

# **Planning Staff Analysis**

**Z17-0016/Retreat at Denton**

**City Council District 3**

**City Council**

**December 5, 2017**

## **REQUEST:**

Hold a public hearing and consider adoption of an ordinance to rezone approximately 71.76 acres from an Industrial Center Employment (IC-E) District to a Neighborhood Residential Mixed-Use (NRMU) District. The property is generally located on the south side of West Oak Street approximately 290 feet west of the Interstate Highway 35 service road in the City of Denton, Denton County, Texas. The Planning and Zoning Commission recommended approval of the request (4-3). (Z17-0016, Retreat at Denton, Hayley Zagurski).

## **OWNER:**

Rayzor Investments Ltd.

## **APPLICANT:**

Lance Vanzant of Hayes, Berry, White, & Vanzant, LLP

## **BACKGROUND:**

The subject property is located at the southeast corner of the intersection of West Oak Street and the future extension of Precision Drive. The property is comprised of three tracts of unplatted land.

The request is for a rezoning from IC-E District to NRMU District in order to develop the subject property with multi-family residential and outdoor recreation uses. Both uses are prohibited in the current zoning district and require the approval of a Specific Use Permit (SUP) in the proposed NRMU District. An application for an SUP for these two uses has been concurrently submitted.

## **SITE DATA:**

The 71.76-acre subject property is currently undeveloped with the exception of a single residence located at the southwestern corner of the property which is intended to be removed. A pond and surrounding floodplain is located generally at the center of the property and encompasses approximately 15 acres of the property. Stream buffer Environmentally Sensitive Area (ESA) also surrounds the pond. Any future development in this ESA would require a field assessment and the potential completion of an Alternative ESA plan.

The property is also located within the boundaries of Tax Increment Reinvestment Zone Number Two (Westpark TIRZ). The Westpark TIRZ, which was approved in 2012, encompasses approximately 800 acres of land where industrial development is promoted. The TIRZ is intended to assist with the financing of the public infrastructure needed to encourage industrial development in this area.

The property has approximately 950 feet of frontage on West Oak Street. West Oak Street is classified as a Primary Arterial roadway by the Mobility Plan. West Oak Street is currently developed as a two-lane undivided roadway. As a Primary Arterial, West Oak Street is intended to be a six-lane divided roadway with 135 feet of right-of-way. This type of road is designed to handle over 15,000 vehicles per day at its full width.

The future extension of Precision Drive will extend along the western portion of the property. Precision Drive is classified as a Commercial Mixed Use Collector on the Mobility Plan. Currently

Precision Drive ends at the southern boundary of the property. Precision Drive is intended to be a two-lane undivided roadway with approximately 70 feet of right-of-way, which can handle 1,000 to 8,000 vehicles per day.

### USE OF PROPERTY UNDER CURRENT ZONING:

The IC-E District is intended to provide a place for a variety of work processes and employment uses, including manufacturing, warehousing, and distribution. This district permits a wide array of commercial and industrial land uses, including research facilities, automotive and RV sales, vehicle repair, light manufacturing, and distribution centers. Heavy manufacturing, bakeries, impound lots, and printing are permitted with limitations, and wholesale retail is permitted with an SUP. A complete list of permitted uses is provided in the Comparison of Permitted Uses table.

The scale of development and uses permitted within the existing IC-E District zoning are compatible with the goals of Westpark TIRZ for this area. The intended multi-family residential and outdoor recreation uses are not permitted within the current zoning district.

### SURROUNDING ZONING AND LAND USES:

<b>Northwest:</b> <ul style="list-style-type: none"> <li>• Zoning: IC-E and Industrial Center General (IC-G) Districts</li> <li>• Use: West Oak Street bisects parcels of undeveloped land to the northwest.</li> </ul>	<b>North:</b> <ul style="list-style-type: none"> <li>• Zoning: IC-E District</li> <li>• Use: The 84 Lumber facility is located to the north across West Oak Street.</li> </ul>	<b>Northeast:</b> <ul style="list-style-type: none"> <li>• Zoning: IC-E District</li> <li>• Use: A rail line and undeveloped land are located to the northeast.</li> </ul>
<b>West:</b> <ul style="list-style-type: none"> <li>• Zoning: IC-G District</li> <li>• Use: Undeveloped industrial land is located to the west.</li> </ul>	<b>SUBJECT PROPERTY</b>	<b>East:</b> <ul style="list-style-type: none"> <li>• Zoning: IC-E District</li> <li>• Use: A rail line adjoins the property to the east. Industrial uses such as the Ben E. Keith distribution center are located beyond the rail line along I-35.</li> </ul>
<b>Southwest:</b> <ul style="list-style-type: none"> <li>• Zoning: IC-G District</li> <li>• Use: A Peterbilt manufacturing facility is located to the southwest across Precision Drive.</li> </ul>	<b>South:</b> <ul style="list-style-type: none"> <li>• Zoning: IC-E District</li> <li>• Use: Property owned by the University of North Texas is located to the south and is developed with a storage building and intramural ball fields.</li> </ul>	<b>Southeast:</b> <ul style="list-style-type: none"> <li>• Zoning: IC-E District</li> <li>• Use: A ReaderLink industrial facility is developed on property to the southeast.</li> </ul>

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

The NRMU District is intended to either encourage a mixed-use activity center with light retail, office, and institutional uses that support surrounding neighborhoods or to provide a transition from non-residential zoning districts to single-family neighborhoods. The maximum permitted density is 30 units per acre, except for townhomes, which are limited to 12 units per acre. Multi-family development is only permitted as part of mixed-use developments or with approval of a Specific Use Permit. The NRMU District permits a variety of smaller-scale commercial uses and institutional uses with limitations or an SUP. A comparison of permitted uses in the proposed and existing zoning district is attached for reference.

