



**CITY OF THE COLONY  
CITY COUNCIL MEETING AGENDA  
TUESDAY, JANUARY 17, 2017  
6:30 PM**

**TO ALL INTERESTED PERSONS**

Notice is hereby given of a **REGULAR SESSION** of the **CITY COUNCIL** of the City of The Colony, Texas to be held at **6:30 PM** on **TUESDAY, JANUARY 17, 2017** at **CITY HALL, 6800 MAIN ST. THE COLONY, TX**, at which time the following items will be addressed:

***1.0 ROUTINE ANNOUNCEMENTS, RECOGNITIONS AND PROCLAMATIONS***

- 1.1. Call to Order
  
- 1.2. Invocation
  
- 1.3. Pledge of Allegiance to the United States Flag
  
- 1.4. Items of Community Interest
  - 1.4.1. Receive presentation from Parks and Recreation regarding upcoming events and activities (PARD, Stansell)

***2.0 WORK SESSION***

*The Work Session is for the purpose of exchanging information regarding public business or policy. No action is taken on Work Session items. Citizen input will not be heard during this portion of the agenda.*

- 2.1. Discuss Public Information Request Quarterly Reports as presented for Council review. (City Secretary, Stewart)  
[Monthly Quarterly Reports.pdf](#)
  
- 2.2. Receive presentation and update on items related to Article VI. Food and Food Establishments of The Colony Code of Ordinances (General Admin, Perez)
  
- 2.3. Council to provide direction to staff regarding future agenda items (Council)

***3.0 CITIZEN INPUT***

*This portion of the meeting is to allow up to five (5) minutes per speaker with a maximum of thirty (30) minutes for items not posted on the current agenda. The council may not discuss these items, but may respond with factual data or policy information, or place the item on a future agenda. Those wishing to speak shall submit a Request Form to the City Secretary.*

#### **4.0 CONSENT AGENDA**

*The Consent Agenda contains items which are routine in nature and will be acted upon in one motion. Items may be removed from this agenda for separate discussion by a Council member.*

- 4.1. Consider approving City Council Special Session and Regular Session meeting minutes for January 3, 2017 (City Secretary, Stewart)  
[January 3, 2017 Special Session DRAFT Minutes.doc](#)  
[January 3, 2017 DRAFT Minutes.docx](#)

#### **5.0 REGULAR AGENDA ITEMS**

- 5.1. SI16-0001, Zoning Ordinance Amendment - Definition of Single Family:  
Conduct a public hearing, discuss and consider approving an ordinance amending Appendix A, Zoning Ordinance, Section 25-101(21) containing definition of Family (Development Services, Sen)  
[Staff Report.doc](#)  
[Proposed Ordinance.doc](#)  
[PZ Minutes 12-13-16.doc](#)
- 5.2. PDA16-0002, Amendment to Planned Development District # 14:  
Conduct a public hearing, discuss and consider approving an ordinance amending Planned Development 14 (PD 14) to allow "Automobile Garage (Inside)" land use within existing building at 4173 Main Street (Development Services, Sen)  
[Staff Report.doc](#)  
[PDA16-0002 Location Map.pdf](#)  
[PD14 Ordinance 97-973.pdf](#)  
[PDA16-0002 Proposed Ordinance.doc](#)  
[PZ Minutes 12-13-16.doc](#)
- 5.3. Z16-0002 Lakeview Villas Zoning Change from General Retail (GR) and Shopping Center (SC) to Townhouse Dwelling (TH) Zoning District:  
Conduct a public hearing, discuss and consider approving an ordinance to allow Zoning Change from Shopping Center (SC) and General Retail (GR) to Planned Development-Townhouse Dwelling (PD-TH) zoning district allowing town homes development at 4851 Westport Drive property and the adjacent tract of land (Development Services, Sen)  
[Staff Report.doc](#)  
[Z16-0002 Location Map.pdf](#)  
[Zoning Exhibit.pdf](#)  
[Elevations.pdf](#)  
[Proposed Ordinance.doc](#)

[PZ Minutes 12-13-16.doc](#)

- 5.4. Discuss and consider approving a resolution authorizing the City Manager to execute changes to the Building Use Policy to allow for alcohol use in certain city facilities under approved permitting guidelines (General Admin, Shallenburger)

[Building Use Policy Proposed Revisions - Redlined.doc](#)

[Res 2017-xxx Building Use Policy.doc](#)

## **6 EXECUTIVE SESSION**

*Pursuant to the Texas Open Meeting Act, Government Code Chapter 551 one or more of the above items may be considered in executive session closed to the public, including but not limited to consultation with attorney pursuant to Texas Government Code Section 551.071 arising out of the attorney's ethical duty to advise the city concerning legal issues arising from an agenda item. Any decision held on such matter will be taken or conducted in open session following the conclusion of the executive session.*

- 6.1. A. Council shall convene into a closed executive session pursuant to Section 551.072 of the Texas Government Code to deliberate the purchase, exchange, lease, or value of real property.

B. Council shall convene into a closed executive session pursuant to Section 551.071 of the Texas Government Code to seek legal advice from the City Attorney regarding pending or contemplated litigation – City of The Colony, Texas v. B.S.A. TX-342, Limited Partnership (Budget Suites of America, TX-3472), Cause No. 16-09568-442.

C. Council shall convene into a closed executive session pursuant to Section 551.071 of the Texas Government Code to seek legal advice from the City Attorney regarding pending or contemplated litigation – Atlantic Colony Venture I. LLC and Atlantic Colony Venture II, LLC v. City of the Colony, Texas, et al., Cause No. 16-02219-442.

D. Council shall convene into a closed executive session pursuant to Section 551.071 of the Texas Government Code to seek legal advice from the City attorney regarding pending or contemplated litigation – Appeal of Brazos Electric Power Cooperative, Inc., PUC Docket No. 45175 and City of The Colony, Texas v. Brazos Electric Power Cooperative, Inc. matter, Cause No. 16-06424-16.

- 6.2. A. Any action as a result of executive session regarding the deliberation of the purchase, exchange, lease, or value of real property.

B. Any action as a result of executive session regarding the pending or contemplated litigation - City of The Colony, Texas v. B.S.A. TX-342, Limited Partnership (Budget Suites of America, TX-3472), Cause No. 16-09568-442.

C. Any action as a result of executive session regarding the pending or contemplated

litigation - Atlantic Venture, LLC and Atlantic Colony Venture II, LLC v. City of The Colony, Texas, et al.

D. Any action as a result of executive session regarding pending or contemplated litigation – Appeal of Brazos Electric Power Cooperative, Inc., PUC Docket No. 45175 and City of The Colony, Texas v. Brazos Electric Power Cooperative, Inc. matter, Cause No. 16-06424-16.

***ADJOURNMENT***

# **CITY COUNCIL Agenda Item Report**

Agenda Item No. 124

Submitted by: Lindsey Stansell

Submitting Department: Parks & Recreation

Meeting Date: January 17, 2017

## **SUBJECT**

Receive presentation from Parks and Recreation regarding upcoming events and activities (PARD, Stansell)

## **Recommendation:**

## **ATTACHMENTS**

-

# **CITY COUNCIL Agenda Item Report**

Agenda Item No. 147

Submitted by: Tina Stewart

Submitting Department: City Secretary

Meeting Date: January 17, 2017

## **SUBJECT**

Discuss Public Information Request Quarterly Reports as presented for Council review. (City Secretary, Stewart)

## **Recommendation:**

## **ATTACHMENTS**

- [Monthly Quarterly Reports.pdf](#)

Request #	Date Rec'd	Date Due	Date Closed	Name of Requestor	Rec'd via	Document Requested	Department Responsible	Notes	Fee
1610-01	10/03/2016	10/18/2016	10/03/2016	Paige Grass - Comedy Driving School	983	DSC requestors for month of September	MC		
1610-02	10/03/2016	10/18/2016	10/03/2016	Carole Bartholomew	984	September 2016 issued permits lists	Cust Svcs		
1610-03	10/03/2016	10/18/2016	10/03/2016	Brandon Call Dallas Business Journal	E	List of city salaries	HR		
1610-04	10/03/2016	10/18/2016	10/07/2016	D'Arcy Cano	P	Background check application	PD		
1610-05	10/04/2016	10/19/2016	11/14/2016	Mike Smith	985	Water Disconnects for Sept 2016	Cust Svcs	Sent 30 day letter - No response	
1610-06	10/04/2016	10/19/2016	10/04/2016	Britni Robertson	986	Permits 09/29-09/30/2016	Cust Svcs		
1610-07	10/04/2016	10/19/2016	10/04/2016	Suma Sureshchandra	987	Permits for Sept 2016	Cust Svcs		
1610-08	10/05/2016	10/20/2016	01/06/2017	Warren Halverson	988	Any police reports pertaining to Mark Timothy Ray	PD	Sent to Jeff Moore for AG Opinion 10/13	
1610-09	10/05/2016	10/20/2016	10/13/2016	Shawne Clark	989	Incident report 2016-12545	PD		
1610-10	10/05/2016	10/20/2016	12/14/2016	Keitha Ray	990	All police reports made on requestor from March 27, 2016 to present	PD	Requestor placed on hold...falls under 61 days clarification rule final day 12/13/2016 No Response	
1610-11	10/06/2016	10/21/2016	10/18/2016	Luis A Morales	991	police report #2016-15007	PD		
1610-12	10/06/2016	10/21/2016	10/17/2016	Jessica Spencer	992	personal data or traffic tickets	PD		
1610-13	10/06/2016	10/21/2016	11/18/2016	Britany Romero	993	reports from 7000 Summer St	PD	Sent to Jeff Moore for AG Opinion 10/17	
1610-14	10/04/2016	10/19/2016	10/11/2016	Christi Martin	e	list of CH Committee members	CS		

