

PLANNING & ZONING COMMISSION
May 18, 2009

COMMISSIONERS PRESENT

Jim Norton, 1st Vice Chair
Michael Coleman
Craig Perry
Jeff Bulla
Christopher Caso

COMMISSIONERS ABSENT

James Duggan, Chairman
Maggie Armstrong, 2nd Vice Chair
Tracey Dry

STAFF PRESENT

Phyllis M. Jarrell, Director of Planning
Tina Firgens, Sr. Planner
Eric Hill, Planner
Bester Munyaradzi, Planner
Paige Mims, Assistant City Attorney
Dee Sarver, Sr. Planning Technician
Donna White, Technical Administrative Assistant

The Planning & Zoning Commission meeting was called to order by First Vice Chair Norton at 7:02 p.m., Monday, May 18, 2009.

Commissioner Caso made a motion to approve the agenda as presented. Commissioner Coleman seconded the motion, which passed 5-0.

Commissioner Perry made a motion to approve the minutes of the March 16, 2009, Planning & Zoning Commission meeting. Commissioner Bulla seconded the motion, which passed 5-0.

Commissioner Caso made a motion to approve the consent agenda as submitted. Commissioner Perry seconded the motion, which passed 5-0.

CONSENT AGENDA

AGENDA ITEM NO. 5A - PRELIMINARY SITE PLAN & CONCEPT PLAN 64/ALCATEL USA ADDITION, BLOCK A, LOTS 6R & 7 APPLICANT: ONCOR ELECTRIC DELIVERY

Electrical substation on one lot and one concept lot on 8.5± acres located on the south side of Lotus Drive, 1,280± feet east of Independence Parkway. Zoned Light Industrial-1/190 Tollway/Plano Parkway Overlay District. Neighborhood #64.

Approved as submitted.

AGENDA ITEM NO. 5B - FINAL PLAT PARKER ROAD EARLY CHILDHOOD SCHOOL, BLOCK A, LOT 1 APPLICANT: PLANO INDEPENDENT SCHOOL DISTRICT

Public school on one lot on 12.9± acres located at the northeast corner of Parker Road and San Gabriel Drive. Zoned Planned Development-320-Estate Development. Neighborhood #50.

Approved as submitted.

AGENDA ITEM NO. 5C - PRELIMINARY PLAT 50/HINCKLEY ADDITION, BLOCK A, LOT 2 APPLICANT: HGMA, LLC

Day care center on one lot on 3.9± acres located on the south side of Los Rios Boulevard, 100± feet west of Trail Walker Drive. Zoned Planned Development-320-Estate Development with Specific Use Permit #598 for Day Care Center. Neighborhood #50.

END OF CONSENT AGENDA

PUBLIC HEARINGS

AGENDA ITEM NO. 6 - PUBLIC HEARING ZONING CASE 2008-74 APPLICANT: CITY OF PLANO

Bester Munyaradzi, Planner, stated this is a request to amend Section 1.600 (Definitions) of Article 1 (General Regulations), Subsection 2.502 (Schedule of Permitted Uses) of Section 2.500 (Permitted Uses) of Article 2 (Zoning Districts and Uses), and Subsection 3.102 (Day Care Centers) of Section 3.100 (Supplementary Regulations for Principal Permitted Uses and Specific Uses) of Article 3 (Supplementary Regulations) and related sections of the Zoning

Ordinance regarding day care centers. Staff recommended approval as follows: (Additions are indicated in underlined text; deletions are indicated in strikethrough text.)

1. Amend Section 1.600 (Definitions) of Article 1 (General Regulations) to revise definitions for day care center and day care center (in home), and create a new definition for day care center (accessory) use:

- a. Day care center:

~~A facility providing care, training, education, custody, treatment, or supervision for 13 or more children for less than 24 hours per day. The term "day care center" shall not include overnight lodging, medical treatment, counseling, or rehabilitative services and does not apply to any school. (See Subsection 3.102.) (Ordinance No. 93-10-32)~~An operation other than public, parochial, or private school providing care for seven or more children under 14 years old for less than 24 hours per day at a location other than a residence.

