



# MINUTES

FOR THE  
SEAGOVILLE PLANNING AND ZONING COMMISSION

**Meeting scheduled to begin at 6:30 p.m.,**

**Tuesday, January 8, 2013**

in the Council Chambers of City Hall,  
located at 702 N. Highway 175 - Seagoville, Texas

**CHAIRPERSON  
VICE-CHAIRPERSON  
COMMISSIONER  
COMMISSIONER  
COMMISSIONER  
COMMISSIONER  
COMMISSIONER**

**JERRY BECKER  
JAMES SUDDUTH  
RITHA EDWARDS  
RICK HOWARD  
ALVIN ROSS  
JOSE HERNANDEZ  
BRAD INMAN**

► As authorized by Section 551.071(2) of the Texas Government Code, this meeting may be convened into Executive Session for the purpose of seeking confidential legal advice from the City Attorney on any agenda item listed herein.

**I. CALL TO ORDER**

Chairperson Becker declared a quorum present and called the meeting to order at 6:30 p.m.

Commissioners present: Vice-Chairperson James Sudduth  
Commissioner Edwards  
Commissioner Howard  
Chairperson Jerry Becker  
Commissioner Jose Hernandez

Commissioners absent: Commissioner Alvin Ross  
Commissioner Brad Inman

City Staff present: Cindy Kintz, Planning Technician/P & Z Commission Liaison  
Dara Crabtree, City Secretary  
Cindy Brown, Human Resources Director/Risk Management  
Ladis Barr, Building Official/Fire Marshal

**II. INVOCATION & PLEDGE OF ALLEGIANCE**

Chairperson Becker gave the invocation and the commissioners led in the Pledge of Allegiance.

**III. APPROVAL OF MINUTES**

A. Approval of the Minutes for the regular meeting held on December 11, 2012.

MOTION: Approve the minutes for the regular meeting held on December 11, 2012.

FIRST: Commissioner Hernandez                      SECOND: Commissioner Howard

AYES: Commissioner Hernandez, Commissioner Howard, Chairperson Becker, Vice-Chairperson Sudduth and Commissioner Edwards

NAYS: None

MOTION CARRIED: (5-0)

**IV. PUBLIC HEARING(S)**

A. #Z2013-01 - Hold a Public Hearing, discuss and take necessary action on a request to rezone approximately 114.3 acres from its current Agriculture (AG) zoning to the following: 64.688 acres proposed to the Planned Development - Agriculture (PD-AG) Zoning District and 49.612 acres proposed to the Planned Development - Commercial (PD-C) Zoning District and amending the Comprehensive Land Use Plan.

The subject acreage fronts 1,229± feet on to the westbound U.S. Highway 175 Service Road and is 1,130± feet northeast of F.M. 1389 in the City of Seagoville, Kaufman County, Texas. (Property Physical address: 1706 South U.S. Highway 175; Property Acreage: 114.301± acres; Property Legal Description: Lots 1, 2 and 3, Block A of the Sudduth Addition being part of the Andrew Nail Survey, Abstract No. 355 and the D. Wilkerson Survey, Abstract No. 566, as recorded in Instrument No. 2012-0010392 in the Plat Records of Kaufman County, Texas).

*Applicant: James Sudduth*

*At 6:35 p.m., Vice-Chairperson Sudduth recused himself from the meeting and went into the city hall foyer.*

1. Open public hearing; and receive staff report and public comments;

Chairperson Becker opened the public hearing for City Staff's report at 6:35 p.m.

Planning Technician Cindy Kintz presented Zoning Request #Z2013-01 to

the commissioners and gave a brief background on the subject property. She explained how the subject property was voluntarily annexed into the city on May 1, 2012 with agricultural zoning applied for newly annexed properties.

Chairperson Becker opened the public hearing to public comment at 6:38 p.m.

Vicki Rader with Baldwin Associates (Applicant's representative) - 3904 Elm Street, Suite #B, Dallas, Texas 75226 - introduced herself and provided some background information on her company. During her presentation of her client's zoning request, she commented that the existing flea market on the property could possibly increase revenue for the City.

Commissioner Hernandez questioned the increase in traffic, if the flea market expanded its operations, and the hearsay of a "beer garden" being planned within the flea market.

Planning Technician Cindy Kintz stated that she was unaware of the applicant's intent for the development of the subject property and knew very little of the operations of the flea market for she was not involved in any of the City Staff meetings with him. She suggested that the commissioners direct their questions concerning the development of the property and the operations of the flea market to the applicant's representatives.

