MINUTES OF A SPECIAL MEETING OF THE CITY COUNCIL
May 2, 2011
City of Richardson, Texas

A Special Meeting of the City Council was held at 7:30 p.m., Monday, May 2, 2011 with a quorum of said Council present, to-wit:

Gary Slagel	Mayor
Bob Townsend	Mayor Pro Tem
Mark Solomon	Council member
John Murphy	Council member
Bob Macy	Council member
Steve Mitchell	Council member
Amir Omar	Council member

City staff present:

Bill Keffler	City Manager
Dan Johnson	Deputy City Manager
Michelle Thames	Assistant City Manager Administrative Services
David Morgan	Assistant City Manager Community Services
Cliff Miller	Assistant City Manager Development Services
Pamela Schmidt	City Secretary
Monica Heid	Community Project Manager
Sam Chavez	Asst. Director of Development Services – Planning
Don Magner	Director of Community Services
Peter G. Smith	City Attorney

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1. INVOCATION

2. PLEDGE OF ALLEGIANCE: U.S. AND TEXAS FLAGS

3. MINUTES OF THE APRIL 25, 2011 MEETING

ACTION TAKEN: Mr. Macy moved approval of the minutes as presented; second by Mr. Mitchell and the motion was approved with a unanimous vote.

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4. VISITORS. (THE CITY COUNCIL INVITES CITIZENS TO ADDRESS THE COUNCIL ON ANY TOPIC NOT ALREADY SCHEDULED FOR PUBLIC HEARING. PRIOR TO THE MEETING, PLEASE COMPLETE A "CITY COUNCIL APPEARANCE CARD" AND PRESENT IT TO THE CITY SECRETARY. THE TIME LIMIT IS FIVE MINUTES PER SPEAKER.)

Michael Poupart, 802 W Shore Drive, spoke with regard to the Hookah bar that opened next to his property and voiced concern with the lack of closing requirements. He also voiced concern about non compliance with City issued variances pertaining to 725 Arapaho.

Mayor Slagel stated the Order of the Agenda would be changed to hear Item 6 regarding MTP 11-01 prior to Item 5 regarding ZF 11-04.

PUBLIC HEARING ITEMS:

6. PUBLIC HEARING AND CONSIDER ORDINANCE NO. 3819: MASTER TRANSPORTATION PLAN 11-01: AMEND THE MASTER TRANSPORTATION PLAN AND COMPREHENSIVE PLAN TO ADD AN EAST/WEST COLLECTOR STREET BETWEEN WEATHERRED DRIVE AND CENTRAL EXPRESSWAY, NORTH OF WEST SPRING VALLEY ROAD.

Mr. Keffler stated the Plan Commission unanimously recommended approval of the amendment on April 5, 2011. He stressed that it is a graphic representation, not a specific alignment and is intended to demonstrate a general area for the roadway. He asked Monica Heid, Community Projects Manager, to brief the Council.

Ms. Heid stated the proposed change is a connection desirable between Weatherred Drive and Central Expressway to help facilitate traffic. It shows a future connection and allows the City to obtain right of way and to support existing traffic as well as future redevelopment that will be discussed the West Spring Valley Corridor. If approved by Council, a further study would occur. Staff expects the street to be a minor collector which serves movements in a small area and connects a neighborhood or adjacent development with the arterial system. She felt the range of trips between 2,500 and 8,000 was approximately correct. She provided graphics of possible street configurations including sidewalks and amenity areas. She reported that the public hearing was advertised in the Dallas Morning News.

Mr. Murphy asked if the alignment follows property lines and avoids separating property lines. Ms. Heid stated she did not expect any separation but it would be reviewed further in the study.

Mayor Slagel opened the public hearing and City Secretary Schmidt advised there were no speakers.

Mr. Mitchell moved to close the public hearing; second by Mr. Solomon and the motion was approved with a unanimous vote.

