a zoning exhibit and not an official concept plan and that there has been no review by engineers to study grading/drainage issues with the parking lot. Ms. Jarrell advised that the Parks and Recreation Department has looked at the plan and feels that while it's tight, there is sufficient space to put in the hike and bike trail.

Nancy Anderson, citizen of the City, spoke in opposition to the request and regarding her research and decision to purchase a home in this area. She spoke to the applicant being aware of the property's zoning when purchased and stated concern regarding negative consequences including the loss of natural beauty, reduction in property values, noise from playgrounds, bright lights, traffic backups, difficulties in installing the hike and bike trail and parking problems on Chattham Circle. Michael Gavaghan, citizen of the City, spoke in opposition and stated that the facility would be one of the City's largest in the middle of a residential neighborhood. He spoke to the denial of the applicant to cooperate with homeowners and stated that homeowners have nothing to gain from the day care center and that it will destroy the quality of life and property values. Mr. Gavaghan spoke to day care traffic on Georgetown Drive and lighting issues. Dean Walker, citizen of the City, spoke in opposition to the request, and to the planned facility being one of the largest in the state. He spoke to the current number of homeowners in opposition, traffic on Georgetown Drive, and provided the Council with photographs of lighting at the facility.

Ms. Jarrell responded to Council Member Stovall, stating that there has not been a recent test done on the lighting, but that as part of the site plan process, the Building Inspections Department required a lighting plan. Mr. Walker spoke to traffic on Hedgcoxe Road and parking on Chattham Circle during parent/teacher meetings. City Manager Muehlenbeck spoke to additional lanes planned for Hedgcoxe Drive and Ms. Jarrell spoke to Staff looking into signalization at Georgetown Drive.

Anita Ercole spoke in support of the request, this type of school being sought by those moving to the community and the lack of traffic in the area. Audra Forcht, a school employee, read a letter from a homeowner who was unable to attend which expressed support for the school and its ability to attract new families to the area. She spoke to the adequacy of parking, maintenance of landscaping, and the lack of traffic congestion and stated that there is no bothersome noise. John Roach, Jr., citizen of the City, spoke in support of the facility advising that as the parent of a student, he has not experienced traffic problems and that parking is adequate. He spoke positively regarding the construction and maintenance of the facility and the request being an expansion of a current use. Annette Taylor, parent of a student, spoke in support of the request and the quality of the program offered advising that she has not experienced either traffic or parking problems.

Zoning Case 2005-09 (cont'd)

Mr. Morse spoke to plans to work with the Parks and Recreation Department to resolve issues related to the hike and bike trail. He advised that no lighting has been added and that a passing measurement of lighting levels was provided before approval of the final site plan. Ms. Saifi spoke to new issues being brought forward since the Planning and Zoning Commission meeting. She responded to Council Member Dyer that the facility is licensed by the state for 225 children and 185 by the City of Plano due to parking requirements. Ms. Saifi stated that she currently has 160 students and that with additional parking the number permitted will be increased but that she does not plan to operate at the maximum. She responded to Mayor Evans regarding lighting and stated that adjustments have been made and spoke to evening illumination providing a safer environment. Ms. Saifi spoke to the difficulty in satisfying the concerns of homeowners.

Ms. Jarrell advised Council Member Stovall that most daycare/preschool facilities have open fencing around play areas rather than a solid structure. Ms. Saifi responded to the Council regarding the number of parent nights and events held during the year and stated that there was only one occasion when additional church parking was utilized. She responded that it would be possible to turn off parking lot lights and that she would go beyond landscaping requirements. City Manager Muehlenbeck stated that complaints regarding light overspill can be addressed by the City's Health Department.

Director of Planning Jarrell advised the Council that the facility is currently one story but could go up to two. She stated this would require additional parking and assume that the building is structurally sound. Ms. Jarrell advised that the church can share parking but that the agreement does not allow the reverse.

Mayor Pro Tem Stahel and Deputy Mayor Pro Tem Lambert spoke to representatives from the homeowners association and the applicant meeting to discuss current issues. Mr. Lambert spoke to the possibility of Council including agreed upon stipulations and conditions within a specific use permit. Mr. Gavaghan spoke to the neighborhood not receiving any benefits and homeowners' efforts to minimize the impact of the facility on their quality of life. He spoke to homeowners purchasing property based on the current zoning and stated that the applicant knew their zoning as well.