- b. Day care center (in home):

~~Allowed as a home occupation (refer to Subsection 3.110) in the caretaker's residence under these three options. (Ordinance No. 94-1-19)~~

- ~~1. Provides care for less than 24 hours a day to no more than 6 children under the age of 14, plus no more than 6 additional elementary school age children (age 5 to 13). The total number of children (counting the caretaker's own children) is no more than 12 at any time. Registration with the Texas Department of Protective and Regulatory Services is required, unless exempted by State law.~~
- ~~2. Provides care for less than 24 hours a day for 7 to 12 children (including the caretaker's and staff's children) under the age of 14. A license from the Texas Department of Protective and Regulatory Services is required. Care provided to 9 or more children that does not comply with Option 1 requires a specific use permit.~~
- ~~3. All group day care homes which were licensed by the State of Texas or had a license application pending on or before October 25, 1993, are considered to be a legal use in residential districts and will not require specific use permit approval as long as a valid license is maintained for the operation in its original location and it provides care for less than 24 hours a day for no more than 12 children (including the caretaker's and staff's children) under the age of 14.~~

An operation providing care in the caretaker's residence for less than 24 hours a day for up to 12 children under the age of 14, provided that the total number of children, including the caretaker's own children, is no more than 12 at any time.

c. Day care center (accessory):

Accessory day care center is an accessory use providing care for children of employees, customers, or patrons of the principal use. The center shall be completely contained within the primary use and shall not constitute more than 15% of the area of the principal use.

2. Amend Subsection 2.502 (Schedule of Permitted Uses) of Section 2.500 (Permitted Uses) of Article 2 (Zoning Districts and Uses) allowing day care centers by right or with specific use permit, and adding End Note number 42 as follows:

Residential Zoning Districts

Permitted Uses	Category	A- Agricultural	ED - Estate Development	SF-20 - Single-Family-20	SF-9 - Single-Family-9	SF-7 - Single-Family-7	SF-6 - Single-Family-6	2F - Two-Family (Duplex)	PH - Patio Home	SF-A - Single-Family Attached	MH - Mobile Home	MF-1 - Multifamily-1	MF-2 - Multifamily-2	MF-3 - Multifamily-3	GR - General Residential	UR - Urban Residential
Day Care Center	Service	S	S	S	S	S	S	S	S	S	P	P	P	P	S	S
Day Care Center (In-home)	Service	<u>P</u> <u>42</u>	<u>P</u> <u>42</u>	<u>P</u> <u>42</u>	<u>P</u> <u>42</u>	<u>P</u> <u>42</u>	<u>P</u> <u>42</u>	<u>P</u> <u>42</u>	<u>P</u> <u>42</u>	<u>P</u> <u>42</u>	P	P	P	P	<u>P</u> <u>42</u>	<u>P</u> <u>42</u>
<u>Day Care Center (Accessory)</u>	<u>Service</u>											P	P	P		

End Note: 42 - See Subsection 3.102.2.c

Nonresidential Zoning Districts

Permitted Uses	Category	O-1 - Neighborhood Office	O-2 - General Office	R - Retail	BG - Downtown Business/Government	LC - Light Commercial	CE - Commercial Employment	CB-1 - Central Business-1	LI-1 - Light Industrial-1	LI-2 - Light Industrial-2	RE - Regional Employment	RC - Regional Commercial	RT - Research/Technology Center	CC - Corridor Commercial
Day Care Center	Service	P	P	S	S	S	P	P	S	S	S	S	S	S
<u>Day Care Center (Accessory)</u>	<u>Service</u>	P	P	P	P	S	P	P	S	S	P	P	P	S