Brandon Baker (Applicant's business associate) - 7252 County Road 277, Kaufman, Texas 75142 - addressed the question of a "beer garden". He stated that even the Texas Alcoholic Beverage Commission had issues with a "beer garden" in an open space such as a flea market due to a flea market was not a controlled area. He stated that the consumption of alcohol would only be allowed in a 2,000 square-foot area enclosed by a six-foot fence attached to the concessions building and being partly covered by a canopy. He added that they were currently limiting the food sales.

Mr. Baker informed the commissioners that the flea market was open on Saturdays and Sundays from 9:00 a.m. until 5:00 p.m. with peak hours being on Sunday from 11:00 a.m. until 2:00 p.m. He also commented that they were limiting accepting any more food sale vendors.

Chairperson Becker commented that he had a problem with the "beer garden".

Commissioner Howard agreed with Chairperson Becker.

As the commissioners were going over the list of the applicant's proposed development standards, a brief discussion was held over commercial amusements.

Ms. Rader informed the commissioners that the applicant allowed a vendor to set up at the flea market that offered pony rides for the children.

Planning Technician Cindy Kintz explained the difference between commercial and temporary amusements being a commercial amusement involved a permanent structure and provided examples of a bowling alley, movie theatre and arcades. Whereas a temporary amusement is mobile and was set up and tore down. She provided examples of a circus, carnival and pony rides as was stated in the city's Zoning Ordinance. She also explained that a concept plan was the idea of what the property owner would like to do with the property. Whereas a site plan is specific and reflects fire lanes, sidewalks, parking spaces, etc. of what will be on the property. She also informed the commissioners that several of the proposed development standards were open ended and needed to be more specific in nature.

Ms. Rader disagreed with Ms. Kintz on the difference between commercial and temporary amusement. She also addressed the question on traffic control by stating that the police officers handle the current traffic.

Commissioner Hernandez stated that he was uncomfortable making a decision that evening with just receiving the worksheet on the proposed development standards from Mrs. Kintz prior to the meeting that evening.

Planning Technician Cindy Kintz stated that she prepared the worksheet that day as a tool for the commissioners to utilize that evening when discussing each individual proposed development standard at a time.

Chairperson Becker allowed Human Resource Director/Risk Manager Cindy Brown to address the Commission.

*Commissioner Howard excused himself from the Council Chambers at 7:06 p.m. and returned at 7:08 p.m.*

Mrs. Brown informed the commissioners that she was Mrs. Kintz's supervisor and was involved in the meetings with the applicant. She explained to the commissioners that a planned development allowed the Commission to recommend and City Council to set the development standards and could restrict certain land uses on the property to be rezoned versus just straight zoning to commercial as an example, which would allow all the types of land use that fell within the Commercial Zoning District. She advised the commissioners to forget about the Zoning Ordinance when establishing a Planned Development Zoning District.

Planning Technician Cindy Kintz informed the commissioners that they could table this agenda item until the next meeting on January 22, 2013 to allow them the opportunity to evaluate the development standards that the applicant was proposing. She stated that the public hearing had been closed that evening to public comments.

2. Close public hearing;

Chairperson Becker closed the public hearing at 6:40 p.m.

3. Discuss and take necessary action to make a recommendation to City Council on Zoning Request #Z2013-01.

During the Commission's discussion over Zoning Request #Z2013-01, Commissioner Howard excused himself from the meeting at 7:06 p.m. and returned to the meeting at 7:08 p.m.

MOTION: Table Zoning Request #Z2013-01 until the January 22, 2013 meeting.

FIRST: Commissioner Hernandez                      SECOND: Commissioner Howard

AYES: Commissioner Hernandez, Commissioner Howard, Chairperson Becker and Commissioner Edwards

NAYS: None

MOTION CARRIED: (4-0)

*At 7:17 p.m., Vice-Chairperson Sudduth returned to the meeting and took his seat as vice-chairperson of the Commission.*

## **V. REQUESTS AND PRESENTATIONS**

- A. Discuss and take necessary action on a request to approve a final site plan for Lot 1R, of the Denny's/Day's Inn Addition, located on westbound U.S. Highway 175 Service Road generally 1,377± feet northwest of Malloy Bridge Road and 235± feet southeast of Farris Boulevard in Seagoville, Texas.

*Applicant: Smarf, LLC*

Planning Technician Cindy Kintz presented the site plan for Lot 1R, of the Denny's/Day's Inn Addition to the commissioners. In her presentation, she informed the commissioners of the drive through window discovered on the east side of the building closest to Denny's Restaurant in the fire lane. She informed the commissioners in Section 25.02.714(a) of the Zoning Ordinance it stated a stacking lane and escape lane both measuring eight (8') feet in width shall be provided for drive-through facilities. She stated that, if the applicant so desired, the building could be relocated a minimum of sixteen (16') feet to the west to accommodate both the stacking and escape lanes.

