

**THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING HELD ON THE 2<sup>ND</sup> DAY OF JUNE 2008 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:

Jody Smith	Mayor
Tim Trotter	Mayor Pro Tem
Joel Lindsey	Deputy Mayor Pro Tem
Al Filidoro	Councilmember, Place 2
Jean Levenick	Councilmember, Place 4
Jeff Tasker	Councilmember, Place 5

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

Harlan Jefferson	Town Manager
Paula Paschal	Town Secretary
Terry Welch	Town Attorney
Chuck Springer	Chief Financial Officer
Kenny Brooker	Police Chief
Eric Metzger	Fire Chief
Kent Collins	Town Engineer
Bart Stevenson	Executive Director of Community Services

**A. CALL BRIEFING SESSION TO ORDER**

Mayor Smith called the briefing session to order at 6:01 p.m.

**B. BRIEFING SESSION**

**1. Mayor and Town Council Liaison Reports**

Mayor Pro Tem Trotter asked if there was a tentative date for bringing the tree ordinance for consideration.

Town Manager Harlan Jefferson responded not at this time. Staff was continuing their research on the matters requested by Council and would contact the Council in 60-90 days to see if further direction was required.

Councilmember Levenick reported that the Transportation Commission received a presentation by Kimley Horn.

Mayor Smith noted a subcommittee of the Parks, Arts, and Library Services Board held a lively discussion regarding Post Oak Park. Staff will be coming back with two recommendations.

**2. Discuss Pending Issues**

**a. Council Communications**

Mr. Jefferson referred to the Council Communication regarding the proposed Denton Creek Wastewater Transportation System. In December 2006 the Town entered into a four-party contract with the TRA, Northlake and Argyle to build a regional system. The TRA was not able to implement the agreement due to funding constraints with the other entities. Since that time, Flower Mound began to design its own system, and continued to have negotiations with

the three other parties. Argyle and Northlake have approved the most recent version of the agreement. Staff intends to bring the agreement to the Council for consideration at the June 16 meeting.

### **3. Comments on Consent and Regular Items**

Mr. Jefferson referred to Item 6 the design of Fire Station 5. Staff looked at both Stations 4 and 5, and due to infrastructure issues at the Station 4 site in Bridlewood, the Station 5 site should be done first. Additionally, Fire Chief Eric Metzger became aware of a grant from the federal government. Recently the recipients/municipalities have dropped off. This would be a five year grant, with decreasing allocations. At the end of the five years, the municipality would be required to pay 100% of the costs of the firefighters. He stated this was a good opportunity for the Town to apply. Staff will probably find out the status of the application next spring.

### **4. Discuss Future Agenda Items**

### **C. ADJOURN BRIEFING SESSION**

### **D. CALL REGULAR MEETING TO ORDER**

Mayor Smith called the regular meeting to order at 6:10 p.m.

### **E. INVOCATION**

Chaplain Don Cone gave the Invocation.

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

Flower Mound High School and Marcus High School members of the Junior R.O.T.C. Programs led the pledges.

### **H. PRESENTATIONS**

#### **Proclamation s - Junior R.O.T.C. Week**

Mayor Smith presented a proclamation for Junior ROTC Week (June 8-14, 2008) to Flower Mound High School and Marcus High School members of the Junior ROTC Programs. Also, June 14, 2008 was proclaimed as FMHS Junior R.O.T.C. Day in Flower Mound. Mayor Smith noted Lt. Col. Herman Walker was retiring after 19 years at MHS. Lt. Col. Norwood was present from MHS. Lt. Col. John Parish from FMHS was congratulated for receiving the 2008 Outstanding Instructor Award.

### **G. PUBLIC PARTICIPTION**

#### Barbara Etter, 4401 Trotter Lane, Flower Mound

Ms. Etter stated she had dealt with many subcontractors. Most were not from Flower Mound but all agreed that Flower Mound's Code was one of the toughest Codes in Texas for inspection purposes. Ms. Etter referred to a Dallas Morning News three-part series regarding hazardous chemical sites. She wondered if drilling sites could be next to homes in Flower Mound and would they be hazardous. She asked how gas drilling would affect the water in Flower Mound. She stated the Council needed to be the leader and tighten the Code.

Corey Kirkpatrick, 4012 Edna Valley Court, Flower Mound

Mr. Kirkpatrick referred to the Cross Timbers Village development. He had three items of concern once this was turned over to the site plan manager regarding vegetation. He wanted Dan Millner to acknowledge that the items would be taken care of. His main concern was the selection of vegetation/selective thinning on the western fence line. He wanted to keep as much of that as possible. He requested a meeting with the landscape architect and site superintendent to walk the area and mark the vegetation. He requested to be notified when the fence permit was submitted. He also requested an 8' board on board cedar fence with steel posts with the posts on the Tom Thumb side.

## **I. MAYORAL/COUNCILMEMBER ANNOUNCEMENTS**

Mayor Smith thanked the community for supporting a fundraiser at the Flower Mound Pumpkin Patch for St. Jude's Hospital. The event was co-hosted by the two Chili's in Flower Mound and the Balekian Family.

## **J. TOWN MANAGER REPORT**

Town Manager Harlan Jefferson stated the Certificate of Occupancy for the Community Activity Center was issued last Friday. The furniture and equipment was moved in and staff reported to work there this morning. Staff has sold 490 memberships to date. Mr. Jefferson noted the Denton County Health Department confirmed that a Flower Mound resident has West Nile Fever, and the Town planned to spray on Thursday. Staff will also continue to trap mosquitos.

## **K. CONSENT ITEMS**

Deputy Mayor Pro Tem Lindsey made a motion to approve by consent. Items 1, 2, 3, 4, 5, 6, 7, 8 and 9. Councilmember Tasker seconded the motion. Each item, as approved by consent, is restated below along with the approved recommendation for each, for the record.

- 1. Consider approval of the purchase of asphalt overlay services from Reynolds Asphalt and Construction Company, through the Innovations Group National Purchasing Alliance cooperative purchasing agreement, for an estimated expenditure of \$219,386.**

**RECOMMENDATION:** Approve the purchase of asphalt overlay services from Reynolds Asphalt and Construction Company, through the Innovations Group National Purchasing Alliance cooperative purchasing agreement, for an estimated expenditure of \$219,386.