3. Amend Subsection 3.102 (Day Care Centers) of Section 3.100 (Supplementary Regulations for Principal Permitted Uses and Specific Uses) of Article 3 (Supplementary Regulations) as follows:

3.102 Day Care Centers, Day Care Centers (In-home), and Day Care Centers (Accessory)

~~Site plan approval by the Planning & Zoning Commission shall be required for all day care center sites, whether or not a specific use permit is required. Day care centers are a permitted use by right if operated by an organized church and within the building complex of said church. However, operation of day care facilities requires site plan approval and issuance of a Certificate of Occupancy for day care.~~

~~Day care centers located within any residential district except multifamily districts shall be required to plat in multiples of the minimum lot width of the district classification requirements. The lot depth shall meet the minimum requirements and in no case shall be approved in a configuration which could not, in the Planning & Zoning Commission's opinion, be converted into standard lots for residential development.~~

- ~~(1) Day care centers are permitted in nonresidential districts only when:~~

~~(a) The day care center is platted on an individual lot.~~

~~(b) The day care center is in a multi-occupant building with direct access to the exterior of the building. Direct access must be provided to the outdoor play space. The outdoor play space must be immediately adjacent and not separated from the day care center.~~

~~(c) The day care center is in an enclosed shopping mall exceeding 500,000 square feet of gross leasable area, provided the center shall be located within the interior of the mall, with no direct access to the exterior of the building. Day care shall be provided for less than four hours per day for an individual person within a mall day care center~~

~~(d) The day care center is located in an office structure or similar single-user structure with no direct access to the exterior of the building other than doorways connecting to outdoor play space as per building code requirements.~~

~~(e) The day care center is an accessory use which provides a service to employees, customers, or patrons of the principal use. A two-square-foot identification sign may be provided.~~

~~(f) The day care center is in an accessory building located on the same lot as the main building which provides a service to employees, customers, or patrons of the main building. A two-square-foot identification sign may be provided.~~

(21) All day care centers and day care centers (accessory) shall comply with the following standards:

~~(a) All passenger loading and unloading areas and outdoor play space shall be located so as to avoid conflict with vehicular traffic. Adequate walkways shall be provided.~~

(a) If required by the State of Texas, the day care center must be licensed or registered.

~~(b) Outdoor play space shall be provided at a rate of 65 square feet per child. This requirement shall be based on the maximum design capacity of the day care facility constructed. The outdoor play space shall have no dimension of less than 30 feet. This requirement may be waived by the Planning & Zoning Commission if the day care is provided for less than four hours per day for an individual person.~~

~~(c) In residential districts, a maximum of one-half of the required outdoor play space may be provided offsite in a public park. When off-premises outdoor play area is utilized, it must be located within 100 feet of the day care facility premises and safely accessible without crossing at-grade any major or secondary thoroughfare.~~

~~(db) No day care center shall be part of a single-family or two-family dwelling.~~

(ec) A day care center shall abut and derive its primary access from a street with a pavement width of 36 feet or greater.

~~(f) As a general guideline, no portion of a day care center site should be located within 300 feet of gasoline pumps or underground gasoline storage tanks, or any other storage area for explosive materials.~~

(3) Day care center (in-home) is allowed as a home occupation (refer to Subsection 3.110) in the caretaker's residence subject to:

(a) If required by the State of Texas, the day care center must be licensed or registered.

(b) Care provided to eight or fewer children is allowed by right.

(c) Care provided to nine or more children is allowed with approval of a specific use permit.

All group day care homes which were licensed by the State of Texas or had a license application pending on or before October 25, 1993, are considered to be a legal use in residential districts and will not require specific use permit approval as long as a valid license is maintained for the operation in its original location and it provides care for less than 24 hours a day for no more than 12 children (including the caretaker's and staff's children) under the age of 14.

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

There being no discussion, Commissioner Caso made a motion to approve the item as submitted. Commissioner Coleman seconded the motion, which passed 5-0.