1610-15	10/05/2016	10/20/2016	10/13/2016	Christi Martin	e	final budget emails	CS		
1610-16	10/07/2016	10/24/2016	10/21/2016	Irv Rubenstein	e	Purchasing records for 06/20/2016 to present	Purchasing		
1610-17	10/07/2016	10/24/2016	10/21/2016	Chris Able - Able Law Firm	F	IA file regarding A. Cesspooch and personnel file D. Kyle	PD	Emailed Atty that file is ready for pick up	\$ 62.30
1610-18	10/07/2016	10/24/2016	10/11/2016	Patricia Stampley	994	Any liens or violations on 4603 Lake Park Dr	CI		
1610-19	10/07/2016	10/24/2016	10/11/2016	Miranda McDougall	995	September code violations report	CI		
1610-20	10/11/2016	10/25/2016	11/18/2016	Brittany Romero	996	All call from 214-789-9094		Sent to Jeff Moore for AG Opinion 10/17	
1610-21	10/11/2017	10/25/2016	10/24/2016	Hazel Dellorsa	997	Fire damaged structures between 09/24-10/08	FD		
1610-22	10/11/2016	10/25/2016	10/11/2016	John Huter	998	Environmental on 1728 Polser	EN/CI/FD	Property located in Carrollton limits	
1610-23	10/11/2016	10/25/2016	10/11/2016	Keith Scott	999	Cert of Occ and Permits 09/05/2016 - to present	Cust Svcs		
1610-24	10/11/2016	10/25/2016	10/24/2016	Sue Abrams	1000	Water Disconnects for Sept 2016	Cust Svcs	sent 30 day letter- paid	\$27
1610-25	10/11/2016	10/25/2016	10/12/2016	Kevin Ashworth	1001	Water Disconnects for 10/07/2015-10/07/2016	Cust Svcs		
1610-26	10/11/2015	10/25/2016	10/11/2016	Britni Robertson	1002	Cert of Occ and Permits 10/03/2016 - to 10/07/2016	Cust Svcs		
1610-27	10/11/2016	10/25/2016	12/29/2016	Greg Startz	1003	Police reports regarding Garrett Startz Jan 2015 through July 2016	PD	Requested more information from the father on 10/25 has 61 days to respond - withdrawn no response	
1610-28	10/11/2016	10/25/2016	10/11/2016	Kelly Albright	1004	Employee Email list	HR		
1610-29	10/11/2016	10/25/2016	10/12/2016	Rebecca Olaguibel	94	380 Agreement/Economic Development Agrment/Tax Abatement agreement/Performance Agreement	CS		

1610-30	10/11/2016	10/25/2016	10/11/2016	Jane Crow	E	Invoice for repairs on Roberts Drive	Engineering		
1610-31	10/11/2016	10/25/2016	10/11/2016	Ryan Autery	1005	Cert of Occ 09/15/2016 to present	Cust Svcs		
1610-32	10/12/2016	10/26/2016	10/14/2016	Tiger Butler	1006	Water cut off for last 30 days Utility Statements from 01/2016 to present & questions on meter read processes	Cust Svcs	Sent 30 day letter - Paid	\$ 27.00
1610-33	10/12/2016	10/26/2016	10/12/2016	Paul Chung	E		Cust Svcs		
1610-34	10/13/2016	10/27/2016	10/17/2016	Allie Swope	1007	Water cut off for last 30 days	Cust Svcs	Sent 30 day letter - Paid	\$27.00
1610-35	10/13/2016	10/27/2016	10/14/2016	Kelly Powers	1008	Water disconnects for last 30 days	Cust Svcs	Sent 30 day letter - Paid	\$27.00
1610-36	10/14/2016	10/28/2016	10/14/2016	Margaret Howell	1009	Commercial Permit Report	Cust Svcs		
1610-37	10/14/2016	10/28/2016	10/18/2016	D'Arcy Cano	P	Dipoloma's and Divorce Decree	PD		
1610-38	10/17/2016	10/31/2016	10/17/2016	Subhani Shaik	1010	All inspection reports for 3709 Bristol	Cust Svcs		
1610-39	10/18/2016	11/01/2016	10/19/2016	Britni Robertson	1011	Permits from 10/10-10-14/2016	Cust Svcs		
1610-40	10/18/2016	11/01/2016	10/18/2016	Lisa Brandt	E	Inspection/Permits on 7016 Blalock regarding foundation	Cust Svcs		
1610-41	10/18/2016	11/01/2016	10/25/2016	Sandi Yarbrough	1012	All incidents and offenses at 6830 Davidson on 10/18	PD		
1610-42	10/18/2016	11/01/2016	10/20/2016	Mara Cardenas	1013	DSC requestors for month of October	MC		
1610-43	10/18/2016	11/01/2016	10/20/2016	Jeremy Gonzalez	1014	Utility As builds Windhaven and Arbor Hills way anything southeast	Engineering		
1610-44	10/19/2016	11/02/2016	11/21/2016	Tim Caughern	1015	Water Disconnects	Cust Svcs	sent 30 day letter - withdrawn no response	

1610-45	10/19/2016	11/02/2016	10/21/2016	John Culbertson	1016	water Disconnects	Cust Svcs	Sent 30 day letter - Paid	\$27.00
1610-46	10/19/2016	11/02/2016	01/06/2017	Randall O'Mary	1017	Police report and arrest record for self	PD	10/28 sent clarification email with 61 day notification No Response	
1610-47	10/19/2016	11/02/2016	11/01/2016	Elsie Thurman	E	Several CC agenda's with Ordinances or Resolutions	CS		
1610-48	10/19/2016	11/02/2016	10/25/2016	Kimberly Pereira	1018	All her police rpts from 02/2015-09/2016	PD		
1610-49	10/20/2016	11/03/2016	Duplicate of 1610-24	Sue Abrams	1019	Water Disconnects for Sept 2016	Cust Svcs		
1610-50	10/20/2016	11/03/2016	10/25/2016	Bailey Jackson	1020	Arrest records	PD		
1610-51	10/24/2016	11/07/2016	10/24/2016	Hazel Dellosa	1021	Fire damaged structures between 10/08/2016-10/22/2016	FD		
1610-52	10/24/2016	11/07/2016	11/03/2016	Sara Covart	1022	PD call log history for 5217 Pruitt	PD		
1610-53	10/24/2016	11/07/2013	10/25/2016	Keith Scott	1023	COO and Comm Permits 10/10/2016 to present	Cust Svcs		
1610-54	10/24/2016	11/07/2016	11/02/2016	Regina Segneri	1024	Service calls for 2016-15979; 15984; 15983; 14383	PD		
1610-55	10/24/2016	11/07/2016	11/03/2016	Jil Yates	1025	Police Report 2016-16074	PD		
1610-56	10/24/2016	11/07/2016	11/02/2016	Tiffany Ramirez	1026	Police Report 12/23/2015 by Shay Clark	PD		
1610-57	10/24/2016	11/07/2016	11/17/2016	Hayes Barry White Vanzant LLP	M	All fire lane damage documents to 5000 Main Street	CS	10/28 Sent a cost analysis letter via Cert mail/recd go head withpymt on 11/07 due 11/22	\$ 169.50
1610-58	10/24/2016	11/07/2016	10/25/2016	Ryan Autery	1027	Commerical Permit Report 10/10/2016-present	Cust Svcs		
1610-59	10/25/2016	11/08/2016	11/09/2016	Edwin Miguel	1028	Fire Damaged Properties 08/25-10/24/2016	FD		

1610-60	10/25/2016	11/08/2016	10/25/2016	Rhys Christensen	P	Inspections/Permits/Approvals for 4901 Main (Advance Auto Parts)	Cust Svcs		
1610-61	10/25/2016	11/08/2016	10/25/2016	Britni Robertson	1029	Commetrical/Resd Permits 10/17/2016-10/21/2016	Cust Svcs		
1610-62	10/25/2016	11/08/2016	11/03/2016	Hunter Hall	1030	Police report 09/23/2016 that involved requestor	PD		
1610-63	10/25/2016	11/08/2016	10/25/2016	Alpha Signs/Mushaq	P	All finished out permits	Cust Svcs		
1610-64	10/26/2016	11/09/2016	11/04/2016	Tim Neeley	e	All EDC incentives for new businesses coming into TC between 07/01-09/30/2016	CS	EDC to provide assistance.	
1610-65	10/27/2016	11/10/2016	11/02/2016	Lisa Cheek	P	Hiring policies of the PD	PD		
1610-66	10/31/2016	11/15/2016	11/09/2016	Kevin Smothers	1032	Explanation as to why there was TCPD & US Marshalls on stand by at 4905 Avery	PD		
1610-67	10/31/2016	11/15/2016	11/01/2016	Erica Burkert	1031	Chick Fil A inspection reports from 01/01/2015 to present	CI		
1610-68	10/27/2016	11/10/2016	11/01/2016	Christi Martin	e	correspondence between CM Troy Powell, Joe Perez and Claire Denney or Vanessa Bailey	CS		

Request #: Month, Date, sequential number  
Manner Received: P = In Person, E = Email, F = Fax, M = Mail  
Red: Open requests  
Black: Completed requests  
Yellow: Sent to Attorney General  
Blue: Request completed after 10 business days  
Green: 30 days response time for electronic records/manipulation of data