- 2. Consider approval of the purchase of slurry seal services from Viking Construction Inc., through the Innovations Group National Purchasing Alliance cooperative purchasing agreement, for an estimated expenditure of \$76,299.**

**RECOMMENDATION:** Approve the purchase of slurry seal services from Viking Construction Inc., through the Innovations Group National Purchasing Alliance cooperative purchasing agreement, for an estimated expenditure of \$76,299.

- 3. Consider approval of the final acceptance for the construction of the Flower Mound**

**Road Left Turn Lane Bay; authorization for final payment to the contractor, JRJ Paving L.P., in the amount of \$2,491.25.**

**RECOMMENDATION:** Approve the final acceptance for the construction of the Flower Mound Road Left Turn Lane Bay; authorization for final payment to the contractor, JRJ Paving L.P., in the amount of \$2,491.25.

- 4. Consider approval of a Local Project Advance Funding Agreement with the Texas Department of Transportation for voluntary local government contributions associated with the FM 2499 Section 3 improvements, in the amount of \$63,160.59, and authorization for Mayor to execute same on behalf of the Town.**

**RECOMMENDATION:** Approve a Local Project Advance Funding Agreement with the Texas Department of Transportation for voluntary local government contributions associated with the FM 2499 Section 3 improvements, in the amount of \$63,160.59, and authorize the Mayor to execute same on behalf of the Town.

- 5. Consider approval of an agreement with Kimley-Horn Associates, Inc., to provide professional engineering design services associated with the Timber Creek Road 20-inch and Valley Ridge Blvd. 20-inch Water Line projects, in the amount of \$87,800.00, and authorization for the Mayor to execute same on behalf of the Town.**

**RECOMMENDATION:** Approve an agreement with Kimley-Horn Associates, Inc., to provide professional engineering design services associated with the Timber Creek Road 20-inch and Valley Ridge Blvd. 20-inch Water Line projects, in the amount of \$87,800.00, and authorize the Mayor to execute same on behalf of the Town.

- 6. Consider approval of an agreement with Wiginton Hooker Jeffry Architects, to provide professional architectural, engineering, surveying, landscape, bidding phase services, construction administration, and record drawing services associated with Fire Station #5 in the amount of \$346,000.00, and authorization for the Mayor to execute same on behalf of the Town.**

**RECOMMENDATION:** Approve an agreement with Wiginton Hooker Jeffry Architects, to provide professional architectural, engineering, surveying, landscape, bidding phase services, construction administration, and record drawing services associated with Fire Station #5 in the amount of \$346,000.00, and authorize the Mayor to execute same on behalf of the Town.

- 7. Consider approval of the expenditure for creek bank stabilization and erosion control services with Knight Erosion Control, Inc., associated with the Baker's Branch Stabilization project in the vicinity of 1808 Doubletree Trail, in the amount of \$67,864.31.**

**RECOMMENDATION:** Approve the expenditure for creek bank stabilization and erosion control services with Knight Erosion Control, Inc., associated with the Baker's Branch Stabilization project in the vicinity of 1808 Doubletree Trail, in the amount of \$67,864.31.

- 8. Consider approval of the engagement letter with Pattillo, Brown & Hill, L.L.P., to perform external auditing services for the fiscal year ending September 30, 2008, and authorization for the Mayor to execute same on behalf of the Town.**

**RECOMMENDATION:** Approve the engagement letter with Pattillo, Brown & Hill, L.L.P., to

perform external auditing services for the fiscal year ending September 30, 2008, and authorize the Mayor to execute same on behalf of the Town.

9. Consider approval of a resolution ordering certification elections in the Fire Department and Police Department to determine whether the Flower Mound Professional Firefighters Association and the Flower Mound Police Association represent a majority of the affected police officers and firefighters for purposes of "meet and confer," pursuant to Chapter 142 of the Texas Local Government Code.

**RECOMMENDATION:** Approve Resolution No. 10-08 ordering certification elections in the Fire Department and Police Department to determine whether the Flower Mound Professional Firefighters Association and the Flower Mound Police Association represent a majority of the affected police officers and firefighters for purposes of "meet and confer," pursuant to Chapter 142 of the Texas Local Government Code. The caption of the resolution reads as follows:

#### **RESOLUTION NO. 10-08**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, ORDERING CERTIFICATION ELECTIONS IN THE FLOWER MOUND FIRE DEPARTMENT AND FLOWER MOUND POLICE DEPARTMENT FOR DETERMINING THE BARGAINING AGENT FOR SAID EMPLOYEES FOR THE PURPOSES OF "MEET AND CONFER," PURSUANT TO CHAPTER 142 OF THE TEXAS LOCAL GOVERNMENT CODE; MAKING FINDINGS RELATIVE THERETO; AND PROVIDING FOR AN EFFECTIVE DATE.**

#### **VOTE ON THE MOTION**

**AYES:** Levenick, Lindsey, Trotter, Tasker, Filidoro  
**NAYS:** None

Mayor Smith opened Items 10, 11 and 12.

#### **L. REGULAR ITEMS**

10. **MPA 01-08 Lakeside Resort and Residences**  
 Public Hearing to consider a request to amend Section 1.0 Land Use Area Plan Districts and Section 2.0 Area Plans - Lakeside Business District (MPA 01-08 - Lakeside Resort and Residences), of Master Plan 2001, to allow for residential uses within a hotel development or a mixed-use development, and to consider adopting an ordinance providing for said amendment. (The Planning and Zoning Commission recommended approval by a vote of 4 to 2 at its April 14, 2008, meeting. This item was tabled at the May 5, 2008, Town Council meeting.)
11. **ZPD 02-08 Lakeside Resort and Residences**  
 Public Hearing to consider a request for rezoning (ZPD 02-08 - Lakeside Resort and Residences), to amend Planned Development District-39 (PD-39) with Commercial District-2 (C-2) uses to add Multi-family (MF) as an allowable use on approximately 2 acres of land within the site, and to consider adopting an ordinance providing for said amendment. The 9.0-acre site, zoned Planned Development District-39 (PD-39) with Commercial District-2 (C-2) uses, is located at 2900 Lakeside Parkway. (The Planning and Zoning Commission recommended approval by a vote of 4 to 2 at its April 14, 2008, meeting. This item was tabled at the May 5, 2008, Town Council meeting.)

