



## City of Denton

City Hall  
215 E. McKinney Street  
Denton, Texas  
[www.cityofdenton.com](http://www.cityofdenton.com)

### AGENDA INFORMATION SHEET

**DEPARTMENT:** Department of Development Services

**CM:** Todd Hileman, City Manager

**DATE:** October 17, 2017

#### **SUBJECT**

Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas, regarding a change in the zoning classification from a Neighborhood Residential 6 (NR-6) District and use classification to a Neighborhood Residential Mixed-Use 12 (NRMU-12) District and use classification with Mixed Use Residential Protection Overlay restrictions on approximately 3.2 acres of land generally located on the east side of Jannie Street, approximately 420 feet north of East McKinney Street 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 recommended approval of the request with Mixed Use Residential Protection Overlay restrictions (4-3). (Z17-0013, Justice Plaza)

#### **BACKGROUND**

The applicant is requesting to rezone the subject property from Neighborhood Residential 6 (NR-6) District to Neighborhood Residential Mixed Use 12 (NRMU-12) District to expand a proposed office park development.

The approximately 3 acre site is part of a 7 acre tract which was rezoned in 2014 from Neighborhood Residential 4 (NR-4) District into a mix of zoning districts which included NR-6 District on the subject property, NRMU-12 District adjacent to the subject property, and Neighborhood Residential Mixed Use (NRMU) District on East McKinney Street. The intent of this rezoning was to construct a comprehensively planned mixed-use development which included restaurant, office and cottage-style homes. The plan included curved streets and integrated uses, which resulted in the unusual zoning district lines reflected on the zoning map. That project did not move forward.

#### **ANALYSIS**

Per the Denton Plan 2030, the Future Land Use designation of the subject property is Low Residential. Low Residential is intended to be predominantly single-family neighborhoods, with lot sizes ranging from one acre or more in rural fringe areas to four units per acre gross density throughout many of the city's suburban subdivisions. The proposed NRMU-12 District is not consistent with the Low Residential Future Land Use designation, as NRMU-12 District allows for mixed-use development and moderate density multi-family housing.

The subject property is situated within an established neighborhood developed with low-density single-family uses. The NR-4 District which surrounds the site reflects this land use pattern, as it restricts commercial development and limits density to a maximum of four dwelling units per acre. The proposed rezoning to NRMU-12 District is incompatible with the surrounding zoning and land use, as it permits small scale commercial and moderate-density residential development. Furthermore, the current zoning pattern

establishes a logical buffer between the single-family neighborhoods to the north and the commercial development along East McKinney Street.

In response to concerns regarding compatibility between commercial and residential uses, prior to the Planning and Zoning Commission meeting, the applicant proposed a Mixed Use Residential Protection Overlay in accordance with Section 35.5.2.4 of the DDC.

- Per the DDC, a Mixed Use Residential Protection Overlay allows for the imposition of additional site design and use restrictions to address potential conflicts between existing residential uses when adjacent non-residential uses are proposed.
- Specifically, the applicant proposes the following site design and use restrictions on the subject property:
  1. Restrict buildings to a maximum one-story building.
  2. Restrict maximum building height to 35 feet.
  3. Mechanical units located within 100 feet of the adjacent properties will be limited to 5-ton units, placed on the sides of the buildings such that there will not be more than 2 units on both sides of the building, limiting the total units to 4 units per building. Units will be screened from the adjacent properties for both noise and aesthetics.
  4. Construct a screening wall around the property.
  5. Strike the below uses from the district:
    - a. Dwelling above businesses
    - b. Group homes
    - c. Multi-Family Dwellings
    - d. Fraternity or Sorority Homes
    - e. Dormitories
    - f. Bed and Breakfasts
    - g. Laundry Facilities
    - h. Semi-Public Halls, Clubs, or Lodges
    - i. Kindergarten or Elementary Schools
    - j. Middle Schools
    - k. Elderly Housing
- While the applicant's proposal provides limitations for building scale, screening, and use, whereby some nuisances may be mitigated, the overlay doesn't address the incompatibility of office and retail uses imbedded within a neighborhood, across from, and adjacent to, single-family homes.

A full analysis of the request has been attached in Exhibit 2.