Request #	Date Rec'd	Date Due	Date Closed	Name of Requestor	Rec'd via	Document Requested	Department Responsible	Notes	Fee
1611-01	11/01/2016	11/16/2016	11/02/2016	Carole Bartholomew	1033	October Permit report	Cust Svcs		
1611-02	11/01/2016	11/16/2016		Hao Liu	CM	Any permits or concerns regarding 3808 or 3812 creek hollow Request was unclear	Cust Svcs	Inspections - requested additional info - sent 61 day notification	
1611-03	11/01/2016	11/16/2016	12/13/2016	Doy Geller	1034	Ambulance Report for Doy Geller 10/26/2016	FD	11/03/2016 sent info for completion of HIPPA form with 61 day disclaimer See PIR 1611-47	
1611-04	11/01/2016	11/16/2016		Duplicate of 1611-03 Doy Geller	1035	Ambulance Report for Doy Geller 10/26/2016	FD		
1611-05	11/01/2016	11/16/2016	11/01/2016	Paige Grass	1036	DSC info for October	MC		
1611-06	11/01/2016	11/16/2016	11/02/2016	James Sheehan	1037	Citation issued on Creekdale drive on 10/28/2016.	MC		
1611-07	11/01/2016	11/16/2016	11/01/2016	Maria Aguilar	1038	Zoning for Nash and ordinance for Container homes	Planning		
1611-08	11/01/2016	11/16/2016	11/01/2016	Kathleen Bouaphavong	1039	Survey for 8028 Little Mill	CS		
1611-09	11/02/2016	11/17/2016	11/02/2016	Aidan Smith	1040	Water disconnect within the city of "Denton" sent him the city website link	CS		
1611-10	11/02/2016	11/17/2016	11/02/2016	Britni Robertson	1041	Permits for 10/24-10/28/2016	Cust Svcs		
1611-11	11/02/2016	11/17/2016	11/16/2016	Diana Rohrbach - Alpha Testing	E	environmental to 4901/4875 Main Street	EN/CI/FPD		
1611-12	11/03/2016	11/18/2016	11/03/2016	Kim Sutter	E	Any jail commission contacts	PD		
1611-13	11/03/2016	11/18/2016	11/08/2016	Louay Alkhatib	E	Zoning for a preschool in TC	CS	Requested an actual address or location of preschool	

1611-14	11/03/2016	11/18/2016	11/16/2016	Cara Montoya	E	Probable Cause Affidavit for Taryn Zinszer	PD		
1611-15	11/03/2016	11/18/2016	11/18/2016	Brian Truncate	1042	Incident report 2016-12759	PD		
1611-16	11/03/2016	11/18/2016	11/03/2016	Justin Murphy	e	DDS-3 monthly report	MC		
1611-17	11/04/2016	11/21/2016	11/16/2016	Jordan Utter	P	Any police records for Travis Irwins regarding Sept 2015 complaint at 4508 Highridge	PD		
1611-18	11/04/2016	11/21/2016	11/16/2016	Taylor Pate	1043	Incident report 2016-16352	PD		
1611-19	11/07/2016	11/22/2016	11/18/2016	Hazel Dellosa	1044	Fire Damaged prop. 10/22-11/05/2016	FD		
1611-20	11/07/2016	11/22/2016	11/07/2016	<a href="#">Britni Robertson</a>	1045	Permits for 10/31-11/04/2016	Cust Svcs		
1611-21	11/07/2016	11/22/2016	11/07/2016	Casey Barthell	P	Account history for 5524 Russell	Cust Svcs		
1611-22	11/07/2016	11/22/2016	11/07/2016	Micah Ruiz	P	document showing on water bill that it was cancelled while still under contract	Cust Svcs		
1611-23	11/08/2016	11/23/2016	11/08/2016	Vivian Overton	E	All bldg and inspection reports for 7604 Bowmare	Cust Svcs		
1611-24	11/09/2016	11/28/2016	11/16/2016	Shannon Ingram	1046	Accident report involving Shannon Ingram on 11/05/2015	PD		
1611-25	11/09/2016	11/28/2016	11/09/2016	Suma Sureshchandra	1047	Building permits for month of October 2016	Cust Svcs		
1611-26	11/09/2016	11/28/2016	11/09/2016	City of Corinth	1048	Costs of meter theft, cc fees and damage to meters	Cust Svcs		
1611-27	11/10/2016	11/29/2016	11/10/2016	Keith Scott	1049	list of commercial permits and CO's from Nov 1st to present	Cust Svcs		

1611-28	11/10/2016	11/29/2016	11/10/2016	Rachael Rice	1050	Copy of The Shaacks at Austin Ranch Final Plat and Brentwood Court Townhomes	Planning		
1611-29	11/10/2016	11/29/2016	11/10/2016	Ryan Autery	1051	Copies of CO's issued or applied from Oct 25 to present	Cust Svcs		
1611-30	11/10/2016	11/29/2016	11/16/2016	Richard Miller	1052	arrest record from 2008-2009	PD		
1611-31	11/10/2016	11/29/2016	11/14/2016	Don Beckel	e	lease agreements between TC and Corp of Engineers for City Lake Parks	CS	Came in person and review the leases.	
1611-32	11/14/2016	11/30/2016	11/17/2016	Timothy Powers	1053	All records on Taylor Brown's pertaining to DWI arrest on 09/28/2016	PD		
1611-33	11/14/2016	11/30/2016	11/17/2016	Mike Brendel	1054	Water disconnect for November	Cust Svcs	sent 30 Day letter - Paid	\$ 27.00
1611-34	11/14/2016	11/30/2016		Johanna Armstrong	1055	Incident records October		sent request for additional information - type of incident dates in October w/61 day smt	
1611-35	11/14/2016	11/30/2016	11/17/2016	Hayden Tarbett	E	Resolution/Ordinances for creation of PID created for the benefit of private developers/entities	CS		
1611-36	11/14/2016	11/30/2016	11/14/2016	Michael Suggitt	P	Water bill for 4648 Archer Drive	Cust Svcs		
1611-37	11/15/2016	12/01/2016	11/16/2016	Bill Smith	1056	Pending Commercial bldg permits	Engineering		
1611-38	11/15/2016	12/01/2016		Nick Carlson	1057	Theft report that occurred at 2940 Hudson	PD	Sent for AG opinion on 11/21/2016	
1611-39	11/15/2016	12/01/2016	11/16/2016	Britni Robertson	1058	Bldg permits 11/07-11/11/2016	Cust Svcs		
1611-40	11/16/2016	12/02/2016	11/18/2016	Margret Howell	1059	October Permit report	Cust Svcs		
1611-41	11/17/2016	12/05/2016	11/17/2016	Mara Cardenas	1060	DSC report for October	MC		

1611-42	11/18/2016	12/06/2016	11/22/2016	Alexandria Kallidin	1061	Roof permit on 5616 Truit	Cust Svcs		
1611-43	11/21/2016	12/07/2016	11/30/2016	Atul Rajani	1062	Environmental on 5290 Memorial Dr	EN/CI/FD		
1611-44	11/21/2016	12/07/2016	11/22/2016	Hazel Dellosa	1063	fire Damaged prop. 11/05-11/19/2016	FD		
1611-45	11/22/2016	12/08/2016	11/23/2016	Britni Robertson	1064	Permit Report for 11/14-11/18/2016	Cust Svcs		
1611-46	11/09/2016	11/28/2016	11/15/2016	Mathew Robinson	e	forms for 2017 City Council	CS		
1611-47	11/22/2016	12/08/2016	12/13/2016	Doy Geller	1065	Duplicate to 1034 Request	FD	recipient track the same response as their first request must have a completed HIPPA form Received form on 12/12/2016	
1611-48	11/28/2016	12/12/2016	11/30/2016	Edwin Miguel	1066	Fire damaged properties 10/25-11/24/2016	FD		
1611-49	11/29/2016	12/13/2016	11/29/2016	Britni Robertson	1067	Commerical Permits 11/21-11/25/16	Cust Svcs		
1611-50	11/30/2016	12/14/2016	12/05/2016	Christi Martin	e	emails regarding Carney Elementary Garden project	CS		
1611-51	11/30/2016	12/14/2016	12/01/2016	Ryan Autory	1068	COO from 11/10-present	Cust Svcs		
1611-52	11/30/2016	12/14/2016	11/30/2016	Tisha Stender	1069	Water billing history for owned properties	Cust Svcs		



Request #	Date Rec'd	Date Due	Date Closed	Name of Requestor	Rec'd via	Document Requested	Department Responsible	Notes	Fee
1612-01	12/01/2016	12/15/2016	12/01/2015	Paige Grass	1070	DSC for the month of Nov. 2016	Cust Svcs		
1612-02	12/01/2016	12/15/2016	12/01/2016	Carole Bartholomew	1071	Permits for Nov 2016	Cust Svcs		
1612-03	12/01/2016	12/15/2016		Cassandra Gaddis	1072	Vitals from accident on 11/22	FD	Sent request for HIPAA form with 60 day statement	
1612-04	12/01/2016	12/15/2016	01/03/2017	Aidan Smith	1073	Water disconnects for Nov 2016	Cust Svcs	Sent prepay email with 30 day notice - no response withdrawn	
1612-05	12/02/2016	12/16/2016	12/02/2016	Ed Vianco	e	invoice and lien information for 5141 Ragan	CS		
1612-06	12/05/2016	12/19/2016	12/06/2016	Erika Butler	1074	Code violations for November 2016	CI		
1612-07	12/05/2016	12/19/2016	12/05/2016	Erika Butler	1075	Water disconnects for Nov 2016	Cust Svcs		\$ 27.00
1612-08	12/05/2016	12/19/2016	12/06/2016	Dyann Tobar	1076	EMS statistics	FD		
1612-09	12/05/2016	12/19/2016	12/05/2016	Justin Murphy	e	DDS-3 monthly report for Nov 2016	CS		
1612-10	12/06/2016	12/20/2016	12/06/2016	Britni Robertson	1077	Permits lists for 11/28-12/02	Cust Svcs		
1612-11	12/06/2016	12/20/2016	12/19/2016	<a href="#">Hazel Dellosa</a>	1078	Fire damaged properties 11/19-12/03	FD		
1612-12	12/06/2016	12/20/2016	12/14/2016	Jason Foster	1079	all pertinent records pertaining to Chantelle Worrell	PD		
1612-13	12/06/2016	12/20/2016	12/19/2016	Mara Cardenas	1080	DSC for the month of Nov. 2016	MC		
1612-14	12/08/2016	12/22/2016	12/09/2016	Margaret Howell	1081	Permits issued for Nov. 2016	Cust Svcs		

