

THE FLOWER MOUND PLANNING & ZONING COMMISSION MEETING HELD ON THE 12TH DAY OF OCTOBER, 2009, IN THE FLOWER MOUND TOWN HALL, LOCATED AT 2121 CROSS TIMBERS ROAD IN THE TOWN OF FLOWER MOUND, COUNTY OF DENTON, TEXAS, AT 6:00 PM

The Planning & Zoning Commission met in a work session and regular session with the following members present:

| | |
|------------------|-----------------------|
| Nick Hollingshad | Chairman |
| Tom Goss | Vice Chairman |
| Mike Walker | Commissioner, Place 4 |
| Bryan Webb | Commissioner, Place 5 |
| Mike McCall | Commissioner, Place 6 |
| David Johnson | Commissioner, Place 7 |
| Jim Ward | Commissioner, Place 8 |
| Jeff Whittaker | Commissioner, Place 9 |

Constituting a quorum with the following members absent:

| | |
|------------------|-----------------------|
| Brian Millichamp | Commissioner, Place 2 |
|------------------|-----------------------|

(Places 8 and 9 of the Commission do not vote on items unless they sit in place of one of the regular members, Places 1-7.)

And the following members of Town staff present:

| | |
|--------------|--------------------------------------------|
| Tom Hayden | Town Council Liaison |
| Doug Powell | Executive Director of Development Services |
| Alan Lathrom | Town Attorney |
| Edith Marvin | Town Engineer |
| Mike Smith | Fire Marshal |
| Tommy Dalton | Planning Manager |
| Monica Leal | Planner |
| Cindi Price | Administrative Assistant |

i. WORK SESSION 6:01 P.M.

a. Presentation and discussion of a proposed Town-wide Medians and Rights-of-Way Master Plan.

Purpose

The purpose of the work session was to provide the Commission an overview of the draft Medians and Rights-of-Way Master Plan and get feedback. Over the last couple of years, the Town completed several beautification projects as part of Phase 1 of the TxDOT green ribbon funding and TxDOT step grant projects, including along 3040, 1171, Morriss, and the entryway feature at 2499 and Enterprise Parkway. Phase 2 of the green ribbon funding would cover 2499 south of 1171, as well as 1171 on the north ROW from 2499 to just past Bridlewood Boulevard. Included in that would be a small strip in front of

Regency Court. Phase 3 would be the balance of 1171 all the way from 2499 to 377, and then 2499 north of 1171 to 407.

In February of 2009, the Town Council approved a professional services agreement with Teague Nall and Perkins to prepare a master plan document for the Town. The master plan was to provide a consistent guideline for future development of the medians and rights-of-way. There was a series of studies and staff meetings, and everything within the Town limits was inventoried. The existing environmental conditions and land use plan were combined to make one plan. The plan looked at roadways, medians, intersections, gateway opportunities on the TxDOT thoroughfares at the perimeter of town, and congregation points in residential neighborhoods. There were five different median applications, including commercial, industrial, residential, etc. The areas were further categorized based on location, size, environmental aspects, and presence of irrigation. The plan included examples of acceptable plantings, hard-scapes, designs, and maintenance procedures, and stressed the importance of a plant palette that would work in the Town and also work with the future budget of the Parks and Recreation department.

The master plan was presented at a public meeting on September 29. Only a few residents attended. They were pleased overall with the plan and gave a couple of good ideas, such as to plant wildflowers and add more trees. It was anticipated the plan would go to a Town Council work session on November 19, come back before the Commission at a public hearing on December 14, and then to Town Council at a public hearing in January.

Presenters

Jack Jones, Director of Parks and Recreation
Tim May, Teague Nall and Perkins

Questions and Answers

Vice Chairman Goss said he liked the plan. It was well done and hit all of the key areas, but there were a couple of minor things they might want to tweak. He asked that they be sure the lettering on the monuments was readable from the street and not too small. He understood it would be backlit and shine through the metal cut, but he would hate to have it blurred out and not readable for someone driving by in a car. Also, he liked the maintenance schedule they laid out for the various areas, but thought they needed to cover the wildflower meadows, because they needed different treatment than even the buffalo grass. The contractors with their weed whackers would be getting after those as soon as they quit flowering and not let them go to seed.

Commissioner Johnson said he did not see much regarding xeriscape to cut down on watering and maintenance. He asked to what degree that was included in the plan.