The proposed NRMU District is not compatible with the surrounding industrial zoning districts and uses. The property is located along a rail line and a Primary Arterial roadway with close

connectivity to the interstate, which makes the property seem compatible with the commercial and industrial uses permitted under the current zoning.

### **COMPREHENSIVE PLAN:**

Per the Denton Plan 2030, the Future Land Use designation for the subject property is Industrial Commerce. This designation applies predominantly to areas west of I-35W near the Denton Municipal Airport and encourages a predominance of light and heavy industrial uses such as manufacturing, assembly, wholesaling, and fabrication. Complimentary uses such as shopping and childcare are also promoted, but proper transitions are needed near more sensitive land uses such as residential.

A diverse and vibrant economy is fundamental to achieving the goals of the Denton Plan 2030, and the development intended for areas of Industrial Commerce is instrumental to that economy. The Westpark TIRZ, which includes the subject property, also supports this economic development by assisting with the financing of public infrastructure projects. The existing zoning is compatible with the Future Land Use designation and the broader goals of the Denton Plan 2030. Rezoning the subject property to NRMU District would prohibit industrial uses and many supporting commercial uses from developing on the subject property, which is not in conformance with the goals of the Denton Plan 2030 based upon the Future Land Use Designation of Industrial Commerce.

### **CONSIDERATIONS:**

1. The request is for a rezoning from IC-E District to NRMU District to facilitate the development of multi-family residential and outdoor recreation uses on approximately 71.76 acres of land. The two proposed uses are not permitted within the current zoning district, and both are permitted with approval of a SUP in the proposed NRMU District.
2. Section 35.3.4 of the Denton Development Code (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 industrial. There is currently a mixture of uses near the property, including distribution centers and manufacturing as well as undeveloped land. If approved, the proposed NRMU District would preclude the property from being developed in a similar industrial pattern in the future. The NRMU District permits a mixture of residential uses and neighborhood-scale commercial and institutional uses that would not be directly compatible with the existing surrounding land use pattern.

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

Although the property consists of over 70 acres, when the entire Westpark area is considered the proposed NRMU District would be an isolated zoning district. The surrounding area on the west side of I-35 is comprised of industrial districts such as the IC-E and IC-G Districts, which permit large-scale intensive development. The development pattern and uses permitted and required by the NRMU District would not be consistent with the existing zoning and land use pattern.

- 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, which currently has only sparse rural residences among the established industrial uses. Public utilities will have to be extended to the subject property to develop it as proposed, and the extension of Precision Drive north to West Oak Street will also have to be accomplished to provide adequate access to the proposed multi-family development. The proposed multi-family use would result in increased traffic, especially since there are currently no supporting commercial uses in the immediate area.

- 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. A Traffic Impact Analysis is being reviewed at this time, and this will help determine the full impact to the City's streets in this area. Precision Drive would be extended as a part of the proposed development and would be a mobility asset to the City as there are currently no connections between West Oak Street and Airport road between the interstate and Western Boulevard.

- 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 currently floodplain and Environmentally Sensitive Area stream buffer identified around the existing pond located in the middle of the property. Development in these areas would require further study of the floodplain as well as field verification of the ESA. If the ESA is verified, an Alternative ESA plan would be required to be approved by the City Council to allow development in this part of the property.

- 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.*

According to the applicant, the owner has marketed the property for industrial development in the past but has determined that the existing topography and the large area of pond and floodplain make the site ill suited for industrial use. However, under the current zoning, a wide variety of smaller scale uses are also permitted, including offices, hotels, vehicle repair, research facilities, and limited retail and restaurant uses. Such uses could provide supporting services for employees at the larger industrial facilities in the area and would be better suited for development on the acreage not taken up by the pond and floodplain.

- 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 and the recently established Westpark TIRZ, the most appropriate zoning for the subject property is the current zoning. The IC-E District is consistent with the industrial character of the larger area, but is less intensive than the IC-G District zoning to the west, so it provides a transition in the scale of development from the more intensive zoning and development near the airport and the more commercialized pattern of development typical along the interstate.

**STAFF RECOMMENDATION:**

Staff recommends denial of the request as it is incompatible with the surrounding property, is inconsistent with the goals of the Westpark TIRZ, and is inconsistent with the goals and objectives of the Denton Plan 2030.

**PUBLIC NOTIFICATION:**

To comply with the public hearing notice requirements, 11 notices were sent to property owners within 200 feet of the subject property, 12 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. The City has received one favorable response and one opposition response from property owners within 200 feet of the request. The response represents 22% of the land area of property within 200 feet of the subject property, which exceeds the 20% opposition threshold that requires a supermajority vote (6 out of 7 members) of the City Council for approval of the request. Both written responses are attached to Exhibit 8.