1612-15	12/09/2016	12/27/2016	12/15/2016	Elise Brown	1082	All HR records on Justin Johnson	HR		
1612-16	12/12/2016	12/28/2016	12/13/2016	Suma Sureshchandra	1083	Permits for Nov 2016	Cust Svcs		
1612-17	12/13/2016	12/29/2016	12/13/2016	Justine Robertson	E	Bldg Permits for the last 10 years	Cust Svcs		
1612-18	12/14/2016	12/30/2016	12/30/2016	Britni Robertson	1084	Commerical/residential permits 12/05-12/09/2016	Cust Svcs		
1612-19	12/14/2016	12/30/2016	12/22/2016	Tara Thomas	1086	Blue Prints for TCHS Gym	CS	Sent Cost Analysis letter as boxes are offsite	
1612-20	12/14/2016	12/30/2016	12/15/2016	Steve Riseman	1085	Commerical permits from June 1- November 20, 2016	Cust Svcs		
1612-21	12/14/2016	12/30/2016	12/14/2016	Stacy Stevens	1087	Permits from 2013 to present for Preston General Contractor	Cust Svcs		
1612-22	12/14/2016	12/30/2016	12/19/2016	Isaac Rey	1088	As build drawings for 4819 SH 121	Engineering		
1612-23	12/14/2016	12/30/2016	12/19/2016	Stacy Stevens	1089	Building permits from 2013-present	Cust Svcs		
1612-24	12/15/2016	01/03/2017	12/29/2016	Nyails Carlton	e	list of code violations due to landscaping in the past 3 months	CI	Tried to send and close out PIR. Cust email unable to receive at this time.	
1612-25	12/19/2016	01/05/2017	12/19/2016	Kirk, K.M	1090	Permit information on foundation home repair	Cust Svcs		
1612-26	12/19/2016	01/05/2017	01/03/2017	Hazel Dellosa	1091	Fire damaged properties 12/03/2016- 12/17/2016	FD		
1612-27	12/19/2016	01/05/2017	12/20/2016	Alexandria Kallidin	1092	All permits issued on 5616 Truitt	Cust Svcs		
1612-28	12/20/2016	01/06/2017	12/20/2016	Ryan Autry	1093	COO from 12-10 to present	Cust Svcs		
1612-29	12/20/2016	01/06/2017	12/20/2016	Ryan Autry	1094	Coo from 12-5 to present	Cust Svcs		

1612-30	12/20/2016	01/06/2017	12/20/2016	Cynthia Page	1095	Copies of Pepper Lawson Payment and Performance Bonds	CS		
1612-31	12/20/2016	01/06/2017	12/20/2016	Britni Robertson	1096	Comm & Res permits from 12/12-12/16	Cust Svcs		
1612-32	12/21/2016	01/09/2016	12/22/2016	Joanne Elden	1097	Month to Month totals for water & sewer for 2016	Cust Svcs		
1612-33	12/21/2016	01/09/2016	01/09/2017	Richard Smotts	1098	All 911 and ambulance dispatch to 5289 St Hwy 121	PD		
1612-34	12/22/2016	01/10/2016	12/29/2016	Ana Hernandez	1099	Civil plans for 4177 Main Street	Engineering		
1612-35	12/27/2016	01/11/2017	12/29/2016	Britni Robertson	1100	Comm & Res permits from 12/19-12/23/2016	Cust Svcs		
1612-36	12/27/2016	01/11/2017	01/09/2017	Joseph Hansen	E	Budget info, traffic citation income, traffic statistics, hr records for O. Arrington	Finance	Sent to PD, Finance & HR	
1612-37	12/28/2016	01/12/2017	01/03/2017	Edwin Miguel	1101	Fire Damaged Properties 11-24/12-24-2016	FD		
1612-38	12/29/2016	01/13/2017	12/30/2016	Courtney Lawless	1102	code violations for 08/01-12/29/2016	CI		
1612-39	12/29/2016	01/13/2017	01/06/2016	Peggy Skillern	e	fire code violations for Sevice King 5270 Memorial Drive	FD		
1612-40	12/30/2016	01/17/2016	12/30/2016	Tania Pineda	P	water bills for July - dec 2016	Cust Svcs		
1612-41									
1612-42									
1612-43									
1612-44									



# **CITY COUNCIL Agenda Item Report**

Agenda Item No. 135

Submitted by: Joe Perez

Submitting Department: General Admin

Meeting Date: January 17, 2017

## **SUBJECT**

Receive presentation and update on items related to Article VI. Food and Food Establishments of The Colony Code of Ordinances (General Admin, Perez)

## **Recommendation:**

## **ATTACHMENTS**

-

# **CITY COUNCIL Agenda Item Report**

Agenda Item No. 106

Submitted by: Julie Arrington

Submitting Department: City Secretary

Meeting Date: January 17, 2017

## **SUBJECT**

Council to provide direction to staff regarding future agenda items (Council)

## **Recommendation:**

## **ATTACHMENTS**

-

# CITY COUNCIL Agenda Item Report

Agenda Item No. 107

Submitted by: Julie Arrington

Submitting Department: City Secretary

Meeting Date: January 17, 2017

## **SUBJECT**

Consider approving City Council Special Session and Regular Session meeting minutes for January 3, 2017 (City Secretary, Stewart)

## **Recommendation:**

## ATTACHMENTS

- [January 3, 2017 Special Session DRAFT Minutes.doc](#)
- [January 3, 2017 DRAFT Minutes.docx](#)

**MINUTES OF COUNCIL SPECIAL SESSION  
HELD ON  
January 3, 2017**

**The Special Session of the City Council of the City of The Colony, Texas, was called to order at 6:17 p.m. on the 3<sup>rd</sup> day of January, 2017, at City Hall, 6800 Main Street, The Colony, Texas, with the following roll call:**

Joe McCourry	Mayor	Present
Kirk Mikulec	Councilmember	Present (6:22 p.m.)
Richard Boyer	Councilmember	Present
Brian Wade	Councilmember	Present (6:22 p.m.)
David Terre	Councilmember	Present
Perry Schrag	Mayor Pro-Tem	Present
Joel Marks	Councilmember	Absent (Business)

And with six council members present a quorum was established and the following items were addressed:

1. **Call to Order – 6:17 p.m.**
2. **City Council to conduct interviews for appointments to the following Advisory Boards:**

**Board of Adjustment**

Councilman Mikulec and Wade arrived at 6:22 p.m.

Council interviewed one applicant.

3. **Discuss and consider the appointment, evaluation, reassignment, or duties of the following Advisory Boards:**

**Board of Adjustment**

Council made appointments as follows:

**Board of Adjustment:**

- a. *Motion to appoint Ted Qualls to Alternates Place 1- Terre; second by Mikulec; motion passed with all ayes.*

And with no further business to discuss the meeting was adjourned at 6:39 p.m.

<sup>1</sup> These items are strictly public service announcements. Expressions of thanks, congratulations or condolences; information regarding holiday schedules; honorary recognition of city officials, employees or other citizens; reminders about upcoming events sponsored by the City or other entity that are scheduled to be attended by a city official or city employee. No action will be taken and no direction will be given regarding these items.

APPROVED:

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Joe McCourry, Mayor  
City of The Colony

ATTEST:

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Tina Stewart, TRMC  
City Secretary

**MINUTES OF COUNCIL REGULAR SESSION  
HELD ON  
JANUARY 03, 2017**

The Regular Session of the City Council of the City of The Colony, Texas, was called to order at 6:40 p.m. on the 3<sup>rd</sup> day of January, 2017, at City Hall, 6800 Main Street, The Colony, Texas, with the following roll call:

Joe McCourry	Mayor	Present
Kirk Mikulec	Councilmember	Present
Richard Boyer	Councilmember	Present
Brian R. Wade	Councilmember	Present
David Terre	Councilmember	Present
Perry Schrag	Mayor Pro-Tem	Present
Joel Marks	Councilmember	Absent

And with six council members present a quorum was established and the following items were addressed:

***1.0 ROUTINE ANNOUNCEMENTS, RECOGNITIONS AND PROCLAMATIONS***

**1.1. Call to Order – 6:40 p.m.**

**1.2. Invocation – Pastor John Pecoraro with First Baptist Church provided the invocation.**

**1.3. Pledge of Allegiance to the United States Flag**

**1.4. Salute to the Texas Flag**

**1.5. Items of Community Interest**

Councilmember Terre commented the City will be celebrating the 40<sup>th</sup> anniversary for The Colony in 2017.

***2.0 WORK SESSION***

The Work Session is for the purpose of exchanging information regarding public business or policy. No action is taken on Work Session items. Citizen input will not be heard during this portion of the agenda.

**2.1. Council to provide direction to staff regarding future agenda items. (Council)**

*None*

***3.0 CITIZEN INPUT***

This portion of the meeting is to allow up to five (5) minutes per speaker with a maximum of thirty (30) minutes for items not posted on the current agenda. The council may not discuss these items, but may respond with factual data or policy information, or place the item on a future agenda. Those wishing to speak shall submit a Request Form to the City Secretary

<sup>1</sup> These items are strictly public service announcements. Expressions of thanks, congratulations or condolences; information regarding holiday schedules; honorary recognition of city officials, employees or other citizens; reminders about upcoming events sponsored by the City or other entity that are scheduled to be attended by a city official or city employee. No action will be taken and no direction will be given regarding these items.

Karen McGuffin, 4829 Wagner Dr., addressed the Council on the Soup & Bowl event for Metro Relief on January 28<sup>th</sup> from 11:00 a.m. to 2:00 p.m. and invited Council to volunteer to help with the fundraising event.

#### **4.0 AGENDA**

The Consent Agenda contains items which are routine in nature and will be acted upon in one motion. Items may be removed from this agenda for separate discussion by a Council member.