Mr. May said with the plant palette, they were trying to stick with trees that were native and/or naturally growing in the Town. They were also using perennials to complement the drought hardy ground cover and shrubs. The vast majority was going to be drought tolerant grass. The primary point of their planting design was to use something native and naturalized to reduce cost in the long term.

Commissioner Johnson said he was impressed with the xeriscape in Coppell along Sandy Lake Road. It was mostly gravel and drought resistant plants. He realized it might not be as native as traditionalists preferred, but there were the safety issues of people mowing lawns in the middle of busy streets, irrigation costs to the city, and trying to make it as maintenance free as possible. His preference was to maximize that.

Mr. May said Teague Nall and Perkins did the plan on Sandy Lake, so were very much in tune with that. Unless told otherwise, that was the direction they were going.

Commissioner Walker said with the heavy storms in June, some existing plant materials were heavily damaged, for example, the Bradford pears. He asked if they were factoring that into the plant selection.

Mr. May said Bradford pears were not on the plant palette; they were not native or natural. As that landscaping became damaged, diseased, or declined, then the plant palette would serve as a guideline for staff to replace that landscaping.

Commissioner Walker said his experience in Bridlewood was that since the entry monuments were first placed, some of the landscaping around those monuments matured and overgrew, and it required a tremendous amount of trimming to keep it from blocking the lettering on the signage. He wanted to pass that on. They put in the plants, and three years later they were tearing them out because they were hitting them so hard with trimming that it was a never ending battle. That led to some sight distance issues, too. Finally, there was a priority one and two based on visibility at entryways. He asked if they were attempting to do both with some phasing based on money, or doing all priority one first, then two, etc.

Mr. May said the way the plan was evolving was that as the funding became available for the projects, any consultant or staff member could use it as a guideline. Intersections one and two would be installed and implemented as those projects became available, whether it was a full length Morriss/Gerault or a full length 2499. They were not targeting individual intersections.

Commissioner Walker said in general, he thought this was a great effort. Many communities did not do this, and the western part of their community did not look like the eastern part. So, he liked the idea that uniformity was in play. It was also good to get in front of the to-be developed areas, so as they morphed over time, they looked the same.

Commissioner Webb said one area where the Town got out in front, or at least coincided very well, was along Lakeside Parkway down toward 121 from Gerault. The median-scaping there with the landscape grasses was striking. It was done in such a manner that coexisted very well with the industrial uses on either side of the road. It might not work everywhere, but it worked well there.

Chairman Hollingshad said he liked the plan very much, particularly the fundamental approach they took to blend the land use plan with the existing environmental conditions. Structuring a plant palette to recognize the different environmental areas within the Town

would lead to something both attractive and low maintenance. He loved wildflowers, but wondered if that was a practical option for medians. His experience was they were beautiful for only a month or two in the year.

Mr. Jones said that suggestion was from a resident. Along the north ROW of 3040 from Morriss to Old Orchard, they were trying to re-encourage the bluebonnets, but could not mow it from March until June or July, and that prompted complaints. It required education, but it might be a losing battle. Having wildflowers on medians was difficult.

Vice Chairman Goss said they had to pick the spot. The spot behind Fire Station 2 was perfect, and then there was a good spot over by Parker Square.

Mr. Jones said they had stuck with what had been done before. Fire Station 2 was a new area, and that was tough to get, so they had to go back in and keep working on that area. Everything out there now had been in place for a number of years. It was hard to start precedent with wildflowers.

Commissioner McCall asked about the scale of the entrance monuments.

Mr. May said as each intersection came into play, they would play with the proportions. Obviously, if a major intersection needed some prominence, such as 2499 and Gerault, the sign might be 40 feet tall. Whereas at 407 and Morriss, or 407 and 2499, the retail centers already had something similar, so in cases like that, it might go down to 20 feet tall. They would look at each individually.

Chairman Hollingshad said in their presentation that evening, many of the slides had little inserts, and for the most part he could not tell what was on those. They were just taking up space and looked like they were blocking something. He suggested they keep in mind that the public hearing at the December 14 meeting would be broadcast on television, and they wanted the people watching at home to be able to see what was on the slides clearly, so they could get a sense of how it looked. Again, he thought they did a great job and looked forward to it being implemented.

A. CALL TO ORDER – REGULAR SESSION

Chairman Hollingshad called the regular session to order at 6:32 p.m.