12. **Public Hearing to consider a request to amend the Chapter 380 Partnership Agreement with Hines Interests Limited Partnership providing for incentives for the economic development of Flower Mound and the Lakeside Business District, and authorization for the Mayor to execute same on behalf of the Town. (This item was tabled at the May 5, 2008, Town Council meeting.)**

### **Staff Presentation**

Senior Planner Tommy Dalton gave an overview of the location and requests. The applicant requested to amend the Master Plan in Section 1.0, (description of the Lakeside Business District), and Section 2.0 (definition of Campus Commercial).

### **Applicant's Presentation**

#### Travis Overall, Hines, Vice President

Mr. Overall explained that the idea for Lakeside Resort and Residences began with a high quality plan for a 280 guest room four-star hotel, featuring an outdoor pool, banquet rooms, meeting rooms, a spa, and an accessory residential use. The 380 Agreement was approved in 2005 and Hines purchased the land. The first design consisted of an 18 floor stacked tower. Floors 1-3 contained public space and restaurants. Floors 4-10 contained hotel guest rooms. Floors 11-18 contained 65 for-sale condominium units, which were deemed an accessory use to the hotel. During the design process, the architecture evolved and by January 2007 the design was completed and site plan was approved. Construction commenced and then paused shortly thereafter for several reasons. Hines was not completely satisfied with the architecture. Construction pricing came in over-budget. Hines believed it was better to go with a completely different design. They hired Rabon Architects of Atlanta to lead the re-design. The new architecture greatly improved the interior and exterior of the structure. The new design featured a two-tiered 7 and 9 story hotel with an adjacent residential tower. The new style would fit more naturally with the look of Flower Mound and the area. The new design will have one restaurant on the first floor and an indoor/outdoor terrace lake view restaurant on the 7<sup>th</sup> floor. The tower will now be adjacent to the hotel rather than putting it on the top. Mr. Overall stated a joint work session with the Town Council and the Planning & Zoning Commission (P&Z) was held in 2007. The spa and fitness center were now a part of the hotel rather than in the condo tower. Mr. Overall stated the project would be developed in two phases - first the hotel and then the residential tower. He stated Hines had resubmitted the site plan to Planning Services, and they were scheduled to commence construction in July 2008. The hotel still has 280 guest rooms, the conference meeting space, a lazy river, a spa and two restaurants. There will still be 45-65 condo units, and these units will be for sale only - no leases. The second floor of the hotel will be dedicated to meeting accommodations. The grand and junior ballrooms will be located on the first floor.

### **Questions from the Governing Body and Answers**

Mayor Pro Tem Trotter stated there was much concern at P&Z for the two-acre tract that would be zoned Multi Family. He asked for the rationale for including the parking lot within the two acres.

Mr. Dalton responded it would provide some flexibility to allow them to move the building a few feet, if needed. The approval of the concept plan with the zoning would not allow them to move the building to the very front of the property.

Mayor Pro Tem Trotter stated he would not want to see the building moved to the front of the parking lot.

Town Manager Harlan Jefferson remembered that it was **staff's** idea not to pin the applicant down.

Mr. Overall stated Hines was not seeking the flexibility that may be perceived in the drawing. With the condo they will have to dedicate some parking for the units. He stated they had no intention of moving it towards the road.

Mayor Pro Tem Trotter understood and added he would feel better with making the line closer to the end of the hotel site.

Town Attorney Terry Welch felt that would be covered in the attachments to the ordinances and the 380 Agreement.

Mayor Pro Tem Trotter still desired to see the flexible area reduced.

Mr. Welch commented everything would have to be built according to the approved plans.

### **Public Comments**

#### Carol Kohankie, 4312 Lauren Way, Flower Mound

Ms. Kohankie gave some history on the Stewart Family and the contributions that members have made. She encouraged the Council to approve the requests.

#### Anne Robillard, 3516 Castlewood Court, Flower Mound

Ms. Robillard spoke in favor of the project. She felt there were many benefits, including that it will be a great place to stay and relax, it will provide jobs, and the caliber of Hines' projects was excellent. She stated this project was unique, needed, and compliant.

#### Sylvia Inboden, 2017 Brookville Lane, Flower Mound

Ms. Inboden stated she had wanted this hotel for Flower Mound for a very long time, and she strongly supported the project.

#### Paul Stone, 709 Lake Bluff Drive, Flower Mound

Mr. Stone supported the Master Plan amendment. He was glad the developer took the direction of the Town and participated with the stakeholders group. The developer also went through the public process to request the Master Plan amendment. He encouraged the Council to pass the amendment.

### **Close Public Hearing**

### **Council Deliberation**

Deputy Mayor Pro Tem Lindsey thanked Mr. Overall for bringing this through the public process. He stated it was a great project and he was ready for it to come. He had received several comments from citizens about the height of the condo tower. He reminded Council when the Master Plan Steering Committee recommendation was made, the Council unanimously agreed to take out the height restrictions. Citizens keep asking why the Town **can't** get Lakeside going. He referred to the minutes from the P&Z meeting and a quote by one of

the commissioners regarding politicians not wanting to talk about capping the size of the buildings, but it was on the **citizens'** minds (referring to the Master Plan Steering Committee). Deputy Mayor Pro Tem Lindsey stated the decision was not made because politicians did not want to talk about it and the comment was unfair. He stated the Council had talked about Lakeside and height restrictions for some time. A combination of short and tall buildings in a campus commercial area was needed. Additionally, they would have to get up above four stories to see the lake and the value of the area. He stated it would be inconsistent to vote against this tonight.

Mayor Pro Tem Trotter stated this was almost into the 9<sup>th</sup> year of the approval of Lakeside, and it had been a stringent goal to see some activity in Lakeside. The overall concept of the hotel had not changed. Concerns were raised when the condo tower was suggested, however the new design was not the full mass of the hotel. A number of improvements had been made since the original concept. This hotel should meet the needs and wishes of residents and guests.

