



## Legislation Text

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File #: Z16-0007a, Version: 1

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### AGENDA INFORMATION SHEET

**DEPARTMENT:** Department of Development Services

**ACM:** Jon Fortune

**DATE:** December 6, 2016

#### **SUBJECT**

Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas, amending Subchapter 35.7.5, the Fry Street Overlay District, to create a new subarea and development standards for a mixed use development on approximately 1.75 acres of land, generally located north of Hickory Street, south of Oak Street, approximately 200 feet east of Avenue B and approximately 125 feet west of Fry Street, in the City of Denton, Denton County, Texas; 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 recommends denial (4-1). **A supermajority vote by Council is required for approval.**

#### **BACKGROUND:**

On January 27, 2016, the Planning and Zoning Commission with a 6-1 vote recommended denial of previous application Z15-0029. This application was scheduled for City Council to consider three times, but was eventually withdrawn by the applicant after two requests for continuance. On April 8, 2016 the applicant resubmitted a new application Z16-0007. The only difference between the previously (withdrawn) application and the current application is the applicant has acquired 36 additional parking spaces off site for the project.

Specifically, the applicant is requesting an amendment to Subchapter 35.7.5, Fry Street Overlay District that would create a new subarea, subarea C, within the Fry Street Overlay District on approximately 1.75 acres. The entire Fry Street Overlay District is approximately 12.42 acres. The proposed subarea C would accommodate a five-story mixed use development. Based on the information provided by the applicant, the project would consist of:

- Student living apartment (111,337 square feet) where individual bedrooms are leased to students;
- A total of 83 dwelling units (9 two-bedroom units, 14 three-bedroom units, and 60 four-bedroom units);
- A total of 300 bedrooms;
- A maximum building height of 62.05 feet;
- A parking garage with 217 spaces;
- A maximum parking garage height of 69.2 feet;
- Retail (10,766 square feet) on the ground floor along Hickory Street;
- Restaurant (1,660 square feet) on the ground floor along Hickory Street;
- A total of 5 surface parking spaces on site; and
- A total of 36 surface parking spaces off site.

The Fry Street Overlay District is comprised of two subareas, A and B. Subarea A is the original area of the District and subarea B was created in 2010 to accommodate the density and height of the U Center at Fry Street development. The subject site is located in Subarea A and to accommodate the height and parking requirements of the proposed mixed use development the applicant is requesting an amendment to the Overlay District to create a new subarea C with specific development standards that are different from subarea A. These standards comprise:

- Increase the maximum building height;
- Increase the maximum parking garage height;
- Establish the proposed density;
- Reduce the required parking spaces for units with 2 or more bedrooms;
- Remove the standard for calculating parking spaces using restaurant seats;
- Increase the building coverage for residential uses;
- Increase the building coverage for mixed uses that include residences;
- Reduce the minimum landscape area; and
- Reduce the minimum rear yard setback for mixed uses that include residences.

These standards are more fully discussed under Considerations.

#### **SITE DATA:**

The proposed development is comprised of eight parcels totaling 1.75 acres with approximately 220 feet of frontage on W. Oak Street and approximately 280 feet of frontage on W. Hickory Street. The subject site is approximately 200 feet east of Avenue B and approximately 125 feet west of Fry Street.

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

The proposed development is located in the Fry Street Overlay District, subarea A, which has a base zoning district of Downtown Commercial-General (DC-G) District, one of four districts that comprise the Downtown University Core. The purpose of the Downtown University Core zoning districts is to encourage mixed use developments and pedestrian friendly places. Within the Downtown University Core zoning districts, are several Special Purpose Overlay Districts where “specific lands and structures, by virtue of their type or location, have characteristics which are distinct from lands and structures outside such special districts” (DDC 35.7.1). Special Purpose Overlay Districts located in the Downtown University Core include the following districts:

- Fry Street Overlay District;
- West Oak Area Historic District; and
- Oak Hickory Historic District.

The Fry Street Overlay District’s purpose is “to promote the public peace, safety, cleanliness, and general welfare for community members and patrons of the Fry Street District, by providing for standards on off-street and remote parking, the location of solid waste containers, and the regulation of signs, setbacks, and residential and commercial density” (DDC 35.7.5.2). Multi-family residential uses are permitted in the Fry Street Overlay District however, the density and height of the buildings is further restricted by the Overlay District.

