



City of Denton

City Hall
215 E. McKinney Street
Denton, Texas
www.cityofdenton.com

AGENDA INFORMATION SHEET

DEPARTMENT: Department of Development Services

DCM: Cassey Ogden

DATE: August 19, 2025

SUBJECT

Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas, regarding a change in the zoning district and use classification from Residential 2 (R-2) District to a Mixed-Use Neighborhood (MN) District on approximately 1.09 acres of land generally located on the north side of West University Drive between Willow Lane and Cottonwood Lane in the City of Denton, Denton County, Texas; adopting an amendment to the City's official zoning map; providing for a penalty in the maximum amount of \$2,000.00 for violations thereof; providing a severability clause and an effective date. The Planning and Zoning Commission voted 6-0 to recommend approval of the request. Motion for approval by Commissioner Pruett and second by Commissioner McDuff. (Z25-0007b, Kalyans, Julie Wyatt)

<https://dentontx.new.swagit.com/videos/346760?ts=8795>

BACKGROUND

The applicant, Aimee Bissett with 97 Land Company, on behalf of the property owner, Kalyans, Inc. is requesting to rezone a 1.09-acre tract from Residential 2 (R2) District to Mixed-Use Neighborhood (MN) District. The purpose of the request is to reestablish a previous retail use (package liquor sales) in an existing building. The subject property includes portions of three platted lots along the north side of West University Drive, situated at the entrance of an existing mobile home community (see lots outlined in yellow in inset image to the right). The two western lots are developed with a commercial building and asphalt/gravel parking areas. The eastern lot is undeveloped. A detailed explanation of the history of the commercial use of the property is provided below.

Property History

In 1974, all three parcels were annexed into the City of Denton and initially zoned Agriculture District. In 1976, the two western lots were rezoned to General Retail (Z-1275), likely to address a nonconforming use, as the property was developed for a commercial use prior to annexation. The commercial building can be seen in the aerial map from 1976 (see adjacent inset image). Subsequent to the 1976 rezoning, two Certificates of Occupancy were issued for the existing commercial



Subject site, 1976

building: one for a retail and bar use in 1992 and a second for a restaurant and convenience store in 1997.

In 1984, the eastern lot was rezoned to a Planned Development to facilitate the development of mini warehouses. It does not appear that the use was ever developed.

In 2002, the City adopted a new city-wide development code (2002 Denton Development Code or 2002 DDC) and the entire city was rezoned to accommodate the updated zoning districts. The subject property (including all three lots) was rezoned to Neighborhood Residential 2 (NR-2), which did not allow for retail or restaurant uses; however, it did not make the use nonconforming. The 2002 DDC had a unique provision that allowed existing, legally established uses to continue in perpetuity as though they were permitted uses. This “Special Exception” was outlined in Subsection 35.11.3, stating, “The initial adoption of this Subchapter **shall not cause any existing, legal use of property, building, structure or site development to become nonconforming**. Those lots, structures, and uses of land and structures which were lawful before this Subchapter was adopted, but which would be prohibited, regulated, or restricted under the terms of this Subchapter are automatically given a Special Exception designation. **This provision shall be liberally construed to allow the property to be used in the same or similar manner as allowed under the prior development regulations.**” Any use classified as a Special Exception could expand on the same lot and be rebuilt if destroyed. Since the commercial use of this property was established prior to its annexation into the City, the use was legally established and therefore granted the Special Exception to continue under the 2002 DDC.

However, in 2019, the City adopted an updated city-wide development code (the 2019 DDC) and the NR-2 District zoning transitioned to the current R2 District. **Under the new regulations, the commercial uses lost the Special Exception but were able to continue to operate under the nonconformity regulations, which are further explained below.**

Current Conditions



Ultimately, **the property was sold in 2023, and the restaurant and retail uses ceased.** After purchasing the property, the current owner started renovating the building without a permit. Staff issued a stop work order and contacted the owner to provide information on permit requirements and nonconforming use restrictions. At that time, the owner was informed of the following Denton Development Code (DDC) regulations related to nonconformities:

- Nonconforming uses can continue, and minor repairs and maintenance can be performed, but the degree of nonconformity cannot be increased, and structural alterations are not permitted (DDC Subsection 1.5.3A).

- **If the nonconforming use is discontinued for one year or more, all nonconforming rights cease,** and the use of the premises or the structure must be in conformance with the applicable zoning and regulations. For purposes of this provision, active marketing of a property for sale can delay the discontinuance of the nonconforming use for up to one year (DDC Subsection 1.5.2F).