Councilmember Tasker supported the project and was grateful to the developer for keeping the project front and center. Since the redesign of the project, Hines had given pretty much what was asked for by the Town. Councilmember Tasker stated he sat on the Lakeside Steering Committee and he felt this development should fit in nicely with the new mixed use ordinance. Without a Master Plan amendment, originally there could have been an office building twice the height of the planned hotel and condo tower. He was ready to see it built.

Councilmember Levenick stated she supported the project as a member of the P&Z and still supported it. She stated this was the kick start needed in Lakeside, and she was constantly hearing from citizens about when the hotel would be coming.

Councilmember Tasker moved to approve a request to amend Section 1.0, Land Use Area Plan Districts, and Section 2.0, Area Plans - Lakeside Business District (MPA 01-08 - Lakeside Resort and Residences), of Master Plan 2001 to allow for residential uses in the form of a luxury condominium tower within a four-star hotel development to be located at 2900 Lakeside Parkway on an approximate 9-acre tract, with an approximate 2-acre portion of the tract to be utilized for such luxury condominium tower, and to adopt Ordinance No. 34-08 providing for said amendment. Mayor Pro Tem Trotter seconded the motion. The caption of the ordinance reads as follows:

#### **ORDINANCE NO. 34-08**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING SECTION 1.0 LAND USE AREA PLAN DISTRICTS AND SECTION 2.0 AREA PLANS - LAKESIDE BUSINESS DISTRICT OF MASTER PLAN 2001 BY AMENDING ORDINANCE NO. 24-01, IN PART, WHICH ADOPTED MASTER PLAN 2001, TO ALLOW FOR RESIDENTIAL USES IN THE FORM OF A LUXURY CONDOMINIUM TOWER WITHIN A HOTEL DEVELOPMENT IN THE LAKESIDE BUSINESS DISTRICT AND TO AMEND THE DEFINITION OF THE PHRASE "CAMPUS COMMERCIAL" TO ALLOW FOR RESIDENTIAL USES IN THE FORM OF A LUXURY CONDOMINIUM TOWER WITHIN A HOTEL DEVELOPMENT; REPEALING ALL CONFLICTING ORDINANCES, ORDERS, OR RESOLUTIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.**

**VOTE ON THE MOTION**



**AYES:** Filidoro, Tasker, Trotter, Lindsey, Levenick  
**NAYS:** None

Mayor Pro Tem Trotter moved to approve a request for rezoning ZPD 02-08 - Lakeside Resort and Residences to amend Planned Development District-39 (PD-39) with Commercial District-2 (C-2) uses to add Multi-family (MF) as an allowable use on an area equivalent to the footprint of one 18-story luxury condominium tower with up to 65 for-sale residential units within the site and to adopt Ordinance No. 35-08 providing for said amendment. Deputy Mayor Pro Tem Lindsey seconded the motion. The caption of the ordinance reads as follows:

**ORDINANCE NO. 35-08**

**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 AMENDING ORDINANCE NO. 23-86, WHICH CREATED PLANNED DEVELOPMENT DISTRICT NO. 39 (PD-39) WITH COMMERCIAL DISTRICT-2 (C-2) USES, IN THE LAKESIDE DFW DEVELOPMENT, BY AMENDING THE ZONING ON AN APPROXIMATELY 9 ACRE TRACT OF LAND SITUATED AT 2900 LAKESIDE PARKWAY TO ADD MULTI-FAMILY (MF) USES AS AN ALLOWED USE ON AN AREA WITHIN SAID SITE EQUIVALENT IN SIZE TO THE FOOTPRINT OF ONE 18-STORY LUXURY CONDOMINIUM TOWER FOR UP TO NO MORE THAN 65 FOR-SALE RESIDENTIAL UNITS, IN ACCORDANCE WITH THE TOWN'S MASTER PLAN 2001 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, Lindsey, Trotter, Tasker, Filidoro  
**NAYS:** None

Deputy Mayor Pro Tem Lindsey moved to approve the Amended Chapter 380 Partnership Agreement with Hines Interests Limited Partnership providing for incentives for the economic development of Flower Mound and the Lakeside Business District, and authorize the Mayor to execute same on behalf of the Town. Councilmember Levenick seconded the motion.

**VOTE ON THE MOTION**

**AYES:** Filidoro, Tasker, Trotter, Lindsey, Levenick  
**NAYS:** None

Mayor Smith opened Items 13 and 14.

- 13. SP 14-08 Cross Timbers Village**  
**Consider a request for a Site Plan (SP 14-08 - Cross Timbers Village) to develop a retail shopping center. The property is located at the southeast and southwest**

corners of Cross Timbers Road and Bruton Orand Boulevard. (The Planning and Zoning Commission recommended approval by a vote of 5 to 0 at its May 12, 2008, meeting.)

14. **SP 15-08 Walgreens - Cross Timbers Village**  
Consider a request for a Site Plan (SP 15-08 - Walgreens - Cross Timbers Village) to develop a retail building. The property is located at the southeast corner of Cross Timbers Road and Bruton Orand Boulevard. (The Planning and Zoning Commission recommended approval by a vote of 5 to 0 at its May 12, 2008, meeting.)

#### Staff Presentation

Senior Planner Denice Thomas stated the subject location was the southeast and southwest corners of FM 1171 and Bruton Orand. The request was to approve six retail buildings including a Tom Thumb with a gas island/canopy. One retention pond and two detention ponds would be located on the site. She noted at the time the zoning was established a development agreement was executed and it allowed for the development of both sides of Bruton Orand. The agreement provided that the intersection of Cross Timbers and Bruton Orand had to be at its ultimate construction and opened by TxDOT before the Certificates of Occupancy are issued, FM 1171 must be substantially complete - with the exception of Lots 3, 4 and 8. Ms. Thomas stated the site plan showed an area for a Walgreen's with the drive-through to the south. She stated the construction materials were comparable on both sides. She referred to Corey Kirkpatrick's comments that were made earlier in the meeting and showed the vegetation he was hoping to save.