**AGENDA ITEM NO. 7A - PUBLIC HEARING
ZONING CASE 2009-08
APPLICANT: RACETRAC PETROLEUM, INC.**

Eric Hill, Planner, stated this is a request to amend Planned Development-109-Retail/General Office on 14.8± acres located at the southwest corner of Park Boulevard and Alma Drive to revise the concept plan adopted for this planned development district. Zoned Planned Development-109-Retail/General Office. Staff recommended approval as submitted. There was one letter received in support of the item and two in opposition of the item.

The public hearing was opened. James McGoodwin, citizen of Plano, voiced his concerns about light overspill and the potential effects of the convenience store on the farm property on the north side of Park Boulevard. No else one spoke for or against the item. The public hearing was closed.

After a brief discussion, Commissioner Perry made a motion to approve the item as submitted. Commissioner Bulla seconded the motion, which passed 5-0.

AGENDA ITEM NO. 7B - PUBLIC HEARING

**58/REVISED CONCEPT PLAN: PARK & ALMA ADDITION, BLOCK A, LOT 2, AND
COLLIN CREEK CORPORATE CENTER, BLOCK A, LOTS 1R, 2, & 3**

APPLICANT: RACETRAC PETROLEUM, INC.

Mr. Hill stated this is a request for a convenience store with gas pumps, office, and retail buildings on four lots on 37.7± acres located at the southwest corner of Park Boulevard and Alma Drive. Zoned Planned Development-109-Retail/General Office and Planned Development-60-General Office. Neighborhood #58. Staff recommended approval subject to City Council approval of Zoning Case 2009-08.

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

After a brief discussion, Commissioner Coleman made a motion to approve the item as submitted. Commissioner Caso seconded the motion, which passed 5-0.

AGENDA NO. 8 - PUBLIC HEARING

ZONING CASE 2009-09

APPLICANT: CITY OF PLANO

Phyllis Jarrell, Director of Planning, stated this is a request to amend Section 1.600 (Definitions) of Article 1 (General Regulations), Subsection 2.502 (Schedule of Permitted Uses) of Section 2.500 (Permitted Uses) of Article 2 (Zoning Districts and Uses), Section 3.100 (Supplementary Regulations for Principal Permitted Uses and Specific Uses) of Article 3 (Supplementary Regulations), Section 6.200 (Board of Adjustments) of Article 6 (Procedures and Administration) and related sections of the Zoning Ordinance to amend regulations for household care facilities, rehabilitation care facilities, and boarding houses; establish definitions for household, boarding houses, and permitted uses and standards; and to establish a process for reasonable accommodation of housing for persons with disabilities. Staff made the following recommendations: Deletions are indicated by a strikethrough; new language is indicated by underlined text.

Article 1 General Regulations

Section 1.600 Definitions

Assisted Living Facility - A ~~development~~ building or buildings, other than a single-family dwelling, designed and staffed to provide housing for residents who require some type of support for daily living, such as assistance for bathing, dressing, medication, meal preparation, or other functions. In addition to housing, this type of facility may also provide convenience services such as meals, housekeeping, transportation and community facilities such as central dining rooms and activity rooms.

Boarding/Rooming House - A residence structure, other than a excluding hotels, motels and multi-family dwellings, where lodging and/or meals for four or more persons are provided for compensation living quarters are shared by three or more persons not living together as a single household and where personal care services or assistance with medications (as defined by the Texas Health and Safety Code) are not provided

Dwelling - Single-Family - A building having accommodations for and occupied by not more than one family household.

Dwelling - Two-Family - A detached building having separate accommodations for and occupied by not more than two families households.

Dwelling - Multifamily - Any building or portion thereof, which is designed, built, rented, leased or let to be occupied as three or more dwelling units or apartments or which is occupied as a home or residence of three or more families households.

