

PLANNING & ZONING COMMISSION
October 1, 2007

COMMISSIONERS PRESENT

Carolyn Kalchthaler, Chairman
James Duggan, 2nd Vice Chair
Laura Williamson, 1st Vice Chair
Jim Norton
Maggie Armstrong
Janet Stovall
Michael Coleman
Craig Perry

STAFF PRESENT

Phyllis M. Jarrell, Director of Planning
Tom Elgin, Development Review Manager
Paige Mims, Assistant City Attorney
Tina Fergins, Sr. Planner
Bester Tauro, Planner
Eric Hill, Planner
Dee Sarver, Planning Technician
Doris Carter, Sr. Administrative Assistant

The Planning & Zoning Commission meeting was called to order by Chairman Kalchthaler at 7:00 p.m., Tuesday, October 1, 2007.

First Vice Chair Williamson made a motion to approve the agenda as presented. Commissioner Perry seconded the motion, which passed 8-0.

First Vice Chair Williamson stated that she was misquoted on page 5 of page 6 of the minutes for the September 11, 2007, Planning & Zoning Commission/City Council Retreat. Commissioner Stovall made a motion to approve the minutes of the August 21, 2007, Planning & Zoning Commission Work Session; the September 4, 2007, Planning & Zoning Commission meeting; the September 11, 2007, Planning & Zoning Commission/City Council Retreat; and the September 17, 2007, Planning & Zoning Commission meeting. Second Vice Chair Duggan seconded the motion, which passed 8-0.

Mr. Jack Lagos, resident of Plano, spoke to the commission on the topic of open government, questioning why the minutes of meetings were not published as part of the packet sent to the P&Z Commissioners. Mr. Lagos stated that he had been misquoted in the minutes of the September 17, 2007, meeting, that the comments he made on several items were not identical. Mr. Lagos also directed a comment to legal counsel as to whether there was a meeting, with a quorum, over dinner prior to the P&Z meeting. If so, a meeting was held without the public present. Chairman Kalchthaler stated that the minutes were not a transcript of the meetings, that the meetings were on the internet, and could be watched by anyone. Chairman Kalchthaler also assured Mr. Lagos that there was no discussion held during the dinner time.

Second Vice Chair Duggan made a motion to approve the Consent Agenda items. Commissioner Armstrong seconded the motion, which passed 8-0.

CONSENT AGENDA

AGENDA ITEM NO. 5A - REVISED SITE PLAN 4/COLLIN COUNTY CHINESE FELLOWSHIP CHURCH ADDITION, BLOCK A, LOT 1 APPLICANT: COLLIN COUNTY CHINESE FELLOWSHIP CHURCH

Church on one lot on 5.3± acres located at the southwest corner of McDermott Road and Preston Meadow Drive. Zoned Single-Family Residence-7.

Approved as submitted.

AGENDA ITEM NO. 5B - REVISED SITE PLAN 52/BILLINGSLEY OFFICE BUILDING ADDITION, BLOCK A, LOT 6 APPLICANT: BILLINGSLEY COMPANY

General office building on one lot on 12.2± acres located at the southwest corner of Plano Parkway and Horizon North Parkway. Zoned Light Industrial-1.

Approved as submitted.

AGENDA ITEM NO. 5C - REVISED PRELIMINARY PLAT 52/BILLINGSLEY OFFICE BUILDING ADDITION, BLOCK A, LOT 6 APPLICANT: BILLINGSLEY COMPANY

General office building on one lot on 12.2± acres located at the southwest corner of Plano Parkway and Horizon North Parkway. Zoned Light Industrial-1.

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

**AGENDA ITEM NO. 5D - REVISED SITE PLAN
21/ENFIELD PARK ADDITION, BLOCK 1, LOT 1
APPLICANT: PLANO SPORTS AUTHORITY**

Recreation center on one lot on 6.3± acres located at the northwest corner of Seabrook Drive and Stadium Drive. Zoned Planned Development-329-Community Center.

Approved as submitted.

**AGENDA ITEM NO. 5E - PRELIMINARY SITE PLAN
36/UNITED NATIONAL BANK ADDITION, BLOCK 1, LOT 2R
APPLICANT: COMERICA BANK**

Retail building on one lot on 1.9± acres located at the northeast corner of Parker Road and Premier Drive. Zoned Corridor Commercial.