#### Dan Millner, Kimley Horn

Mr. Millner stated this project began in 1999. The most current version of the plan was approved in April 2007. Amenities for the project included a gathering area near the detention pond, and a clock tower feature on the southeast corner. The Tom Thumb would include a trellis for seasonal display and tables, pedestrian friendly features, and the landscaping was in excess of the Town's standards. Mr. Millner explained that the architectural design was taken from Bridlewood and Wellington. The truck service area was away from the residential area. The buffer wall was moved in order to preserve specimen trees. Mr. Millner identified the screening wall heights. An 8' fence would go behind the Tobias property. He showed Mr. Kirkpatrick's property line and stated an 8' board on board cedar fence would be installed. The northern edge of Brandywine would have an 8' fence to match the existing wall on Bruton Orand. A 6' fence would go behind the church. In discussions with staff, he understood that the fences would be a brick, masonry wall material, and along the eastern and western edges, the fence would be a pre-cast wall system.

Deputy Mayor Pro Tem Lindsey asked how many trees would be removed for the wall on the western edge.

Mr. Millner stated the Town required the wall to be on the property line, so the trees in that line would have to be removed. New landscaping would be added.

Deputy Mayor Pro Tem Lindsey asked for the requirements for the pre-cast fence, adding he did not want it to look like what is behind the JC Penney's store.

Mr. Millner stated the pre-cast wall was one alternative and they were looking at other wall systems. He noted it was not part of the site plan. The goal with making that request was a trade off since they had inserted quite a bit of landscaping and would be upgrading some of the

walls with brick.

Deputy Mayor Pro Tem Lindsey understood that numerous trees would be removed and then a lesser-than-quality wall would be installed.

Ms. Thomas commented that according to the tree survey, the trees along the western edge would be removed and the applicant proposed to replace them with 96 eastern red cedars.

Mayor Smith asked if the wall could be moved into the property and taken off the lot line, what the distance would be before the steep drop off.

Mr. Millner responded with the screening wall on the property line and the installation of gates in the appropriate locations, it will keep people from being on the top of the wall, unless they were doing maintenance.

Councilmember Levenick stated she was previously on the P&Z Commission and she did not remember the applicant mentioning a pre-cast wall before. When she saw the words "6' foot masonry screen wall" she did not think of a pre-cast wall. She had concerns that just on the western corner there were four different types of fences and walls. She felt this was getting away from the intent of the screening wall and the continuity of the project was being lost.

Don Bouvier, 2001 Ross Avenue, Dallas

Mr. Bouvier commented that the discussion about a pre-cast wall had been with staff. Through the course of the discussions, he learned that a pre-cast wall was not considered a masonry wall in Flower Mound. It was generally accepted in other cities. They were cutting dollars out of one area to accommodate the upgraded landscaping. The intent was to have all the walls fit together and balance out the overall economics.

Mayor Pro Tem Trotter liked the changes to the retention and detention ponds. He hoped the scenic vistas would continue to be enhanced.

Mr. Millner stated they had worked within the new drainage area ordinance with an already approved site plan.

Mayor Pro Tem Trotter thanked the developer for making this a more eye-pleasing site. He read a portion of the development agreement regarding the timing for the issuances of the Certificates of Occupancy. He hoped the TxDOT project was on schedule. He commented that once the site plan was approved, the developer would want to start building the project. He asked what assurances Mr. Bouvier could give that he would not ask for Certificates of Occupancy if FM 1171 was not finished.

Mr. Bouvier responded that any project carried certain factors of risk. He stated he had been very involved with the TxDOT process and had met with the contractor twice. Additionally, he had made a proposal to the contractor to move up the intersection and build the limits of Cross Timbers Village first. He stated the timing was not right, and they were reluctant to make any commitment until they understood the utility relocation portion of the project. Mr. Bouvier stated they would follow and monitor the project, and they would not start construction until they know for certain when the road would be completed.

Mr. Jefferson mentioned that the road has been completely funded for this segment. He added that the Town was recently notified that the contractor has delayed starting improvements

until August, as the utility relocations are running behind.

Mayor Pro Tem Trotter stated he was trying to make sure Mr. Bouvier would honor the development agreement and **won't** come back and ask to open the establishments prior to FM 1171 opening.

Mr. Bouvier stated if things changed beyond their control and it was in the best interest of the Town, the development, and citizens, they may have to come back and ask for a change in the development agreement.

Mayor Pro Tem Trotter reiterated the expectation of the Town was for them to honor the development agreement.

Councilmember Tasker asked what the western wall would look like.

Mr. Millner stated that would be a masonry retaining wall, not the pre-cast. It would have a natural stone face and at the highest point it would be **22'** tall. The trees to be removed were for the short wall.

Mr. Jefferson stated the wall on the Garden Ridge 2 project would be a good example of the large wall.

Councilmember Tasker clarified that the southern walls had various types of fences due to the requests of the surrounding neighbors.

Mr. Millner responded that was correct - various heights and materials.

Councilmember Tasker asked if they might need exception to have the metal poles on the inside if the fence was facing the street.

### **Council Deliberation**

Mayor Pro Tem Trotter stated he would like to explore with the developer or landowner to put in a different type of fence in order to protect the trees. He wanted the scenic vistas to still be visible from FM 1171, whether driving from the east or west.

Mr. Bouvier stated the fence might not be visible at all if homes go in before the shopping center. He asked if the Council would be interested in them using wrought iron or cast aluminum and keep a living screen.

Ms. Thomas stated the walls on the eastern and western boundaries were compatibility walls/buffers. In order to change that, the Town would have to re-notify the affected property owners by certified mail and let them know of the requested exception. She noted tubular steel was an option, however the landscaping requirements would have to be increased.

Mayor Smith asked about the selective trimming.

Mr. Bouvier explained it will include cleaning up the trees and the underbrush. They would prune and reshape them and make them look like a finished product. He noted the current fence was 6' tall and they would put in an 8' **fence**.

Mayor Smith clarified that the developer agreed to notify Corey Kirkpatrick when he

received the fence permit, and the fence would be an 8' fence, board-on-board cedar.

Mr. Bouvier stated he would like to have an agreement tonight regarding the fence issue. He asked if the Council could approve the site plan, subject to the issue of the fence.