Disabled Individual - A person who has a physical or mental impairment that substantially limits one or more major life activities, a person who is regarded as having that type of impairment, or a person who has a record of that type of impairment. The term "disabled" includes persons recovering from addiction, but such term does not include current, illegal use of, or addiction to a controlled substance (as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802).

Household - A domestic unit that resides in and shares in common a single dwelling unit and consists of one or more individuals related by blood, marriage, adoption or recognized legal union or guardianship, and not more than four adult unrelated individuals, plus any minor children, or persons residing in a household care facility.

Household Care Facility - A dwelling unit that provides residence and care to not more than ~~six~~ eight persons, regardless of legal relationship, who are elderly; disabled; orphaned, abandoned or neglected children; victims of domestic violence; or rendered temporarily homeless due to fire, natural disaster or financial setbacks, living together with not more than two caregivers as a single household. Where applicable, a household care facility shall have appropriate licensing and/or registration by the State of Texas.

Household Care Institution - A facility that provides residence and care to more than ~~six~~ eight persons, regardless of legal relationship, who are elderly; disabled; orphaned, abandoned or neglected children; victims of domestic violence; convalescing from illness, or rendered temporarily homeless due to fire, natural disaster or financial setback. Where applicable, a household care institution shall have appropriate licensing and/or registration by the State of Texas.

Rehabilitation Care Facility - A dwelling unit which provides residence and care to not more than ~~nine~~ eight persons, regardless of legal relationship, who have ~~demonstrated a tendency towards alcoholism, drug abuse, mental illness, or antisocial or criminal conduct~~ been convicted of prohibited criminal conduct, and received conditional release, probation, or parole with supervision, living together with not more than two supervisory

personnel as a single household ~~housekeeping~~ unit. Where applicable, a rehabilitation care facility shall have appropriate licensing and/or registration.

Rehabilitation Care Institution - A facility which provides residence and care to ~~ten~~ nine or more persons, regardless of legal relationship, who have ~~demonstrated a tendency toward alcoholism, drug abuse, mental illness, or antisocial or criminal conduct~~ been convicted of prohibited criminal conduct and received conditional release, probation, or parole with supervision, together with supervisory personnel.

Article 2 Zoning Districts and Uses

Subsection 2.502 Schedule of Permitted Uses

Remove specific use permit requirement for household care facility in the Agricultural zoning district and allow this use by right.

Article 6 Administration

Subsection 6.200 Board of Adjustment

Add (2)(e) as follows:

(e) Hear and decide requests for reasonable accommodations in the city's zoning and development regulations when needed to provide an individual with a disability an equal opportunity to use and enjoy a dwelling, in accordance with the following procedures:

- (i) A request for reasonable accommodation may be made to the Chief Building Official by any person with a disability, their representative or a developer or provider of housing for individuals with disabilities. The request shall state the reason for the accommodation from the zoning and development regulations and the basis for the request.
- (ii) The Board of Adjustment shall conduct a hearing to determine whether the request for reasonable accommodation should be granted. The applicant or applicant's representative shall have the burden to demonstrate that:
 - 1 The applicant (or the person on whose behalf the applicant is requesting the accommodation) suffers from a disability as defined by the Fair Housing Amendment Act and:
 - 2 The applicant (or the person on whose behalf the applicant is requesting the accommodation) demonstrates that the accommodation is both reasonable and necessary. An accommodation under this section is "necessary" if without the accommodation the applicant will be denied an equal opportunity to obtain the housing of his or her choice.
- (iii) If the applicant demonstrates the matters set out in (ii), (1) and (2) above, the request for reasonable accommodation shall be granted by the Board unless the accommodation would fundamentally alter the city's land use and zoning

patterns or if the use's impact on its surroundings is greater than that of other uses permitted in the district.

- (iv) A reasonable accommodation for an increase in the number of residents use terminates if the property ceases to be operated as housing for disabled persons as defined by the Fair Housing Amendment Act.

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 Bulla seconded the motion, which passed 5-0.