Approved subject to Fire Department approval of a variance to the 150-foot hose lay requirement.

END OF CONSENT AGENDA

PUBLIC HEARINGS

**AGENDA ITEM NO. 6 - PUBLIC HEARING
ZONING CASE 2007-30
APPLICANT: CITY OF PLANO**

Tom Elgin, Development Review Manager, stated this is a request to amend Section 3.1600 (Sign Regulations) of Article 3 (Supplementary Regulations) and Section 6.200 (Board of Adjustment) of Article 6 (Procedures and Administration) of the Zoning Ordinance regarding authority, jurisdiction, action, and administrative procedures of the Board of Adjustment. Staff recommended approval as follows:

1. Amend Subsection 3.1601 (Administration) (9) (Appeals) of Section 3.1600 (Sign Regulations) to read as follows:

3.1600 Sign Regulations

3.1601(9) Appeals

(a) Process

Any person aggrieved by a decision of the Building Official or his designee, under this ordinance or any person seeking a variance from this ordinance, may file an appeal with the Board of Adjustment. The appeal shall be made in accordance with the guidelines set forth in Section 6.200.

(b) Meeting Dates

~~The Board of Adjustment shall meet to consider an appeal to this ordinance, provided there has been an appeal filed with the Building official 15 days prior to the meeting date.~~

(c) Quorum

~~All cases brought before the Board of Adjustment, under this ordinance, must be heard by no less than four members. A concurring vote of four members is required to grant a variance of this ordinance or to overrule any decision or interpretation made under this ordinance by the Building Official.~~

(db) Board Decision

The decision of the Board shall be final as to administrative remedies. No appeal to the Board for the same variance on the same piece of property shall be allowed prior to the expiration of two years. Any variance granted by the Board expires unless a permit securing the variance has been applied for within 90 days from the date of the decision. An applicant whose sign permit is denied by the Board based upon the content may invoke the judicial review process found in 9.d below. (ZC 2004-24; Ordinance No. 2004-8-21)

(ec) Hardship Criteria

A variance shall not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss. In order to make a finding of hardship and to grant a variance from this ordinance, the Board must determine that:

- (i) The requested variance does not violate the intent of the ordinance.
- (ii) The requested variance will not adversely affect surrounding properties.
- (iii) The requested variance will not adversely affect public safety.
- (iv) Special conditions exist which are unique to this applicant or property.

(fd) Judicial Review (ZC 2004-24; Ordinance No. 2004-8-21)

- (i) An applicant denied a sign permit by the Board based on the content of the proposed sign may seek relief under this provision and is not subject to Subsection 6.209.3. An applicant whose sign was denied by the Board based on the content of the proposed sign may file a notice of nonacceptance of the decision of the Board with the City Attorney within ten business days of the date of the filing of the Board's decision which shall be the date the Board announces the decision either orally or in writing to the applicant. Within ten business days after receiving a notice of nonacceptance from an applicant, the City Attorney shall initiate suit in district court for determination that the sign is illegal pursuant to this ordinance and for an injunction to prohibit display of the sign. The notice of nonacceptance must be in writing, delivered by hand delivery or certified mail, return receipt requested, to the Office of the City Attorney, City of Plano, 1520 K Avenue, P.O. Box 860358, Plano, Texas 75086. Nothing in this provision shall be interpreted to require the City of Plano to pay for legal fees and costs incurred by the applicant associated with this proceeding.
- (ii) This remedy is only available to applicants denied a permit by the Board based on content of the proposed sign. All other permit denials by the Board are subject to the judicial process set forth in Subsection 6.209.3.