> *ACTION TAKEN:* Mr. Murphy moved approval of the change as presented; second by Mr. Macy and the motion was approved with a unanimous vote.

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5. PUBLIC HEARING AND CONSIDER ORDINANCE NO. 3818: ZONING FILE 11-04: A REQUEST BY THE CITY OF RICHARDSON TO REZONE APPROXIMATELY 198 ACRES NORTH OF WEST SPRING VALLEY ROAD, BETWEEN COIT ROAD AND CENTRAL EXPRESSWAY, EXTENDING NORTH TO DUMONT DRIVE, FROM A-950-M, D-1400-M, R-1500-M, LR-M(1), LR-M(2), C-M, O-M AND MU TO PD PLANNED DEVELOPMENT.

Mr. Mitchell advised that his home, located at 905 Blue Lake Circle, lies within 200 ft of the zoning case; therefore he recused himself from the discussion and left the Chamber.

Mr. Keffler stated that discussion regarding the West Spring Valley Corridor began in August 2009. He reported that the City Plan Commission held a public hearing on the item on April 5, 2011 and completed their deliberation on April 19 with a recommendation for approval with a vote of 6-1. The area consists of 198 acres, and was part of a special study, one of six identified in the Comp Plan; with this one being the most consequential because of the interest on the part of the community. He stated there have been 13 separate briefings since August

2009 when the Council initially heard from the Leland Group who was retained for consultation as a result of comparable work that they had completed in Fort Worth, which was reviewed in October 2009 with tours by the City Council. He underscored that the subject has been an active matter of discussion culminating in tonight's meeting. The public process that commenced in December 2009 and finalized in March of 2011, involved eight separate public meetings, three of which were focus groups affecting stakeholders and five other meetings involving the community as a whole. He stressed that there is no developer making a request and the interest of the City is to create a developable redevelopment project that would not entail a significant loss of time to enable new zoning to be put in place and to create a redevelopable tract with zoning that would be in accordance with the interest of the community. He underscored that it would be long term plan and the market would address many of the issues such as the economy. He stated the City tried to find a development plan that provided for both existing property owners and prospective property owners to work within a new set of guidelines and a new set of zoning considerations. The work has been important to the community; has been well established as a priority in the community and tonight is the Council's opportunity to hold a formal public hearing. He called on Monica Heid to further brief the Council and also recognized the efforts of several departments on the project.

Ms. Heid noted the variety of people who attended the meetings and noted that there are some who attended every meeting. She advised that staff has also worked with City of Dallas officials on a companion project as well as the Chamber. She advised that the City is responsible for the health, safety and welfare of the citizens and was the purpose for the study. She reported that she has been approached over the years by developers asking what the City had in mind for the area so with the completion of the rezoning, staff would have a document that could be provided to developers interested in the area. She reported that staff began working on the project in the spring of 2009 obtaining background such as characteristics of the area. She stated the visioning process was Phase I and the City is now in Phase II. She stated there continues to be misconceptions about the project in the community such as those who believe the City is going to force them out of their homes or businesses, and she stressed that such a belief was not what the study and proposed zoning was about. However, she did note that if there is an owner that is operating illegally or irresponsibly, action may be taken, but it is outside the scope of the study and proposed rezoning. She stated that it has always been about creating a vision for the area based on market realities and community goals, and the staff's responsibility was to develop an ordinance with policies and programs that would accomplish the vision. It has also been understood by the City that it would need to be a participant in the process and that in order to encourage redevelopment, the City would have to allow people to do more with their property than allowed to do today. She stated that staff is proposing a set of regulations that involve more building area, more open space, better buildings in exchange for faster approvals and that sort of thing. She stated that one thing that has been clear all along is that if negative impacts that can spill over into the area, the same should be true of positive impacts.

