

# **Planning Staff Analysis**

**Z17-0024/Yale Development**

**City Council District 1**

**Planning & Zoning Commission**

**November 29, 2017**

## **REQUEST:**

Hold a public hearing and consider a request by Denton Affordable Housing Corporation to rezone approximately 7.14 acres from a Neighborhood Residential 2 (NR-2) District to a Neighborhood Residential 6 (NR-6) District. The property is generally located on the south side of Audra Lane approximately 265 feet east of Nottingham Drive. (Z17-0024, Yale Development, Hayley Zagurski).

## **OWNER:**

Denton Affordable Housing Corporation

## **APPLICANT:**

Craig Bond, KJE

Roger Yale, Yale Law Group

## **BACKGROUND:**

The subject property is located on the south side of Audra Lane, east of the Nottingham Drive – Audra Lane intersection. The property is comprised of five tracts of unplatted land.

The request is for a rezoning from NR-2 District to NR-6 District in order to develop the subject property with a subdivision for single-family dwellings. The single-family use is permitted under the current zoning district but not at the density with which the applicant is seeking to develop the property.

## **SITE DATA:**

The 7.14-acre subject property is currently undeveloped land. A pond exists on the property, but there is no known floodplain or Environmentally Sensitive Area associated with the pond.

The property has approximately 493 feet of frontage on Audra Lane. Audra Lane is classified as a Residential Avenue Collector street by the Mobility Plan. The street is currently developed as a two-lane undivided roadway, which is partially improved with curb and sidewalks along the northern side of the road. Residential collector streets require 65 feet of right-of-way and are intended to be developed as two-lane undivided roadways that can accommodate parking and an 8-foot wide sidewalk on each side of the road. Collector streets are designed to handle between 1,000 and 8,000 vehicles per day when constructed at full width.

## **USE OF PROPERTY UNDER CURRENT ZONING:**

The NR-2 District is primarily intended for single-family uses with a maximum density of two dwelling units per acre. For subdivisions greater than two acres, there are no minimum lot sizes stipulated by the Denton Development Code (DDC). Non-residential uses permitted by right or with limitations include churches, outdoor recreation, kennels, and veterinary clinics. More intensive non-residential uses, including day cares, elementary schools, and equestrian facilities, are permitted with a Specific Use Permit (SUP). A complete list of permitted uses is provided in the Comparison of Permitted Uses table.

## **SURROUNDING ZONING AND LAND USES:**

<b>Northwest:</b> <ul style="list-style-type: none"><li>• Zoning: NR-2 District</li><li>• Use: Church</li></ul>	<b>North:</b> <ul style="list-style-type: none"><li>• Zoning: Neighborhood Residential 3 (NR-3) District</li><li>• Use: Audra Lane and single-family subdivision</li></ul>	<b>Northeast:</b> <ul style="list-style-type: none"><li>• Zoning: NR-3 District</li><li>• Use: Audra Lane and single-family subdivision</li></ul>
<b>West:</b> <ul style="list-style-type: none"><li>• Zoning: NR-2 District</li><li>• Use: Single-family residences</li></ul>	<b>SUBJECT PROPERTY</b>	<b>East:</b> <ul style="list-style-type: none"><li>• Zoning: NR-2 District</li><li>• Use: Undeveloped land and single-family residence</li></ul>
<b>Southwest:</b> <ul style="list-style-type: none"><li>• Zoning: NR-2 District</li><li>• Use: Undeveloped land</li></ul>	<b>South:</b> <ul style="list-style-type: none"><li>• Zoning: NR-2 District</li><li>• Use: Undeveloped land</li></ul>	<b>Southeast:</b> <ul style="list-style-type: none"><li>• Zoning: NR-2 District</li><li>• Use: Undeveloped land</li></ul>

## **COMPATABILITY OF REQUEST WITH SURROUNDING ZONING AND LAND USES:**

The NR-6 District is intended to encourage moderate density single-family development with a maximum density of 6 dwelling units per acre. In developments greater than two acres, there are no minimum lot sizes stipulated per the DDC. Detached single-family, attached single-family (townhome), and duplexes are all permitted by right in this district, but multi-family development is not permitted. A complete list of permitted uses is provided in the Comparison of Permitted Uses table.

The proposed NR-6 District permits uses that are generally compatible with the existing land use pattern in this area. However, the density of housing permitted under the NR-6 District is higher than what is permitted under the surrounding zoning districts, which permit a maximum of 2 to 3 dwelling units per acre.

## **COMPREHENSIVE PLAN:**

Per the Future Land Use Map in *Denton Plan 2030*, the subject property is designated as Low Density Residential. This designation is primarily intended to promote single-family housing, with lot sizes ranging from one acre or more in rural fringe areas up to four units per acre through many of the City's suburban subdivisions. Dwellings in this land use district are generally one to two stories with privately maintained yards. A variety of housing styles and prices are encouraged, but new development should be sensitive to the character and development pattern of established residential areas.

The existing NR-2 zoning is compatible with the Low Density Residential Future Land Use designation. The proposed NR-6 District exceeds the maximum of 4 dwelling units per acre promoted within areas designated as Low Density Residential.