Since the property was marketed for sale prior to the current owner's purchase, staff used the sale date of May 30, 2023, as the date of discontinuance in accordance with DDC Subsection 1.5.2F. That gave the property owner until May 30, 2024, to obtain the necessary permits to complete construction and reopen the retail use. Unfortunately, the property owner was not able to do so during the determined timeframe; meaning that **the restaurant and retail uses may not re-establish in the present Residential 2 zoning.**

Therefore, the purpose of the current request to rezone the property to MN District is to allow the current owner to make improvements to the building and reestablish the retail use. It should be noted that the intent is for a retail use; however, if the rezoning is approved, any use permitted in the MN District could be developed as shown in DDC 5.2.3, *Table of Allowed Uses* (Exhibit 7).

A full Staff Analysis is provided in Exhibit 2.

PLANNING AND ZONING COMMISSION

The Planning and Zoning Commission held a public hearing for the request at their June 25, 2025, meeting. During the meeting, staff presented the rezoning request, land use analysis, and recommendation.

Three community members who reside in the adjacent Denton Estates neighborhood spoke in opposition to the request, noting concerns about potential impacts related to the proposed retail use (package liquor sales), the condition of their neighborhood streets, pedestrian safety, drainage, and the possibility of connecting to city water. The following is a summary of the residents' specific concerns:

- **Use.** A resident stated opposition to the proposed type of retail use (package liquor sales) due to the site's proximity to the Denton Estates neighborhood and potential impacts related to alcohol sales. Staff explained at the hearing that while the applicant has indicated he intends to sell package liquor, alcohol sales is classified as General Retail and not delineated as a separate use in DDC Table 5.2-A, *Table of Allowed Uses*. The request is to rezone the property to MN District, which allows a variety of residential and commercial uses, including General Retail. If approved, any use allowed within MN District could be developed, provided that the property owner meets all technical requirements.
- **Streets.** The residents indicated that their neighborhood streets are in very poor condition. The streets within Denton Estates were constructed with the subdivision in the late 1960's and deemed to be private by Denton County at that time. They have continued to be used as private streets and have not been maintained by the City or County (as denoted by the white street sign and PVT designation, right). The current condition of the streets indicates that the asphalt has deteriorated and is in need of repair.
- **Student safety.** In 2018, buses for the Krum Independent School District (ISD) ceased driving into the neighborhood to pick up students due to the condition of the streets. Since then, buses have picked up and dropped off all Denton Estates students in the subject property's rear parking lot. This arrangement requires that some



students must walk along the West University Drive sidewalk near high-speed traffic, causing the safety concerns residents spoke about at the public hearing.

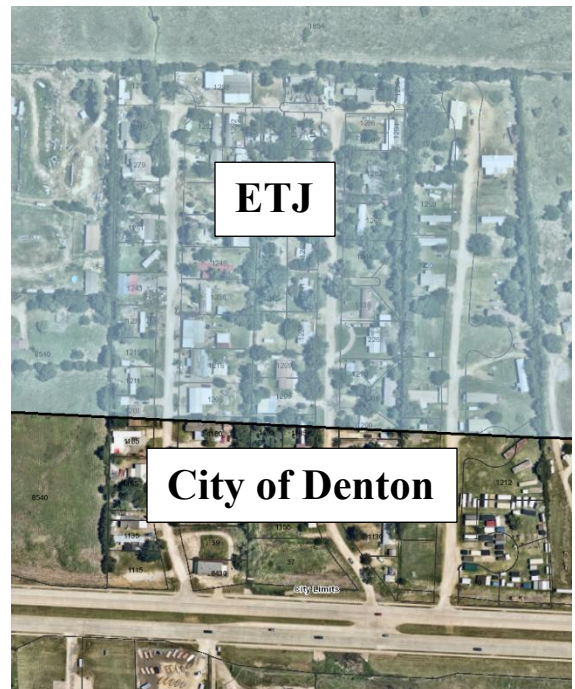
- **Drainage.** A drainage channel runs north/south along the back yards of many individual lots and can create flooding issues (with an associated FEMA Floodplain X designation for a large swath of the neighborhood).
- **Water service.** Denton Estates and the subject property are served by a public water system supplied by a well located just north of the neighborhood. According to a resident, there have been instances where water was not available for up to five days.