Ms. Heid began the formal presentation with information about the 2009 Comprehensive Plan that identified six enhancement/redevelopment areas for further study: Central; Coit, East Arapaho/Collins; Old Town/Main Street; West Arapaho; and West Spring Valley. The area before the Council and the subject of the public hearing, West Spring Valley, is bounded on the west by Coit Road; on the east by Central Expressway; on the south by Spring Valley Road and on the north by single-family neighborhoods. She stated it is a total of 188 acres of land and 10 acres of right-of-way and provided an aerial map of the area. She reiterated that the City is the applicant; not a property owner, and its purpose is to put regulations in place that will encourage redevelopment over a long-term period, which will probably be about 20 years. She explained

the strategy identified was to expand neighborhood engagement, determine market viability for redevelopment, develop a vision based on community goals and market realities, determine if opportunities exist for public/private partnerships including the City's financial contribution, and amend zoning and other standards as necessary to support redevelopment. The purpose of the reinvestment strategy was to encourage appropriate redevelopment/reinvestment in the West Spring Valley Corridor. She reported that the existing zoning is largely mixed use with some apartments, condominiums and pockets of local retail, commercial, office, duplex, and residential and noted the land uses of residential, retail/commercial, office, institutional and utilities. Ms. Heid advised that there are 141 parcels in the study area with parcels varying in size from 1 acre to 37 acres and she provided information on the age of the improvements. She provided specifics about the street and transit infrastructure. She reviewed planned transportation improvements including the trail system and reconstruction of the Cottonwood Creek Bridge. She noted that Cottonwood Creek and Blue Lake were both privately owned. With regard to assistance by consultants, she reported that the City worked with the Leland Group, HOK, Strategic Community Solutions and Kimley Horn Associates on Phase 1, which was the market study and visioning process; and with HOK, Strategic Community Solutions and Townscape on Phase 2 of the study. With regard to the public meetings, she advised that the Focus Group discussions were by invitation because staff was looking for specific information and the community meetings were open to all. By the end of the study, the mailing list included almost 600 contacts.

Ms. Heid began review of Phase I stating the purpose was to prepare strategies which capitalize on market opportunities for private investment through targeted public initiatives and the intent was to ensure investment is grounded in economic and market reality; strategically positioned to leverage additional investment; and executed by entities that are accountable, sustainable, and representative of stakeholder interests. She reported that the study found that despite the apparent urban, lower-income makeup of multi-family enclaves in the study area, the larger Trade Area is dominated by more affluent segments, several of which suggest lifestyle preferences that favor an infill urban living environment. She also reviewed a summary of market opportunity. The following is the Vision Statement developed by those individuals who attended the public meetings:

> "The West Spring Valley Corridor of the future is a place that draws people of all backgrounds and ages with its many quality housings choices, desirable shops and restaurants, attractive natural areas, easy transportation connections and a distinctive people-oriented urban character that connects Richardson's past with its vibrant and sustainable future."

With regard to the Framework Plan, Ms. Heid explained that the solid color areas were those that were expected to have redevelopment and those that were sheer in color had less possibility of redeveloping in the next 20 years. She noted the catalyst project areas which were identified in the hopes of stimulating private investment in the corridor, would illustrate the vision for types of desired development, were prototypical in nature, were not prescriptive and she described the criteria used to identify potential sites.

<u>Catalyst Concepts</u>
Concept 1 – Public Realm Improvements
Concept 2 – Continental Inn Site
Concept 3 – Spring Valley / Weatherred Site
Concept 4 – New Orleans Apartment Site
Concept 5 – Oncor Substation Enhancements

