

**THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING; TOWN OF FLOWER MOUND FIRE CONTROL, PREVENTION, AND EMERGENCY MEDICAL SERVICES DISTRICT SPECIAL MEETING; AND CRIME CONTROL AND PREVENTION DISTRICT SPECIAL MEETING HELD ON THE 20TH DAY OF AUGUST, 2012, 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 P.M.**

The Town Council met in a regular meeting with the following members present:

Kendra Stephenson	Mayor Pro Tem
Mark Wise	Deputy Mayor Pro Tem
Bryan Webb	Councilmember Place 2
Steve Dixon	Councilmember Place 4
Jean Levenick	Councilmember Place 5

with the following members absent:

Tom Hayden, Mayor

constituting a quorum with the following members of the Town Staff participating:

Harlan Jefferson	Town Manager
Theresa Scott	Town Secretary
Terrence Welch	Town Attorney
Chuck Springer	Assistant Town Manager/CFO
Gary Sims	Executive Director of Community Services
Doug Powell	Director, Development Services
Edith Marvin	Town Engineer
Jared Martin	Environmental Review Analyst

**A. CALL BRIEFING SESSION TO ORDER**

Mayor Pro Tem Stephenson called the briefing session to order at 6:01 p.m.

**B. BRIEFING SESSION**

**1. Town Council Boards and Commissions Subcommittee/Liaison Reports**

Deputy Mayor Pro Tem Wise reported attending the Transportation Commission meeting on August 14, 2012.

Councilmember Webb reported attending the Planning & Zoning Commission meeting last week.

Councilmember Levenick reported attending the Environmental Conservation Commission (ECC) meeting on August 7, 2012. She noted the ECC will be reviewing the 2008 Tree Ordinance and requested Council also look at that in the near future.

Mayor Pro Tem Stephenson reported attending the Seniors in Motion board meeting. She noted there were comments made about the need for brighter lighting in the parking lot and indicated staff is looking into that.

**2. Discuss Consent and Regular Items**

Councilmember Dixon requested Item 2 to be pulled.

**3. Request Future Agenda Items**

Councilmember Dixon requested to have a work session to discuss the potential sale of the Chinn Chapel Soccer Complex property to understand the feasibility of it.

**C./D. ADJOURN BRIEFING SESSION AND CALL REGULAR MEETING TO ORDER**

Mayor Pro Tem Stephenson adjourned the briefing session and called the regular meeting to order at 6:04 p.m.

**E. INVOCATION**

Chaplain Don Cone gave the invocation.

**F. PLEDGE OF ALLEGIANCE TO THE AMERICAN FLAG AND THE TEXAS FLAG**

Mayor Pro Tem Stephenson led the pledges.

**G. PRESENTATIONS**

**1. Proclamation for Fall Prevention Awareness Month.**

Mayor Pro Tem Stephenson presented a Proclamation for Fall Prevention Awareness Month to Maggie Humphreys of Continuum Rehabilitation Hospital of North Texas.

**2. Proclamation for United Way of Denton County Month.**

Mayor Pro Tem Stephenson presented a Proclamation for United Way of Denton County Month to Gary Henderson, United Way of Denton County President & CEO.

**3. Certificate of Achievement, Mr. Dennis Song for outstanding community service.**

Mayor Pro Tem Stephenson presented Dennis Song with a Certificate of Achievement for his award from the Texas Pharmacy Association and his community service.

**4. Progress Update by Development Process Review Committee.**

Keith Simonson, Chairman, Development Process Review Committee

Mr. Simonson gave a presentation which included an update regarding the work of the Committee to date which included four proposed recommendations that coincide with the outlined charge of the committee. His presentation is as follows:

## **Development Process Review Committee Update**

Topics and Recommendations

- Proposed Recommendation:
- Require Town Staff to prepare an Executive Summary Report to Town Council, consisting of the following:
  - Only critical information on the project
  - Include all of the exceptions and waivers requested by applicant
- Include a statement that staff certifies that all other applicant information meets existing ordinances and federal/state/municipal regulations
- Include citizen comments/responses
- Eliminate the requirement of including non-critical information that merely demonstrates that the proposal meets the regulations and ordinances

**Consider Whether To Limit Technical Detail  
Required For P&Z And Council Staff Reports**

- Proposed Recommendation:
- Double Notice Both P&Z and Town Council on all public hearing items
  - Applications/Items can be presented to P&Z and then presented to Council the following week
- Condenses time available for P&Z to produce meeting notes for Council Review
- Most other benchmark cities use this process (though rarely)
- Could save an applicant up to 3 weeks processing time
- Caveat: P&Z summary would have to be prepared to include in the Thursday's packet for the Town Council Meeting.

**Consider The Public Notice Requirement Mandated By State Law And Consider A "Double Notice" To Reduce Application Review And Approval Timeline**

- Proposed Recommendation:
- Allow Town Staff to propose amendments directly to Town Council action without P&Z Review
- Reason:
  - Subdivision regulations are rarely changed

**Consider Amending Existing Regulations To Delete Any Requirement For P&Z To Review Proposed Changes To Subdivision Regulations**

- Proposed Recommendation:
- Allow P&Z to be the final authority on site plans for future PDs as well as current and future ED projects
  - Require Town Council Review/Approval ONLY if site plans change significantly during the staff and P&Z Review Process
- Reasoning:
- Town Council has already approved these plans once
- No reason to re-present these items unless there is a significant change

**Consider Amending Requirement That Mandates Site Plans And Planned Developments Go To Council For Qualifying Economic Development Projects And Planned Developments**

Mayor Pro Tem Stephenson commented that with regard to the summary it would be helpful to note the residents that came forward (for or against) a project.

Mayor Pro Tem Stephenson asked Mr. Simonson to get with her later as she has some additional things to add to the list.

Councilmember Dixon pointed out he updated Council during their last meeting regarding the committee discussion related to flood plain and noted it will be an ongoing discussion.

#### H. PUBLIC PARTICIPATION

Joe Northern, 4601 Portsmouth Ct, Flower Mound, TX

Mr. Northern expressed concerns with reporting by Eric Williams of the News Connection in relation to Kroger and the Lakeside DFW project, noting there were some inaccuracies targeted at past Council members.

Kim Cloud, Cloud 9 Spa, Flower Mound and Susan Dawson, 3425 Camden Dr., Flower Mound, TX

Ms. Cloud requested Council's continued support for the Children's Advocacy Center.

Carol Kohankie, 4312 Lauren Way, Flower Mound, TX

Ms. Kohankie expressed concern regarding disbursement of mosquito disc and locations in which they are being used in order to combat the West Nile Virus. She requested feedback as to when the pond on Windsor is being sprayed.

**I. ANNOUNCEMENTS**

1. Announce recent and upcoming civic and social events.

Councilmember Levenick announced she participated in the Morriss/Gerault Flyover for the new bridge overpass at Gerault and Morriss Rd. She requested this road be monitored with regard to traffic merging onto FM 2499.

Councilmember Webb announced school starts next week and encouraged safe driving in school zones. He also announced the Women of Flower Mound is having a membership drive.

Deputy Mayor Pro Tem Wise announced CNN Money Magazine recently ranked Flower Mound number 32 on the top 100 Best Places to Live (nationwide) and Flower Mound ranked number 19 in the top earning towns list of 25 municipalities.

Mayor Pro Tem Stephenson announced registration is open for the annual Dorothy's Dash run.

**J. TOWN MANAGER'S REPORT**

1. Update and status report related to capital improvement projects

Mr. Jefferson reported on the following projects:

- The Morriss/Gerault Road flyover/ribbon cutting held this past Friday. He noted there has been a yield sign added upon exiting the flyover. Furthermore, traffic flow for that area will be monitored with a report in three months to identify its use and amount of time being saved by vehicles.
- Post Oak Park is under construction.
- The following items are in response to Mr. John Todd's concerns from a previous Council meeting:

1. Morriss and Gerault Road intersection alignment: On August 27<sup>th</sup> the Town's contractor is going to restripe the intersection as the way it is set up now it brings the traffic east and westbound to the intersection and then redirects about four feet to get realigned. The contractor will back away from the intersection and readjust traffic so when vehicles arrive at the intersection they are already angled four feet away. In addition, the striping will be more visible to accommodate day and nighttime driving to distinguish where the lanes are. He noted this item was brought up by Council a few months ago and staff received approval for this plan from TxDOT late last week.

2. Landscaping at Rippy Road and FM 2499 (if northbound and making a left hand turn at that intersection) and the traffic visibility issue: that intersection, as well as at FM 2499 and Pecan was evaluated and

some of the plantings will be removed for better visibility of oncoming traffic for those making the turn.

3. Shiloh and FM 1171 (westbound traffic): one of the signal heads will be placed at an angle so it could be seen sooner when coming around the curve and once the green ribbon plantings are installed staff will have a better idea as to where to put the advance traffic signal sign.

- Precinct 3 meeting has been cancelled this month.

