

**CITY OF RICHARDSON  
CITY PLAN COMMISSION MINUTES – MARCH 6, 2012**

The Richardson City Plan Commission met March 6, 2012, at 7:00 p.m. at City Hall in the Council Chambers, 411 W. Arapaho Road, Richardson, Texas.

**MEMBERS PRESENT:** Bill Hammond, Vice Chair  
Gerald Bright, Commissioner  
Janet DePuy, Commissioner  
Marilyn Frederick, Commissioner  
Barry Hand, Commissioner  
Thomas Maxwell, Commissioner  
Don Bouvier, Alternate

**MEMBERS ABSENT:** David Gantt, Chairman  
Eron Linn, Alternate

**CITY STAFF PRESENT:** Michael Spicer, Director of Dev. Svcs.  
Sam Chavez, Asst. Director of Dev. Svcs. – Planning  
Susan Smith, Asst. Director of Dev. Svcs – Dev. & Eng.  
Israel Roberts, Development Review Manager  
Chris Shacklett, Planner  
Kevin Laughlin, City Attorney  
Kathy Welp, Executive Secretary

**BRIEFING SESSION**

Prior to the regular business meeting, the City Plan Commission met with staff to receive a briefing on agenda items and staff reports. No action was taken.

**MINUTES**

**1. Approval of the minutes of the regular business meeting of February 21, 2012.**

Commissioner Maxwell asked for a change to page 14, second paragraph, and Commissioner Bright requested a correction to page 17, fifth paragraph.

**Motion:** Commissioner Bright made a motion to approve the minutes as corrected; second by Commissioner DePuy. Motion passed 7-0.

**VARIANCE**

- 2. Variance 12-01 Richardson Village Shopping Center:** Consider and take necessary action on a request for approval of a variance from Article III, Section 21-46(b), *Lots and Blocks* of Chapter 21 of the City of Richardson *Code of Ordinances* to create a lot without frontage on a dedicated public street. The property is located north of Belt Line Road, on the east side of Plano Road.

Mr. Roberts gave a brief history of the property noting that in 2010 the property owners requested the platting of a flag lot, which was approved by Commission, but was tabled by City Council with concerns that further parceling of the lot could limit future redevelopment of the site and issues of possible inconsistent maintenance of property and buildings with multiple owners involved. The Council continued the item indefinitely because of those concerns and in November 2011 the owners withdrew the application.

Mr. Roberts noted the current request was to plat a lot without frontage; however, the request still created the same concerns as the earlier application. He added the owner submitted sample deed restrictions regarding maintenance of property and building façades, and if the application was approved by the City Council, the covenants would be filed with the plat.

Mr. Roberts reported that previous variances had been granted for the property regarding a shared parking agreement, asphalt paving, a reduction in landscaping, and building elevations. He added that the elevations were required to be submitted with the development plans so if a future property owner wanted to modify the elevations they would have to be re-submitted to the Commission for review and approval.

Commissioner Bouvier stated that much of the request hinged on parceling the lot, and wanted to know what the process was to develop the Restrictive Easement Agreement (REA); did the City's attorney have any input, did the City become party to the REA, and were there any rights or remedies.

Mr. Roberts replied that the sample language was taken from other agreements the property owners had in place with other shopping centers outside the City of Richardson. He added that the REA was not reviewed by the City's attorney; however, if the request was approved the entire package would be sent to the City's attorney for review.

Commissioner Bouvier asked to clarify that the submitted material was a sample and the document would eventually be more encompassing than the material submitted. He also wanted to know if the document would come back before the Commission.

Mr. Roberts replied that the document was a sample and would not come back before the Commission, but would be thoroughly reviewed by the City's attorney.

Commissioner Hand asked to hear from the applicant as to the reason behind the request.

Mr. Dante Massaro, representing Gemini Richardson Village, 16740 Birkdale Commons Parkway, Charlotte, North Carolina, said the main reason for their request was to maximize the value of the property to provide the most options. He reminded the Commission of their previous request in 2009 for a self-storage business and how approval of that request allowed them to refinance the project, which led to the addition of a 12,000 square foot specialty store in lieu of the self-storage business.