## **CONSIDERATIONS:**

1. The request is for a rezoning from NR-2 District to NR-6 District to facilitate the development of a single-family residential subdivision. The proposed use is permitted within the current zoning district but at a much lower density than what is permitted under the proposed NR-6 District.
2. Although the applicant's intent is to develop a single-family subdivision that would likely contain less than the permitted 6 dwelling units per acre, the rezoning is not tied to these plans. If the rezoning is approved, anything permitted under the NR-6 District could be

developed on the property. This would permit the development of duplexes or attached single-family dwellings on the property by right, and these uses would be out of character for this area of the City, which is developed with well-established single-family neighborhoods.

Because the NR-6 District is not considered a mixed-use district, the Mixed Use Residential Protection Overlay allowed under DDC 35.5.2.4 would not apply in this scenario to allow the exclusion of these potentially incompatible uses or to limit the density to anything less than 6 units per acre.

3. Section 35.3.4 of the DDC states that an application for a rezoning may be approved based on the following conditions: a) *The proposed rezoning conforms to the Future Land Use element of the Denton Plan* and b) *The proposed rezoning facilitates the adequate provision of transportation, water, sewer, schools, parks, other public requirements, and public convenience.*

When a rezoning request does not conform to the Future Land Use designation for the property, which this request does not, then there are additional criteria provided in Section 35.3.3.B.3 that must be examined. The following criteria are intended to evaluate the competing interests of public health, safety, morals, and general welfare against the right to the use of the property:

- a. *The existing land use pattern surrounding the property and the possible impact on existing or future development or uses that are in accordance with existing regulations.*

The existing land use pattern in this area of the City is residential. On the eastern side of Audra Lane and Nottingham Drive, the existing development pattern in the established single-family subdivisions is a density of between 3 and 5 dwelling units per acre. Although the nearby subdivisions are currently zoned NR-3 and NR-4, much of the area was developed prior to the adoption of the current DDC and thus may slightly exceed the current zoning limitations in some areas. Regardless, the proposed NR-6 District would permit a higher density of residential development than what is developed, what is permitted under the existing zoning pattern, and what is intended for this area based on the Future Land Use designation.

- b. *The possible creation of an isolated district unrelated to adjacent and nearby districts.*

The proposed NR-6 District would be isolated, with the closest occurrence of NR-6 District being across Audra Lane, over 400 feet to the west and separated by other property zoned NR-2 District. NR-6 District is in the same “Neighborhood Residential” family of zoning districts as the current and surrounding zoning districts, but it is not considered to be a low-density residential district. The NR-6 district is typically more appropriate in transitional areas between low-density residential and more mixed-use areas. NR-6 District permits higher-density housing types such as duplexes and townhomes by right, whereas the surrounding lower-density districts either prohibit or limit these uses. These more intensive single-family residential uses do not currently exist in the subdivisions surrounding the subject property.

- c. *The population density in order to facilitate the adequate provision of transportation, water, sewer, schools, parks, public convenience, and other public requirements.*

The proposed rezoning would increase the population density in this area of the City. Public utilities are available along Audra Lane, and the southern half of Audra Lane would be improved with the proposed development of the subject property. Specific requirements for improvements would be determined at the time of platting.

- d. *The cost to the City and other governmental entities in providing, improving, increasing or maintaining public utilities, schools, streets and other public safety measures.*

During the platting process, the precise requirements for public infrastructure extensions will be determined. Impact fees for water, wastewater, and roadways would be assessed with building permits.

- e. *The possible impact on the environment, including but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quantity.*

There are no floodplain or Environmentally Sensitive Areas identified on the property. A drainage analysis of the site will be conducted during the platting and civil engineering process to ensure no negative impact occurs to adjoining properties.

- f. *Whether there are substantial reasons why the property cannot be used in accordance with existing zoning or that proposed by the Future Land Use Map.*

The property could be developed with single family residences under the current zoning. The density of development permitted under the current zoning would be substantially lower than what is proposed and what currently exists in surrounding subdivisions. However, the property could be rezoned to either a NR-3 or NR-4 District to attain higher density and still be in conformance with the Future Land Use designation of Low Density Residential.

- g. *The action shall be made with reasonable consideration of the character of the district and its peculiar suitability for particular uses, and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the City.*

Based on the Denton Plan 2030 the most appropriate zoning for the subject property is either the current zoning or a similar NR-3 or NR-4 District. The surrounding area is currently developed with lower density subdivisions and compatible institutional uses, and the proposed rezoning would introduce a much high density than what currently exists in the area.

#### **STAFF RECOMMENDATION:**

Staff recommends denial of the request as it does not meet the criteria for approval established in Section 35.3.4; specifically it is incompatible with the surrounding property and is inconsistent with the goals and objectives of the Denton Plan 2030.

#### **PUBLIC NOTIFICATION:**

To comply with the public hearing notice requirements, 22 notices were sent to property owners within 200 feet of the subject property, 73 courtesy notices were sent to physical addresses within 500 feet of the subject property, a notice was published in the Denton Record Chronicle, and a sign was placed on the property. One written response in favor of the request was received as of the issuance of this report, and has been attached for reference.

A neighborhood meeting was held on October 25, 2017 where the applicant presented their plans for developing the property if the rezoning is approved. Approximately 20 people from the surrounding neighborhoods attended the meeting.