B. INVOCATION AND PLEDGE OF ALLEGIANCE

Commissioner McCall led the invocation. Commissioner Johnson led the Pledge of Allegiance.

C. COMMISSION MEMBER ANNOUNCEMENTS

Chairman Hollingshad welcomed the new Town Council liaison, Tom Hayden.

a. ELECTION OF OFFICERS

- i) Chairman

Commissioner Goss nominated Nick Hollingshad for Chairman. Commissioner Johnson seconded the nomination.

Close Nominations

NOMINATION APPROVED BY ACCLAMATION

- ii) Vice Chairman

Chairman Hollingshad nominated Tom Goss for Vice Chairman.

Close Nominations

NOMINATION APPROVED BY ACCLAMATION

- b. Comment from Bryan Webb regarding locating trash cans in close proximity to fast food drive-through lanes.

Commissioner Webb said he visited more than his fair share of fast-food restaurants. He noticed maybe two-thirds offered customers a place to throw out trash right after they got their food, so there was a place to put the straw slider in, or last night's cup or bag, but not everybody did. It was his belief that if they gave the citizens and folks that drove through the community the opportunity to do the right thing, they would more times than not. If it was not part of the Town's building ordinance to have restaurants provide a trash receptacle, either before or after the drive-up window, if they could have that added, he believed that would be a wonderful thing.

Tommy Dalton, Planning Manager, said the Town did not require anything separate from a dumpster. Anytime an issue on a code amendment was raised, staff typically forwarded that onto the Council for direction to see whether they wanted staff to look into such a requirement, and then bring it back for consideration. So, they would certainly push the issue forward to Council and see what might come back.

Commissioner Webb said he appreciated that. It would not cost much money for the restaurants to do it. Maybe if they just heard somebody was thinking about it, they would realize they needed one and that would take care of the issue.

D. DIRECTOR'S REPORT

- a. Presentation and discussion regarding development activity over the past year (application statistics, major project approvals, and regulation amendments), with particular focus on activity during the past three months.

Tommy Dalton, Planning Manager, said the number of development applications received this quarter was very similar to last quarter. Some of the approved applications

included the Trietsch Memorial United Methodist Church family life center, the Flower Mound High School locker room addition, the Marcus High School stadium, and the Town-wide Hydrologic Study. The number of building permits was also similar to last quarter, although there was a minimal increase in finish outs. There was not a lot of gas well activity, only an amended permit for the Wilson lease. The overall gas well status report showed there were 31 wells on 12 pad sites completed, and eight wells on five pad sites approved. He passed out a memo from the Town Engineer, Edith Marvin, regarding the roadway project update. A couple of temporary building applications came forward, Creekwood Christian Church and Grace Community Church. They received extensions on the use of their temporary buildings while their expansions were undergoing construction. First Korean Baptist Church received a one-year extension. Flower Mound Presbyterian Church would be coming back in April.

Vice Chairman Goss asked if anything had happened to the Canyon Falls sewer agreement.

Ms. Marvin said the lift station was under construction, and they had bid out the first phase going between Roanoke and the lift station, so they would be going to construction on that segment soon.

Commissioner Johnson said his personal observation was the progress on 1171 had been very slow. He realized it was a state job, so the Town had little control over it. He also knew the rains slowed it down significantly. He asked if there was any impression of how that project was coming along.

Ms. Marvin said the contractors were still working under the timeframe with TxDOT. The Town had a liaison relationship with TxDOT for helping out with conflicts, utilities, or resident issues that might come up, but if they were delayed or went beyond their contract, they had to work that out with TxDOT.

Commissioner Johnson asked about the status of the Town's temporary building that was damaged by the storm. He said several citizens had asked about it, and he hoped there was some good news.

Mr. Dalton said the last he heard the Town was still working with the insurance company. He would follow up and let them know.

Commissioner Walker asked if they had noticed any increased activity in the preliminary inquiries prior to actual full applications being presented.

Mr. Dalton said he did not have the numbers with him, but his impression was they had been steady, relative to the economic climate over the past year. There had been no major uptick in inquiries, but they had one or two a week. If that was something the Commission would like to see in the quarterly report, the buzz, staff had the ability to track that information.

Chairman Hollingshad suggested he plan on doing that. He thought it would be good to update them on the buzz.