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

North: Property to the north across West Oak Street is located in a Downtown Residential 2 (DR-2) District and is developed with commercial parking and multi-family residential uses.

East: Property to the east is located in a Downtown Commercial General (DC-G) District and is developed with retail, restaurants, and a church.

South: Property to the south across W. Hickory Street is located in a Downtown Commercial General (DC-G) District and is developed with an institutional use, the University of North Texas campus.

West: Property to the west is located in a Downtown Commercial General (DC-G) District and is developed with a restaurant, retail, and quick vehicle servicing uses.

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

The DC-G District is one of the most permissive zoning districts within the Downtown University Core and encourages a mix of uses. The Fry Street Overlay District does not restrict any uses, but does provide the following:

- Relaxation of parking requirements for commercial uses;
- Standards that encourage both vertical and horizontal mixed use developments; and
- Restrictions on the height and density of multi-family.

The area has primarily developed with commercial uses and has multi-family developments to the east and north. The multi-family to the north lies within a DR-2 District, where up to 30 dwelling units per acre is permitted. Subarea B's density permits 72.5 units per acre and represents the current density provided for in the U Center student living apartment development. The proposed student living apartment development would be the densest development in the Fry Street Overlay District at 86 units per acre (where one bedroom is equal to half a dwelling unit). The student living apartment (multi-family use) is a compatible land use with the surrounding area, however, the height and density are not compatible because it exceeds other developments in the surrounding area creating a change in the character of the area.

### **COMPREHENSIVE PLAN:**

The future land use designation for the subject properties per Denton Plan 2030 is Neighborhood/University Compatibility. This land use designation applies to residential and commercial areas adjacent to the University of North Texas (UNT) and Texas Women's University (TWU). Denton Plan 2030 acknowledges that increased enrollment at both institutions increases the need for student housing (Denton Plan 2030, pg. 195). The purpose of the Neighborhood/University Compatibility Area designation is to ensure that additional university facilities and housing is of compatible form and density to serve both the university and the abutting single family neighborhoods. To accomplish compatibility, developments of the Neighborhood/University Compatibility designation Area should:

- provide a gradual transition in scale, use, character, and intensity between university and neighborhoods;
- encourage uses that are in close proximity to one another to encourage walking and bicycling;
- maintain the character of the area by making sure that new development is sensitive to the surrounding built and natural context in scale and form; and
- adequately address parking needs and mitigate impact to adjacent neighborhoods (Denton Plan 2030,

pg. 75-76).

Additionally, the Denton Plan 2030 encourages the use of Small Area Plans for the Neighborhood/University Compatibility designation to regulate development standards; guide zoning and regulatory adjustments associated with overlays; and to ensure compatibility of redevelopment (Denton Plan 2030, pg. 195).

## **CONSIDERATIONS:**

1. On January 27, 2016, the Planning and Zoning Commission with a 6-1 vote recommended denial of previous application Z15-0029. This application was scheduled for City Council to consider three times, but was eventually withdrawn by the applicant after two requests for continuance. On April 8, 2016 the applicant resubmitted a new application Z16-0007, which is currently being considered.
2. The applicant is requesting to create a new subarea, subarea C, within the Fry Street Overlay District on approximately 1.75 acres between Fry Street and Avenue B. The proposed subarea would accommodate a mixed use development comprised of student living apartments, retail, and a restaurant. According to the applicant, the existing Voertman's Bookstore and Subway is proposed to occupy the retail and restaurant spaces if the project was developed.
3. The following is a summary of development standards as stated in Denton Development Code, Section 35.7.5.2 and the proposed changes for subarea C:

	<u><b>Subarea A</b></u>	<u><b>Subarea B</b></u>	<u><b>Proposed Subarea C</b></u>
Maximum Building Height:	3 stories, 45 feet	4 stories, 55 feet	5 stories, 62.05 feet
Maximum Parking Garage Height:	45 feet	5 stories, 60 feet	6 stories, 69.2 feet
Maximum Density (units/acre):	*	72.5 du/ac	86 du/ac
Parking Ratio:	**	**	**
Building Coverage (residential):	50 percent	50 percent	70 percent
Building Coverage (mixed use):	80 percent	80 percent	81 percent
Minimum Landscape Area:	15 percent	15 percent	10.7 percent
Rear Yard Setback:	10 feet	10 feet	5 feet

\* Permitted Density is based on the development complying with the applicable development standards (floor area ratio, building coverage, parking, height and setbacks) in subarea A. The amount of dwelling units allowed will depend on the capacity after all the development standards are applied.