- 4.1. Consider approving City Council Regular Session minutes for December 20, 2016.**
- 4.2. Consider approving Council expenditures for the month of November 2016.**
- 4.3. Consider approving a resolution authorizing the City Manager to execute a Change Order under the Advanced Funding Agreement with the Texas Department of Transportation for Utility Construction on Main Street.**
- 4.4. Consider approving the appointment of Maggie Heermans to Place 3 of the Library Advisory Board.**

*Motion to approve all items from the consent agenda- Schrag; second by Mikulec; motion passed with all ayes.*

#### **5.0 REGULAR AGENDA ITEMS**

Executive Session was convened at 6:50 p.m.

#### **6.0 EXECUTIVE SESSION**

- 6.1. A. Council shall convene into a closed executive session pursuant to Section 551.071 of the Texas Government Code to seek legal advice from the city attorney regarding pending or contemplated litigation – City of The Colony, Texas v. B.S.A. TX-342, Limited Partnership (Budget Suites of America, TX-3472), Cause No. 16-09568-442.**
- B. Council shall convene into a closed executive session pursuant to Section 551.071 of the Texas Government Code to seek legal advice from the city attorney regarding pending or contemplated litigation – Atlantic Colony Venture I. LLC and Atlantic Colony Venture II, LLC v. City of the Colony, Texas, et al., Cause No. 16-02219-442.**
- C. Council shall convene into a closed executive session pursuant to Section 551.071 of the Texas Government Code to seek legal advice from the city attorney regarding pending or contemplated litigation – Appeal of Brazos Electric Power Cooperative, Inc., PUC Docket No. 45175 and City of The Colony, Texas v. Brazos Electric Power Cooperative, Inc. matter, Cause No. 16-06424-16.**

Open Session was reconvened at 8:11 p.m.

**6.2. A. Any action as a result of executive session regarding the pending or contemplated litigation - City of The Colony, Texas v. B.S.A. TX-342, Limited Partnership (Budget Suites of America, TX-3472), Cause No. 16-09568-442.**

No Action

**B. Any action as a result of executive session regarding the pending or contemplated litigation - Atlantic Venture, LLC and Atlantic Colony Venture II, LLC v. City of The Colony, Texas, et al.**

No Action

**C. Any action as a result of executive session regarding pending or contemplated litigation – Appeal of Brazos Electric Power Cooperative, Inc., PUC Docket No. 45175 and City of The Colony, Texas v. Brazos Electric Power Cooperative, Inc. matter, Cause No. 16-06424-16.**

No Action

**Pursuant to the Texas Open Meeting Act, Government Code Chapter 551 one or more of the above items may be considered in executive session closed to the public, including but not limited to consultation with attorney pursuant to Texas Government Code Section 551.071 arising out of the attorney’s ethical duty to advise the city concerning legal issues arising from an agenda item. Any decision held on such matter will be taken or conducted in open session following the conclusion of the executive session.**

**And with no further business to discuss the meeting was adjourned at 8:11 p.m.**

**APPROVED:**

\_\_\_\_\_  
**Joe McCourry, Mayor**  
**City of the Colony**

**ATTEST:**

\_\_\_\_\_  
**Tina Stewart, TRMC**  
**City Secretary**

# CITY COUNCIL Agenda Item Report

Agenda Item No. 115

Submitted by: Surupa Sen

Submitting Department: Development Services

Meeting Date: January 17, 2017

## **SUBJECT**

SI16-0001, Zoning Ordinance Amendment - Definition of Single Family:

Conduct a public hearing, discuss and consider approving an ordinance amending Appendix A, Zoning Ordinance, Section 25-101(21) containing definition of Family (Development Services, Sen)

## **Recommendation:**

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

December 13, 2016 – The Planning and Zoning Commission voted (5-1) to recommend denial of the amendment to Appendix A, Zoning Ordinance, Section 25-101(21) containing definition of Family.

As this amendment has been recommended for denial by Planning and Zoning Commission, as per Zoning Ordinance Section 24-201 Procedure, it will require a three-fourths (3/4) vote by the City Council to approve the amendment.

## **ORDINANCE REVIEW COMMITTEE (ORC) REVIEW**

The Ordinance Review Committee (ORC) recommends approval of the Zoning Ordinance amendment.

## **OPTIONS**

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

## **ATTACHMENTS**

1. Staff Report
2. Proposed Ordinance
2. Minutes of December 13, 2016 Planning and Zoning Commission meeting

## **ATTACHMENTS**

- [Staff Report.doc](#)
- [Proposed Ordinance.doc](#)
- [PZ Minutes 12-13-16.doc](#)

## CITY COUNCIL REPORT

**AGENDA DATE:** January 17, 2017

**DEPARTMENT:** Development Services Department

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**SUBJECT *SI16-0001, Zoning Ordinance Amendment - Definition of Single Family***

Conduct a public hearing, discuss and consider an amendment to Appendix A, Zoning Ordinance, Section 25-101(21) containing definition of Family.

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

December 13, 2016 – The Planning and Zoning Commission voted (5-1) to recommend denial of the amendment to Appendix A, Zoning Ordinance, Section 25-101(21) containing definition of Family.

As this amendment has been recommended for denial by Planning and Zoning Commission, as per Zoning Ordinance Section 24-201 Procedure, it will require a three-fourths (3/4) vote by the City Council to approve the amendment.

**ORDINANCE REVIEW COMMITTEE (ORC) REVIEW**

The Ordinance Review Committee (ORC) recommends approval of the Zoning Ordinance amendment.

**OPTIONS**

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

**ATTACHMENTS**

1. Proposed Ordinance
2. Minutes of December 13, 2016 Planning and Zoning Commission meeting

## **BACKGROUND**

Few months back, staff had received several complaints from concerned residents of The Colony regarding a single family home being rented on the internet where each room was being listed separately for rental and potentially creating an environment where multiple un-related individuals were living in this single family home. Staff reviewed the Zoning Ordinance and found the following inconsistency in the definition of Single – Family/Family.

As per The Colony Zoning Ordinance Section 10-301(1) “single family” is defined as follows:

“Single family - Any number of individuals living together as a single housekeeping unit in which not more than two individuals are unrelated by blood, marriage or adoption. Foster children under the age of 19 shall be considered as being related to their foster parent or parents. All such structures shall be detached in the SF-1, SF-2, SF-3 and SF-4 dwelling districts.”

However per The Colony Zoning Ordinance Section 25-101(21) the term “family” is defined as follows:

“Family: Any number of individuals living together as a single housekeeping unit, in which not more than three (3) individuals are unrelated by blood, marriage or adoption.”

Staff has been working with the City Attorney’s office since then and would like to eliminate the inconsistency within Zoning Ordinance. Staff had proposed to amend Section 10-301(1) to make it consistent with Section 25-101(21), essentially not allowing “more than three unrelated” individuals to stay in a Single Family residence and presented it to the City Council on November 15, 2016 with a Planning and Zoning Commission recommendation of approval. Council directed staff to amend Section 25-101(21) instead, to make it consistent with Section 10-301(1) and process the amendment through Planning and Zoning Commission review again. Staff presented this revised amendment request to Planning and Zoning Commission on December 13, 2016 and the Commission recommended denial of the amendment.

## **PROPOSED REVISION**

Appendix A, Section 25-101(21), of the Zoning Ordinance, containing the definition of “Family” is proposed to be amended as follows:

“*Family*: Any number of individuals living together as a single housekeeping unit, in which not more than two (2) individuals are unrelated by blood, marriage or adoption.”

## **NOTIFICATION**

The Zoning Ordinance requires newspaper notification a minimum of fifteen (15) days prior to the City Council meeting for Zoning Ordinance amendment. Notice for this Public Hearing was published in *The Dallas Morning News* on December 2, 2016. No comments, either for or against the text amendment, were received as of the printing of this packet.

**CITY OF THE COLONY, TEXAS**

**ORDINANCE NO. 2017 - \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, AMENDING APPENDIX A, SECTION 25-101(21), OF THE CODE OF ORDINANCES OF THE CITY OF THE COLONY, TEXAS, BY AMENDING THE DEFINITION OF “FAMILY”; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY OF A FINE NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000) FOR EACH AND EVERY OFFENSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Section 211.006(a) of the Texas Local Government Code requires the City of The Colony, Texas, to publish notice of a public hearing concerning a zoning amendment before the 15th day before the date of the public hearing; and

**WHEREAS**, Appendix A, Section 24-101(d) of the Code of Ordinances of the City of The Colony, Texas, provides the following “[a] public hearing shall be held by city council before adopting any proposed amendment, supplement or change. Notice of such hearing shall be given per the publication policy of the city, stating the time and place of such hearing, and shall be published a minimum of 15 days prior to the date of the public hearing;” and

**WHEREAS**, the Planning and Zoning Commission and the City Council of the City of The Colony, Texas, in compliance with the laws of the State of Texas, and the Code of Ordinances of the City of The Colony, Texas, have given the requisite notices by publication and otherwise, and have held due hearings and afforded a full and fair hearing to all property owners generally and to all persons interested, and the City Council of the City of The Colony, Texas, is of the opinion and finds that said changes should be granted, and that the Code of Ordinances should be amended.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS:**

**SECTION 1.** That the findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

**SECTION 2.** That Appendix A, Section 25-101(21), of the Comprehensive Zoning Ordinance of the City of The Colony, Texas, containing the definition of “Family” is hereby amended and shall read as follows:

*“Family: Any number of individuals living together as a single housekeeping unit, in which not more than two (2) individuals are unrelated by blood, marriage or adoption.”*

**SECTION 3.** If any section, article paragraph, sentence, clause, phrase or word in this Ordinance, or application thereto any persons or circumstances is held invalid or unconstitutional

by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance; and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

**SECTION 4.** That all provisions of the ordinances of the City of The Colony, Texas, in conflict with the provisions of this Ordinance be, and the same are hereby amended, repealed, and all other provisions of the ordinances of the City not in conflict with the provisions of this Ordinance shall remain in full force and effect.

**SECTION 5.** Any person, firm, or corporation violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court of the City of The Colony, Texas, shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense. Every day a violation occurs shall constitute a separate offense.