Commissioner Webb said back to the roads, it would help him to know whether they were on schedule, behind schedule, or ahead of schedule. He thought TxDOT should have a handle on that for the projects they controlled, so if they could make that a part of the report, that would be great.

Ms. Marvin said she could give them general information. FM 2499 Section 3 was obviously ahead of schedule, and they were probably going to be done early. FM 1171 was pretty much on schedule ...

Commissioner Webb said that was all he was looking for. If somebody was behind schedule, then maybe that deserved a story as to what occurred to cause that to happen.

Ms. Marvin said okay. Right now, none were severely behind schedule.

Commissioner Whittaker said the questions he got frequently were regarding The River Walk and the medical office building. It looked like it had been five months since many of the issues had been outstanding. He asked if staff had just not heard any responses, and if so, at what point they went back and asked them what they were doing.

Mr. Dalton said with any project, there were two forms of communication. One was written communication in direct response to staff comments; the other was talking things out on the phone and having meetings with the applicant to address the staff comments or other issues. In the case of the medical office building, there was constant communication, either via phone or email, with the applicant. They were working with an oncology group that required them to do some architectural changes to accommodate their needs, and it was taking more time to get the revisions back to staff. It was something they were not aware of until the first set of comments went out, so they were working with them and expected to see the revisions very soon.

E. CITIZENS/VISITORS COMMENTS

There were none.

F. CONSENT AGENDA

- 1. Consider approval of the minutes of the September 28, 2009, Planning and Zoning Commission Regular Session.**

RECOMMENDATION: Approve minutes of the September 28, 2009, Planning and Zoning Commission Regular Session.

Commissioner Johnson moved to approve by consent, Item 1. Commissioner McCall seconded the motion.

VOTE ON THE MOTION

AYES: Johnson, McCall, Ward, Walker, Webb

NAYS: None

ABSTAIN: Goss

ABSENT: Millichamp

The motion passed with a vote of 5-0-1.

G. REGULAR ITEMS

2. Consider a request for a Site Plan (SP 02-09 – Flower Mound Operation & Maintenance Facility Phase II) to expand the existing operations and maintenance facility. The property is located at 1101 Duncan Lane.

Staff Presentation

Monica Leal, Planner, said the subject site was planned for utility use and zoned Agricultural. It was located just west of the existing fleet services center. The 24,060-square-foot operations and maintenance facility was the second phase of development. The landscape plan met all of the Town's ordinances, and the elevations met all of the Town's criteria for masonry requirements.

Applicant presentation

Scott Fisher, Freese and Nichols, Fort Worth

Mr. Fisher said this building would house Park Services and all of Public Works, consisting of Streets, Transportation Services, and Utility Services. The facility would have the same materials and colors as the Fleet Services Center, which was Phase I, to provide consistency throughout the complex. The site plan met the Town's guidelines for material coverage, parking spaces, and landscaping. A small portion of the concrete fence would be extended to the western part of the complex to match Phase I, but the majority of the Phase II fencing would be an ornamental metal fence with columns.

Questions and Answers

Commissioner Johnson asked how Spinks was going to expand there. He was thinking about traffic flow and trying to understand how that whole area was changing.

Ms. Marvin said they were currently constructing Spinks from Garden Ridge over to Duncan. That was Spinks IV on the CIP. It was a split system that was primarily bridge because of Bakers Branch. There would be a median opening at the western driveway and a right-in right-out at the eastern driveway. That project carried over to Duncan where Lewisville was currently under construction.

Commissioner Johnson said he was thinking about traffic from the parks. Mostly weekday activity would be coming out of this facility, but Duncan had been a bottleneck for quite some time. If Spinks opened, he guessed a lot of residents would use that to get in and out of the park area. He asked when Duncan would be widened and provide better transportation out of the park area.

Ms. Marvin said she could email a schedule to him.

Commissioner Johnson asked if there would be an increase in Town vehicles in this area, or if the Town vehicles were already there, and they were just improving the facilities.

Ms. Marvin said they were already there. The Fleet building drew in some new folks, but the operations and maintenance folks were already out there today.

Commissioner Ward asked if there was a requirement to bury the overhead power lines there.

Ms. Marvin said those poles were in the ROW. If they were in an easement on site, they would be required to put them underground.

Commission Deliberation

Vice Chairman Goss moved to approve Site Plan SP 02-09 – Flower Mound Operation & Maintenance Facility Phase II – to expand the existing operation and maintenance facility. Commissioner McCall seconded the motion.