Mrs. Kintz also informed the commissioners of the two (2) overhead/roll up doors that was reflected on the façade plans located on the north side (back) of the building being allowed for an oil/lube change establishment and an automated carwash bay only but there was a provision within the Zoning Ordinance that allowed the Commission to grant a waiver to this restriction

through the site plan approval process. She gave examples of Home Depot and Lowes having roll-up/overhead doors in the back of their buildings for unloading freight and the like.

Chet Patel with R K Patel Design & Planning, LLC (Project Architect/Manager ) - 5544 Greenview Court, Fort Worth, Texas 76148 - joined the discussion advising the commissioners that the drive-through window was in a lease space that the applicant was wanting to utilize as a marketing tool.

Dean Gillani with Smarf, LLC (Applicant) - 2221 Gatsby Way, Carrollton, Texas 75010 - informed the commissioners he would have the drive-through window removed.

MOTION: Approve the final site plan for Lot 1R of the Denny's/Day's Inn Addition subject to the following five (5) conditions:

- 1) Deny a drive thru window on the east side of the building next to Denny's Restaurant unless applicant relocates the building an additional sixteen feet minimum to the west to accommodate an eight (8') feet in width stacking lane and an eight (8') feet in width escape lane;
- 2) Maintain a twenty-four (24') feet in width fire lane on all four sides of the building with thirty (30') feet turning radii at all four corners of the building;
- 3) Grant a waiver for the two overhead /roll-up doors located on the north side (rear) of the building for loading and unloading purposes;
- 4) Approval of the façade and landscape plans (Agenda Items V.B. and V.C. to follow);
- 5) Any additional additions or alterations to the engineering /construction plans as may be deemed necessary by the City's Engineer, Transportation Engineer, Planner or City staff to address outstanding engineering-related issues.

FIRST: Commissioner Jose Hernandez    SECOND: Commissioner Edwards

AYES: Commissioner Hernandez, Commissioner Edwards, Chairperson Becker, Vice-Chairperson Sudduth and Commissioner Howard

NAYS: None

MOTION CARRIED: (5-0)

- B. Discuss and take necessary action on a request to approve the façade plans for Lot 1R, of the Denny's/Day's Inn Addition, located on westbound U.S. Highway 175 Service Road generally 1,377± feet northwest of Malloy Bridge Road and 235± feet southeast of Farris Boulevard in Seagoville, Texas.

Applicant: Smarf, LLC

Planning Technician Cindy Kintz presented the façade plans for Lot 1R, of the Denny's/Day's Inn Addition to the commissioners. During her presentation, she stated that the Zoning Ordinance specified the masonry could not be painted on. She suggested the color to be intrinsic throughout the stone and CMU.

Mrs. Kintz also stated that the Zoning Ordinance called for the masonry to be a minimum thickness of three and five-eighths inches when applied as a veneer. She asked Mr. Patel to present the samples of the veneer he had brought to the meeting to the commissioners and asked Building Official/Fire Marshal Ladis Barr to present his stone sample of what the actual thickness should be to the commissioners as a comparison. She advised the commissioners that they could specify the thickness of the veneer to be used in the construction of the proposed building in their motion.

MOTION: Approve the façade plan for Lot 1R of the Denny's/Day's Inn Addition subject to the following five (5) conditions:

- 1) On both the stone, if man-made, and CMU, the color shall be intrinsic (through and through) and not painted on;
- 2) On both the stone and CMU, the thickness of each shall be a minimum of two and one-half inches when applied as a veneer;
- 3) Grant two special exceptions to the masonry requirement for the use of EIFS and stucco as alternative non-masonry material;
- 4) Approval of the final site and landscape plans; and
- 5) Any additional additions or alterations to the engineering /construction plans as may be deemed necessary by the City's Engineer, Transportation Engineer, Planner or City staff to address outstanding engineering-related issues.

FIRST: Vice-Chairperson Sudduth

SECOND: Commissioner Howard

AYES: Vice-Chairperson Sudduth, Commissioner Howard, Chairperson Becker, Commissioner Edwards and Commissioner Hernandez

NAYS: None

MOTION CARRIED: (5-0)

- C. Discuss and take necessary action on a request to approve the landscape plans for Lot 1R, of the Denny's/Day's Inn Addition, located on westbound U.S. Highway 175 Service Road generally 1,377± feet northwest of Malloy Bridge Road and 235± feet southeast of Farris Boulevard in Seagoville, Texas.