Mr. Massaro stated they made changes to some of the other parcels including restructuring the lease with the bank and selling that property to an investor, and sold the property where Goodyear sits so it is now an owner occupied business.

Regarding the current application, Mr. Massaro noted they had received requests to sell the property where LA Fitness is located, but if the property was not subdivided from the retail buildings to the south and west, the value of property was not as great. He added that his company was proposing to add restrictions, similar to residential Covenants, Conditions and Restrictions (CCRs) that would govern the appearance of buildings and property to insure they were well maintained.

Commissioner Bouvier asked the applicant to explain how they would be maximizing value and where would the value go; what was their plan?

Mr. Massaro replied that in addition to the loans and personal guarantees, his company had invested over \$7,000,000 in the property and they were trying to recoup some of those costs. He added that with the current vacancies in the shopping center it was unsellable as one piece of property so they would like the option to sell the LA Fitness/retail building parcel and then focus on the remaining 14,000 square feet of space left in the building that houses the specialty grocery store.

Commissioner Bouvier asked if the applicant was attempting to raise cash for another development plan, or did they intend to put those funds back into the shopping center. He also wanted to know who would be the declarant on the REA.

Mr. Massaro pointed out that when they acquired the shopping center in 2006 it was in need of repairs and they spent a lot of money revitalizing the buildings, for which they received a City Redevelopment Award; however, they would probably add more landscaping especially in front of LA Fitness. He added that the bank, LA Fitness and the grocery store were all on long term leases and did not see how their request to separate these parcels would impede any future redevelopment.

Regarding the REA, Massaro replied the declarant would most likely be the owner of the multi-tenant building west of LA Fitness.

Commissioner DePuy asked if the applicant had other centers that were subdivided and where were they located. She also wanted to know if the grocery store owner would be the one to oversee the property once it was under a REA.

Mr. Massaro replied they had centers in eleven states and the language proposed for the REA was from the most recent development that included drug stores, banks, fast food restaurants, and junior anchors. He added that the maintenance would probably be handled by the grocery store owner because he was a local owner, but for right now it is handled by Gemini Richardson.

Commissioner DePuy asked the applicant about the inquiries he had been receiving regarding the retail building located south of LA Fitness.

Mr. Massaro replied they were in lease negotiations for a 2,300-square foot restaurant, a 1,000-square foot boutique/apparel shop, and a 1,500-square foot salon/spa.

Commissioner Frederick commented that for 20 years her office was across the street from the shopping center so she was aware of the previous condition and the changes the applicant had made and thanked him for investing in the City.

Ms. Smith stated that the building elevations would not need to be covered by the CCRs because they were conditioned under the previously approved variances and the City has the right to go in and insure they are in compliance with the variance. She added that if the applicant wanted to make any changes to the elevations they would have to come back before the Commission for approval.

Regarding the maintenance of the site, Ms. Smith noted that the City's Community Services Department would make sure there was no graffiti or trash so the CCRs would be in addition to what is already in place.

Mr. Chris LaMack, representing Gemini Richardson Village, 16740 Birkdale Commons Parkway, Charlotte, North Carolina, restated the REA was simply a sample and before it could be finalized Gemini Richardson would have to sit down with the City and discuss the particulars of the agreement.

Regarding the appearance of the shopping center, Mr. LaMack acknowledged they did have concerns about the appearance when the specialty grocer went in so they added very specific language to the lease as to how the property would operate and how it would look, which has worked well because the grocery store is substantially nicer than any of its competitors.

Mr. LaMack also reported they had met the landscape minimums on all the properties and would be increasing the landscaping particularly in front of LA Fitness.

Commissioner Bouvier asked if the applicant would be adding the landscaping only if they were successful in receiving an approval from the Commission, or were they going to do it any way.