VOTE ON THE MOTION

AYES: Webb, Walker, Ward, Goss, McCall, Johnson

NAYS: None

ABSTAIN: None

ABSENT: Millichamp

The motion passed with a vote of 6-0.

- 3. Public Hearing to consider a request for a Comprehensive Sign Package (CSP 01-09 – Sonic Drive-In) for Sonic Drive-In. The property is located at 2925 Cross Timbers Road.**

Staff Presentation

Monica Leal, Planner, said the subject property was planned for retail uses within SPA 1 and zoned PD-28 with Retail District-2 uses. The applicant was requesting to replace the monument sign that had to be removed because of the construction of 1171 and place three wall signs on each façade for a total of six wall signs. She showed the site plan for the area which showed the location of the proposed monument sign, and the elevations which graphically depicted the wall signage.

Applicant Presentation

Dennis Clark, President of Encore Restaurants, Grapevine

Mr. Clark said there were two elements of their Comprehensive Sign Package application. One related to the monument sign that was removed as part of the property acquisition by the Town and TxDOT for the expansion of 1171, and the other element was the wall poster signs on the sides of the building, which had been in place since the restaurant opened in 1997. They were not aware that a sign permit was required for those, and they hoped to be able to correct that issue that evening. The new monument sign would meet all the standards with the exception of the setbacks from the ROW. When the sign was originally approved, the requirements were for a 15-foot offset from the front property line and side property line. With the acquisition of the parcel, approximately half of the sign was in the property acquired and half remained on their property, so they were required to remove the sign. The new one would be located one foot behind the property line and 10 feet off the revised side property line. The wall poster signs had been in place, albeit the appropriate permits. They were proposing a new style of board, but the posters were similar. The total square footage of the posters was 10 feet. They used them for promotional or seasonal items, and also to break up the large expanse of masonry and add color and context to the wall itself. So, they served an aesthetic and architectural purpose in addition to a consumer information purpose.

Questions and Answers

Commissioner Walker asked for confirmation that he said in '97 they were not aware of the requirement for a permit for the wall poster signs.

Mr. Clark said that was what he said. When they built the restaurant, they installed the wall poster boards. They applied for a sign permit for the wall signs on the building today and the monument sign. At that point in time, they were not aware that there was a requirement, and the Town of Flower Mound did not raise that issue with them. Subsequent to that, the two other drive-ins in town that they owned had the same situation, so they became aware earlier this year that there was an issue. They removed the poster portion of those with the expectation that they would be coming before them to ask for their consideration to allow them to continue to have the posters in place. They had been in place for 12 years.

Commissioner Walker asked staff to review the permit process for an application like this. He wanted to know how it fell through the cracks, or if at that point in time, that was not part of the application requirements.

Mr. Dalton said signs were handled through the Building Inspections Division. Given the age of the sign request, he was not sure that it fell through the cracks as much as the appropriate permits were just not requested or granted. In this case, when Code Enforcement issued a citation and made the owner aware of it, they came in and spoke with staff on how to resolve the issue. The Comprehensive Sign Package process was the one they followed. He apologized he did not have more detail on that.

Chairman Hollingshad asked what the specific requirements were at that time.

Mr. Dalton said his understanding was the requirements were the same today as in 1997.

Commissioner Webb asked if the signs in place now were backlit.

Mr. Clark said no.

Commissioner Webb asked if what they were seeking to replace them with would be backlit.

Mr. Clark said yes, but that could be deactivated.

Commissioner Johnson thanked him for his patience through what he had endured at that intersection. He was sure it had impacted his business. It was a great location, and he was looking forward to everybody getting back up and running soon.

Mr. Clark said they were looking forward to that. His partner at that location, Greg Rivera, opened that restaurant in 1997, and he had certainly been impacted dramatically.

Commissioner Webb said his daughter was doing her best to reduce that impact.

