



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: June 25, 2025

SUBJECT

Hold a public hearing and consider making a recommendation to City Council regarding a request by Kalyans, Inc. for a zoning change from Residential 2 (R2) District to a Mixed-Use Neighborhood (MN) District. The approximately 1.09 acre site is generally located on the north side of West University Drive between Willow Lane and Cottonwood Lane, in the City of Denton, Denton County, Texas. (Z25-0007, Kalyans, Julie Wyatt)

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. 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 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.



Subject site, 1976

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.

OPTIONS

1. Recommend Approval
2. Recommend Denial
3. Postpone Item.

RECOMMENDATION

Staff recommends 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

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. As of the writing of this report, the City has not received any responses.

A notice was published in the Denton Record Chronicle on June 8, 2025.

A notice was published on the City's website on June 5, 2025.

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

The applicant held a virtual neighborhood meeting on June 18, 2025. As of writing this report, community feedback from the meeting was not available.

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

1. Agenda Information Sheet
2. Staff Analysis
3. Site Location Map
4. Current Zoning Map
5. Proposed Zoning Map
6. Future Land Use Map
7. Comparison of Permitted Uses
8. Fiscal Impact Analysis Summary
9. Notification Map
10. Draft Ordinance

Respectfully submitted:

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Prepared by:

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Principal Planner