2. Lakeside DFW Project Update.

Mr. Jefferson reported:

- The water and wastewater flows have come in and the engineering consultants came to an agreement last week regarding flows and the models will be rerun, followed by a reevaluation of the results.
- The traffic impact analysis final draft was sent out last Friday. The developer is in the process of bringing on a traffic engineer for analysis.
- Gateway Planning is in the process of evaluating the application, conducting a feasibility study, as well as taking a look at their park land dedication proposal. Staff will be coming back to Council with an update upon receiving an estimated completion time from them, which will most likely be later this month.
- Regarding cycling through Boards and Commissions, joint meetings are being scheduled and he provided the corresponding dates.

Mayor Pro Tem Stephenson noted that at the last meeting Councilmember Webb mentioned that one of the goals of the park land dedication is to make sure there was enough park land available for all of the residents. It might be helpful for Council and Gateway Planning to have the park land worksheet to identify how much park land the Town has in inventory and how much is needed.

3. Discuss Council Communications

- a. CC 29-12: Development process and customer service improvements in response to Council concerns

Mr. Jefferson noted the major change was with the developer ombudsman being proposed and the position of a development process representative within the proposed budget. Also being proposed is a medical technology entrepreneur partnership program that will be coming forward.

Councilmember Dixon asked for an update as to repairing the well water pump at Leonard John's Park. He said it's his understanding there was a lightning strike two years ago and asked if it had been out for two years.

Mr. Jefferson responded it has and after that event, approximately \$7,000 was spent in electrical and wiring to restore it, however, staff was unsuccessful in

getting it restored. A cost estimate of \$25,000 was recently obtained to replace the pump, and an encumbrance is being pursued this fiscal year with plans to replace it in the next few months after identifying a contractor.

Councilmember Dixon asked to get a copy of the \$25,000 estimate received.

Mr. Jefferson noted there were two ponds with concerns about low water levels with Leonard John's and Rheudasil. He commented that with regard to Rheudasil pond, staff believes the water shed is large enough to maintain that area, other than in a severe drought situation. The water shed for Leonard John's is not that large. He noted the well was originally drilled when it was used as a water source Town-wide many years ago, noting the one in existence now is much larger than what is needed to support that pond.

Mr. Jefferson provided an update regarding mosquito abatement efforts. He noted to date approximately 300 mosquito dunks have been distributed, primarily for residential use. With regard to Ms. Kohankie's concern as to abatement measures at Windsor and Amy Lane Pond, he indicated he would inquire with staff as to if that pond was treated with larvicide and will contact Ms. Kohankie. He pointed out the Town's abatement program is driven by trapping mosquitos and efforts are concentrated on areas where there are positive test results for West Nile.

Councilmember Levenick asked if anything is being done proactively in relation to standing water.

Mr. Jefferson indicated yes, the larvicide program takes care of this for public property and if the Town is notified of pools not being maintained, then those are treated as well.

Councilmember Levenick noted a location by the Chinn Chapel Soccer Complex where she's identified standing water for quite some time.

Mayor Pro Tem Stephenson asked for clarification regarding the position of the development process representative, and would like to know what issues it would address in the development process, what the reporting structure is going to be, and exactly what those duties will be. She commented there are other positions associated with decision packages that are clearly defined, however, this one is not.

Mayor Pro Tem Stephenson also had a question related to the ombudsman duties moved into the Town Manager's office – she wanted to understand exactly what issues that person would be dealing with and how that position would collaborate with planning and engineering, as well as what decision making authority that person would have.

Mr. Jefferson responded the position deals with problem avoidance. He noted the planning process representative is at a lower level position and designed to address the complaints received in person at the Atrium, and the impact of the



service level with the absence of staff at the customer service counter area. This individual would be trained in multiple areas so they can provide staffing when individuals are out on leave so there is not a noticeable impact on service delivery in these instances.

He noted the ombudsman position related to problem resolution in that if an individual has exhausted their options and has a discrepancy with something along the way, they could step out of the chain of command if there was a reasonable resolution and address the person who is in a neutral party in which to express concerns to. That individual would be familiar with the Town's process and could address road blocks, etc.

Mr. Jefferson pointed out that, in response to some questions he has received, the regional toll revenue funding was exclusively used on the Tarrant County portion of Gerault when that area was constructed.

Councilmember Dixon stated at the last session with the PALS Board there was some discussion in relation to the Chinn Chapel soccer field land swap. He asked Mr. Welch or Mr. Jefferson to identify what would potentially be needed by the Town to dispose of or sell the Chinn Chapel Soccer Complex, with the realization this site could be used by a high end retailer to increase the Town's ad valorem and sales tax. He also pointed out the benefit that could be gained when those using the soccer complex keep their shopping and dining in Flower Mound instead of going across the street to Highland Village as they do today. He noted the response will most likely be it needs go to the voters. He outlined what the next steps would be if approved by the voters. He also provided background information related to this topic and how it was a past ballot item that failed in 2010 (which was for a land swap). He noted this item is being looked at again, but not necessarily as a land swap, but the possibility of selling that land. At the conclusion there would be at least as many soccer fields as exist today, however, hopefully more soccer fields.

Mr. Welch responded there would need to be a public hearing and then an election to sell the property, which would need to be priced at least at fair market value, and it would need to be taken to the voters for either a May or November ballot.

*Town Council recessed at 7:05 due to audio technical difficulties and reconvened at 7:13 p.m.*

**K. CONSENT ITEMS**

Councilmember Dixon made a motion to approve by consent Items 1; 3 - 6. Councilmember Webb seconded the motion. Each item, as approved by consent, is restated below along with the approved recommendation, and if applicable, the Ordinance or Resolution caption for each, for the record.

- 1. Consider approval of the minutes from a work session of the Town Council held on June 21, 2012.**

**RECOMMENDATION:** Move to approve the minutes from a work session of the Town Council held on June 21, 2012.

*Item 2 pulled from Consent by Councilmember Dixon.*

3. Consider approval of the minutes from a regular meeting and work session of the Town Council held on July 16, 2012.

**RECOMMENDATION:** Move to approve the minutes from a regular meeting and work session of the Town Council held on July 16, 2012.

4. Consider approval of a resolution amending the ICMA Retirement Corporation deferred compensation plan to permit features contained in 401K plans; and providing for an effective date.

**RECOMMENDATION:** Move to approve a resolution amending the ICMA Retirement Corporation deferred compensation plan to permit features contained in 401K plans; and providing for an effective date.

**RESOLUTION NO. 11-12**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AUTHORIZING THE TOWN TO AMEND ITS ICMA RETIREMENT CORPORATION DEFERRED COMPENSATION PLAN TO PERMIT FEATURES CONTAINED IN 401K PLANS; MAKING FINDINGS RELATIVE THERETO; AND PROVIDING FOR AN EFFECTIVE DATE.**

5. Consider approval of a resolution amending the FTJ FundChoice retirement plan to permit features contained in 401K plans; and providing for an effective date.

**RECOMMENDATION:** Move to approve a resolution amending the FTJ FundChoice retirement plan to permit features contained in 401K plans; and providing for an effective date.

**RESOLUTION NO. 10-12**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AUTHORIZING THE TOWN TO UTILIZE FTJ FUNDCHOICE, LLC, AS AN INVESTMENT OPTION FOR THE TOWN'S SECTION 457(b) DEFERRED COMPENSATION PLAN; MAKING FINDINGS RELATIVE THERETO; AND PROVIDING FOR AN EFFECTIVE DATE.**

6. Consider approval of a resolution authorizing the issuance of the New Hope Cultural Education Facilities Finance Corporation Lease Revenue Bonds (North

Central Texas College—Flower Mound Campus Project), Series 2012A.

**RECOMMENDATION:** Move to approve a resolution authorizing the issuance of the New Hope Cultural Education Facilities Finance Corporation Lease Revenue Bonds (North Central Texas College—Flower Mound Campus Project), Series 2012A.

**RESOLUTION NO. 09-12**

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AUTHORIZING THE MAYOR TO APPROVE THE ISSUANCE OF NEW HOPE CULTURAL EDUCATION FACILITIES FINANCE CORPORATION LEASE REVENUE BONDS (NORTH CENTRAL TEXAS COLLEGE – FLOWER MOUND CAMPUS PROJECT), SERIES 2012A AND TAXABLE SERIES 2012B TO FINANCE THE COST OF EDUCATIONAL FACILITIES AND WITH RESPECT TO A PUBLIC HEARING; MAKING FINDINGS RELATIVE THERETO; AND PROVIDING FOR AN EFFECTIVE DATE.**

**VOTE ON MOTION**

**AYES:** Wise, Dixon, Stephenson, Webb, Levenick

**NAYS:** None.

**L. REGULAR ITEMS**

*Item 2 pulled from Consent by Councilmember Dixon.*

2. Consider approval of the minutes from a strategic planning session of the Town Council held on July 13 and 14, 2012.

Councilmember Dixon moved to approve the minutes from a strategic planning session of the Town Council held on July 13 and 14, 2012 with text amendments. Deputy Mayor Pro Tem Wise seconded the motion.