Applicant: Smarf, LLC

Planning Technician Cindy Kintz presented the landscape plan for Lot 1R, of the Denny's/Day's Inn Addition to the commissioners. In her presentation, she stated that the landscape plan met the spirit and intent of the ordinance except that the ten-foot (10') landscape buffer along the front side (south) of the property abutting U.S. Highway 175 Service Road did not extend the full length of the subject property and the plan did not reflect landscaping along the base of the building.

Vice-Chairperson Sudduth inquired about tall trees being planted underneath power lines and in parking lot islands. He stated that he did not like trees being planted underneath power lines or in parking lots due to birds sitting in the trees and messing up the vehicles underneath them.

Planning Technician Cindy Kintz stated that the commissioners could include the planting of shorter trees from the City's plant list in the areas of the ten-foot (10') landscape buffer along the front side (south) of the property abutting U.S. Highway 175 Service Road and the interior landscaped islands in their motion.

MOTION: Approve the landscape plan for Lot 1R of the Denny's/Day's Inn Addition subject to the following four (4) conditions:

- 1) A minimum ten (10') foot landscaped buffer area shall extend the full length of the south side of the subject property that fronts U.S. Highway 175;
- 2) Shorter trees shall be planted underneath power lines;
- 3) Remove trees from interior landscaped islands; and
- 4) Approval of the site and façade plans.

FIRST: Vice-Chairperson Sudduth

SECOND: Commissioner Howard

AYES: Vice-Chairperson Sudduth, Commissioner Howard, Chairperson Becker, Commissioner Edwards and Commissioner Hernandez

NAYS: None

MOTION CARRIED: (5-0)

- D. Discuss and take necessary action on a request to approve a final plat for Lot 1, Block 1, of the Seagoville Elementary School Addition, being a replat of Lots 1-4, 10-13 and a portion of Lots 5 and 9, Block B of the A. J. McWhorters Addition; portions of abandoned Fly Street and McWhorter Street ROWs; unplatted tracts of land; being out of the H.D. Bohannon Survey, Abstract No. 178; and the John D. Merchant Survey, Abstract No. 850. The subject property is generally located on North Kaufman Street approximately 253 feet northwest of Elm Street and approximately 18 feet southeast of Heritage Court in the City of Seagoville, Texas.

(Property Physical Address: 304 North Kaufman Street; Property A

creage:11.8± acres; Property Legal Description: Lot 1, Block 1, of the Seagoville Elementary School Addition, being a replat of Lots 1-4, 10-13 and a portion of Lots 5 and 9, Block B of the A. J. McWhorters Addition; portions of abandoned Fly Street and McWhorter Street ROWs; unplatted tracts of land; being out of the H.D. Bohannon Survey, Abstract No. 178; and the John D. Merchant Survey, Abstract No. 850, as recorded in Volume 1, Page 434; Volume 5143, Page 88; Volume 2452, Page 633; Volume 4830, Page 3; Volume 463, Page 242; Volume 84153, Page 3989I and Instrument No. 201100066872 of the Deed Records, Dallas County, Texas).

Applicant: Dallas Independent School District

Planning Technician Cindy Kintz presented the final plat for Lot 1, Block 1, of the Seagoville Elementary School Addition to the commissioners. She explained her role on the Development Review Committee was to verify whether or not properties subject to development were properly platted. If the properties were not platted, she would guide the property owner(s) through the platting process according to the Subdivision Ordinance. She explained that there were numerous tracts that made up the Seagoville Elementary School campus; fire hydrants were on private property and not within easements; sanitary sewer line running through the privately owned property and not within an easement; and ROWs for Fly and McWhorter Streets ran through some of the tracts behind the school. The ROWs for Fly and McWhorter Streets were abandoned by the City in July 2012. She commented that the plat was what she called clean-up work.

MOTION: Approve the final plat for Lot 1, Block 1 of the Seagoville Elementary School Addition as presented by the applicant.

FIRST: Commissioner Edwards                      SECOND: Vice-Chairperson Sudduth

AYES: Commissioner Edwards, Vice-Chairperson Sudduth, Chairperson Becker, Commissioner Howard and Commissioner Hernandez

NAYS: None

MOTION CARRIED: (5-0)

## VI. ADJOURNMENT

MOTION: Adjourn the meeting at 7:54 p.m.

FIRST: Commissioner Howard                      SECOND: Vice-Chairperson Sudduth

AYES: Commissioner Howard, Vice-Chairperson Sudduth, Chairperson Becker, Commissioner Edwards and Commissioner Hernandez

NAYS: None

MOTION CARRIED: (5-0)

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**JERRY BECKER**  
**CHAIRPERSON**

**ATTEST:**

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**CINDY KINTZ, PLANNING TECHNICIAN**  
**PLANNING AND ZONING COMMISSION LIAISON**