Town Attorney Terry Welch stated the Council did not normally approve a partial site plan. If the Council approved the site plan tonight without addressing the fence, the developer would have to submit a whole new site plan when the fence would be addressed. He noted the developer could not do anything without an approved site plan.

Deputy Mayor Pro Tem Lindsey asked how many trees will have to come out for the screening wall, not the retention wall.

Mr. Bouvier stated he had a tree plan and they could count the trees. He stated he would be willing to go to a full masonry fence. In their opinion, they **didn't** feel like that was an area where the dollars were wisely spent. They were looking for ways to help soften the budget.

Councilmember Tasker asked Mr. Bouvier what he would have to give up to have a more expensive wall.

Mr. Bouvier stated it would just cost more money.

Mayor Smith commented that it sounded like Mr. Bouvier was complying with the Town's ordinances.

Mr. Bouvier stated their commitment would be to not ask for an exception to the residential adjacency standard, and because of that they would be installing a masonry wall that complied with the Code.

Councilmember Levenick stated if the Council approved the site plan, and buildings were built along with a pre-cast wall, there would be concern, because the pre-cast wall had never been discussed before now. She did not have a problem with a six foot masonry wall since that was what was presented previously.

Mr. Bouvier thought they were in compliance because they used that type of wall before.

Councilmember Tasker moved to approve SP 14-08 - Cross Timbers Village to allow construction of a retail shopping center and grant requested exception to allow the construction of a detention pond in lieu of the required retention pond at the retail development, and further on the eastern and western property lines there shall be constructed a six foot masonry thin wall, pursuant to Town standards. Councilmember Filidoro seconded the motion.

#### **VOTE ON THE MOTION**

**AYES:** Filidoro, Levenick, Tasker, Trotter, Lindsey

**NAYS:** None

Mayor Pro Tem Trotter moved to approve SP 15-08 - Walgreens - Cross Timbers Village to allow construction of a retail building and grant the requested exception to allow the construction of a detention pond in lieu of the required retention pond at the retail development. Deputy Mayor Pro Tem Lindsey seconded the motion.

**VOTE ON THE MOTION**

**AYES:** Lindsey, Trotter, Tasker, Levenick, Filidoro

**NAYS:** None

**15. ZPD 04-08 Firewheel Village**

**Public Hearing to consider a request for rezoning (ZPD 04-08 - Firewheel Village) from Agricultural (A) to Planned Development District-106 (PD-106), with Office (O) and Retail District-1 (R-1) uses, and consider adopting an ordinance providing for said amendment. The property is generally located west of Long Prairie Road and south of Sagebrush Drive. (The Planning and Zoning Commission recommended approval by a vote of 3 to 2 at its May 12, 2008, meeting.)**

**Staff Presentation**

Tommy Dalton, Senior Planner, stated the subject property was located in Specific Plan Area 2 (SPA 2). A portion of the property was proposed for Retail 1 uses and the balance would be Office zoning. He noted that several changes had been made since the Planning & Zoning (P&Z) Commission meeting, including the addition of more landscaping. Also, the trail was shifted on the north side of the property to avoid existing trees. The sidewalks were relocated on Lot 3, and a parking island was added to Lot 3. The tree survey did not show which specific trees were planned for removal and preservation. He added that although the concept plan had changed, the composition shingle roof would still remain. Two letters of support had been received from adjacent property owners.

**Applicant's Presentation**Steve Homeyer, Homeyer Engineering, 206 Elm, Lewisville

Mr. Homeyer stated they had made significant changes to the site in order to save more trees, including the adjustment of the trail system. The P&Z advised him to look at several options for the property. They asked for additional landscaping behind the DATCU facility and to look at architectural features associated with the building. The P&Z asked for the actual count of trees that would be removed. Mr. Homeyer stated the plan called for a left turn lane and right turn lane on FM 2499. They would add a new signal arm. A fire lane system was provided. They added ornamental trees and shade trees to provide a noise buffer behind the drive-through area of the DATCU building. They revised the tree survey and added a summary at the bottom of the page to show for tree removal (proposed 47 trees for removal). No trees were shown for removal outside the firelane area on Lot 5.

Jerry Worrell, WKA Architects

Mr. Worrell stated the P&Z asked the applicant to look at the architecture to make it blend well with the neighborhood. They had initially proposed a standing seam roof and would now look at composition tile. They added vertical mullions on the windows. The rough stone would now go up to the eaves. A railing element was added on the front of the building.

**Public Comments**Janvier Scott, 2829 Bob White Lane, Flower Mound

Ms. Scott asked what the western wall would look like. She read through information documents and asked why restaurants were being included on the plan, according to the staff report. She wanted to make sure that even after a grading plan comes in, no trees would be lost

in the landscape buffer on the western edge.

Mr. Dalton stated the western wall would be a masonry 6' foot wall on the property line. It would be made from stone or brick similar to that on the building. He referred to Ms. Scott's question about the SPA documents and noted that amendments that were made in 2007 were very specific to the Calloway's Nursery site. The rest of the development was still subject to the original SPA regulations. He explained that the extension of Firewheel would most likely be a mutual access drive as opposed to a public right-of-way. The Retail portion was on one side of the Firewheel extension and Office was on the other side. With the current concept plan and tree survey, the trees on the western edge were planned for preservation. In the later stages of development, there may or may not be a need to remove any of the trees.

Sharon Gentry, 2750 Bob White, Flower Mound

Ms. Gentry understood that drive-through restaurants had a Retail-2 designation. She asked why a bank or credit union would be allowed to have drive-through speakers and loud check carrier noises in Office zoning. She asked if the credit union should be required to have a restriction on the amount of sound they could produce.

Mr. Dalton stated he did not know why banks were in Office zoning. A drive-through restaurant, with an outside order menu, had a high impact in terms of traffic and hours of operation. Banks were limited in hours of operations and nuisances related to a drive-through restaurant. He noted the Town had a sound ordinance and nuisance standards. Mr. Dalton also noted that DATCU would have additional landscaping behind the drive-through lanes.

Ms. Gentry asked when the masonry wall would be built.

Mr. Homeyer stated they would construct the wall with the first phase of the development when DATCU is built.