**VOTE ON MOTION**

**AYES:** Levenick, Webb, Stephenson, Dixon, Wise

**NAYS:** None.

Mayor Pro Tem Stephenson opened items 7, 8, and 9 simultaneously

7. Public Hearing to consider the proposed budget for the fiscal year beginning on October 1, 2012, and ending on September 30, 2013.
8. Public Hearing by the Town Council acting as the Board of Directors for the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District to consider the Flower Mound Fire Control, Prevention, and Emergency Medical Services District proposed budget for the fiscal year beginning on October 1, 2012,

and ending on September 30, 2013.

9. **Public Hearing by the Town Council acting as the Board of Directors for the Town of Flower Mound Crime Control and Prevention District to consider the Flower Mound Crime Control and Prevention District proposed budget for the fiscal year beginning on October 1, 2012, and ending on September 30, 2013.**

#### **Staff Presentation**

Mr. Springer provided a presentation identifying the proposed tax rate, which will remain the same at .44970. He also pointed out the effective and roll back tax rates. He noted, if adopted at this rate, this would be the 21<sup>st</sup> year of declining or the same tax rate going back to fiscal year 1991, which was the last year in which the Town had an increase. He also provided comparison data with other cities in relation to tax rates. His presentation also included:

- General fund projections/associated general fund decision packages
- Proposed utility fund/ utility fund decision packages
- Stormwater utility fund and the associated decision package for this fund
- Special revenue funds/Special revenue decision packages
- Capital projects budget including street projects, signal projects, street reconstruction projects, facility projects, and park projects
- Capital projects – utility: water, stormwater, wastewater
- Proposed CIP Total FY2012-2013 – general and utility fund
  - Proposed 2012-2013 CIP – Total 5-Year – general and utility fund
- Crime Control & Prevention District budget and proposed decision packages
  - Crime Control & Prevention – Current year surplus considerations
- Fire Control, Prevention, & Emergency Medical Services District budget

Councilmember Dixon stated he would like to remove the new vehicle for animal services (\$29,000) based upon the fact there are five people and not all five people would be on at all the time. In addition, he would like to add the Fire Prevention Officer.

There was consensus by Council to add the position of Fire Prevention Officer due to being a noticeable position in the community.

There was discussion about potentially removing the development services staff person or remove the vehicle request for the Animal Services Division to offset the financial resources for the changes requested.

Mr. Springer asked if Council would like staff to come back with some recommendations as to some projects not to be funded to balance that out. He noted some of the items are one time, such as the vehicle, and asked if it's the Council's preference to remove those two and add in the one, and consider some of those one time expenditures.

Councilmember Dixon commented leave it in as one time.

Councilmember Dixon questioned if physicals for fire fighters had been done in this current fiscal year because it was on last year's budget and he noted there's a \$12,100 item for this and he inquired as to if they haven't been done from last year.

Mr. Springer noted that last year they were done in September and this year they are scheduled for October.

Mr. Jefferson summarized there is consensus to remove the animal services vehicle as well as to implement the Fire Prevention Officer. He asked for clarification with regard to if there is consensus to remove the development services position as well.

Councilmember Levenick commented she would prefer to have a Fire Prevention officer versus an administrative person.

Councilmember Webb stated if it's a choice he would prefer to have the Fire Prevention officer.

Mr. Jefferson pointed out it's more about ongoing cost and reoccurring cost in the future. He referenced the general fund projections slide noting it's not about funding for this year, however, trying to manage the ongoing cost in the future. There is a reoccurring cost for the Fire Prevention Officer (\$70,000), and \$30,000 for the vehicle (one time), so \$70,000 would be deducted for the next two years. For the current year there is not a need to swap out positions, and in future years there are opportunities to reduce cost in other areas. He noted at this time there is not a need to reduce something to add something else.

Mr. Springer agreed and noted in the FY 2012-13 budget there are several one-time expenditures that will be eliminated next year and commented in the way of the Town's financial policies the Town's current revenues equal expenditures, so they would back out those one time expenditures and it might be a slight draw down during FY 2012-13 of fund balance. The concern might be if we add the reoccurring expenditure of the Fire Prevention Officer we might want to consider not adding another reoccurring expenditure, such as the development services position or reconsider that position next fiscal year when the Town knows better what the revenues will be for FY 2013-14.

Mayor Pro Tem Stephenson said it would be better to take that development services position into the next year and if there is good news in the way of sales it could be reconsidered. She stated not wanting to be put in the position in FY 2013-14 to have to initiate cut backs.

Mayor Pro Tem Stephenson pointed out that Council feels strongly about this position given the role of the Fire Prevention Officer is to conduct inspections at all commercial buildings in Town.

Mr. Springer confirmed those changes would be made and will come forward on the September 17<sup>th</sup>.

Mr. Springer identified next steps for the budget which include a FY 2011-2012 budget amendment on September 4, and on September 17<sup>th</sup> to adopt the tax rate, consider adoption of the budget, consider adoption of Crime and Fire Districts budgets.

Mayor Pro Tem Stephenson opened the Public Hearing for items 7, 8, and 9 at 7:39 p.m.

Carol Kohankie, 4312 Lauren Way, Flower Mound, TX

Ms. Kohankie spoke against spending any tax dollars on a permanent senior center.

Mayor Pro Tem Stephenson closed the Public Hearing at 7:41 p.m.

*The order of Item 10 was switched with Item 11 as follows:*

Mayor Pro Tem Stephenson opened items 11 and 10 as follows:

11. **Public Hearing to consider a request for rezoning (Z 01-12 - Parker Tract) from Agricultural District (A) uses to Single-Family District-10 (SF-10) uses, and an exception to Section 98-147, Topographical slope protection, as authorized by Section 98-147(b) of the Code of Ordinances, and to consider adopting an ordinance providing for said amendment. The property is located generally along and about Garden Ridge Road and south of Flower Mound Road. (*The Planning and Zoning Commission recommended approval by a vote of 5 to 0 at its August 13, 2012, meeting.*)**

#### **Staff Presentation**

Mr. Powell provided a presentation identifying the location of the development, proposed development agreement, land use zoning, and the environmental protection plan. He noted the packet contains significant additional detail. He pointed out a connection opportunity near the Heritage Park that wouldn't impact the activities of the park. He noted relief is being asked for in relation to side yard setbacks for some lots along Flower Mound Road. He noted there is extra buffering around the parallel street and P & Z recommended that exception. He noted the buffer is going to be the same but the setback is a little different than the standards, but it will match up with the Baker's Branch development. He pointed out there is a development agreement that was put in the packet for the zoning, however, it should be with the development plan. The applicant received that document Friday, however, they haven't had an opportunity to review it. He noted there are provisions regarding tree mitigation and planting of additional trees and noted staff is not sure they can plant that many trees on the site because there are already a lot of trees. He noted there is conversation about changing the wording in the agreement to allow flexibility with either payment for irrigation for trees that were in the buffer yard or perhaps planting trees in the Town's Tree Farm to satisfy that requirement. He noted at P & Z there was some discussion from the adjacent property owners and today there were several e-mails.

Councilmember Levenick noted being at the PALS Board meeting when they made their recommendation and they earmarked money for trail development and she indicated not having seen that before and thought the money went into a park dedication fund and questioned how that works.

Mr. Powell indicated it's his understanding the money goes into the parks funds and then has to be used in accordance to that, and there is not a mechanism to specifically earmark those funds. He said the funds, however, have to be used for parks.

Deputy Mayor Pro Tem Wise asked what was the purpose of the road identified on the map.

Mr. Powell responded that when Baker's Branch was platted, the area that is now park land was supposed to be residential and with part of the Town's subdivision regulations the Town requires streets to be stubbed into adjacent properties so there is interconnectivity so vehicles are not forced into the thoroughfare collectors. The street was stubbed for the eventual development as residential. Toll Brothers does need two points of ingress and egress for the number of lots in conjunction with fire department regulations. For this reason this was a natural to try and connect those two.

Deputy Mayor Pro Tem Wise stated there are concerns regarding the additional traffic from the new neighborhood going onto Baker's Branch. He asked if there was an aerial of the route the new residents would take as it appears they would go out to the main road.

Mr. Powell stated he could pull up a better map while the applicant is doing their presentation.

Mayor Pro Tem Stephenson asked Mr. Powell to clarify that where the road is going to be is considered Town right of way and the Town is not giving away park land to build the road, and it's basically right of way the Town has for the purpose of extending the road.

Mr. Powell responded yes, it would be owned by the Town but would have a public street and easement on it.

Mayor Pro Tem Stephenson asked for clarification from Mr. Jefferson in that it's the original land that was purchased for Town right of way, which was purchased for a road and not park land.

Mr. Jefferson responded yes, the issue was whether or not the Town was giving land to the developer, and he clarified that is not the case. He reiterated Mr. Powell's comments related to the origination of the stubbed street.

Mr. Powell noted the development agreement provides the numbers as it relates to the environmental protection area plan. He pointed out the tree areas, slopes, and streams, and noted the parcel has a lot of environmental features. They are impacting slopes, however, most of them are being protected, however, there are some slope areas that are being impacted, and the same applies to the trees. He commented the development agreement goes back to the mitigation. The next 3 items on the agenda have to do with what they are doing to offset that, which

includes additional parkland (6.09 acres), on site tree mitigation (426 trees), and then the reduction for roadway easements in which they are giving which adds up to \$317,000. He noted the last bullet reflects that they haven't overbuilt the site and the developer estimates they could actually put another 20 lots on the site if they wanted to max out.