**AGENDA ITEM NO. 9 - PUBLIC HEARING
55/REPLAT: BAYLOR MEDICAL CENTER AT PLANO, BLOCK A, LOT 1R
APPLICANT: BAYLOR HEALTHCARE SYSTEM**

Mr. Hill stated this is a request for a hospital and medical office on one lot on 22.5± acres located at the southeast corner of Allied Drive and Alliance Boulevard. Zoned Planned Development-138-Retail/General Office with Specific Use Permit #164 for Outdoor Commercial Amusement Facility/190 Tollway/Plano Parkway Overlay District. Neighborhood #55. 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. Commissioner Caso seconded the motion, which passed 5-0.

**AGENDA ITEM NO. 10 - PUBLIC HEARING
16/REPLAT: EDS CLUSTERS, BLOCK A, LOT 4R
APPLICANT: ELECTRONIC DATA SYSTEMS, LLC**

Mr. Hill stated this is a request for general offices on one lot on 43.7± acres located at the northeast corner of Democracy Drive and Tennyson Parkway. Zoned Commercial Employment. Neighborhood #16. 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 Bulla seconded the motion, which passed 5-0.

AGENDA ITEM NO. 11 - PUBLIC HEARING
55/REPLAT: BEATY EARLY CHILDHOOD SCHOOL, BLOCK A, LOT 1R
APPLICANT: PLANO INDEPENDENT SCHOOL DISTRICT

Ms. Munyaradzi stated this is a request for a public school on one lot on 8.0± acres located at the southeast corner of Eldorado Drive and Nevada Drive. Zoned Single-Family Residence-7. Neighborhood #55. 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 Caso made a motion to approve the item as submitted. Commissioner Coleman seconded the motion, which passed 5-0.

AGENDA ITEM NO. 12 - PUBLIC HEARING
5/REPLAT: CHURCH OF CHRIST ON MCDERMOTT ROAD ADDITION, BLOCK 1,
LOT 1R
APPLICANT: CHURCH OF CHRIST ON MCDERMOTT ROAD

Ms. Munyradzi stated this is a request for a religious facility on one lot on 12.0± acres located at the southwest corner of McDermott Road and Gifford Drive. Zoned Single-Family Residence-6. Neighborhood #5. 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 Bulla made a motion to approve the item as submitted. Commissioner Perry seconded the motion, which passed 5-0.

AGENDA ITEM NO. 13 - PUBLIC HEARING
AMENDMENTS TO THE THOROUGHFARE STANDARDS RULES AND
REGULATIONS
APPLICANT: CITY OF PLANO

Tina Firgens, Sr. Planner, stated this is a request to amend the Thoroughfare Standards Rules and Regulations. The potential amendments include revised roadway design, access, and visibility geometric standards, and revised references to the Zoning Ordinance and Transportation Element of the Comprehensive Plan. Staff recommended approval as submitted.

Jeff Green, Sr. Traffic Engineer, gave a brief presentation and was available to answer any questions.

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. Commissioner Caso seconded the motion, which passed 5-0.

END OF PUBLIC HEARINGS

AGENDA ITEM NO. 14 - REQUEST TO CALL A PUBLIC HEARING

APPLICANT: CITY OF PLANO

Ms. Firgens stated this is a request to call a public hearing to amend the mini-warehouse/public storage requirements of the Zoning Ordinance. Staff recommended that a public hearing be called for this purpose.

After a brief discussion, Commissioner Bulla made a motion to call a public hearing to amend the Zoning Ordinance and related sections pertaining to mini-warehouse/public storage requirements. Commissioner Perry seconded the motion, which passed 5-0.

AGENDA ITEM NO. 15 - ITEMS FOR FUTURE DISCUSSION

The Commission had no items they wished to discuss.

There being no further discussion, 1st Vice Chair Norton adjourned the meeting at 7:35 p.m.

Planning & Zoning Commissioner

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