Ms. Gentry asked for the requirements for lights for the 24-hour banking ATM machines, next to a residential area.

Mr. Dalton stated the DATCU building would have full cutoff requirements for outdoor parking lot lights.

Ms. Gentry stated she had been told the Fire Marshal required the fire lane in front of the DATCU building, which wiped out a significant number of trees. She proposed getting rid of the side connections in order to save trees along FM 2499. Ms. Gentry stated the current perimeter fencing separated her property and livestock from the proposed development. She shared with the Council a letter from her lawyer, essentially saying she had an adverse possession claim on the location of the fence. She stated she would like to keep the fence in place during and after the construction. She stated a horse could rub down a masonry fence. She wanted to keep the barbed wire fence along Bob White and along the western boundary. Regarding the 50' landscape buffer, at the P&Z meeting the developer indicated he planned to remove all trees along the proposed buffer to make it easier to grade, indicating there were drainage issues. She stated the Town needed to protect those trees in the landscape buffer. She also requested a provision in the ordinance to prohibit restaurants.

Fire Chief Eric Metzger stated the Fire Marshal and engineers had studied the site. Bringing the fire lane forward would encroach on the intersection and would not provide for any circulation on the site. He added the fire lane was required to extend beyond because of the need for a turnaround, which otherwise would make the site unusable.

Town Attorney Terry Welch commented on Ms. **Gentry's** letter and stated the Town would not be a party to that adverse possession claim. It did not affect the zoning ordinance in any way.

Mr. Dalton stated as the application went through the development process, civil engineering would be done to determine where the water runoff will go.

Mr. Homeyer stated they were in the design process to determine which trees would have to be removed.

Mr. Dalton stated although a general restaurant was being proposed for the property, fast food restaurants would not be allowed.

#### Janvier Scott

Ms. Scott saw a huge need to preserve the native oaks on FM 2499. She felt the plan was better than what was presented at P&Z, but urged the Council to reject the proposed concept plan. She felt the site was big enough to move the buildings around.

#### Sharon Gentry, Bob White Lane, Flower Mound

Ms. Gentry stated she could not believe the Council would let a developer destroy a beautiful area. She asked them to work on a solution to save the trees. Ms. Gentry stated she lived in an area where people owned acreage, and to allow it to be developed in Estate lots, the Town had to protect it from the noise, lights and improper uses (like restaurants). She also wanted to prohibit restaurants. She asked the Council to keep the barbed wire fencing in place so her property had protection, and she wanted to assure the trees in the landscape buffer were protected.

#### Carol Kohankie, 4312 Lauren Way, Flower Mound

Ms. Kohankie stated when the Town designated the Tax Increment Reinvestment Zone (TIRZ) District, it was a business district. Residential lots were being replaced by businesses. This intersection will provide for through traffic. She stated the residential property owners had an opportunity to build their own buffer and not rely on the Town to do it.

Mr. Homeyer stated he would install a temporary barbed wire fence to keep construction vehicles from entering Ms. **Gentry's** property. Diebold, the manufacturer of the telling machines in the drive-through, provided that the decibel level would be 53 and that would be well within the **Town's** standards.

### **Close Public Hearing**

### **Council Deliberation**

Mayor Pro Tem Trotter had a concern about what trees will be protected and saved in the 50' buffer. He was also concerned about the fire lane and asked if there were any alternatives to protect the trees.

Chief Metzger responded this was the only option. The trees were located where a fire lane must be, and this was following the minimum standards.

Mr. Homeyer commented that during the design of the property, it was always their intent to save as many trees as possible.



Councilmember Filidoro asked Ms. Scott and Ms. Gentry if they had talked to the developer.

Ms. Scott stated she had spoken with the realtor/broker, not the developer or owner.

Councilmember Filidoro asked if someone for the applicant could address this.

Todd Weaver, 3505 Yucca, Flower Mound, broker

Mr. Weaver stated he met with Ms. Scott and Ms. Gentry on April 10, and showed them all the plans.

Councilmember Filidoro asked if they had questions at that time, and were there follow-ups.

Mr. Weaver stated they talked about several topics, saving trees, and the extension of Firewheel. He told them this was a concept plan, not a site plan. He added he would work further with the adjacent neighbors.

Mr. Welch stated this was a concept plan associated with zoning and would be seen again at the site plan level.

Mr. Weaver stated there were a number of changes between the P&Z meeting and now, which showed the diligence of the applicant.

Councilmember Tasker stated it would not be out of line to expect contact between property owners at the site plan level. The developer made changes to the design elements as a result of comments at the P&Z meeting and by staff.

Mayor Pro Tem Trotter stated he had frustration with SPA 2, in general. Many protections were put in SPA 2 to protect the scenic corridor, and the developer was working hard to do this. He asked if there were any options available for the location for DATCU. He stated he was looking for ways to preserve trees and protect the SPA.

Mr. Weaver stated DATCU was under contract for this site. Originally the idea was for a Tuscan village type center. They were encouraged by staff to go to a typical garden development, so the plans were amended several times over.

Councilmember Levenick moved to approve rezoning ZPD 04-08 - Firewheel Village from Agricultural (A) to Planned Development District-106 (PD-106), with Office (O) and Retail District-1 (R-1) uses, an exception to Section 82-302, Compatibility buffer, for the southern property line, and to adopt Ordinance No. 36-08 providing for said amendment. Councilmember Tasker seconded the motion. The caption of the ordinance reads as follows:

#### **ORDINANCE NO. 36-08**

**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 FROM AGRICULTURAL DISTRICT (A) TO PLANNED DEVELOPMENT DISTRICT NO. 106 (PD 106) FOR OFFICE DISTRICT (O) AND RETAIL DISTRICT-1 (R-1) USES, ON APPROXIMATELY 7.629 ACRES**

OF LAND IN THE JOHN WIZWELL SURVEY, ABSTRACT NO. 1346, AND GRANTING AN EXCEPTION TO SECTIONS 82-302(1) AND 82-302(2) REGARDING THE CONSTRUCTION OF A BRICK OR MASONRY WALL AND A 25 FOOT LANDSCAPE BUFFER, RESPECTIVELY, ALONG APPROXIMATELY 215 LINEAR FEET OF THE SOUTHERN PROPERTY LINE ADJACENT TO AND ABUTTING PROPERTY CURRENTLY ZONED FOR AGRICULTURAL DISTRICT (A) USES, IN ACCORDANCE WITH 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, Tasker, Lindsey

NAYS: Filidoro, Trotter

16. **SUP 372-08 Spanish Schoolhouse**  
Public Hearing to consider a request for a Specific Use Permit (SUP 372-08 - Spanish Schoolhouse) to permit a daycare center, and to consider adopting an ordinance providing for said amendment. The property is located at 2525 Forest Vista Drive. (The Planning and Zoning Commission recommended approval by a vote of 5 to 0 at its May 12, 2008, meeting.)