**Applicant Presentation**

Matthew Alexander, Dowdy, Anderson and Associates, Inc., 5225 Village Creek Drive, Suite 200, Plano, TX 75093

Project details: 70.49 acres and 142/10k square foot lots proposed.

Mr. Alexander provided a history of the project noting past meetings, tree survey, flood study, several site and pointed out planned landscape buffering. He noted they believe healthy trees are an asset to the project and take that into account in creating land plans to preserve trees, and the site has 6.1 acres of open area and a trail plan. He pointed out the locations with 12% slope encroachment which equates to two acres being impacted.

Rob Paul, Toll Brothers, Division President for Toll Brothers, 1916 Reserve Ct, Flower Mound, TX

Mr. Paul pointed out the extent in which they communicate with neighboring home owners when proposing this type of development in that they reached out to home owners within 400 feet of the site (outside of the required 200 feet). He noted having invited those homeowners to a meeting they hosted in early 2012. As a result of questions and concerns raised at that meeting they had another meeting a few weeks ago to further address the concerns brought up.

He noted within the development agreement (paragraph number 7) it states they will plant 426 additional 3 inch caliper trees to make up for part of the money that is owed for the mitigation. He stated he doesn't know if that's possible to plant that many trees on this site. He indicated they are not trying to avoid the dollar amount that is called out in the development agreement of \$127,800, however, believes that paragraph needs to have more flexibility in it so it can be achieved. He proposed the following ideas: 1) Garden Ridge has not been through the median beautification project as of yet and they would be happy to have that money spent on plantings throughout the whole median of Garden Ridge in addition to trees and irrigation. 2) another option would be to have some of those trees go to the Town's Tree Farm. He indicated there is a need for flexibility there.

Questions from Governing Body:

Councilmember Levenick asked Mr. Powell if he was able to get the aerial map for the Baker's Branch neighborhood.

Mr. Powell pointed out the area starting from the extension of the roadway.

Councilmember Levenick asked for clarification that the main purpose of the additional road is to provide a secondary access for the fire department.



Mr. Powell responded yes, that is correct.

Councilmember Dixon asked Mr. Alexander to put up the slide that had a red line outlining the trails. He asked what is the distance from the trail abutment to Summerset Dr.

Mr. Alexander responded it's about 300 feet or more.

Councilmember Dixon then asked for the spacing from the corner lot (pointed out on map) to Spinks.

Mr. Alexander responded somewhere between 1,200 and 1,500 feet.

Councilmember Dixon said more than likely there are some folks in the audience that live in Baker's Branch and they are concerned about the road here (pointed out on map). He pointed out the traffic concerns that they may have. He recalled a past development called Whisper Creek and the developer put in a bridge with an arch culvert. He thinks everyone understands there needs to be two access points due to the safety aspect. He asked instead of this connection right here (noted on map) he had two thoughts: 1) instead of connecting here (noted on map), why couldn't it go from here directly out here – and the question is that if it's 1200 feet it's going to meet the Town's regulations on spacing (least expensive one). 2) The second one is more expensive which would be to take the cul de sac (Kings Lake Drive) and put in a nice drive that crosses the flood plain and put a nice drive over here (noted on map) since it will not be built on (area one). He asked if someone can tell him why we wouldn't consider those as options.

Mr. Alexander responded this connection provides a second point of access to this development. We could have laid this out in a different configuration (demonstrated on map) and the issue would be solved. They don't need Baker's Branch as a second point of access, and it's more about providing a second point of access for Baker's Branch (it doesn't have anything to do with them – they can provide their own).

Councilmember Dixon asked if it's important to the Town to have a connection off of Currant Way because equally I would sit back and say, I can see your logic but the Town approved Big Canyon to be the only ingress and egress to all the streets (named them). Is staff telling Council this is so important to the Town for health, safety, and welfare that we give a secondary access to the backside (or eastern part) of Baker's Branch.

Mr. Powell commented that when Baker's Branch was put in it was stubbed out with the expectation that eventually that street would be a cut through. He noted when it was approved it was a temporary condition and it would be fixed to the south when a development comes and now that day has come and that access can be provided.

Councilmember Dixon commented that makes sense when it was proposed to be residential, however, now it's going to be Heritage Park.

Councilmember Levenick asked Mr. Jefferson if there are currently two access points in Baker's Branch.

Mr. Jefferson responded yes.

Councilmember Dixon pointed out on the map the two points of egress and ingress within Baker's Branch, noting the access point is diminished to one in the event Big Canyon is inaccessible with only one in at Currant. For that reason he asked is the access for the east or west.

Ms. Marvin responded it's a little of both and the reason why it's that way is because the developer was encouraged to take that connection route given Currant was stubbed out for a future connection into an adjoining neighborhood to meet the connectivity requirement and given the amount of lots there is a requirement of two points of access. She noted this location doesn't interfere with park activity associated with the Phase II future plans at Heritage Park. She commented there is another option that hasn't been put on the table in that since it is primarily for police and fire access there is the option to have gates into the entries of those neighborhoods.

Councilmember Dixon recalled there have been several neighborhoods in Town where this was an issue which resulted in a gate for Fire Department access. He asked Toll Brothers representatives, given the various options for a secondary ingress/egress, if they would prefer this to be off of Garden Ridge.

Mr. Paul responded his first choice is to duplicate something similar to what they did at the Sanctuary as it the least impactful on all parties, which entails widening their entryway using some of that open space and common area directly next to the entryway and divide that, and hopefully that's enough to achieve the two points of entry. He commented their second best choice would be determining a secondary entry point out to Garden Ridge from within the community, and thirdly, connecting the road with a gate, and fourth best connecting the road and leaving it open.

Mayor Pro Tem Stephenson asked for clarification given what is being stated contradicts with what is being presented to Council in that it is the last choice.

Mr. Paul stated if the other things he mentioned are allowed then it's his last choice.

Councilmember Levenick asked Chief Metzger if there were any issues with the Sanctuary divided situation.

Chief Metzger responded it's not allowed by the Fire Code anymore and commented in order to have a secondary access point you have to have at least half the diagonal distance of the entire development.

Councilmember Webb asked Chief Metzger for clarification as to if the other options proposed would be in compliance.

Chief Metzger responded yes, any of the other options proposed would be in compliance with the Fire Code.

Mayor Pro Tem Stephenson asked staff if there were any future plans for the right of way on Garden Ridge where they are asking the Town to give them credit for the road bumping out at their SE Corner on Garden Ridge.

Response: inaudible

Mayor Pro Tem Stephenson asked how many lots bump up against Baker's Branch.

Councilmember Dixon responded 35.

Mayor Pro Tem Stephenson asked for the developer to identify the location where there is a need to fill in a ravine. She asked Mr. Paul if that was similar to what they did when they built in the Sanctuary.

Mr. Paul indicated he wasn't certain as he had different responsibilities at that time, however, the most similar example is what they just did at The Preserve where it used to be a creek that ran through and the community that got developed before them filled it in, built the lots up, put in a wall, and cut off the creek, resulting in a draw that continues through.

Mayor Pro Tem Stephenson questioned in the event there is an erosion situation in the future, whose responsibility would it be to make the repairs (the Town or within that HOA)?

Ms. Marvin noted the portions of the property dedicated to the Town in the area of the flood plain would be the Town's to maintain (along the creek within those four tracts of land).

Councilmember Webb asked Ms. Marvin, based on her review of the site, and as an engineer, is the Town taking on a heavy financial responsibility in the way of issues for that slope?

Ms. Marvin indicated on the 2<sup>nd</sup> page of the development plan there is a note that indicates the Town is in the process of a flood study review. The existing conditions were completed and as part of that review the proposed model showed erosive velocities upstream and downstream and according to the Town's standards those would need to be dealt with so the minimal measures feasible to stabilize the slopes would be needed, and prior to going to record plat staff would need to have received the completed submittals and conduct a review on to ensure it meets the Town's criteria.

Mayor Pro Tem Stephenson opened the public hearing at 9:00 p.m.

Stephen Dillard, 1412 Currant Way, Flower Mound, TX

Mr. Dillard expressed concern regarding road and drainage issues.

Raun Greenstreet, 1404 Currant Way, Flower Mound, TX

Mr. Greenstreet expressed concerns related to road access and reinforcement that is needed related to the slope. He noted the additional traffic would be more of a concern than the lack of the additional access.

David Madigan, 1540 Superior Pl, Flower Mound, TX

Mr. Madigan pointed out Prairie Creek as an example of drainage issues that can arise if not addressed.

Kier Johnson, 1301 Paprika, Flower Mound, TX

Mr. Johnson noted there are thirteen Baker's Branch homeowners in the audience. He stated being opposed to the cut through due to the added traffic. He asked for consideration to alternative access points.