In Opposition – None

In Favor – None

Close Public Hearing

Commission Deliberation

Chairman Hollingshad said the old monument sign was taken away because they needed the ROW to expand 1171, so it was only fair to find a way to get another monument sign back in there in a position that was still safe. His review of the proposal said that had been accomplished. Regarding the signs on the side of the building, his view was generally that they should strictly enforce the requirements in the Town that did not allow those kinds of signs; however, he thought this particular case was one where if they looked at the aesthetic objectives of the Town's ordinances in not allowing the signs on the sides of the buildings, the design of this building severely limited the impact of the signs. There was a lot of overhang, and then there was the part that covered the parking spaces. When they were busy, the cars that were pulled in there blocked the view of the signs. The other thing about this particular location was that the land surrounding the building was more elevated, so it lowered the level of where they would be visible. All of those things together made him comfortable with allowing this, and that by allowing this they would not be setting a precedent that would be applicable elsewhere in the town. He thought this was one case where it met the intent of the regulations in the Town.

Commissioner Webb said he agreed on the monument sign. They needed to find a way to fix that, and he thought they had. Regarding the wall signs, he noticed the sight lines, and from his perspective did not notice them driving along 1171. He noticed them only when he pulled in and decided to become their patron. At that point, it was almost like a posted menu on a restaurant door, telling about the specials of the day. So, he was

comfortable with it. They had been in place for 12 years, not backlit, and had served their purpose. He would like to see the replacements also not backlit should someone be more observant than he was from the road. The other thing was that if they took those down and did not replace them with anything, after 12 years of exposure to the elements and the sun, there would be fading on that wall, which in effect would have the appearance of a wall sign without any information being offered, so he was okay with the request provided they were not backlit.

Commissioner Johnson said he was alright with it and ready to make a motion.

Chairman Hollingshad said the Commission's decision would be based on the merits of the case presented, but he wanted to take the opportunity to acknowledge that Mr. Clark and Mr. Rivera had been very good citizens in the community and very generous with the resources at their store in supporting various organizations at Flower Mound High School. He truly meant very generous in their support. Those who had kids there deeply appreciated that and had benefited from that, and used that as yet another reason to patronize their store. He wanted to say thanks publicly for what they had done, with the caveat that it did not affect the decision being made that evening.

Commissioner Johnson asked if they needed to stipulate in the motion that the signs not be backlit.

Alan Lathrom, Town Attorney, said if that was the Commission's will, then yes, because otherwise they would be allowed to have signs that were permitted in the Town's Code of Ordinances, and they did in some instances allow for the backlighting of signs.

Commissioner Walker said he did not want any dedicated light, either backlit or something from the front pointed at the wall poster signs. If there was ambient or existing lighting, he did not have a problem with that whatsoever.

Commissioner Johnson moved to recommend approval of a Comprehensive Sign Package CSP 01-09 – Sonic Drive-In – for Sonic Drive-In and excluding any dedicated lighting for the wall signs. Commissioner Webb seconded the motion.

VOTE ON THE MOTION

AYES: Johnson, McCall, Goss, Ward, Walker, Webb

NAYS: None

ABSTAIN: None

ABSENT: Millichamp

The motion passed with a vote of 6-0.

- 4. Public Hearing to consider a request to amend the Land Development Regulations (LDR 02-09 – Compatibility Fences for Schools) by amending Section 82-302, Compatibility buffer, of the Code of Ordinances to change the fencing requirements for schools.**

Staff Presentation

Doug Powell, Executive Director, said this was a Town-initiated application. There had been several projects by LISD in the last year or so where the issue of the compatibility fence requirement adjacent to residential areas had been discussed, particularly with the Ninth Grade Center. The current standard was a four-foot-high chain link fence. Back in the spring, there was an Attorney General Opinion that said towns could regulate schools to a higher degree than previously thought possible, so the Town Council asked staff to look at possibly revising that fence standard. It went to a workshop at Town Council, and the resulting recommendation was for a six-foot tubular steel fence with masonry columns along edges of school property next to undeveloped residential, and a six-foot masonry wall next to existing residential neighborhoods, which was the compatibility standard for other nonresidential adjacent to residential.

Mr. Powell said as part of that discussion, staff supplied Council with the survey results from the Town's comparison cities on how they dealt with this issue. That survey was included in their packet. The responses showed there was really not a consistent regulation that towns used. Some did not have any; some had six-foot tubular steel; some had masonry walls; and some treated it on a case-by-case basis. So, before them that evening was the revision to the standard requested by the Town Council.

Questions and Answers

Commissioner Webb asked if vacant residential property meant property that was undeveloped, but zoned or master planned residential.

Mr. Powell said yes.

Commissioner Johnson said he did not doubt the need for this; he was just trying to visualize how it would work. For example, at the Ninth Grade Campus, they had an athletic field and not actually a building. There was occupied residential along the side of that property. He asked if this were in place, whether the Town would have required a six-foot masonry fence along that whole border.