**SECTION 6.** This Ordinance shall become effective immediately upon its passage and publication as required by law.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, THIS \_\_\_\_\_ day of \_\_\_\_\_, 2017.**

\_\_\_\_\_  
Joe McCourry, Mayor

**ATTEST:**

\_\_\_\_\_  
Tina Stewart, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Jeff Moore, City Attorney

**MINUTES  
CITY OF THE COLONY  
PLANNING AND ZONING COMMISSION  
DECEMBER 13, 2016**

After determining that a quorum was present, the Planning and Zoning Commission of the City of The Colony, Texas convened into Regular Session which was held on Tuesday, December 13, 2016 at 6:30 PM in the City Council Chambers located in City Hall, 6800 Main Street, The Colony, Texas, at which time the following items were addressed:

**Board Members Present:** Karen Hames, Chairman Detrick DeBurr, Vice Chairman, Shannon Hebb, Brian Buffington, Janece Pool and Cesar Molina Jr.

**Board Members Absent:** Shawn Rockenbaugh

**City Council Liaison:** David Terre, City Council Place 4

**Staff Present:** Gordon Scruggs, P.E. Director of Engineering and Development Services, Brian McNulty, Engineering Technician, and David Ritter, City Attorney

<b>1.0</b>	<b>CALL REGULAR SESSION TO ORDER</b>
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Chairman Hames called the meeting to order at 6:30 p.m.

<b>1.1</b>	<b>CITIZEN INPUT</b>
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No citizen came forward for input.

<b>2.0</b>	<b>CONSENT AGENDA</b>
<b>2.1</b>	Consider approval of the minutes of the November 22, 2016 Regular Session.
<b>2.2</b>	<b><i>RP15-0012, Lot 1R, Block 7, Garza Little Elm Lake Estates Replat</i></b> Consider <b>denial</b> of a replat for Lot 1R, Block 7, Garza Little Elm Lake Estates, being a replat of Lots 1-7, Block 7, Garza Little Elm Lake Estates, recorded in Volume 2, Page 80, Plat Records, Denton County, Texas, 0.438 acres out of the George Emberlin Survey, Abstract no. 394, an addition of the City of The Colony, Denton County, Texas located at southeast corner of W Lake Highlands Drive and Main Street, within General Retail (GR) zoning district.
<b>2.3</b>	<b><i>RP16-0003, Lots 2R1, 2R2, 2R3, Block 12, Garza Little Elm Lake Estates Replat</i></b> Consider <b>denial</b> of a replat for Lots 2R1, 2R2, 2R3, Block 12, Garza Little Elm Lake Estates, being a replat of Lot 2, Block 12, Garza Little Elm Lake Estates, recorded in Volume 2, Page 80, Plat Records, Denton County, Texas, 0.897 acres out of the George Emberlin Survey, Abstract no. 394, an addition to the City of The Colony, Denton County, Texas located at northeast corner of N Shore Drive and Willow Court, within Planned Development 1 (PD 1) zoning district.
<b>2.4</b>	<b><i>RP16-0004, Lot 11R, Block 1, Garza Little Elm Lake Estates Replat</i></b> Consider <b>denial</b> of a replat for Lot 11R, Block 1, Garza Little Elm Lake Estates, being a replat of Lots 11 and 12, Block 1, Garza Little Elm Lake Estates, recorded in Volume 2, Page 80, Plat Records, Denton County, Texas, 0.138 acres, an addition of the City of The Colony, Denton County, Texas located near the northwest corner of Witt Drive and Main Street, within General Retail (GR) zoning district.
<b>2.5</b>	<b><i>RP16-0008, Lot 41R, Block 1, Garza Little Elm Lake Estates Replat</i></b> Consider <b>denial</b> of a replat for Lot 41R, Block 1, Garza Little Elm Lake Estates, being a replat of Lots 41 - 46, Block 1, Garza Little Elm Lake Estates, recorded in Volume 2,

	Page 80, Plat Records, Denton County, Texas, 0.414 acres, out of George Emberlin Survey, Abstract No. 394, an addition to the City of The Colony, Denton County, Texas located west of Elm Street and south of East Lake Highlands Drive, within General Retail (GR) and High Commercial (HC) zoning districts.
<b>2.6</b>	<b><i>SP16-0017, Boathouse Parking Addition Development Plan Amendment</i></b> Consider approving a Development Plan amendment for the Boathouse multi-family project to add 16 parking spaces at the southwest corner of Lake District Drive and Plano PKWY.

Chairman Hames read the Consent Agenda items into the record.

Commissioner Hebb asked why these plats are being denied.

Mr. Scruggs responded that items 2.1 through 2.5 are all replats and have been in the process for more than few months and in some cases a year. They have not responded to staff comments and have not submitted the plat and required drawings as needed. So staff recommends denial for these plats.

**Commissioner Hebb moved to accept Items 2.1, 2.2, 2.3, 2.4, 2.5, and 2.6 as stated (including denial of Items 2.2 – 2.5) Commissioner Buffington seconded the motion. Motion carried (6-0).**

<b>3.0</b>	<b>PUBLIC HEARING ITEMS</b>
<b>3.1</b>	<b><i>SI16-0001, Zoning Ordinance Amendment - Definition of Single Family</i></b> Conduct a public hearing, discuss and consider making a recommendation to City Council on an amendment to Appendix A, Zoning Ordinance, Section 25-101(21) containing definition of Family.

Chairman Hames read the public hearing item 3.1 into record.

Mr. Scruggs presented the staff report.

Chairman Hames opened and closed the public hearing at 6:36 p.m. with no one wishing to speak.

City Attorney, Mr. Ritter advised if Commission would like to go to Executive Session to discuss this item.

The Commission went into executive session at 6:37 p.m.

The Commission re-convened into regular session at 6:57 p.m.

Commissioner DeBurr stated that there might be bigger issues related to this item, but the Commission has to move forward with the item at hand.

Commissioner Molina stated that he has some reservation with the definition requiring no more than 2 unrelated people in a single family home.

Commissioner Pool agreed with Commissioner Molina that requiring no more than 2 is very restrictive.

Commissioner DeBurr asked for confirmation that if the item is recommended for denial, Council can still approve the item with super-majority vote. Chairman Hames stated affirmative.

**Commissioner DeBurr moved to deny Item 3.1 Commissioner Molina seconded the motion. Motion carried (5-1) with Commissioner Hebb opposing.**

3.2	<b><i>PDA16-0002, Amendment to Planned Development District No. 14</i></b> Conduct a public hearing, discuss and consider making a recommendation to City Council on request for Planned Development 14 (PD 14) amendment to allow “Auto Repair Garage (inside)” use within existing building at 4173 Main Street location.
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Chairman Hames read the public hearing item 3.2 into record.

Mr. Scruggs presented the staff report.

Commissioner Hebb asked if this tire shop is attached with the used car sales business on Main Street and they are moving the tire shop to this new location.

Mr. Scruggs clarified that this is the oil change business on Main Street where they are renting space from Pennzoil and the building is Main Oil and Lube.

Commissioner Hebb asked as part of the tire shop where they will store used tires.

Mr. Scruggs stated that the used tires will be stored inside.

Chairman Hames opened the public hearing at 7:15 p.m.

Vincent Tracy from 4177 Main Street approached the Commission. He is representing the business next door, Midas where they also work on cars and have used tired. Midas has a dedicated enclosure for used tires and once a month those tires are picked up by a company for proper disposal or re-use. Historically tire change businesses along Main Street have illegally dumped their used tires in the Midas tire enclosure and there have been issues with trash disposal along Office Creek within the woods. His concern is how the used tires will be handled in this proposed location.

Chairman Hames asked if there was anyone from Royal Discount Tires present.

Mr. Campos, representing Royal Discount Tires approached the Commission. He stated that the tires will be disposed once a week and will be stores inside. There will not be any tires outside.

Chairman Hames closed the public hearing at 7:18 p.m.

Commissioner Hebb asked how the Code Enforcement is involved in this issue, in terms of tires being dumped or junk cars being disposed near the creek.

Mr. Scruggs stated that Code Enforcement is responsible to enforce these requirements. He added that in the past two years there was only one issue at the existing Pennzoil location regarding clearing up the tires and the site. That has been takes care of by the applicant.

Commissioner DeBurr asked which zoning districts allow this land use by right.

Mr. Scruggs stated that General Retail (GR) allows this land use by right. PD 14 however has explicitly prohibited this land use.

Commissioner Hebb asked whether this PD amendment would allow the tire shop to open anywhere within this building. Also are they allowed to work on cars outside?

Mr. Scruggs responded that due to the car wash bays face Main Street due to Gateway Overlay requirements, tire shops will not be allowed to locate at the car wash area. If approved, the tire shop will not be allowed to work on cars outside the building.

**Commissioner DeBurr moved to approve Item 3.2 Commissioner Pool seconded the motion. Motion carried (6-0).**

3.3	<p><b><i>Z16-0002 Lakeview Villas Zoning Change from General Retail (GR) and Shopping Center (SC) to Townhouse Dwelling (TH) Zoning District</i></b></p> <p>Conduct a public hearing, discuss and consider making a recommendation to City Council on a request for Zoning Change from Shopping Center (SC) and General Retail (GR) to Planned Development-Townhouse Dwelling (PD-TH) zoning district allowing town homes development at 4851 Westport Drive property described as Colony No 33 Lot Tract 1(SW Corner) and A0173A BBB &amp; CRR, Tract 34, 1.586 Acres, Old DCAD Tract # 13.</p>
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Chairman Hames read the public hearing item 3.2 into record.

Mr. Scruggs presented the staff report.

Developer, Warren Packer with P Custom Homes gave a presentation to the Commission regarding the proposed townhomes.

Commissioner Molina asked which section of Westport Drive will be improved along with this project and whether there will be a trail connection from this property to the City trail.

Mr. Packer stated the section of Westport that will be fronting this property will be improved. He is still working on the trail connection and open space along the lake, but there will be a connection to the City trail.

Chairman Hames asked due to the fact that these residences are being added was there any consideration given to complete a traffic study.