\*\* Subarea A and B require 1 parking space per bedroom for units with 2 or more bedrooms. The applicant is proposing a parking ratio of 0.76 space per bedroom for units with 2 or more bedrooms.

In addition, Subarea A and B non-residential, including restaurant, retail, private club, on-premises sale of beer and/or wine: one space for each four hundred (400) square feet of floor area or one (1) space for each six (6) seats under maximum seating arrangements, whichever is greater. The applicant is proposing only requiring one space for each four hundred (400) square feet of floor area.

### **Current Parking Requirements:**

- Retail (10,766 square feet). One space per 400 square feet. 27 spaces

- Restaurant (1,660 square feet). One space per 400 square feet. 5 spaces
- 83 dwelling units (300 bedrooms). One space per bedroom. 300 spaces
- **Total parking spaces required. 332 spaces**

Proposed Parking Requirements:

- Retail (10,766 square feet). One space per 400 square feet. 27 spaces
- Restaurant (1,660 square feet). One space per 400 square feet. 5 spaces
- Student living apartments (300 bedrooms). 0.76 space per bedroom. 228 spaces
- **Total parking spaces required. 260 spaces**

4. The proposed subarea C development standards are inconsistent with the proposed site plan submitted.
- The proposed development standards requires 260 parking spaces, the site plan reflects 258 parking spaces.
  - The proposed development standards requires the parking garage façade to mimic the adjacent buildings. The parking garage façade facing west, visible from the public right-of-way, does not incorporate architectural features that mimic adjacent buildings.
  - The landscape show all retail on the ground floor, however the site plan table indicate a mixed use development (three or more mutually supporting land uses).

Clarification has been requested of the applicant numerous times, but as of this writing, staff has not received a response.

5. The Denton Development Code defines multi-family as a structure that contains three (3) or more dwelling units and any ancillary uses. The Denton Development Code does not have a definition for student living apartments. Therefore, student living apartments fall under the definition of multi-family use.
6. The proposed student living apartment development would be the densest development in the Fry Street Overlay District at 86 units per acre (where one bedroom is equal to half a dwelling unit). Subarea B's density is 72 units per acre. Although proposed student living apartment, retail and restaurant uses are compatible land uses with the surrounding area, the height and density of the development is not compatible. The height of the surrounding buildings are 4 stories or less and the densities are much less.
7. The total parking required is 332 spaces for all the proposed uses. The applicant is proposing to provide 258 (222 parking spaces on site and 36 parking spaces off site). This reflects a 74 space deficit. The Fry Street Overlay District parking requirements are intended to ensure there is adequate parking for residents and a relaxed parking for retail and restaurant uses. The parking requirements for dwelling units with two bedrooms or more in the Fry Street Overlay District is higher than in other areas of the city and the parking requirements for retail and restaurants in the Overlay District is lower than in other areas of the city.
8. The U Center at Fry Street development was able to comply with all parking standards of the District. The parking requirements for the U Center at Fry Street development for dwelling units with two bedrooms or more is one (1) space for each bedroom.
9. A Traffic Impact Analysis (TIA) is required for this project to determine if development will negatively

impact traffic on surrounding streets. A TIA was submitted for staff review, and the analysis and associated mitigations were found to be acceptable by the Development Review Engineering Division.