Robert Thomann, 1312 Currant Way, Flower Mound, TX

Mr. Thomann expressed concern regarding the road cut through.

David Robison, 913 Rosemary, Flower Mound, TX

Mr. Robison spoke in opposition of the road connection into Baker's Branch.

Roy Matthew, 1416 Currant Way, Flower Mound, TX

Mr. Matthew spoke in opposition of the road connection into Baker's Branch.

Carter Strey, 1316 Currant Way, Flower Mound, TX

Mr. Strey spoke in opposition of the road connection and expressed concern regarding the run off connection. He stated being in favor of a gate for emergency access.

Mayor Pro Tem Stephenson closed the public hearing at 9:13 p.m.

**Council Deliberation:**

Councilmember Dixon asked Mr. Paul about the setback distance from FM 3040

Mr. Paul responded he believes it's 25 feet.

Councilmember Dixon asked for clarified that what is being sought is for 25 feet down to 20 feet?

Mr. Alexander stated they are asking for 5 feet for four lots, but they are giving an openness that is greater than anywhere else in the area on FM 3040.

Mr. Powell pointed out the FM 3040 frontage area and noted some areas are reduced by five feet; however, the vast majority will have more of an open feel than any of the other adjacent neighborhoods.

Councilmember Dixon commented that in reviewing the aerial view of Baker's Branch, and the way the developer laid out the area, there are some limitations in the way of access for the residents in the back. He noted it was good to hear Toll Brothers say their first three choices were not to do the connection in which most people were opposed to. He indicated more than likely Council will end up allowing Toll Brothers to use option two or three. He stated being in favor of the setback on the four lots, however, not being in favor of the connection between the developments. He asked Mr. Welch if Council moves forward to approve with the caveat that Toll Brothers would come back to Council with option two or three, how would Council proceed.

Mr. Welch responded if there is an exception needed on the street spacing requirements on the option that would connect to Garden Ridge two exceptions would be needed (the Town would have to notice those). If the decision by Council is to have the lots reconfigured on that southern part west of Garden Ridge and have that roadway connect into Garden Ridge, those exceptions would need to be noticed for the next Council meeting.

Councilmember Dixon asked Ms. Marvin to explain those two exceptions based on what Toll Brothers stated.

Ms. Marvin responded "if you were to extend this roadway (Haggard Way) straight out and shift these lots around and get rid of this access point, the distance between this drive/roadway access on Garden Ridge would be about 330 feet from where Richwoods to the extension of that roadway, which would be about 330 feet, resulting in a 30 foot exception, and from that same point if you extend Haggard out to Garden Ridge down to the constructed driveway (that's there for one of the main park entrances for the future building for this area) that would be a 30 foot exception one way and an 80 foot exception another way."

Mayor Pro Tem Stephenson commented this information is conflicting because the Town just went through this with Pecan Acres where a gate system was put in, however, that neighborhood was never platted to have a street go through. She commented the Town has standards for a reason and Council needs to think about those exceptions. She indicated not wanting to put the Town in a position in that exceptions will be granted only to cause other problems on Garden Ridge. She commented when Town staff encouraged Toll Brothers to do it this way, they were prepared to explain that.

Mr. Paul noted they have contractual obligations with the site and indicated they would not want to further delay the project. He proposed an alternative option which would be to leave their roadway in the same configuration as it is presently and whenever the Town constructs whatever "this" is, if the decision is made at that time to connect to them they are fine with that. He noted they proceeded a long way down the road with some direction and it will cost them time they don't have to give.

Mayor Pro Tem Stephenson questioned if that option would only leave one way in.

Mr. Paul responded this project is going to have multiple phases. The part we're talking about is the final phase III and there is no way to estimate the timing of that, however, he noted even in a great market they are four - five years away, so the timing of that road connect to Heritage Park could work. They would leave their stub out and that other hard entry into the park could be stubbed into our planned stub out knowing its years away for a future phase.

Mayor Pro Tem Stephenson questioned the impact of tying into Heritage Park given she is unaware of the plans for that portion of Heritage Park.

Mr. Powell demonstrated on a map the plans for Heritage Park which included a building to be at the location where that stub out is. He noted you can get it in without disturbing but you can't tie it in without a median break or without changing the plan that's been approved for the park.

Councilmember Webb commented given the comments and statements made, he believes the decision toward a gate is likely. He asked staff if it's approved tonight with a gate, and in a year or 18 months from now somebody has a better idea than the gate - and it's not built yet because its phase III - can't Toll Brothers

come back to Council with a better alternative than the stub and gate.

Mr. Powell responded yes, however, the problem is that they need to show the second point of access so an exception would need to be granted.

Mayor Pro Tem Stephenson asked Mr. Paul if he would like to give a preference.

Mr. Paul stated he had questions for staff – who pays for that road that goes on Town park property as he is used to putting in improvements on land they own and then dedicating it to the Town at the end. Is the loop piece of concrete and the gate being paid for by Toll Brothers or the Town?

Ms. Marvin responded it would be granted as a street easement and the developer would construct that connection as part of their development as their second point of access. She noted if it's gated and just a fire lane then it can be constructed up to fire lane standards which would cost a little less for the developer.

Mayor Pro Tem Stephenson asked for clarification as to what the Town did with the Pecan Acres situation and asked which is preferred by the Fire Department regarding access and use.

Ms. Marvin responded that a hard surface barely under the ground was installed with a trail on top of it – so it's a road that's buried and includes removable bollards.

Mayor Pro Tem Stephenson asked if that is an acceptable compromise.

Mr. Paul responded not knowing that situation exactly – we have built some other emergency access situations with things where it is a stronger structure situation and it sounds less visually impactful than a city street coming through the park and less expensive than gates and a situation where some wouldn't attempt to drive over it with a car and if it allows the plan to get approved without re-noticing for new exceptions, I'm all for it.

Ms. Marvin commented that at this point staff would need to work with the developer and look at putting the fire lane in with perhaps the removable bollards to make it less visible that there is a road at that location. The material would need to be something that meets the fire lane standards with some type of visual cover up.

Councilmember Levenick confirmed with Chief Metzger and with the developer that they are acceptable to that solution regarding access.

Deputy Mayor Pro Tem Wise stated being in agreement with that option as it addresses the need for traffic not to come through either neighborhood, as well as provides the second entrance.

Deputy Mayor Pro Tem Wise moved to approve a request for rezoning (Z 01-12 - Parker Tract) from Agricultural District (A) uses to Single-Family District-10 (SF-10) uses, and an exception to Section 98-147, Topographical slope protection, as authorized by Section 98-147(b) of the Code of Ordinances, and adopt an ordinance providing for said amendment. Councilmember Dixon seconded the motion.

VOTE ON THE MOTION

AYES: Wise, Dixon, Stephenson, Webb, Levenick

NAYS: None.

10. Consider a request for a Development Plan (DP 01-12 - Parker Tract) to develop a residential subdivision, with an exception to Section 98-1027, Minimum sideyard setback, as authorized by Section 98-1027(e) of the Code of Ordinances, and with an exception to Section 98-1028, Minimum rear yard setback, as authorized by Section 98-1028(f) of the Code of Ordinances. The property is located generally along and about Garden Ridge Road and south of Flower Mound Road. *(The Planning and Zoning Commission recommended approval by a vote of 3 to 2 at its August 13, 2012, meeting.)*

Councilmember Dixon moved to approve a request for a development plan DP 01-12 Parker Tract to develop a residential subdivision with an exception to Section 98-1027 minimum sideyard setback as authorized by Section 98-1027E of the Code of Ordinances and with an exception to Section 98-1028 minimum rear yard setback as authorized by Section 98-1028F of the Code of Ordinances and acceptance of park land dedication of 6.1 acres and park development fees in the amount of \$197,096 for the Parker Tract residential development to satisfy the requirements of the park land dedication Ordinance. Further, he moved the development plan shall be amended by the developer to reflect an emergency access system through Heritage Park acceptable to the Town Engineer and the Town's Fire Department and further moved to authorize the Mayor to execute a development agreement with the following addition to paragraph 7 to read as follows: in the event it is not feasible for the developer to plant the full number of trees referenced in this paragraph on the property the remaining trees shall be planted on Town roadway medians, as such medians to be determined by the Town. Deputy Mayor Pro Tem Wise seconded the motion.

**ORDINANCE NO. 27-12**

**AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE OFFICIAL ZONING MAP, EXHIBIT "A" OF SUBPART B, LAND DEVELOPMENT REGULATIONS, OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS, BY CHANGING THE ZONING ON APPROXIMATELY 70.49 ACRES OF LAND IN THE ROSANNAH BAKER SURVEY, ABSTRACT NO. 49, FROM AGRICULTURAL DISTRICT (A) USES TO SINGLE-FAMILY DISTRICT-10 (SF- 10) USES AND GRANTING AN EXCEPTION TO SECTION 98-147, TOPOGRAPHICAL SLOPE PROTECTION, IN ACCORDANCE WITH THE TOWN'S MASTER PLAN AND IN ACCORDANCE WITH CHAPTER 98 OF THE TOWN'S CODE OF ORDINANCES, ENTITLED "ZONING"; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.**

**Council Discussion**

Councilmember Levenick questioned the statement related to park dedication fees in that the motion states \$197,096 for the Parker Tract residential development and questioned if that's specifically ear marking dollars.