Mr. Scruggs stated that based on the number of units being added a traffic study wasn't required due to minimal impact.

Commissioner Buffington asked how tall the retaining walls will be between the businesses and these townhomes.

Mr. Packer responded that the screening walls will probably be 6' tall.

Commissioner Buffington asked what, if any, type of fence will be built along the lake side and towards the west boundary of the property.

Mr. Packer stated that there will be wrought iron fence on the lake side and along the west.

Commissioner Buffington asked what the grade difference is between the hill side townhomes and the businesses.

Mr. Packer answered that the garages for the hill side units are in the basement effectively raising the townhomes to provide view of the lake. The ground level for the businesses is in the same level of the garage roof.

Commissioner Hebb asked if Westport has right-of-way connecting to Main Street.

Mr. Scruggs responded affirmative and also confirmed that essentially there are two entry exit points for this development, one through Main Street and the other via S Colony Blvd.

Commissioner Hebb asked about the condition of Westport Drive from Main Street to this development and whether the City has any plans of improvement.

Mr. Scruggs responded that the segment of Westport Drive from Main Street to this project is in poor condition and the City does not have any plans of improvements as of now.

Commissioner Hebb asked whether there will be some terraced area in the common space close to the lake where home owners could have picnic or enjoy as common area.

Mr. Packer stated that each townhome lot will have their own back yard and front yard. The common area will be separated by a retaining wall and Home Owners Association (HOA) will be responsible for maintenance.

Commissioner Hebb asked about the elevator shafts and how they are going to be installed.

Mr. Packer responded that the elevator shafts are going to be built for each unit and they will be installed at the home owner's choice.

Commissioner Hebb asked if residential elevators have to be inspected every year like commercial elevators. Chairman Hames added that staff needs to look into requirements for residential elevators.

Commissioner Pool asked if the units are going to be built as they are sold or are they going to be pre-built and then sold.

Mr. Packer answered that there will be a sales office and once 50% of the units are sold then construction will begin.

Commissioner Pool asked what type of price range will be for these units.

Mr. Packer stated that currently single family homes in Frisco and surrounding areas are expensive ranging somewhere from \$450 to \$600 thousands. These units will be more affordable and attractive to millennials and empty nesters.

Chairman Hames opened the public hearing at 7:45 p.m.

Gary Herman approached Commission. He asked depending on 33 units being proposed how the traffic will be handled coming in and out of this project.

Mr. Scruggs stated that usually the morning traffic will take Westport Drive and make a right turn on Main Street. The evening traffic will take left turn at S Colony and enter the Westport Drive from the other side.

Chairman Hames closed the public hearing at 7:48 p.m.

**Commissioner DeBurr moved to approve Item 3.3 Commissioner Buffington seconded the motion. Motion carried (6-0).**

There being no further business to come before the Commission, Chairman Hames adjourned the Regular Session of the Planning and Zoning Commission at 7: 51 p.m.

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Karen Hames, Chairman

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Surupa Sen, AICP, Senior Planner

# CITY COUNCIL Agenda Item Report

Agenda Item No. 116  
Submitted by: Surupa Sen  
Submitting Department: Development Services  
Meeting Date: January 17, 2017

## SUBJECT

PDA16-0002, Amendment to Planned Development District # 14:

Conduct a public hearing, discuss and consider approving an ordinance amending Planned Development 14 (PD 14) to allow "Automobile Garage (Inside)" land use within existing building at 4173 Main Street (Development Services, Sen)

## Recommendation:

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

December 13, 2016 – The Planning and Zoning Commission voted (6-0) to recommend approval of the amendments to Planned Development 14 (PD 14) amendment to allow “Auto Repair Garage (inside)” use within existing building at 4173 Main Street location.

## OPTIONS

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

## DEVELOPMENT REVIEW COMMITTEE REVIEW

The Development Review Committee (DRC) recommends approval of the proposed amendment.

## ATTACHMENTS

1. Staff Report
2. PDA 16-0002 Location Map
3. PD14 Ordinance 97-973
4. PDA 16-0002 Proposed Ordinance
5. PZ Minutes 12-13-16

## ATTACHMENTS

- [Staff Report.doc](#)
- [PDA16-0002 Location Map.pdf](#)
- [PD14 Ordinance 97-973.pdf](#)
- [PDA16-0002 Proposed Ordinance.doc](#)
- [PZ Minutes 12-13-16.doc](#)

## CITY COUNCIL REPORT

**AGENDA DATE:** January 17, 2017  
**DEPARTMENT:** Development Services Department

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**SUBJECT** – *PDA16-0002, Amendment to Planned Development District No. 14*

Conduct a public hearing, discuss and consider approving an ordinance for Planned Development 14 (PD 14) amendment to allow “Auto Repair Garage (inside)” use within existing building at 4173 Main Street location.

**APPLICANT/OWNER**

Royal Discount Tires

The Colony, TX

**EXISTING CONDITION OF PROPERTY**

The location 4173 Main Street zoned PD 14 currently has Lone Star Car Wash facility. The building is L-shaped with the car wash facing Main Street. The vacant portion of the building has garage doors facing south, away from Main Street and screened by natural vegetation along existing drainage channel and Office Creek. Planned Development 14 was approved by the City Council on 5<sup>th</sup> May, 1997. The PD 14 Zoning allowed all land uses that are allowed by right under General Retail (GR) zoning district with certain exceptions as stated in the PD 14 Ordinance. Section 3 outlines which specific land uses permitted under GR zoning will be allowed within PD 14 and which land uses will require a Specific Use Permit (SUP) approval (Attachment 1). As a result, even though “Auto Repair Garage (inside)” land use is allowed by right within GR zoning district, PD 14 zoning does not allow this land use.

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

December 13, 2016 – The Planning and Zoning Commission voted (6-0) to recommend approval of the amendments to Planned Development 14 (PD 14) amendment to allow “Auto Repair Garage (inside)” use within existing building at 4173 Main Street location.

**OPTIONS**

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

**DEVELOPMENT REVIEW COMMITTEE REVIEW**

The Development Review Committee (DRC) recommends approval of the proposed amendment.

**ATTACHMENTS**

1. Section 3 – PD 14 Ordinance
2. Location Map
3. Planned Development 14 (PD 14) Ordinance
4. Proposed Ordinance
5. Minutes of December 13, 2016 Planning and Zoning Commission meeting

**PROPOSED REQUEST**

The applicant is requesting to amend the Planned Development 14 Ordinance allowing “Auto Repair Garage (inside)” land use. The applicant currently operates the Main Oil and Lube center at 7564 Main Street. The applicant would like to occupy a vacant suite within the 4173 Main Street location building and open another tire shop. This portion of the building on 4173 Main Street has the garage doors facing south (does not face Main Street). The facility is equipped to house an indoor car repair/tire shop. This portion of the building is vacant and this business will bring additional sales/services to this location.

**ADJACENT ZONING AND LAND USE**

- North - Planned Development 14 (PD-14) – Commercial building with Global TV Services, Midas
- South - Planned Development 14 (PD-14) – Vacant land with drainage channel
- East- General Retail (GR) – Office Creek Pump Station, Ground storage tank across Main Street
- West- Planned Development 14 (PD-14) – Vacant land and residential subdivision at least 288 feet away

**NOTIFICATION**

The Zoning Ordinance requires newspaper notification a minimum of fifteen (15) days prior to the City Council meeting for planned development amendment. A notice of public hearing was published in the local newspaper on December 2, 2016. In addition, the Zoning Ordinance also requires notification of property owners located within 200 feet of the subject property a minimum of fifteen (15) days prior to the public hearing at the Council meeting. Twenty two (22) property owners within 200 feet of the subject property were notified with notification letter mailed on November 30. There has been no public input to date.

**Attachment 1**

Section 3.