Vice Chair Hammond pointed out that if the variance was approved by the City Council, the revised site plan and landscape would come before the Commission again.

Commissioner Bright stated the request appeared to be a continued parceling of the property and asked if the current application addressed any of the concerns voiced by the City Council regarding the previous application.

Mr. LaMack replied that when they made the request for the flag lot, Council's main concern was who the purchaser would be and suggested tabling the item until that was determined. However, since the negotiations for a sale were ongoing they could not reveal the purchaser, but ultimately they decided on a lease as opposed to a sale with the grocery store owner.

Vice Chair Hammond thanked Mr. LaMack for his comments and asked if there was anyone else in attendance who wanted to comment on the item. No further comments were made from the public.

Commissioner Hand stated that he was sensitive to the needs of the applicant, but as a Commissioner he was charged with judging a proposal by the long term use and viability of that proposal. He felt the micro-parceling of land in the City was the number one impediment to redevelopment and cited examples of the property along Central Expressway and Spring Valley.

Commissioner Maxwell acknowledged the applicant's comments that the property was probably stable for 10 to 20 years, but felt the Commission should look more long term and did not see any benefit to subdividing the property and stated he would be voting against it.

Commissioner Bright agreed with Ms. Frederick's comments and thanked the applicant for updating the property, but agreed with Mr. Hand and Mr. Maxwell about considering the long term prospect of the site.

Commissioner DePuy indicated that she understood and agreed somewhat with the other Commissioner's comments, but was concerned about the repercussions for the property owner and wondered if the property would go bankrupt or continue to be vacant if the request was not approved. She added that the applicant had been a very good corporate citizen in the City and she would like to find a solution because she did not want the center to be vacant.

Commissioner Frederick admitted it was a tough decision and agreed with Ms. DePuy, but felt the Commission should not base their decision on what might or might not happen in the future.

Commissioner Bouvier stated everyone in the industry was aware of the recession, and he understood maximizing the value of a property, but he did not get the sense there was a financial hardship on the part of the applicant and questioned how the request would benefit the citizens of Richardson. He acknowledged and appreciated the work the applicant had put into the center, but was leaning towards not approving the request.

Vice Chair Hammond thanked the applicant for redeveloping a retail area that was under-performing for many years; however, he felt there was not enough of a compelling reason to grant the request.

**Motion:** Commissioner Hand made a motion to recommend denial of Variance 12-01; second by Commissioner Maxwell.

Commissioner Bright asked if the motion was with or without prejudice and Mr. Hand said it was without prejudice.

Motion passed 5-2 with Commissioners DePuy and Frederick opposed.

### **PUBLIC HEARING**

3. **Zoning File 12-01:** Consider and take necessary action on a request by James Poen, representing Richardson Saw and Lawnmower for approval of major modifications of the West Spring Valley PD Planned Development Standards related to improvements to an existing non-conforming 7,933 square foot building and related site improvements for property located at 804 S. Central Expressway. The property is currently zoned PD Planned Development.

Mr. Shacklett reported the applicant was requesting Major Modifications to the West Spring Valley PD Planned Development District (WSV PD) for a 7,933 square foot vacant building that was recently purchased by the owners of Richardson Saw and Lawnmower to allow for expansion of their current business that is located directly south of the building in question.

Mr. Shacklett noted that since the property was in the WSV PD there were strict regulations as to how a property could be developed, and if the development of the property did not meet those regulations, the property owner had the right to request a Major Modification. He added that the applicant was requesting nine Major Modifications to the site which included:

1. Addition of an 8-foot roll up door on the north side of the building
2. Addition of steel bollards adjacent to the roll up doors for security
3. Removal of the existing windows on the north side of the building and replace with brick
4. Paint exterior walls and mansards on north and east elevations to match the west and south elevations
5. Remove existing asphalt paving and replace with new concrete paving
6. Remove existing wood dumpster screen and replace with 7-foot CMU screening wall
7. Remove existing door on north side of building and infill with brick and paint
8. Remove existing roof-mounted light fixtures at the northwest and southwest corner of the building
9. Add new fluorescent strip light fixtures to existing soffit

Mr. Shacklett concluded his presentation by stating that if the Commission and City Council approved the requested modifications, a list of the modifications, along with Exhibit B, would be attached to the ordinance.