Mr. Welch clarified it's for the park development fees attributed to the development, however, the funds go into the park development fund.

**VOTE ON THE MOTION**

**AYES:** Wise, Dixon, Stephenson, Webb, Levenick

**NAYS:** None.

12. **Public Hearing to consider a request for a Specific Use Permit (SUP 409-12 - Schmidt Accessory Dwelling Addition) to permit an accessory dwelling, with an exception to Section 90-302, Concrete streets, as authorized by Section 90-301, Exceptions to street standards, of the Code of Ordinances, and to consider adopting an ordinance providing for said amendment. The property is generally located at 3805 Post Oak Road. *(The Planning and Zoning Commission recommended approval by a vote of 5 to 0 at its August 13, 2012, meeting.)***

Staff Presentation

Mr. Powell identified the location of the property, and the associated request to add a second dwelling on the property, which is allowed in the larger lots in Town, however, it can't be rented. He noted no correspondence was received regarding the item. He pointed out the existing structure as well as the proposed new one.

Mayor Pro Tem Stephenson opened the Public Hearing at 9:43 p.m.

No one spoke in favor or against the project.

Mayor Pro Tem Stephenson closed the Public Hearing at 9:43 p.m.

Councilmember Wise moved to approve of a Specific Use Permit SUP 409-12 – Schmidt Accessory Dwelling Addition to permit an accessory dwelling, with an exception to Section 90-302, Concrete streets, as authorized by Section 90-301, Exceptions to street standards, of the Code of Ordinances, and to consider adopting an ordinance providing for said amendment, subject to the following conditions:

- a. The accessory dwelling shall be developed in accordance with Section 98-983, Accessory Dwelling, of the Code of Ordinances.
- b. The attached site plan and elevations, labeled Exhibit "A," an exhibit to the Specific Use Permit, shall be developed as approved, except that certain minor changes outlined in Section 82-37 of the Town's Land



Development Regulations may be approved as set forth in that section.

- c. If a building permit application has not been submitted to the Town's Building Inspections Division for consideration within six months of approval of the ordinance, the Specific Use Permit described herein will be a matter that will be automatically placed upon a subsequent Planning and Zoning Commission agenda for consideration as a Town-initiated zoning change under normal zoning amendment procedures.

Councilmember Levenick seconded the motion.

#### ORDINANCE NO. 28-12

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE OFFICIAL ZONING MAP, EXHIBIT "A" OF SUBPART B, LAND DEVELOPMENT REGULATIONS, OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS, BY CHANGING THE ZONING ON APPROXIMATELY 2.44 ACRES OF LAND BEING ALL OF LOT 2 OF THE POST OAK WEST ADDITION, MORE COMMONLY KNOWN AS 3805 POST OAK ROAD, FROM SINGLE-FAMILY ESTATE DISTRICT (SF-E) USES TO SINGLE-FAMILY ESTATE DISTRICT (SF-E) USES, SUBJECT TO SPECIFIC USE PERMIT NO. 409 (SUP 409) TO ALLOW FOR AN ACCESSORY DWELLING, IN ACCORDANCE WITH THE TOWN'S MASTER PLAN AND IN ACCORDANCE WITH SPECIFIC REQUIREMENTS STATED HEREIN AND EXHIBITS ATTACHED HERETO; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

#### VOTE ON THE MOTION

AYES: Levenick, Webb, Stephenson, Dixon, Wise  
NAYS: None.

*Town Council recessed at 9:46 p.m. and reconvened at 9:55 p.m.*

13. Consider a request for a Site Plan (SP 03-12 - River Walk Market) to develop a grocery store anchored retail center. The property is generally located north of Cross Timbers Road and east of Long Prairie Road. *(The Planning and Zoning Commission recommended approval by a vote of 5 to 0 at its July 23, 2012, meeting.)*

#### Staff Presentation

Mr. Powell provided a presentation identifying the location of the site, land use zoning, and the proposed site plan, building locations, building elevations, and protected tree areas. He noted the project meets all the minimum requirements for the zoning, which means it could be approved by P & Z, however, it needs to come forward to Council as it's written in the PD standards.

Councilmember Levenick recused herself from the discussion of this item.

**Applicant Presentation**

Warren Creason, 938 Mallard Dr, Coppell, TX

Mr. Creason provided background information regarding the Market Street store concept. He pointed out various features that are anticipated for the store in the way of food offerings and other services such as outdoor dining, as well as aesthetic improvements they intend to incorporate in this store such as sky lights. He also pointed out parking plans and highlighted what they are doing to preserve many of the trees.

Mr. Powell pointed out there has been no correspondence from the public on the item.

Councilmember Webb moved to approve a request for a Site Plan (SP 03-12 - River Walk Market) to develop a grocery store anchored retail center. Deputy Mayor Pro Tem Wise seconded the motion.

**VOTE ON THE MOTION**

**AYES:** Wise, Dixon, Stephenson, Webb

**ABSTAIN:** Levenick

**NAYS:** None.

14. **Public Hearing to consider a request to amend Section 1.0, Land Use Plan (MPA 04-12 - Victory Park), of the Master Plan to change the current land use on the Land Use Plan Map from Commercial/Industrial uses to Medium Density Residential uses, and to consider adopting an ordinance providing for said amendment. The property is generally situated south of FM 407 (Justin Road) and between Country Meadow Drive on the west and Morriss Road on the east. (*The Planning and Zoning Commission recommended approval by a vote of 5 to 0 at its August 13, 2012, meeting.*)**

Mayor Pro Tem Stephenson opened Items 14 and 15 simultaneously.

**Staff Presentation**

Mr. Powell provided a presentation identifying the overall location, land use, photos of the site, and the concept plan (which is a change to residential). He noted the developer has done a great job of working with the neighbors and there is documentation in the packet with letters from the home owners to the east and west. In addition the developer has done work to make sure the infrastructure can support the land use. He pointed out the location of the mini-storage, and noted Victory Park will be a cul de sac serving the businesses in the area and he highlighted an area in which a day care has submitted an application.

**Applicant Presentation**

Chas Fitzgerald, Wilbow Corporation

Mr. Fitzgerald provided background information regarding the site, noting it's been

zoned and marketed for commercial for the past twenty-six years, however, it's not been proven to be a viable site for commercial. He pointed out that after the Tom Thumb was constructed, it caused view restrictions for the remaining 20 acres of the site, as well as resulting in a strange configuration. He indicated they are proposing to keep the two acres adjacent FM 407 as commercial in its current zoning. He pointed out lot sizes would be 10,000 sf, and they intend to become an additional phase with the neighboring Waterford subdivision. He also provided photographs of the site, drainage plans, landscaping plans, hike and bike trail enhancements, and he outlined road changes for Victory Park.

Mayor Pro Tem Stephenson opened the Public Hearing for Items 14 and 15 at 10:20 p.m.

Martin Burnstein, 2312 Waterford Dr, Flower Mound, TX

Mr. Burnstein pointed out their neighborhood needs are related to drainage, privacy with tree buffers, and additional trees planted in the back yards backing up to Waterford. With the assurances they have received and bringing them into the HOA allowing enforcement of covenants, they are in support of the changes and the development.

Mayor Pro Tem Stephenson closed the Public Hearing for Items 14 and 15 at 10:22 p.m.

### **Council Deliberation**

Councilmember Dixon commented this is very gratifying as the last time he saw this come forward years ago there was more opposition. He also stated its good news that they are being incorporated into the HOA.

Councilmember Levenick clarified that the motion puts the park development fees into the park development fund, and not being ear marked for anything.

Mr. Welch responded that is correct.

Mr. Powell noted the Park Development regulations do allow the developer to make improvements and get reimbursed for it. There is a strong likelihood that the developer will make improvements to that trail adjacent to them and use some of those funds.

Councilmember Levenick pointed out the reason why she's asking is because at the PALS Board meeting the developer indicated this is what they want to do, however, they haven't gone through the process and she wanted to make sure Council was following the protocol with where the funds are going.

Councilmember Dixon moved to approve a request to amend Section 1.0, Land Use Plan (MPA 04-12 - Victory Park), of the Master Plan to change the current land use on the Land Use Plan Map from Commercial/Industrial uses to Medium Density Residential uses, and adopt an ordinance providing for said amendment. Deputy

Mayor Pro Tem Wise seconded the motion.