Ms. Jarrell responded to the Council that should the request be denied, given the size of the property, it might develop as one or two single family homes. Deputy Mayor Pro Tem Lambert spoke to the size limiting development to one home.

Mr. Gavaghan responded to Mayor Evans, stating that as much as possible the neighbors would like playgrounds screened and the applicant responded that evergreen screening could be put in place. Mayor Evans spoke to addressing lighting issues and to enforcement of stipulations that are put in writing. No one else spoke either for or against the request. The Public Hearing was closed.

Zoning Case 2005-09 (cont'd)

Council Member Johnson spoke to setting up a meeting at a neutral location with a member of Staff allowing the parties to put something in writing. The Council discussed the framework including evergreen screening for playgrounds, the intensity of lights and hours of lighting, the hike/bike trail and parking issues. Director of Planning Jarrell advised that at Council's direction to table the request, Staff would organize a meeting, provide a conference room and invite Staff from the Parks and Recreation Department to see if there are areas of compromise. She further recommended that the Safe Streets Coordinator could review parking issues on Chattham Circle and spoke to the current lighting ordinance governing overspill. Mayor Evans spoke to bringing back a plan describing how the hike and bike trail will fit.

Deputy Mayor Pro Tem Lambert spoke to working out issues when rezoning vacant land in already developed areas. Mayor Evans and Mayor Pro Tem Stahel spoke to incorporating documentation into the specific use permit so that it is enforceable.

Upon a motion made by Mayor Pro Tem Stahel and seconded by Council Member Magnuson, the Council voted 8-0 to table for four weeks a request to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, amending Specific Use Permit No. 137 so as to expand the Day Care Center on 1.8± acres of land located on one lot at the southwest corner of Hedgcoxe Road and Georgetown Drive in the City of Plano, Collin County, Texas, presently zoned Single-Family Residence-7/Planned Residential Development-2 with Specific Use Permit No. 137 for Day Care Center as requested in Zoning Case 2005-09; 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.

Public Hearing and adoption of Ordinance No. 2005-5-7 of the City of Plano, Texas, amending the Subdivision Ordinance of the City of Plano, as heretofore amended, by amending Section 5.1 (General Requirements) of Article V (Requirements for Public Improvements, Reservation and Design), by creating a new Subsection 5.1.d. (Alternative Public Facilities Design); renumbering existing subsections accordingly; and pertaining to related sections of the Subdivision Ordinance of the City of Plano, regarding storm water infrastructure improvements intended to improve storm water quantity and quality, and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Applicant: City of Plano [Regular Agenda Item (3)]

Director of Planning Jarrell advised the Council that the Planning and Zoning Commission recommended approval of the Recommended for approval as follows:(Additions are indicated in underlined text; deletions are indicated in strikethrough text.)

Amend Section 5.1 (General Requirements) of the Subdivision Ordinance, creating a new Subsection 5.1.d. (Alternative Public Facilities Design) and renumbering existing subsections accordingly:

Ordinance No. 2005-5-7 (cont'd)

“d. Alternative Public Facilities Design - Alternative public facilities design intended to improve storm water quality and/or intended to decrease storm water quantity will be considered if submitted as part of a site-specific storm water management plan. Alternative facilities design shall be subject to approval by the City Engineer.

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 Magnuson and seconded by Council Member Johnson, the Council voted 5-0 to amend the Subdivision Ordinance of the City of Plano, as heretofore amended, by amending Section 5.1 (General Requirements) of Article V (Requirements for Public Improvements, Reservation and Design), by creating a new Subsection 5.1.d. (Alternative Public Facilities Design); renumbering existing subsections accordingly; and pertaining to related sections of the Subdivision Ordinance of the City of Plano, regarding storm water infrastructure improvements intended to improve storm water quantity and quality, and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date; and further to adopt Ordinance No. 2005-5-7. (Mayor Pro Tem Stahel, Deputy Mayor Pro Tem Lambert and Council Member Callison were away from the bench)

The Council took a recess at 9:40 p.m. and reconvened at 9:45 p.m.

Due to a possible conflict of interest, Council Member Dyer stepped down from the bench on the following item.