Commissioner Bouvier asked how many requests for modifications had been received since the passage of the WSV PD ordinance. He also wanted to know if the current request was approved, would the applicant be required to make the modifications.

Mr. Shacklett replied the current application was the first, and Mr. Chavez said the applicant would be allowed to make the modifications, but not required to make them.

With no further questions for staff, Vice Chair Hammond opened the public hearing.

Mr. James Poen, representing Richardson Saw and Lawnmower, 3012 Spring Branch Drive, Richardson, Texas, stated he had purchased the building because it was located next to their current business and explained the requested modifications would replace damaged and decaying windows and doors, in addition to painting and updating some of the light fixtures.

Commissioner DePuy thanked the applicant for being a good corporate citizen and complimented him on the proposed modifications.

Commissioner Bright asked what activities would be taking place inside the new building.

Mr. Poen replied there would be some retail, but their goal was to make the area more aesthetically pleasing and reduce the traffic around their business and the adjoining businesses by moving some of the products and repairs into the new building. He added that they also wanted to remove the existing asphalt and replace it with concrete so the parking lot could better hold the weight of the semi trucks delivering products at the new building.

Vice Chair Hammond asked if the applicant would continue to use the existing building.

Mr. Poen replied that the existing building would be the main retail and service center.

No other comments were made in favor or opposition and Vice Chair Hammond closed the public hearing.

Commissioner Hand said he felt replacing the existing lighting with the same product was not in keeping with the spirit of the ordinance and suggested the applicant go with a compact fluorescent or a different type of surface mounted lighting for the building.

**Motion:** Commissioner DePuy made a motion to recommend approval of ZF 12-01 with the inclusion of the listed special conditions; second by Commissioner Frederick.

Commissioner Hand asked to revisit special condition 1(i) regarding fluorescent lights and remove it from the motion.

Commissioner DePuy said she was not opposed to the suggestion, but wanted to check with the applicant to see if some other types of lighting could be used on the building.

Mr. Poen said he could add recess lights in lieu of the strip fluorescent fixtures, but was worried it might not meet the WSV standards. He also wanted to know if the Commission would like to see lighting that was less obtrusive.

Mr. Shacklett replied that if the applicant wanted to use something different, they could use lighting that conformed with the PD regulations such as LED, incandescent, metal Halide or halogen lighting.

Mr. Hand replied that a product that was recessed and matched what was on the applicant's current building would be acceptable.

Mr. Poen felt recessed lighting would work well, but wanted the Commission to know that would increase the number of lights to approximately every 4 feet.

Commissioner Hand acknowledged that he was asking for more lighting and read from the staff report "The Major Modification was required because the district did not allow fluorescent lighting, except for fluorescent bulbs in standard light sockets..." and assumed that included recessed and soffit lighting.

Mr. Shacklett replied that Mr. Hand's assumption was correct.

Mr. Poen stated that it was his intention to remove the outdated electrical system and replace it with an updated version and he would be amiable to whatever the Commission preferred to see.

Commissioner DePuy said she would amend the motion to remove item 1(i) from the special conditions. Commissioner Frederick concurred with the amendment.

Commissioner Maxwell pointed out that staff's comments stated "...the proposed modifications would not be applicable to future additions or to future redevelopment of the site", but that statement was not included in the motion. He wanted to know if it was already covered in other City ordinances.

Mr. Shacklett replied that item 1 of the special conditions referred to an attached site plan that would govern the changes allowed to the building.

With no further comments, Vice Chair Hammond called for the vote. The motion passed 7-0.

### **ADJOURN**

With no further business before the Commission, Vice Chair Hammond adjourned the regular business meeting at 8:19 p.m.

  
Bill Hammond, Vice Chairman  
City Plan Commission