**ORDINANCE NO. 29-12**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING SECTION 1.0 LAND USE PLAN OF THE MASTER PLAN BY AMENDING ORDINANCE NO. 24-01, IN PART, WHICH ADOPTED MASTER PLAN, SPECIFICALLY TO CHANGE THE CURRENT LAND USES REFLECTED ON THE LAND USE PLAN MAP FROM COMMERCIAL/INDUSTRIAL USES TO MEDIUM DENSITY RESIDENTIAL USES ON APPROXIMATELY 20.555 ACRES OF LAND SITUATED IN THE SHELTON LUTTRELL SURVEY, ABSTRACT NUMBER 744; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.**

**VOTE ON THE MOTION**

**AYES:** Levenick, Webb, Stephenson, Dixon, Wise

**NAYS:** None.

15. **Public Hearing to consider a request for rezoning (ZPD 04-12 - Victory Park) from Planned Development District No. 36 (PD-36) with Commercial District-1 (C-1), Commercial District-2 (C-2), and Office District (O) uses to Planned Development District-122 (PD-122) with Single-Family District-10 (SF-10) uses, and to consider adopting an ordinance providing for said amendment. The property is generally situated south of FM 407 (Justin Road) and between Country Meadow Drive on the west and Morriss Road on the east. *(The Planning and Zoning Commission recommended approval by a vote of 5 to 0 at its August 13, 2012, meeting.)***

Councilmember Webb moved to approve a request for rezoning (ZPD 04-12 - Victory Park) from Planned Development District No. 36 (PD-36) with Commercial District-1 (C-1), Commercial District-2 (C-2), and Office District (O) uses to Planned Development District-122 (PD-122) with Single-Family District-10 (SF-10) uses, and adopt an ordinance providing for said amendment and acceptance of Park Development Fees in the amount of \$72,176.00 and cash in lieu of land in the amount of \$98,239.04 to satisfy the requirements of the Park Land Dedication Ordinance and approve the ability to reimburse the developer a part of the Park Development Fees to be utilized for the improvements to the trail along Country Meadow Drive. Deputy Mayor Pro Tem Wise seconded the motion.

**ORDINANCE NO. 30-12**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE OFFICIAL ZONING MAP, EXHIBIT "A" OF SUBPART B, LAND DEVELOPMENT REGULATIONS, OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS, BY CHANGING THE ZONING ON APPROXIMATELY 20.555 ACRES OF LAND SITUATED IN THE SHELTON**

LUTTRELL SURVEY, ABSTRACT NUMBER 744, FROM PLANNED DEVELOPMENT DISTRICT NO. 36 (PD-36) WITH COMMERCIAL DISTRICT-1 (C-1), COMMERCIAL DISTRICT-2 (C-2) AND OFFICE DISTRICT (O) USES TO PLANNED DEVELOPMENT DISTRICT NO. 122 (PD-122) WITH SINGLE-FAMILY DISTRICT-10 (SF-10) USES IN ACCORDANCE WITH THE TOWN'S MASTER PLAN AND SPECIFIC REQUIREMENTS STATED HEREIN AND EXHIBITS ATTACHED HERETO; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

**VOTE ON THE MOTION**

**AYES:** Wise, Dixon, Stephenson, Webb, Levenick

**NAYS:** None.

*The order of the Items was changed to 17, 18, 16 and as follows:*

17. **Public Hearing to consider a request for rezoning (ZPD 03-12 - Cantex Continuing Care Center) from Agricultural District (A) uses to Planned Development District-121 (PD-121) for Office District (O) uses and a Specific Use Permit (SUP 406-12) for a nursing or congregate care facility, with an exception to the access management policy and criteria, regarding driveway spacing, contained in the Town's Engineering Design Criteria and Construction Standards adopted through Chapter 32 of the Code of Ordinances, an exception to Section 82-302, Compatibility buffer, and an exception to Section 82-303, Compatibility setback, of the Code of Ordinances, and to consider adopting an ordinance providing for said amendment. The property is generally located west of Long Prairie Road and south of Windsor Drive. *(The Planning and Zoning Commission recommended approval by a vote of 5 to 0 at its August 13, 2012, meeting.)***

**Staff Presentation**

Mr. Powell provided a presentation identifying the location of the site, current land use zoning, existing trees on the site, and the site plan, which includes the landscaping plan. He pointed out the compatibility standards of the Town requires a masonry wall or landscaping trees and setbacks when you have a non-residential building adjacent to a residence. In this case there is a house there, however, going back to the SPA eventually it will all be non-residential. In the meantime there still is that trigger. The applicant has attempted to contact the property owner seeking their permission for the exception, however, has not been able to make contact. He noted there was some discussion on the topic during P & Z, however, they didn't make a recommendation on this component. He pointed out existing driveways and future connections and eventually all of the properties on the NW side of FM 2499 will have shared driveways appropriately spaced. He pointed out the exceptions being requested with regard to the compatibility buffer and driveway, and that there are 20 trees slated for removal in conjunction with the tree removal request. He also identified building elevations.

**Applicant Presentation**

Alan Huckaby, GHLA Architects, 1300 West Randol Mill Rd, Ste 100, Arlington, TX  
Mr. Huckaby provided a presentation including background information about Cantex, site plan, area developments and how it fits with the surrounding area. He pointed out efforts were made to save as many trees as possible, in addition to what's being done to make up for the lost trees. He noted a 65,000sf skilled nursing facility is planned for Flower Mound, and he also identified building materials that will be used.

Steven Homeyer, Homeyer Engineering, 206 Elm St, Lewisville, TX  
Mr. Homeyer gave a presentation identifying some of challenges as well as the site elements that are being incorporated, such as one of the two median openings that have been approved by the Town and TxDOT on FM 2499 to provide for internal circulation within the site. In addition they are building the cross access points within the site. He pointed out the exceptions being requested with the compatibility buffer to the south and the waiver to not put up a masonry wall.

Elise Malin (landscape architect) 2328 Primrose Ave, Fort Worth, TX  
Ms. Malin gave a presentation pointed out the 10 specimen trees being protected, and noted there are 120 new trees proposed. She provided in depth information related to the types of landscaping buffers planned.

Robin Underhill, CEO of Cantex Continuing Care Network, 2537 Golden Bear Dr, Carrollton, TX  
Mr. Underhill gave a detailed presentation describing the company, including the type of care provided to patients.

Peter Longo, Managing Partner, 2537 Golden Bear Dr, Carrollton, TX  
Mr. Longo provided background information related to their site selection process and pointed out they have support from the hospital. He gave a presentation identifying the positive impacts for the community: \$12 million investment, 100 new jobs (with more than 40 being at \$50,000 per year or more), \$200,000 in property taxes per year, use of local vendors and merchants, and good neighbors due to being a quiet use.

With regard to timing and financial stability, he indicated they are active developers and they held a slot open for the 2<sup>nd</sup> quarter of 2013 with an 11 month time completion of the project. He noted their financing is in place and if they receive the entitlements needed they will be closing on the land in 30 days.

Councilmember Dixon asked how the HVAC system will be handled in the buildings.

Mr. Huckaby responded the general systems throughout the public areas of the building will be split HVAC system, DX condenser system, and some rooftop units, and patients will have through wall package systems.

Councilmember Dixon asked about the landscaping outside of the units that are in the patients room?

Mr. Huckaby responded there will be no visible condensers on the ground in the patients rooms and they will all be in roof wells so the only thing you will see are those packaged through wall units and they will have an architectural barred rail over the visible section that will match the architecture of the building and there will be extensive landscaping around the building.

Mayor Pro Tem Stephenson opened the Public Hearing for Items 17 and 18 at 11:00 p.m.

She announced there were some individuals that completed an appearance before Town Council form to speak during the Public Hearing in support of the project, however, they had to leave. She noted their names for the record:

Annette Fell

Jim Lang

John Fell

Laura Simmons, 161 Trailing Oaks, Double Oak, TX

Ms. Simmons spoke in favor of the project.

Mayor Pro Tem Stephenson closed the public hearing at 11:03 p.m.

### **Council Discussion**

Mayor Pro Tem Stephenson asked Mr. Martin to confirm that because the location is in a SPA there is not a mitigation component and she stating having asked that question for the benefit of Mr. Bowman.

Mr. Martin responded that is correct.

Councilmember Webb moved to approve the request for rezoning (ZPD 03-12 - Cantex Continuing Care Center) from Agricultural District (A) uses to Planned Development District-121 (PD-121) for Office District (O) uses and a Specific Use Permit (SUP 406-12) for a nursing or congregate care facility, with an exception to the access management policy and criteria, regarding driveway spacing, contained in the Town's Engineering Design Criteria and Construction Standards adopted through Chapter 32 of the Code of Ordinances, an exception to Section 82-302, Compatibility buffer, and an exception to Section 82-303, Compatibility setback, of the Code of Ordinances, and adopt an ordinance providing for said amendment subject to the following conditions:

a. The attached concept plan, labeled Exhibits "C thru E," exhibits to the Specific Use Permit, shall be developed as approved, except that minor changes outlined in Section 82-37 of the Land Development Regulations may be approved as set forth in that section.

b. If a building permit application has not been submitted to the Town's Building Inspection Division for consideration of a building permit within one year of approval of the ordinance, the Specific Use Permit described herein, will be a matter that will be automatically placed upon a subsequent Planning and Zoning Commission agenda for consideration as a Town-initiated zoning change under normal zoning amendment procedures.

Councilmember Levenick seconded the motion.