Public Hearing and consideration of an appeal of the Planning and Zoning Commission’s denial of Zoning Case 2005-05 – Request to rezone 22.5± acres located on the southeast corner of Parker Road and Preston Road from Agricultural (A) to Planned Development-Neighborhood Office (O-1) to allow for Retail and Bank, Savings and Loan, or Credit Union uses. Applicant: Greenway-Preston & Parker, Ltd. Zoned Agricultural. Neighborhood. #43. Tabled 04-25-05 [Regular Agenda Item (4)]

Upon a motion made by Council Member Magnuson and seconded by Council Member Stovall, the Council voted 7-0 remove the item from the table.

Director of Planning Jarrell advised the Council that the applicant is appealing the Planning and Zoning Commission’s denial of this zoning request and that a three-quarter vote is required of the Council for approval. She stated that the applicant’s original request was to rezone the property to allow for a retail use and bank and advised that when the Planning and Zoning Commission reviewed the item they expressed concern that it was not consistent with the Comprehensive Plan for the area and cited the abundance of retail/office along the Preston Road corridor.

Appeal of Planning and Zoning Commission's denial of Zoning Case 2005-05 (cont'd)

Ms. Jarrell advised that the Future Land Use Plan designates the area as appropriate for residential uses, spoke to the Neighborhood Commercial designation for an intersection at Parker/Preston Roads and further spoke to the Comprehensive Plan recommendation that no more than one or two corners be zoned in this manner. She stated that the northeast corner is presently zoned Retail and satisfies the need for retail/commercial at this intersection. Ms. Jarrell spoke to the tract being long and narrow, but stated that it could be developed residentially and that two streets were designed to be connected from adjacent properties. She advised that the Commission denied the item and that the applicant wishes to eliminate the request for retail uses at the immediate corner. Ms. Jarrell stated that in this case, banks are allowed in the Office-1 zoning with a specific use permit which would come to the Council for consideration when the ordinance is drafted.

Mayor Evans opened the Public Hearing. Larry Good, representing the applicant, spoke to changing the request and removing the retail use to reflect an understanding of the Commission's concerns. He spoke to the property being narrow, the impact of overlay setbacks and a floodplain and the level of noise along Preston/Parker Roads. Mr. Good spoke to conversations held with various homeowner associations who indicated a preference for Single Family-Detached. He spoke to plans to scale the development to be compatible with residential uses, parking being confined to the interior of the site, the low level of traffic generation, deceleration lanes to provide smooth traffic flow and inclusion of a masonry/living screening wall. Mr. Good requested approval of Office-1 zoning with a specific use permit for a bank on tract one and the concept plan going to the Planning and Zoning Commission to work out details.

Jerry Crosby, President of the Preston Ridge III B Homeowners Association, voiced concern and disapproval of the proposal citing increased traffic. He spoke to the current level of retail strip center space in the City and stated that while office development is more attractive, he would rather see a continuation of homes in the area. Jerry Johnson, representing future homeowners of the Preston Lakes Homeowners Association, which is adjacent to the southern part of the parcel, advised that he is in favor of residential development and recommend against the zoning change. He stated that the price for patio homes is in the \$500,000 - \$600,000 range. Ida Gephart, citizen of the City, stated opposition to any more commercial development on Preston Road.

Glen Hinckley, citizen of the City and representing the Preston Parker Shopping Center spoke to work done in 1993 and agreement with homeowners, Staff, the Planning and Zoning Commission and the Mayor to reduce the density of his shopping center, eliminate a planned hotel and reduce office zoning. He advised that this was done with the understanding that the properties on the other corners would be restricted to residential zoning. Mr. Hinckley spoke to an e-mail from former Mayor Muns recommending that there not be deviation from the master plan.

Appeal of Planning and Zoning Commission's denial of Zoning Case 2005-05 (cont'd)

Mr. Hinckley advised that the property can be developed as residential, spoke to the level of opposition and advised that changing the request to Office-1 would not change his opposition. He spoke to the overabundance of office zoning in the area, the need for more residential and responded to Deputy Mayor Pro Tem Lambert and Council Member Stovall that his vacancies are at about fifteen percent and of which a good portion is office. Council Member Johnson spoke to office space in the area being utilized and to the differing level of usage when retail space is used as office. Mr. Hinckley spoke to concessions made with the understanding that residential zoning would be on the other three corners and further spoke to the high level of vacancies in the area. Mr. Johnson spoke to the high level of occupancy at office parks designed to look like homes and Mr. Hinckley spoke regarding the effect aging will have on the property and maintenance if there is not common ownership, issues related to monument signs and the need for residential zoning in the area. He responded that while his agreement may not have resulted in an economic gain, he was striking a deal with the City and doing something beneficial.