Ms. Heid provided a map exhibiting the Dallas Study area stating that the land uses are mostly apartments, retail/commercial. She stated that they included the northwest corner of Spring Valley and Coit and saw it as a mixed use opportunity. With regard to Phase II, Ms. Heid stated the purpose of the proposed PD Zoning Ordinance is to implement the strategy, replace existing zoning with a "hybrid" ordinance combining a higher level of design standards for buildings and streetscapes with traditional zoning concepts; and balance the interest of business owners, property owners, residents in the corridor, surrounding neighborhoods, city staff, City Council, City Plan Commission and the community. She explained that the ordinance was developed with several sections that are supported by appendixes that include exhibits that help explain the regulations. Key elements include the District Plan, Land Use Subdistricts, standards for streetscapes, building characteristics, landscaping, parking and signs, as well administration. She reviewed the District Plan and standards in great detail. She provided photos of various building types and used the District Plan to demonstrate building heights by area. With regard to parking, she stated that on-street parking would be allowed, but not on Spring Valley, Central or Coit. Parking lots would be required to be located behind buildings or screened from the street, and included a ratio for bicycle parking. She reviewed requirements for landscaping, signs and administration of the ordinance. Minor modifications would be reviewed at the staff level and major modifications would require application and review by the Plan Commission and City Council. With regard to nonconforming uses, Ms. Heid stated the intent is that nonconforming uses and structures could not be enlarged, expanded, extended or used as a basis for adding other structures or uses prohibited by the District and defined it as any land use, structure, lot of record, or other situation that was legally established prior to the effective date of the PD Ordinance but does not fully conform as of the effective date of the new ordinance and the definition applies to use, structures and signs. She discussed reasons of discontinuance of nonconforming use, continuation of nonconforming use and restoration of nonconforming structure, use, or sign. She stated that the Design Guidelines are oriented to streetscape issues; what happens between the wall of the building and the curb, and is arranged into four headings.

Ms. Heid reported that there were some changes since the Plan Commission reviewed the case and she noted that the changes, primarily staff initiated included definitions, revised building materials, sign standards, revised list of minor modifications and nonconforming provisions and changes to the design guidelines to reflect the changes. She reiterated the City's perspective of the plan being a long term plan and recognized that the ordinance may need to be revisited and/or refined to respond to changing conditions or new information. She stated that the key to attracting quality developers and investment is a straight-forward ordinance, relatively quick development approvals and consistent, high-quality standards. In conclusion she explained that the moratorium would end with the adoption of an ordinance or on June 11, 2011, whichever came first.

Mayor Slagel opened the floor for questions of staff. Mr. Murphy suggested a procedural paper to assist business folks with the modification process and Ms. Heid stated the ordinance provides that it would work like a zoning change, which is a 6-8 week process and stated staff was prepared to work with people immediately. Mr. Keffler stated there is a standard fee for a zoning request, but it was within the Council's discretion to amend or waive the fee, which Mr. Murphy felt waiving the fee would be a good idea. Discussion was held on various scenarios with regard to nonconforming uses. City Attorney Pete Smith stated cladding would have to conform and most requests would have to be reviewed on a case by case basis. Windows and painting would be viable and the key question would be about expansion or enlarging or making an addition. If felt that basic principals and application of common sense would allow someone

to make the property look better and perform better without having to take it down and rebuild. He stated it is not any different from the way nonconforming uses are handled today. Mr. Macy asked about the 10,000 sq ft limitation and Ms. Heid replied that the rule is similar to the rule in the Brick Row area and the purpose is because big box uses are not the types of businesses desired for the development/area.

Mayor Slagel opened the public hearing and reminded the audience about the 5 minute rule. He asked the city secretary to begin calling the speakers. Ms. Schmidt advised the Council that four cards were submitted by individuals who did not wish to speak but wanted their opinion on record; three in opposition and one in favor.

The following individuals spoke in opposition to the proposed rezoning primarily due to concerns with regard to nonconforming uses and possible adverse financial impacts due to the nonconforming status. Most individuals stated they were in favor of the vision for the area.