**ORDINANCE NO. 31-12**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE OFFICIAL ZONING MAP, EXHIBIT "A" OF SUBPART B, LAND DEVELOPMENT REGULATIONS, OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS, BY CHANGING THE ZONING ON APPROXIMATELY 6.009 ACRES IN THE J. T. STEWART SURVEY, ABSTRACT NO. 1161, SAID LAND BEING ALL OF TRACTS 5 AND 6 (AND REPLATTED CONTEMPORANEOUSLY HEREWITH AS LOT 5R) OF THE JOHN G. YOUNG SUBDIVISION, FROM AGRICULTURAL DISTRICT (A) USES TO PLANNED DEVELOPMENT DISTRICT NO. 121 (PD-121) FOR OFFICE DISTRICT (O) USES, SUBJECT TO SPECIFIC USE PERMIT NO. 406 (SUP-406) TO ALLOW FOR A NURSING OR CONGREGATE CARE FACILITY, IN ACCORDANCE WITH THE TOWN'S MASTER PLAN AND SPECIFIC REQUIREMENTS STATED HEREIN AND EXHIBITS ATTACHED HERETO; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.**

**VOTE ON THE MOTION**

**AYES: Levenick, Webb, Stephenson, Dixon, Wise**

**NAYS: None.**

- 18. Public Hearing to consider an application for a tree removal permit for the removal of 20 specimen trees on property proposed for development as Cantex Continuing Care Center. The property is generally located west of Long Prairie Road and south of Windsor Drive. *(The Environmental Conservation Commission recommended approval by a vote of 3 to 2 at its July 3, 2012, regular meeting).***

Councilmember Levenick moved to approve the requested permit for the removal of 20 specimen trees on property proposed for development as Cantex Continuing Care Center. The property is generally located west of Long Prairie Road and south of Windsor Drive. Deputy Mayor Pro Tem Wise seconded the motion.

**VOTE ON THE MOTION**

**AYES: Wise, Dixon, Stephenson, Webb, Levenick**

**NAYS: None.**



16. Consider a request for a Site Plan (SP 10-12 - Cantex Continuing Care Center) to develop a nursing or congregate care facility. The property is generally located west of Long Prairie Road and south of Windsor Drive. *(The Planning and Zoning Commission recommended approval by a vote of 5 to 0 at its August 13, 2012, meeting.)*

Councilmember Dixon moved to approve a request for a Site Plan (SP 10-12 - Cantex Continuing Care Center) to develop a nursing or congregate care facility. Deputy Mayor Pro Tem Wise seconded the motion.

#### VOTE ON THE MOTION

**AYES:** Levenick, Webb, Stephenson, Dixon, Wise

**NAYS:** None.

*The order of the Items was changed to 20 and 19 as follows:*

20. Public Hearing to consider a request for rezoning (ZPD 06-12 - Terracina) to amend Planned Development District No. 111 (PD-111) by amending the Development Standards to increase the number of allowed residential lots from 138 to 167, and to consider adopting an ordinance providing for said amendment. The property is generally located along the east side of Jernigan Road north of Justin Road (FM 407). *(The Planning and Zoning Commission recommended approval by a vote of 5 to 0 at its August 13, 2012, meeting.)*

#### Staff Presentation

Mr. Powell gave a presentation identifying the location and history of the site, land use zoning, and photographs of the site. He pointed out the items presented include removing the exception to the number of lots and to approve the development plan so they can build the lots. He indicated staff has not received any feedback from the public regarding the site.

#### Applicant Presentation

Kyle Hogue, G & A Consultants, 111 Hillside Dr, Lewisville, TX

Mr. Hogue noted the original site plan and pointed out the gas lease in place within the development expired and was released in February of 2012, allowing for the additional use of space. He indicated they had 128 total lots in the original development and what is proposed includes an additional 29 lots. He pointed out construction phases and features within the site.

#### Questions from governing body

Deputy Mayor Pro Tem Wise asked if Jernigan Road was a Flower Mound or Copper Canyon Road, followed by an inquiry as to the impact of the road in handling the traffic.

Mr. Powell responded noted it's changed over the years, however, through a series of events the Town owns the entirety of the road. Ms. Marvin responded to the inquiry of traffic impact and stated passed the transportation analysis.

Mayor Pro Tem Stephenson opened the Public Hearing at 11:15 p.m.

No one spoke in favor or against.

Mayor Pro Tem Stephenson closed the Public Hearing at 11:15 p.m.

Deputy Mayor Pro Tem Wise moved to approve a request for rezoning (ZPD 06-12 - Terracina) to amend Planned Development District No. 111 (PD-111) by amending the Development Standards to increase the number of allowed residential lots from 138 to 167, and adopt an ordinance providing for said amendment.

**ORDINANCE NO. 32-12**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE OFFICIAL ZONING MAP, EXHIBIT "A" OF SUBPART B, LAND DEVELOPMENT REGULATIONS, OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS, THROUGH THE AMENDMENT OF ORDINANCE NO. 36-10, ZONING APPROXIMATELY 95.738 ACRES OF LAND IN THE J. HAWSE SURVEY, ABSTRACT NO. 558, AND THE J. GIDDINGS SURVEY, ABSTRACT NO. 471, AS PLANNED DEVELOPMENT DISTRICT NO. 111 (PD-111) WITH SINGLE FAMILY DISTRICT-15 (SF-15) USES, BY AMENDING EXHIBIT "B," "DEVELOPMENT STANDARDS," THROUGH THE AMENDMENT OF PARAGRAPH C, "SUPPLEMENTARY STANDARDS," AS SET FORTH HEREIN TO INCREASE THE NUMBER OF ALLOWED RESIDENTIAL LOTS FROM 138 TO 167 RESIDENTIAL LOTS AND TO ESTABLISH RELATED STANDARDS CONSISTENT WITH THE EXISTING ZONING IN ACCORDANCE WITH THE TOWN'S MASTER PLAN AND SPECIFIC REQUIREMENTS STATED HEREIN AND EXHIBITS ATTACHED HERETO; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.**

**VOTE ON THE MOTION**

**AYES:** Wise, Dixon, Stephenson, Webb, Levenick

**NAYS:** None.

19. Consider a request for a Development Plan (DP 02-12 - Terracina) to develop a residential subdivision. The property is generally located along the east side of Jernigan Road north of Justin Road (FM 407). *(The Planning and Zoning Commission recommended approval by a vote of 5 to 0 at its August 13, 2012, meeting.)*

Councilmember Dixon moved to approve a request for a Development Plan (DP 02-12 - Terracina) to develop a residential subdivision. Deputy Mayor Pro Tem Wise seconded the motion.

**VOTE ON THE MOTION**

**AYES:** Levenick, Webb, Stephenson, Dixon, Wise

**NAYS:** None.

**M. COORDINATION OF CALENDARS AND FUTURE AGENDAS/MEETINGS**

Councilmember Levenick asked to have a work session around the first of the year to review the Town's Tree Ordinance, and specifically regarding mitigation in SPAs.

Mr. Jefferson suggested having Mr. Welch provide some legal opinions on the topic to identify options, and indicated that information would be provided to Council in a few days.

**N./O. CLOSED/OPEN MEETING**

The Town Council convened into a closed meeting at 11:22 p.m. on August 20, 2012, pursuant to Texas Government Code Chapter 551, including, but not limited to, Sections 551.087, 551.072, 551.074, and 551.071 to discuss matters relating to consultation with Town Attorney, pending litigation, real property, personnel, and economic development negotiations and reconvened into an open meeting at 1:20 a.m. on August 21, 2012, to take action on the items as follows:

- a. Application of Upper Trinity Regional Water District for Water Use Permit No. 5821, pending before the State Office of Administrative Hearings, Docket No. 582-12-5332.

No action taken.

- b. Discuss and consider economic development incentives.

No action taken.

- c. Discuss and consider acquisition and/or lease of real property for municipal purposes and all matters incident and related thereto.

No action taken.

- d. Discuss and consider appointments to the Animal Services Board, Board of Adjustment, Oil and Gas Board of Appeals, Community Development Corporation, Environmental Conservation Commission, Parks, Arts and Library Services Board, Public Arts Committee, Planning & Zoning Commission, SMARTGrowth Commission, Tax Increment Reinvestment Zone Number One (TIRZ #1), and Transportation Commission.

No action taken.

- e. Consultation with the Town Attorney regarding legal issues associated with meet and confer negotiations pursuant to Chapter 142 of the Texas Local Government Code, including negotiation ground rules, and all matters incident and related thereto.

Councilmember Levenick moved to approve negotiation ground rules for meet and confer purposes pursuant to Chapter 142 of the Texas Local Government Code. Councilmember Webb seconded the motion.

**VOTE ON THE MOTION**

**AYES: Wise, Dixon, Stephenson, Webb, Levenick**

**NAYS: None.**


**P. ADJOURN REGULAR MEETING**

Mayor Pro Tem Stephenson adjourned the meeting at 1:22 a.m. on Tuesday, August 21, 2012, and all were in favor.

**TOWN OF FLOWER MOUND, TEXAS**

  
**KENDRA STEPHENSON, MAYOR PRO TEM**

**ATTEST:**

  
**THERESA SCOTT, TOWN SECRETARY**