Larry M. Rehg, representing the Harrington Homeowners Association, spoke in opposition to the request and the high level of commercial development in the area. Duncan Webb, vice president of the Creeks of Willow Bend Homeowners Association, spoke to a survey of residents who oppose any development other than residential and their preference for Single Family-Detached housing. Omar Choucair, citizen of the City, spoke to being guided by what is best for the City, erosion impacting his neighborhood and stated that the site could be developed residentially. John Donovan, resident of the Creeks of Willow Bend, spoke in opposition to the request and regarding the amount of vacant office space in the area. Abid Abedi, resident of the Creeks of Willow Bend spoke in opposition to the request by all the area homeowners associations and to the abundance of office/retail on Preston Road. Mark A. Davis, citizen of the City, spoke in opposition and cited the prior commitment stating that only one corner would be developed as retail/office.

Mr. Good, spoke to considering the land use at this point in time and stated that residential development would result in a straight row of houses with front-entry garages backing up to Preston Road which would be difficult to sell. He spoke to the creation of a property-owners association to deal with maintenance issues. Mr. Good responded to Council Member Stovall stating that monument signs have not yet been discussed, but that it could be included on a concept plan for the Planning and Zoning Commission. Ms. Jarrell advised that the Preston Overlay District has monument sign size/space requirements.

Debbie Leacock, citizen of the City, spoke to the price range of current homes backing to Preston Road and to the Preston Parker Shopping Center working to be neighborhood friendly. No one else spoke either for or against the request. The Public Hearing was closed.

Appeal of Planning and Zoning Commission's denial of Zoning Case 2005-05 (cont'd)

Deputy Mayor Pro Tem Lambert spoke regarding the floor-area-ratio (FAR) and coverage requirements in Office-1 zoning. Council Member Stovall spoke to multi-story office buildings west of the Dallas North Tollway being for a different type of user. Ms. Jarrell advised regarding the difficulty of achieving maximum FAR when there is surface parking. Mr. Lambert spoke to setback requirements in the Preston Road Overlay district which would result in an even lower FAR. Ms. Jarrell spoke to the difficulty in comparing the lot coverage of Single Family-Attached versus Patio or Townhomes. Mr. Hinckley stated that residential development could be achieved which would provide an economic return and minimize the negative impact.

Deputy Mayor Pro Tem Lambert spoke to the corner of Preston/Park Roads not being a desirable place to live and stated that he had no problem with locating a bank on the corner and having the rest match up with the zoning to the east. The Council discussed possibly dividing the tract into thirds in various configurations, being able to accommodate a few office buildings on the corner and townhome/patio home development on the remainder of the property.

Director of Planning Jarrell spoke to the Council providing direction remanding the request back to the Planning and Zoning Commission for a recommendation on the appropriate residential zoning for the tract. City Attorney Wetherbee responded to Deputy Mayor Pro Tem Lambert, stating that regulations do not provide for adopting a less intense use than the one included in publication notices. Mayor Evans spoke to sending the item back with a recommendation to see residential uses extending to Preston Road.

Upon a motion made by Deputy Mayor Pro Tem Lambert, the Council voted 7-0 to remand the appeal of the Planning and Zoning Commission's denial of Zoning Case 2005-05 – Request to rezone 22.5± acres located on the southeast corner of Parker Road and Preston Road from Agricultural (A) to Planned Development-Neighborhood Office (O-1) to allow for Retail and Bank, Savings and Loan, or Credit Union uses to the Planning and Zoning Commission and directed staff to re-notice for a public hearing at a future Planning & Zoning Commission meeting to include consideration of office, bank, and residential uses for the area of the request. The Council directed the Commission to consider Neighborhood Office (O-1) zoning with a Specific Use Permit for Bank, Savings and Loan, or Credit Union for the northern one-third of the property, approximately adjacent to Sunrise Senior Living (Preston Village Addition, Block A, Lot 1). The Council directed the Commission to consider Single Family Resident Attached (SF-A) zoning for the center one-third of the property, between the proposed O-1 zoning and the creek and directed the Commission to consider Patio Home zoning for the southern one-third of the property, south of the creek.