2. Amend Section 6.202 of Section 6.200 (Board of Adjustment) to read as follows:

6.200 Board of Adjustment

6.202 City Council may appoint four alternate members of the Board of Adjustment who shall serve in absence of one or more of the regular members, ~~when requested by the Mayor or City Manager, or Chief Building Official as the case may be, so that all cases to be heard by the Board of Adjustment will always be heard by a minimum number of four members. In the matter of variances from Section 3.1600, such variances will always be heard by a minimum number of three members.~~ The alternate members, when appointed, shall serve for the same period as the regular members, which is for a term of two years expiring on October 31 of the appropriate year, and any vacancy shall be filled in the same manner as for regular members, and alternate members shall be subject to removal under the same provisions as regular members. (ZC 92-46; Ordinance No. 92-9-13)

3. Amend Section 6.208 (Jurisdiction) of Section 6.200 (Board of Adjustment) to read as follows:

6.208 Jurisdiction

- (1) Each case must be heard by at least four members. The concurring vote of four members of the Board of Adjustment is necessary to:
- (a) reverse an order, requirement, decision, or determination of an administrative official;
 - (b) decide in favor of an applicant on a matter on which the Board of Adjustment is required to pass under a zoning ordinance; or
 - (c) authorize a variance from the terms of a zoning ordinance.
- (2) When in its judgment, the public convenience and welfare will be substantially served and the appropriate use of the neighboring property will not be substantially or permanently injured, the Board of Adjustment may, in specific cases, after written notice and public hearings, and subject to appropriate conditions and safeguards, authorize or order the following:
- (1)(a)** Hear and decide appeals where it is alleged there is error on any order, requirement, decision, or determination made by the Building Official in the enforcement of this ordinance. (ZC 92-46; Ordinance No. 92-9-13)
 - (2)(b)** Permit the reconstruction, extension, or enlargement of a building occupied by nonconforming uses, on the lot or tract occupied by such building, provided such reconstruction does not prevent the return of such property to a conforming use.
 - (3)(c)** Require the discontinuance of nonconforming uses of land or structure under any plan where by the full value of the structure and facilities can be amortized within a definite period of time, taking into consideration the general character of the neighborhood and the necessity for all property to conform to the regulations of this ordinance. All actions to discontinue a nonconforming use of land or structure shall be taken with due regard for the property rights of the persons affected when considered in the light of the public welfare and the character of the area surrounding the designated nonconforming use and the conservation and preservation of property. The Board of Adjustment shall, from time to time on its own motion or upon cause presented by interested property owners, inquire into the existence, continuation, or maintenance of any nonconforming use within the city.

(4)(d) Permit such variance from the terms of the Zoning Ordinance of height, yard, area, exterior, structure, lot coverage, and off street parking and loading regulations that will not be contrary to the public interest and where, because of special conditions, the enforcement of this ordinance or its amendments would result in an unnecessary hardship, except as provided in (ii), (iii) and (iv) below. A variance shall not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss, nor shall it permit any person a privilege in developing a parcel of land not permitted by this ordinance to other parcels of land in the district. No variance may be granted if it results in an unnecessary hardship, as herein defined, on another parcel of land.

(i) In order to make a finding of hardship and to grant a variance from this ordinance, the Board of Adjustment must determine that: (ZC 92-46; Ordinance No. 92-9-13):

(a)1. The requested variance does not violate the intent of the ordinance or its amendments.

(b)2. Special conditions of restricted area, shape, topography, or physical features exist that are peculiar to the subject parcel of land and are not applicable to other parcels of land in the same zoning district.

(c)3. The hardship is in no way the result of the petitioner's own actions.

(d)4. The interpretation of the provisions in this ordinance or its amendments would deprive the petitioner of rights commonly enjoyed by other properties in the same zoning district, that comply with the same provisions.

(ii) No variance may authorize a use other than those permitted in the district for which the variance is sought.

(iii) ~~Also,~~ A petition or request for a variance shall not be heard or granted with regard to any parcel of property or portion thereof upon which a preliminary site plan, site plan, preliminary plat, or final plat, when required by this ordinance or the Subdivision Ordinance for any parcel of property or portion thereof, has not been finally acted upon by both the Planning & Zoning Commission and, where required, by the City Council.

(iv) The administrative procedures and requirements of this ordinance and the Subdivision Ordinance, with regard to both Planning & Zoning Commission and the City Council consideration and action, on preliminary site plans, site plans, preliminary plats, and final plats, must be exhausted prior to requesting a variance from the terms of this ordinance.

The public hearing was opened. No one spoke for or against the item. The public hearing was closed.

There being no discussion, Commissioner Stovall made a motion to approve the item as submitted. Commissioner Perry seconded the motion, which passed 8-0.