Speaking in opposition:
Allan Garonzik, 7190 FM 1830, Argyle, Texas; Paul Knoll, 1200 W Spring Valley; James Poen, 3012 Springbranch Drive, representing Richardson Saw & Lawnmower; Ed Simons, 900 Jackson #640, Dallas; Dan Hopkins, 5910 N. Central Expressway representing Lakefront Villas; Karger Kawani, 2018 St. Anne Drive, Allen with property located at 820 S Central in Area B; David Mozena, 910 Spring Valley Plaza representing Huntington Townhomes; David Drown, 910 Spring Valley Plaza representing Huntington Townhomes; Bill Dickey, 16479 Dallas Parkway #400, Addison representing La Mirada Apartments; Art Anderson, 5400 Renaissance Tower, 1201 Elm Street, Dallas, representing Lakefront Villas; Tommy Mann, 5400 Renaissance Tower, 1201 Elm Street, representing Dr. Diep Troung & GE Capital Real Estate; Diep Troung, DDS, 722 W. Spring Valley, Richardson; J. P. Kernan, 709 S. Floyd Road; Pat Remington, 416 W. 8th Street attorney representing Service King; David Blassingame, 558 S. Central Expressway representing Autoflex; Lynne Johnston, 902-C S. Weatherred; Stuart Margol, 630 S. Central; J.P. Bains, 804 S. Central Expressway representing Four Season Sunrooms.

Speaking in favor:
David Knepper, 101 Shadywood Lane; and Andrew Laska, 502 Hyde Park, representing the Richardson Heights NA.

Mayor Slagel opened the floor to the Council to ask questions. Mr. Solomon asked how many individual property owners were within the area and she replied that approximately 57 are commercial or office properties. Mr. Murphy stated he has been a supporter of the project since the beginning. He stated there have been substantial issues in the area for many years and the vision is excellent and worthy of moving forward with, but he voiced a concern about the nonconforming uses. He suggested approval of the ordinance as it pertained to the vision and asked that they delay implementation of nonconforming uses. He was concerned that the nonconforming uses bordered the taking, which was devaluing the property to the point that it's rendered not as valuable as it used to be. He wanted to be fair to the small businesses and property owners. Mr. Smith stated there are some basic provisions in the Zoning Ordinance that would apply so there would likely still be issues concerning nonconforming uses, but Council could approve the ordinance minus part of Article IX. He suggested that the Council should consider the consequence when the moratorium expires and the goal of the ordinance. He stated that the section on nonconforming uses is intended to help on the administration of the ordinance and not to take away any rights. However, if it does not reflect the Council's intent, then it should be changed. Mr. Murphy stated his concern was the impact and Mr. Smith

stated the ordinance would be applied on a case by case basis. Mr. Murphy voiced concern about the laborious process and expense to apply for a major modification. Mayor Slagel reminded Council that they have been wrestling with the problems in the area for years and was why they felt something needed to happen to revitalize the area. He referred to a previous attempt to cause revitalization of the area with an overlay but the City was the only entity that made a change to affect the value of the area. He underscored the need to move forward with the project. Mr. Townsend stated he continues to support the project and he would like to see the Council close the public hearing and wait until the next meeting to vote on the matter to provide an opportunity to consider the information brought forward. He also voiced surprise about the concerns expressed because it had not been expressed previously. Mr. Macy stated the City has spent a lot of money and energy on the project would like to see it come to fruition. Mr. Omar stated he would like an opportunity to visit with counsel and felt the financial concerns were legitimate. He noted that each business thinks that some other person or business is the problem while voicing favor with the vision, and he felt that the problems were likely some of the businesses that were represented. He stated that he did not want to delay doing something to address the problems with the area and did not think that somehow all of the businesses would unite to build beautiful and sustainable buildings. He stated there needs to be some level of balance to do something that will move the area forward and the City has the ability to do someting legitimate and worthwhile. Mayor Slagel felt that the financial concerns are tied to the 50% provision for rebuilding when a disaster occurs. Mr. Solomon voiced the need to apply the standards evenly such as the 200' boundary line. Mr. Smith stated it was his understanding that generally it is harder to get financing on a nonconforming use or structure. Mr. Murphy stated one of the positives is that the City now has the attention of the business and did not want to give the impression that the ordinance would not be approved in some fashion. Mayor Slagel stated he would rather not close the public hearing because Council may want to hear from others or ask questions. Mr. Smith clarified that the mayor has the prerogative to open the floor to take input even if the public hearing is closed unless overruled by the Council. He further noted that the City Charter requires Council to allow people to speak. He stated that the Council would not gain or lose anything by closing the public hearing if action would not be taken. Mr. Murphy voiced a desire to streamline the major modification application process. Ms. Heid explained that she was not sure the steps involved in the review process could be reduced because the plans are necessary to determine what is needed and what regulations must be met. Mr. Smith stated the major modifications application is basically a zoning change and therefore should go through the typical review and zoning change process. He stated Council could delay the implementation of the ordinance but it won't help the businesses because it would only delay the nonconforming uses. Mr. Murphy felt it would give the businesses time to consider their options. Mr. Townsend felt the major modification process should be the same as a zoning case. Mayor Slagel invited the attorneys in the audience to address the Council with ideas to address the concerns.