10. The proposed project does not comply with the solid waste requirements. The Solid Waste Department requires that all containers be accessible at all times. The applicant is proposing to roll out the containers during collection days. The proposed location to roll out the containers is within the fire lane and parking spaces which are not acceptable locations. A solution to the solid waste requirement has not been reached.
11. The Fire Department requires aerial apparatus fire access for any buildings over 30 feet in height. Aerial apparatus access requires a 26 foot fire lane positioned 15 to 30 clear feet alongside the building. This site plan is designed to allow for the aerial access along the fire lane located on the east side of the building.
12. The applicant has indicated they are currently working on a boundary agreement with the neighboring property to the west in order to achieve the 10-foot clearance around the building. Approval of the site plan is contingent upon having that 10-foot clearance. This agreement must be obtained prior to site plan approval.
13. While the development does increase the student housing stock in the area, the proposed amendment and associated development standards are not consistent with the Neighborhood/University Compatibility Area future land use designation 2030 (Denton Plan 2030, pg. 75-76) for the following reasons:
  - The development does not provide a gradual transition in scale, use, character, and intensity between university and neighborhoods;
  - The development does not maintain the character of the area by making sure that new development is sensitive to the surrounding built and natural context in scale and form; and
  - The development does not adequately address parking needs and the potential impact to adjacent neighborhoods.
14. Per Section 35.7.3 of the Denton Development Code, Special Purpose Overlay Districts are established to protect and enhance certain specific lands and structures which, by virtue of their type or location, have characteristics which are distinct from lands and structures outside such special districts.
15. It should be taken into consideration that continuous amendments to the Fry Street Overlay District standards without fully realizing the impact of higher density/intensity projects on infrastructure, transportation, parking, and neighborhood compatibility compromises cohesiveness and compatibility of adjacent uses and could potentially alter the surrounding land use pattern. The creation of a new subarea to accommodate a new development would further compromise the effectiveness of the Overlay District. Changes to and Overlay District must enhance or conform to the purpose of the Overlay District's goals and objectives. As submitted, the proposed development only further amends the district to conform to a specific proposed development without a comprehensive analysis of impact to the surrounding areas.
16. Three neighborhood meetings were held for this project. The first meeting was held on September 29, 2015. The second was held on November 12, 2015. The third meeting was held on May 10, 2016. The meeting attendees expressed a level of comfort with subarea A of Fry Street Overlay District as written. Concerns raised included increased traffic along Oak and Hickory, increased parking in single family neighborhoods adjacent to the project, and lack of a shade study for height of the building.

17. A Small Area Plan for the Fry Street area was adopted in 1999. At the January 26, 2016 City Council Work Session, the Planning Division presented the importance of Small Area Planning and Division's intent to begin the process of creating and implementing a new Fry Street Small Area Plan in accordance with the goals of the Denton Plan 2030. The plan would take into consideration the community's vision for the area, need for adequate transportation and parking, infrastructure, and architectural compatibility of the Neighborhood/University Compatibility area to better facilitate redevelopment and reinvestment development projects that meet the needs of the university and the adjacent neighborhoods.

### **PUBLIC NOTIFICATION:**

To comply with the public hearing notice requirements, 51 notices were sent to property owners within 200 feet of the subject property, 124 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. As of this writing, staff has received four responses to the public hearing notice from property owners within 200 feet of the subject property. Two property owners are in favor and two are in opposition of the subject request.

### **OPTIONS**

1. Approve as submitted.
2. Approve subject to conditions.
3. Deny.
4. Postpone consideration.
5. Table item.

### **RECOMMENDATION**

The Planning and Zoning Commission recommends **denial** of this request (4-1).

The Development Review Committee recommends **denial** of the request to amend Subchapter 35.7.5, the Fry Street Overlay District, to create a new subarea and development standards for the following reasons:

- The proposed amendment and associated development standards are not consistent with the Denton Plan 2030;
- The creation of a new subarea to accommodate a new development would further compromise the effectiveness of the existing Overlay District;
- The proposed development's height and density are not compatible with the surrounding area;
- The proposed development standards for subarea C are inconsistent with the proposed site plan submitted;
- Solid Waste requirement regarding location of containers is still pending; and
- A boundary agreement with the neighboring property to the west has not been obtained.

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

On October 26, 2016, the Planning and Zoning Commission recommended denial of the rezoning request (4-1).

### **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.     Site Location
2.     Zoning Map
3.     Future Land Use Map
4.     Project Narrative
5.     Draft Fry Street Overlay District Amendment
6.     Notification Map
7.     Public Hearing Notice Responses
8.     Draft October 26, 2016 Planning and Zoning Commission Meeting Minutes
9.     Draft Ordinance

Respectfully submitted:  
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