**AGENDA ITEM NO. 7 - PUBLIC HEARING
ZONING CASE 2007-31
APPLICANT: CITY OF PLANO**

Eric Hill, Planner, stated this is a request for is a request to rescind Specific Use Permit #64 for Private Club on one lot on 1.2± acres located at the southeast corner of U.S. Highway 75 and Republic Drive. Zoned Corridor Commercial. Staff recommended approval as submitted.

The public hearing was opened. No one spoke for or against the item. The public hearing was closed.

There being no discussion, Commissioner Perry made a motion to approve the item as submitted. Commissioner Armstrong seconded the motion, which passed 8-0.

**AGENDA ITEM NO. 8 - PUBLIC HEARING
ZONING CASE 2007-32
APPLICANT: CITY OF PLANO**

Tina Firgens, Sr. Planner, stated this is a request to rescind Specific Use Permit #67 for Private Club on one lot on 0.2± acre located at the northwest corner of U.S. Highway 75 and Chisholm Place. Zoned Corridor Commercial. Staff recommended approval as submitted.

The public hearing was opened. No one spoke for or against the item. The public hearing was closed.

There being no discussion, Commissioner Coleman made a motion to approve the item as submitted. The motion was seconded by 2nd Vice Chair Duggan, which passed 8-0.

**AGENDA ITEM NO. 9 - PUBLIC HEARING
ZONING CASE 2007-33
APPLICANT: CITY OF PLANO**

Mr. Hill stated this is a request to rescind Specific Use Permit #75 for Private Club on one lot on 1.4± acres located on the west side of U.S. Highway 75, 920± feet north of Plano Parkway. Zoned Corridor Commercial. Staff recommended approval as submitted.

The public hearing was opened. No one spoke for or against the item. The public hearing was closed.

There being no discussion, 1st Vice Chair Williamson made a motion to approve the item as submitted. Commissioner Stovall seconded the motion, which passed 8-0.

AGENDA ITEM NO. 10 - PUBLIC HEARING
ZONING CASE 2007-34
APPLICANT: CITY OF PLANO

Mr. Elgin stated this is a request to rescind Specific Use Permit #88 for Private Club on one lot on 1.2± acres located on the east side of U.S. Highway 75, 230± feet south of Republic Drive. Zoned Planned Development-189-Retail/General Office. Staff recommended approval as submitted.

The public hearing was opened. Mr. Lagos expressed concerns that the notifications had been sent by state regulations, but possibly to the wrong persons. Phyllis Jarrell, Director of Planning, stated according to state law that we notify the property owner, according to the current tax rolls. Several years ago, specific use permits were issued to the proprietors, but that practice was changed seven or eight years ago. No one else spoke for or against the item. The public hearing was closed.

After some discussion, Commissioner Perry made a motion to approve the item as submitted. Commissioner Armstrong seconded the motion, which passed 8-0.

AGENDA ITEM NO. 11 - PUBLIC HEARING
ZONING CASE 2007-35
APPLICANT: CITY OF PLANO

Mr. Elgin stated this is a request to rescind Specific Use Permit #95 for Private Club on one lot on 1.0± acre located on the south side of Park Boulevard, 900± feet east of Preston Road. Zoned Planned Development-189-Retail/General Office. Staff recommended approval as submitted.

The public hearing was opened. No one spoke for or against the item. The public hearing was closed.

There being no discussion, Commissioner Stovall made a motion to approve the item as submitted. Second Vice Chair Duggan seconded the motion, which passed 8-0.

**AGENDA ITEM NO. 12 - PUBLIC HEARING
ZONING CASE 2007-36
APPLICANT: CITY OF PLANO**

Ms. Firgens stated this is a request to rescind Specific Use Permit #97 for Private Club on one lot on 1.2± acres located at the northeast corner of U.S. Highway 75 and 16th Street. Zoned Corridor Commercial. Staff recommended approval as submitted.

The public hearing was opened. No one spoke for or against the item. The public hearing was closed.

There being no discussion, 2nd Vice Chair Duggan made a motion to approve the item as submitted. Commissioner Coleman seconded the motion, which passed 8-0.