#### Staff Presentation

Senior Planner Tommy Dalton showed a site plan for the subject property at 2525 Forest Vista Drive, for a daycare center.

Public Comments                      None

#### Close Public Hearing

#### Council Deliberation

Mayor Pro Tem Trotter moved to approve Specific Use Permit SUP 372-08 - Spanish Schoolhouse to permit a daycare center and adopt Ordinance No. 37-08 providing for said Specific Use Permit, subject to the following conditions:

- a. 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.
- b. If a certificate of occupancy 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. The caption of the ordinance reads as follows:

**ORDINANCE NO. 37-08**

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 LOT 1 BLOCK A, OF THE GRACE COMMUNITY ASSEMBLY OF GOD CHURCH ADDITION, FROM PLANNED DEVELOPMENT DISTRICT 13 (PD 13) WITH RETAIL DISTRICT 1 (R-1) USES TO PLANNED DEVELOPMENT DISTRICT 13 (PD 13) WITH RETAIL DISTRICT 1 (R-1) USES, SUBJECT TO SPECIFIC USE PERMIT NO. 372 (SUP 372) TO ALLOW FOR A DAYCARE CENTER, IN ACCORDANCE WITH THE TOWN'S MASTER PLAN 2001 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: Lindsey, Trotter, Tasker, Levenick, Filidoro

NAYS: None

#### 17. SUP/SP 370-08 5804 Shorefront

Public Hearing to consider a request for a Specific Use Permit (SUP/SP 370-08 - 5804 Shorefront) to permit an accessory dwelling, and to consider adopting an ordinance providing for said amendment. The property is located at 5804 Shorefront Lane. (The Planning and Zoning Commission recommended approval by a vote of 5 to 0 at its May 12, 2008, meeting.)

#### Staff Presentation

Denice Thomas, Senior Planner, stated the property was located in The Landing, at 5804 Shorefront Lane. She showed the proposed addition to the property.

Public Comments                      None

#### Close Public Hearing

#### Council Deliberation

Councilmember Filidoro moved to approve Specific Use Permit SUP/SP 370-08 - 5804 Shorefront to permit an accessory dwelling, and adopt Ordinance No. 38-08 providing for said Specific Use Permit, 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.

Deputy Mayor Pro Tem Lindsey seconded the motion. The caption of the ordinance reads as follows:

#### ORDINANCE NO. 38-08

**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 LOT 10 BLOCK B, OF THE LANDING, FROM AGRICULTURAL DISTRICT (A) USES TO AGRICULTURAL DISTRICT (A) USES, SUBJECT TO SPECIFIC USE PERMIT NO. 370 (SUP 370) TO ALLOW FOR AN ACCESSORY DWELLING, IN ACCORDANCE WITH THE TOWN'S MASTER PLAN 2001 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:** Filidoro, Levenick, Tasker, Trotter, Lindsey  
**NAYS:** None

18. **SP 31-07 Jernigan Heights, Lot 7**  
 Consider a request for a Site Plan (SP 31-07 - Jernigan Heights, Lot 7) to develop a medical/office and retail building. The property is located at 4030 Justin Road. (The Planning and Zoning Commission recommended approval by a vote of 5 to 0 at its May 12, 2008, meeting.)

#### Staff Presentation

Senior Planner Denice Thomas stated the property had Retail-2 uses and was part of Specific Plan Area (SPA) 6.

#### Council Deliberation

Councilmember Tasker moved to approve SP 31-07 - Jernigan Heights Lot 7 to allow construction of a medical/office and retail building and grant the requested waiver to the parking requirements to allow the site to be over-parked in excess of 20 percent. Councilmember Filidoro seconded the motion.

#### VOTE ON THE MOTION

**AYES:** Lindsey, Trotter, Tasker, Levenick, Filidoro  
**NAYS:** None

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

- Councilmember Tasker - out of town - June 16

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

The Town Council convened into a closed meeting at 10:33 pm on June 2, 2008 pursuant to Texas Government Code Sections 551.071, 551.072, 551.074 and 551.087 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 11:30 p.m. on June 2, 2008 to take action on the items as follows:

- a. **Discuss and consider economic development incentives.**

No action taken.

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

Councilmember Tasker moved to approve the purchase of right-of-way, in association with the Dixon Lane project, west of FM 2499, from West Revocable Trust, William L. Weller, Vanita K. Barnes, Jack and Jamie Tompkins, Gary F. Schones and David Lansing, and Dale and Vonda Andrews, not to exceed the settlement amount, plus closing costs; authorize the Town Engineer, or his designee, to execute all documents at closing on behalf of the Town; and authorize initiation of all actions incident and related thereto, including authorizing the Town Attorney or his designee to file condemnation proceedings against the property owner(s) to acquire the property in the event a settlement cannot be reached. Councilmember Filidoro seconded the motion.

#### **VOTE ON THE MOTION**

**AYES:** Filidoro, Levenick, Tasker, Trotter, Lindsey

**NAYS:** None

- c. **Discuss and consider appointments to the Board of Adjustment, Community Development Corporation, Environmental Conservation Commission, and Planning and Zoning Commission.**

No action taken.

#### **P. ADJOURN MEETING**

Mayor Smith adjourned the regular meeting at 11:32 p.m., June 2, 2008, and all were in favor.

**TOWN OF FLOWER MOUND, TEXAS**

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**JODY A. SMITH, MAYOR**

**ATTEST:**

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PAULA J. PASCHAL, TOWN SECRETARY