Tommy Mann, 5400 Renaissance Tower, stated he represents two properties that would have nonconforming structures and his suggestion does not necessarily impact those with nonconforming uses. He felt the nonconforming structure issues could be addressed by following the City of Dallas code. With regard to nonconforming uses, he stated that State law allows cities to amortize them out of existence and recognized that it was more difficult.

Pat Remington, representing Service King, stated they would have both a nonconforming use as it pertained to the repair facility and nonconforming structure as it pertained to the office building. He stated the chief concern was the office building because it is their corporate office and they would like to build it up. Mayor Slagel stated the City is always happy with expansion of corporate headquarters. Mr. Remington stated that while he served on the Arlington City

Council, they allowed nonconforming uses and structures to expand by no more than 25% to allow the business owners to have some flexibility under 1,000 sq ft to maintain the viability of the businesses.

Art Anderson voiced several questions of various issues pertaining to enlarging, extending the life and maintenance of the structures.

Although not an attorney, Andrew Laska was permitted to address the Council.

Andrew Laska, representing Richardson Heights NA, voiced concern with the proposals because one of the triggers for the moratorium was because a business expanded a blighted building and extended the blight of the building. He suggested the condominium problem be addressed by removing them from the area thereby removing the nonconforming issue and placing an overlay on it instead, requiring a special permit for certain modifications. He underscored that one of the original objections was allowing buildings to expand.

Mr. Omar stated he wouldn't necessarily be comfortable with the Dallas Code because it does not address the extent of an expansion. He would like further discussion about a way to identify what sort of building the Council would be okay with expanding such as Service King. He stated he would not want to close the public hearing. Mr. Smith felt the Council needs to decide what it wants to accomplish and stated that if the goal is eliminate the nonconforming structure, the Dallas Code would not work and stated there are a lot of options, but the Council needed to decide what it wants to accomplish. It was his understanding that the Council wanted to eliminate undesirable uses and change the structures. Discussion was held about the possibility of a special meeting prior to Monday. In response to Mr. Macy, Mr. Keffler felt it was understandable that the Council would want to finalize the matter next week after working on it for the last two years. He encouraged the Council to provide feedback as they think of things that need to be addressed next Monday and was supportive of an Executive Session to obtain legal advice. He noted that the Dallas Code had minimal constraints and was not sure it would be appropriate. Mayor Slagel suggested that it might be helpful if Ms. Heid could meet with the property owners who haven't met with her or wanted to provide some suggestions. Mr. Keffler stated he would be surprised if there would be anything of consequence but that gaining solutions should be clarified in any way possible. Mr. Smith encouraged the Council to contact him with ideas and questions to allow him time to review those possibilities ahead of time, which would maximize their time on Monday.

> *ACTION TAKEN:* Mr. Solomon moved to continue the public hearing to May 9; second by Mr. Macy and the motion was approved with a unanimous vote.

Mayor Slagel adjourned the meeting at 11:11 p.m.

MAYOR

ATTEST:

Pamela Schmidt

CITY SECRETARY