**AGENDA ITEM NO. 13 - PUBLIC HEARING
ZONING CASE 2007-37
APPLICANT: CITY OF PLANO**

Bester Tauro, Planner, stated this is a request to rescind Specific Use Permit #108 for Private Club on one lot on 0.1± acre located at the northwest corner of U.S. Highway 75 and Park Boulevard. Zoned Corridor Commercial. Staff recommended approval as submitted.

The public hearing was opened. No one spoke for or against the item. The public hearing was closed.

There being no discussion, 1st Vice Chair Williamson made a motion to approve the item as submitted. Commissioner Perry seconded the motion, which passed 8-0.

**AGENDA ITEM NO. 14 - PUBLIC HEARING
ZONING CASE 2007-38
APPLICANT: CITY OF PLANO**

Ms. Tauro stated this was a request to rescind Specific Use Permit #109 for Private Club on one lot on 0.1± acre located on the east side of Preston Road, 380± feet south of Highland Drive. Zoned Retail. Staff recommended approval as submitted.

The public hearing was opened. No one spoke for or against the item. The public hearing was closed.

There being no discussion, Commissioner Armstrong made a motion to approve the item as submitted. Commissioner Coleman seconded the motion, which passed 8-0.

**AGENDA ITEM NO. 15 - PUBLIC HEARING - REPLAT
67/RAY'S OFFICE ADDITION, BLOCK 1, LOT 1R
APPLICANT: PRO CUT LAWN CARE & LANDSCAPE, INC.**

Ms. Firgens stated this is a request to replat one lot on 0.5± acre located west of the intersection of 13th Street at Municipal Avenue. Zoned Light Commercial with Specific Use Permit #406. Staff recommended approval as submitted.

The public hearing was opened. No one spoke for or against the item. The public hearing was closed.

After some discussion, Commissioner Stovall made a motion to approve the item as submitted. Commissioner Perry seconded the motion, which passed 8-0.

**AGENDA ITEM NO. 16 - PUBLIC HEARING - REPLAT & REVISED SITE PLAN
61/HI-LO SUBDIVISION, BLOCK A, LOTS 1 & 2
APPLICANT: COMPASS BANK**

Ms. Firgens stated this is retail and bank on two lots on 2.1± acres located generally at the northeast corner of Jupiter Road and 14th Street. Zoned Retail. Staff recommends approval as submitted.

The public hearing was opened. Cheryl Williams of Zone Systems, Inc. representing the owner, was available to answer any questions. No one else spoke for or against the item. The public hearing was closed.

After some discussion, Commissioner Perry made a motion to approve the item as submitted. Commissioner Coleman seconded the motion, which passed 8-0.

END OF PUBLIC HEARINGS

**AGENDA NO. 17 - REQUEST TO WAIVE THE TWO-YEAR WAITING PERIOD
30/PLANNED DEVELOPMENT-185-REGIONAL COMMERCIAL
APPLICANT: CENCOR REALTY SERVICES**

Request to waive the two-year waiting period for consideration of a rezoning request for 14.8± acres at the northwest corner of Parker Road and Parkwood Boulevard. Zoned Planned Development-185-Regional Commercial. Staff recommended approval as submitted.

David Palmer, representing Cencor Realty Services, stated the company had been marketing the space and was preparing to submit a preliminary site plan in the near future. Commissioner Stovall and 1st Vice Chair Williamson felt the request does not meet requirements for a waiver. Commissioner Norton, Commissioner Perry and 2nd Vice Chairman Duggan were in agreement that the conditions may have changed and would meet the requirements for the waiver.

Commissioner Coleman made a motion to approve the item as submitted. Second Vice Chair Duggan seconded the motion, which passed 6-2, with Commissioner Stovall and 1st Vice Chair Williamson voting against approval, stating they felt the request did not meet conditions for a waiver.

AGENDA ITEM NO. 18 - ITEMS FOR FUTURE DISCUSSION

Commissioner Kalchthaler noted that this was the last meeting for 1st Vice Chair Williamson, thanking her for the seven years of service she had given.

The Commission had no other new items they wished to discuss.

There being no further discussion, Chairman Kalchthaler adjourned the meeting at 7:40 p.m.

Planning & Zoning Commissioner

xc: Honorable Mayor and City Council
Thomas H. Muehlenbeck, City Manager