Mr. Powell said there would have been two standards. Part of that border was along a park and part was along the existing residential neighborhood. Against the residential lots, it would have been a six-foot masonry wall.

Commissioner Johnson said, so the residential lot had an obligation, depending on the obligation within their HOA, to possibly keep a six-foot wooden fence. Then, if this were in place, the Town would require the school district to put up a six-foot masonry fence behind an existing residential fence, so there would be double fencing.

Mr. Powell said there was a standard that called for not having double fences, because that led to maintenance issues and other problems. The Town had been successful in the past with having developers work with adjacent property owners to take down their wooden fences and tie into that masonry fence. It was a negotiation discussion between property owners. So, their hope going forward would be that LISD

would talk to the neighbors and have them take down their wooden back fences. Hopefully, most people would concede the wisdom of that.

Chairman Hollingshad asked what happened if somebody said no.

Mr. Powell said if they said no, there was not anything the Town could do to force them to take down a wooden fence. Since he had been with the Town, they had been fortunate that almost everybody had agreed. There was an example by the Meadowlands Addition where it was kind of a hodge-podge working with the neighbors; some had wooden fences they kept, and some built new ones. At another location some property owners supported the developer's request for an exception to the masonry wall standard, so they could keep their wooden fences. So, that could happen here through negotiation and discussion. The school district could ask for an exception, and if it was supported by the neighborhood, he thought it would be looked upon favorably.

Commissioner Webb asked when this would be triggered, only at new construction or when there was an addition to a school.

Mr. Powell said it would depend on the impact of the development, and whether certain portions of the Code were impacted because of a change in a site plan. They would have to go through that analysis. If it was an expansion of an existing school site directly adjacent to a neighborhood that was going to impact that neighborhood, because there were going to be more buildings closer to the neighborhood, it would be triggered. If it was on the other side of a large site and did not impact the neighborhood, it might not.

Commissioner Webb asked what the difference was in cost between the existing ordinance and this one.

Mr. Powell said he had that information in his office. He apologized for not bringing it. He thought the chain link was around \$10 a linear foot. Obviously, a wall was much more significant of a cost. He thought a wooden fence was probably \$14-15 a linear foot. He could not remember the tubular steel cost.

Commissioner Webb said just on scale of magnitude, if the chain link fence was \$10, the masonry wall might be 10 times that and tubular steel 2½ times that.

Mr. Powell said he would have to get them that information. He hated to call that out for memory.

Commissioner Ward said the proposal was for two different types of fences, one against an existing residential lot and the other against a vacant residential lot. He asked for the thinking behind those two different types of fences, and if a school wanted to upgrade, whether they could put up a higher quality fence.

Mr. Powell said yes, they could. The discussion was that if a new school was surrounded by agricultural property, and that property was later developed as residential, then those people would know going in that there was a school next to them. But, if the school went in after the neighborhood, then the residents would be impacted, because

they bought their lot before the property next door to them developed. They might know it was going to develop as houses, but did not know it was going to develop as a school.

Commissioner Ward said he assumed the tubular steel was a lower quality fence. If they were building an elementary school, they might have safety concerns with that type of fence, and would want to build a solid fence, so the kids could not get through it.

Mr. Powell said it depended on the application, but in fact, the tubular steel was only three inches apart, so the kids could not get through there. And, a see-through fence was actually considered to be safer. People could hide behind a solid wall, but then the solid wall protected from noise, activity, lights, etc., and served as a better buffer.

Commissioner Ward said that made sense then. He was envisioning vertical pieces where kids could walk through or get their heads stuck in there.

Chairman Hollingshad said it was the same standard for fences around swimming pools.

Commissioner Johnson asked if that was what was going in by the maintenance facility they just approved.

Mr. Powell said yes, and along parks. A lot of people called it wrought iron, but it was tubular steel. It looked the same, but was less expensive. The tubes were hollow.

Ms. Marvin said there was tubular steel around the police facility off Kirkpatrick.

Commissioner Johnson asked what had been wrong with the four-foot chain link fence. He knew the ambiguity created some problems with the homeowners, but he was thinking about the issues with the school district burying power lines and the other things that increased the cost of construction. He was trying to understand the justification for increasing the standard.