Council Member Dyer resumed his place at the bench.

Resolution No. 2005-5-8(R) to establish a retail incentive policy statement; establishing criteria for evaluating retail incentive applications; establishing procedural guidelines and criteria governing retail incentive agreements; and providing an effective date. [Regular Agenda Item (5)]

Executive Director of the Plano Economic Development Board Bane advised the Council that this item is a resolution that will establish a Retail Incentive Policy and define criteria for the evaluation of applications which would be available for new and redevelopment projects and could include one or any combination of, a real property tax abatement, business personal property tax abatement, a Chapter 380 grant or designation of a Neighborhood Empowerment Zone (NEZ). Ms. Bane advised that a Retail Incentive Policy will allow the City to be prepared to respond when a unique opportunity is presented. She further stated that the Council will decide the appropriateness of incentives on a case-by-case basis.

Mayor Pro Tem Stahel spoke to revising language in Paragraph 3 of Section III. *Value of Incentives* to read “Real property tax abatement incentives may be offered to applicants that pursue the *new* construction or renovation of *existing* facilities...”

Ms. Bane responded to the Council regarding the importance of establishing a policy that will be most effective when used to help attract those retailers that are unique or fill a void in the City’s retail mix. Deputy Mayor Pro Tem Lambert spoke to clarifying that the intent is not to build more neighborhood retail centers. City Manager Muehlenbeck spoke to utilizing the Council Members that serve on the Tax Abatement Committee to do the initial review and make recommendations to the Council. City Attorney Wetherbee stated that the offer of incentives is a recognized executive session item.

Mayor Pro Tem Stahel and Council Member Johnson spoke to revision of Paragraph 6 of Section III *Value of Incentives* to read, “NEZ designation *may* offer a limited waiver of fees associated *with* the construction *or* renovation of a retail related project.”

Council Member Stovall spoke to revision of Paragraph 1 of Section I *General Purpose and Objectives* to read, “To ensure the promotion and retention of *selected* desirable retail development...”

Upon a motion made by Mayor Pro Tem Stahel and seconded by Council Member Stovall, the Council voted 8-0 to establish a retail incentive policy statement; establishing criteria for evaluating retail incentive applications; establishing procedural guidelines and criteria governing retail incentive agreements; and providing an effective date with amendments as recommended; and further to adopt Resolution No. 2005-5-8(R) as amended.

Discussion and Direction on approaches to review and amend the Zoning Ordinance to appropriately regulate uses, including manufacturing, in the research technology and other zoning districts. [Regular Agenda Item (6)]

Director of Planning Jarrell advised the Council that this item proposes the creation of three tiers of manufacturing definitions which would open up the Research/Technology (RT) and Light Industrial districts and allow the Economic Development Board to respond positively to more of the leads received for general manufacturing uses. She spoke to current RT district regulations for landscaping, additional parking, screening of loading areas and prohibitions on outdoor storage and advised that approval would allow Staff to move forward quickly with ordinance amendments. Ms. Jarrell advised that amendments would be presented to the Planning and Zoning Commission on June 20 followed by Council consideration. After discussion, the Council concurred to expedite consideration and bring recommendations from the Planning and Zoning Commission forward at the Council's June 27 meeting.

Council discussion of Handbill Solicitation [Regular Agenda Item (7)]

City Attorney Wetherbee advised that this item provides information relating to the process of complaints regarding handbill solicitation and stated that statistically, these do not go to trial but are handled through contact with the violator who pays a fine or takes a deferral. Mayor Pro Tem Stahel spoke to providing more information to citizens regarding the steps to be taken in filing a complaint.

Council Member Dyer spoke to citizen requests to ban handbills and Ms. Wetherbee responded that as cases have evolved, it has been determined that commercial speech has some protection under the first amendment. Mr. Dyer spoke to implementation of the "No Call List" and to being aggressive on the issue.

Ms. Wetherbee responded to Council Member Stovall stating that it would be more complicated to get a successful prosecution if cases were considered as "no trespassing."

Mayor Pro Tem Stahel spoke to providing education to citizens and to the Council being briefed on ways to tighten up the ordinance.

There being no further discussion, Mayor Evans adjourned the meeting at 11:29 p.m.

Pat Evans, MAYOR

ATTEST:

Elaine Bealke, City Secretary