At the close of the public hearing, the Planning and Zoning Commission expressed concern regarding the considerations raised by the public and asked staff to search for options to assist the community with improvements. Nevertheless, the Commission recognized that the challenges related to the Denton Estates infrastructure are long-standing issues that are separate from the subject property and zoning change request and are not the responsibility of the property owner.

After the public hearing, staff investigated possible solutions for the residents of Denton Estates. Unfortunately, there are not any “quick fix” options at this time, particularly since the majority of the neighborhood is outside of Denton’s city limits in the extraterritorial jurisdiction (ETJ).

However, staff will continue to communicate with the residents when opportunities to improve the infrastructure become available:

- **Streets.** Approximately 450 feet of Willow Lane and Cottonwood Lane are within Denton’s city limits. The remaining 765 feet of each street is located in the ETJ. Because the streets are private, they were not built to and have not been maintained to the City/County standards. Consistent with the City’s established process, the portion of the streets within the city limits must be brought to current standards to be accepted as public streets.
- **Student safety.** City staff connected the Krum ISD Transportation staff with the subject property owner so that the parties can coordinate on the bus stop in the future.
- **Drainage.** Staff is not aware of any recent or historical flooding claims in the area; however, flooding issues are likely. Therefore, any future improvements must conform with floodplain regulations and limitations.
- **Water service.** Water infrastructure will be extended toward the west in the next five years as other area developments occur, which would create an opportunity for individual property owners to connect to the public system at the owner’s expense. There are grant and state funding opportunities available if the neighborhood meets the qualifications.



Following the Planning and Zoning Commission meeting, the applicant requested to postpone this item from the July 15th City Council agenda to the August 19th agenda in order to conduct additional research regarding the infrastructure in the area and consider options related to the bus stop location.

OPTIONS

1. Approve
2. Approve with conditions

3. Deny
4. Postpone item.

RECOMMENDATION

The Planning and Zoning Commission recommended approval of the request (6-0).

Staff recommended approval of the request as it complies with the criteria in Section 2.4.5.E of the Denton Development Code (DDC) for approval of all applications, and Section 2.7.2.D of the DDC for approval of a zoning change.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

Date	Council, Board, Commission	Request	Action
September 3, 1974	City Council	Annexation	Approved (74-36)
July 6, 1976	City Council	Rezone two western parcels from Agriculture to General Retail (GR)	Approved (Z-1275)
July 17, 1984	City Council	Rezone eastern parcel from Agriculture to Planned Development (PD)	Approved (Z-1671)
2002	City Council	Citywide rezoning from General Retail (GR) and Planned Development (PD) to Neighborhood Residential 2 (NR-2)	Approved
October 2019	City Council	Zoning transition from NR-2 to Residential 2 (R2)	Approved
June 25, 2025	Planning and Zoning Commission	Rezone from R2 District to MN District (Z25-0007)	Recommended Approval (6-0)
July 15, 2025	City Council	Rezone from R2 District to MN District (Z25-0007)	Postponed to a date certain of August 19, 2025

PUBLIC OUTREACH:

Twenty-eight letters were sent to the subject properties and property owners within 200 feet of the subject properties, and 36 postcards were mailed to current residents within 500 feet of the subject property within the City limits. Three cards in opposition were signed at the public hearing.

A notice was published in the Denton Record Chronicle on June 28, 2025.

A notice was published on the City's website on June 25, 2025.

One sign was posted on the property on June 10, 2025.

The applicant held a virtual neighborhood meeting on June 18, 2025. During the meeting, community members provided feedback on the issues related to the street condition and Krum ISD bus stop.

DEVELOPER ENGAGEMENT DISCLOSURES

No developer contact disclosures have been provided to staff from members of this body as of the issuance of this report.

EXHIBITS

Exhibit 1 - Agenda Information Sheet

Exhibit 2 - Staff Analysis

Exhibit 3 - Site Location Map

Exhibit 4 - Current Zoning Map

Exhibit 5 - Proposed Zoning Map

Exhibit 6 - Future Land Use Map

Exhibit 7 - Comparison of Permitted Uses

Exhibit 8 - Fiscal Impact Analysis Summary

Exhibit 9 - Notification Map

Exhibit 10 - Presentation

Exhibit 11 - Draft Ordinance

Respectfully submitted:
Hayley Zagurski, AICP
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Prepared by:
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