Mr. Powell said going back to the premise of the compatibility standards, if someone was going to build something next to a residential area that was dissimilar in use, and the categories were nonresidential, commercial, institutional, and schools, there was a fundamental belief that there could be an impact to that residential land use. So, the buffer standards that included walls, fences, vegetation, and setbacks were to help create buffer areas, so those two dissimilar uses could be compatible with each other. As pointed out in the survey, there had been an argument that schools were really not akin to residential, even though they were in residential areas, and their impact needed to be mitigated. So, the discussion was that they needed to be treated differently, similar to an office building or retail, and have a higher standard than a chain link fence. Even the school district did not believe the chain link fence was an appropriate standard anymore. For most of their new construction, they used six-foot tubular steel. The reason was that a four-foot-high fence was too easy to get over, and if it was adjacent to an existing wooden fence, then it just created a stepping stone to get over that. So, it was a historical standard that was really not in use today.

In Opposition – None

In Favor – None

Close Public Hearing

Commission Deliberation

Commissioner Webb said he was thinking about how this would be implemented. If they were building a new school, and maybe two sides were open land, they would put in tubular steel. Then when that land developed, the developer would put up a masonry wall.

Mr. Powell said the compatibility buffer standards did not require a residential development to do anything, so they did not have to do any kind of fencing on the back side. It was just in an existing condition. The only time they had to do a fence in a residential neighborhood was adjacent to a roadway.

Commissioner Webb said, so along the backside of the playground where today it was a four-foot fence, tomorrow it would be a six-foot fence. Backing up to that would be people's backyards. It was likely those people would want something more private, so perhaps they were not required to put the masonry wall up, but they were perhaps looking at a hodge-podge of walls. He could see it happening that way. If it was an existing neighborhood, they already had fences up, so they would be going through the negotiation process to put up a new wall where fences were already in existence. He understood why the issue came up because chain link fencing was not the most attractive and tubular steel looked better. He was not so sure about the masonry wall. The bottom line was that this would add a lot of additional cost to the school district, and he did not see any of that increased cost going to their kid's test scores. It was not going to academics; it was going to aesthetics to please the Town, and he was not sure that was a good use of taxpayer money. He proposed that any place there was a chain link fence along a roadway, that might be an appropriate place for the six-foot tubular steel because of the aesthetic impact to the whole community, but along the backside of the properties, he did not think there was a driving need for that. He was not in favor.

Commissioner Johnson said personally he did not think this was the best solution for the school district. He did not have a solution, but did not think the masonry fence backing up to an existing residential property was the necessary way to go. He was thinking how they went through the deliberations with the Ninth Grade Campus athletic fields, where the school district came to the table and looked for something that was aesthetically pleasing. Some people actually wanted to be able to see that school yard behind their house, so for the Town to make this strict of a requirement, frankly, he was not in favor of it.

Commissioner Webb said schools were nonresidential, but different than other nonresidential uses like grocery stores or commercial. They were an integral part of the residential areas, and he did not think that putting walls up around them encouraged that sense of neighborhood that they had experienced until now, by having the schools a close knit part of the community.

Commissioner Webb moved to recommend denial of LDR 02-09 – Compatibility Fences for Schools. Commissioner Johnson seconded the motion.

VOTE ON THE MOTION

AYES: Webb, Ward, Johnson
NAYS: Walker, Goss, McCall, Hollingshad
ABSTAIN: None
ABSENT: Millichamp

The motion failed with a vote of 3-4.

Vice Chairman Goss moved to recommend approval of a request to amend the Land Development Regulations LDR 02-09 – Compatibility Fences for Schools – by amending Section 82-302, Compatibility buffer, of the Code of Ordinances. Commissioner Walker seconded the motion.

VOTE ON THE MOTION

AYES: McCall, Goss, Walker, Hollingshad
NAYS: Johnson, Ward, Webb
ABSTAIN: None
ABSENT: Millichamp

The motion passed with a vote of 4-3.

H. ADJOURNMENT - REGULAR SESSION

Vice Chairman Goss made a motion to adjourn the regular meeting, and Commissioner Johnson seconded the motion. All were in favor.

Chairman Hollingshad adjourned the regular meeting at 7:52 p.m.

TOWN OF FLOWER MOUND, TEXAS

DOUGLAS S. POWELL, AICP
Executive Director
Development Services

ATTEST:

Cindi Price, Administrative Assistant