To comply with the public hearing notice requirements, 51 notices were sent to property owners within 200 feet of the subject property, 138 courtesy notices were sent to physical addresses within 500 feet of the subject property, a notice was published in the Denton Record Chronicle, and signs were placed on the property. Three opposition responses and one favorable response within the 200-foot buffer have been received. A neighborhood meeting was held by the applicant on July 11, 2017. Neighbors expressed concerns regarding the types of uses permitted in NRMU-12 District and the potential nuisances associated with commercial uses, including traffic and noise.

## **OPTIONS**

1. Approve request without a Mixed Use Residential Protection Overlay.
2. Approve request with a Mixed Use Residential Protection Overlay as recommended by the Planning and Zoning Commission.

3. Approve request with a Mixed Use Residential Protection Overlay as recommended by the Planning and Zoning Commission and with an additional restriction to limit the hours of operation for Retail Sales and Service and Professional Services and Offices so that no business-related activity is permitted between the hours of 9:00 pm and 7:00 am.
4. Deny.
5. Postpone consideration.
6. Table item.

### **RECOMMENDATION**

Due to the location of the subject property within the center of an existing, established neighborhood, staff recommends denial of the request as it is incompatible with the surrounding property and is inconsistent with the goals and objectives of the Denton Plan 2030. Rezoning the site to NRMU-12 District would introduce commercial land uses adjacent to, and across from, single-family dwellings within a neighborhood. Although the applicant has proposed a Mixed Use Residential Protection Overlay, the proposed restrictions do not alleviate the incompatibility of office and retail uses placed near the center of a residential area. This change could erode the integrity of the existing neighborhood by compromising the cohesive land use pattern and residential character.

However, if the rezoning is approved, staff recommends an additional condition to restrict nighttime hours for commercial uses as noted above.

### **PRIOR ACTION/REVIEW (Council, Boards, Commissions)**

On September 27, 2017, the Planning and Zoning Commission (P&Z) held a public hearing regarding the requested rezoning. Following staff's presentation, the applicant presented proposed Mixed Use Residential Overlay restrictions in conjunction with the rezoning request.

During the meeting, P&Z discussed the compatibility of the request within the existing neighborhood and the impact of a rezoning on the nearby homes. However, it was determined by the P&Z that the overlay restrictions proposed by the applicant were sufficient to mitigate potential incompatibilities. The applicant and two residents spoke in favor of the request, and at the closure of the public hearing, a motion was made to recommend approval of the request with the following Mixed Use Residential Protection Overlay restrictions. This motion passed 4-3.

1. Restrict buildings to a maximum one-story building.
2. Restrict maximum building height to 35 feet.
3. Mechanical units located within 100 feet of the adjacent properties will be limited to 5-ton units, placed on the sides of the buildings such that there will not be more than 2 units on both sides of the building, limiting the total units to 4 units per building. Units will be screened from the adjacent properties for both noise and aesthetics.
4. Construct a screening wall around the property.
5. Strike the below uses from the district:
  - a. Dwelling above businesses
  - b. Group homes
  - c. Multi-Family Dwellings
  - d. Fraternity or Sorority Homes
  - e. Dormitories
  - f. Bed and Breakfasts
  - g. Laundry Facilities
  - h. Semi-Public Halls, Clubs, or Lodges
  - i. Kindergarten or Elementary Schools

- j. Middle Schools
- k. Elderly Housing

## **STRATEGIC PLAN RELATIONSHIP**

The City of Denton's Strategic Plan is an action-oriented road map that will help the City achieve its vision. The foundation for the plan is the five long-term Key Focus Areas (KFA): Organizational Excellence; Public Infrastructure; Economic Development; Safe, Livable, and Family-Friendly Community; and Sustainability and Environmental Stewardship. While individual items may support multiple KFAs, this specific City Council agenda item contributes most directly to the following KFA and goal:

**Related Key Focus Area: Economic Development**

**Related Goal: 3.4 Encourage development, redevelopment, recruitment, and retention**

## **EXHIBITS**

1. Agenda Information Sheet
2. Staff Analysis
3. Aerial Map
4. Zoning Map
5. Future Land Use Map
6. Proposed Zoning Map
7. Permitted Use Comparison
8. Applicant's Mixed Use Residential Protection Overlay Proposal
9. Notification Map and Responses
10. Presentation
11. Draft Planning and Zoning Commission Meeting Minutes
12. Draft Ordinance

Respectfully submitted:  
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