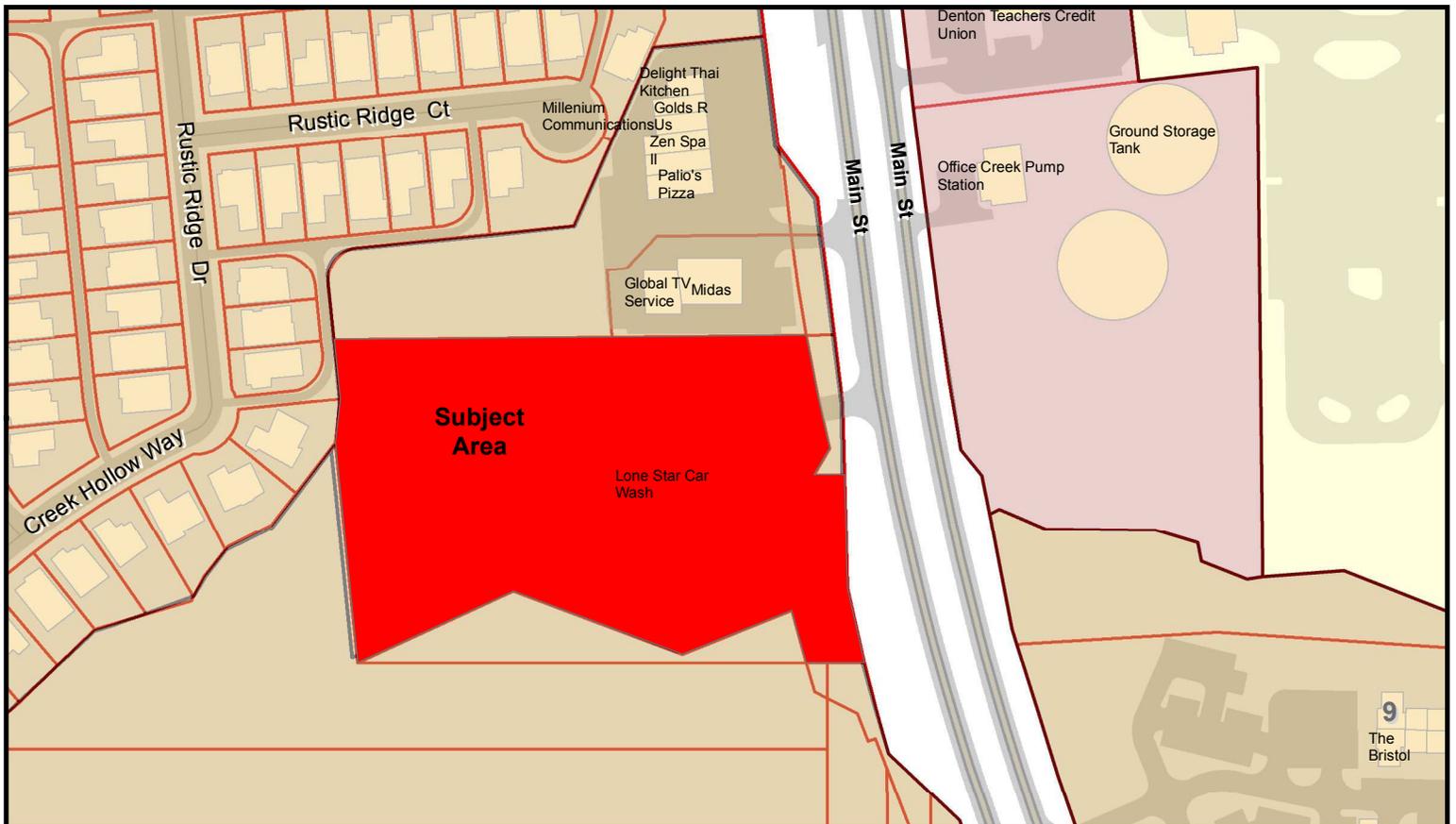
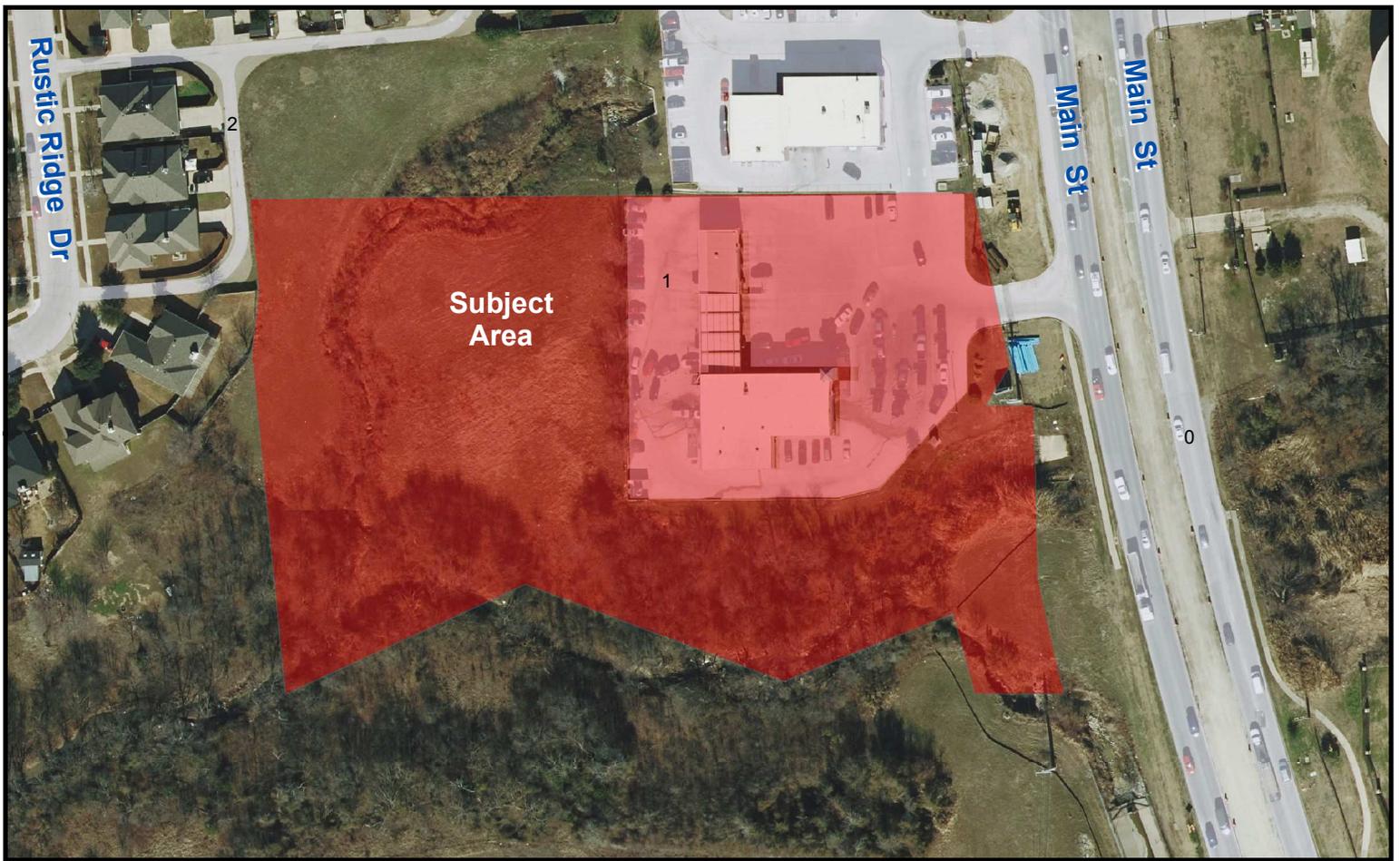
That development shall be in accordance with the following special conditions, restrictions and regulations:

1. The only uses permitted by-right in the (GR) General Retail District shall be:

- a. Retail: Antiques Shop  
Art Supply Store  
Bakery  
Bookstore  
Camera Shop  
Clothing Store  
Florist Shop  
Furniture Store  
General Retail (excluding convenience store)  
Medical Appliance Sales  
Optical Shop  
Paint and Wallpaper Store  
Pet Store and Supplies  
Pharmacy  
Restaurant (dine-in only)  
Sporting Goods Store  
Swimming Pool Supply
- b. Office: Bank/Financial Institution  
Clinic; Medical, Dental, or Optical  
General Office  
Veterinarian Clinic (without outside runs or kennels)
- c. Personal Services: Barber or Hair Salon  
Dry Cleaning Pickup and Receiving  
Photography Studio  
Radio, Television or Electronic Repair  
Shoe Repair  
Tailor

2. The following uses shall require a Specific Use Permit and such uses are limited to:

- a. Personal Services: Automobile Lube Center (no repair, fluid exchange and lube only)  
Full Service Car Wash
- b. Institutional: Community Welfare/Health Center  
Day Care Center  
Home For Aged  
Nursing Home/Convalescent Home  
School; Business  
Studio; Art, Music, Dance, Drama or Similar Skills



**Project No. PDA16-0002 - Project Name: PD14 Amendment-Royal Discount Tire**



- |  |   |   |   |   |
|--|---|---|---|---|
| <span style="color: red;">■</span> PD14 Amendment - Royal Discount Tire                                | <span style="background-color: #d3d3d3; border: 1px solid black; padding: 2px;"> </span> Business Park/Industrial | <span style="background-color: #808080; border: 1px solid black; padding: 2px;"> </span> Heavy Commercial | <span style="background-color: #f0e68c; border: 1px solid black; padding: 2px;"> </span> Mobile Home          | <span style="background-color: #d3d3d3; border: 1px solid black; padding: 2px;"> </span> Planned Development    |
| <span style="background-color: #90ee90; border: 1px solid black; padding: 2px;"> </span> Agricultural  | <span style="background-color: #f5deb3; border: 1px solid black; padding: 2px;"> </span> Duplex Dwelling          | <span style="background-color: #4682b4; border: 1px solid black; padding: 2px;"> </span> Industrial       | <span style="background-color: #d3d3d3; border: 1px solid black; padding: 2px;"> </span> Neighborhood Service | <span style="background-color: #f0e68c; border: 1px solid black; padding: 2px;"> </span> Shopping Center        |
| <span style="background-color: #add8e6; border: 1px solid black; padding: 2px;"> </span> Business Park | <span style="background-color: #d3d3d3; border: 1px solid black; padding: 2px;"> </span> General Retail           | <span style="background-color: #808080; border: 1px solid black; padding: 2px;"> </span> Light Commercial | <span style="background-color: #d3d3d3; border: 1px solid black; padding: 2px;"> </span> Office District 1    | <span style="background-color: #f0e68c; border: 1px solid black; padding: 2px;"> </span> Single Family Dwelling |

This map was generated by GIS data provided by The Colony GIS Department. The City of The Colony does not guarantee the correctness or accuracy of any features on this map. These digital products are for illustration purposes only and are not suitable for site-specific decision making.



PLANNING DEPARTMENT  
City of The Colony

PLANNED DEVELOPMENT NO. 14  
DEVELOPMENT NAME Lone Star Car Wash

ORDINANCE NUMBER 97-973

AN ORDINANCE OF THE CITY OF THE COLONY AMENDING ITS COMPREHENSIVE ZONING ORDINANCE AND ESTABLISHING PLANNED DEVELOPMENT NUMBER 14 FOR THE (GR) GENERAL RETAIL DISTRICT ON A TRACT OF LAND CURRENTLY ZONED PLANNED DEVELOPMENT 7 FOR THE (SF) SINGLE FAMILY RESIDENTIAL DISTRICT; UPON PROPERTY LOCATED SOUTH OF RIDGEPPOINT DRIVE, ON THE WEST SIDE OF F.M. 423/MAIN STREET; AMENDING THE OFFICIAL ZONING MAP; AND PROVIDING FOR A PENALTY, SAVINGS, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, at its regular meeting held on the 8th day of April, 1997, the Planning and Zoning Commission did consider and make recommendations on a certain request for a Planned Development District (Case No. 04-97Z1).

WHEREAS, this change of zoning is in accordance with the adopted Comprehensive Plan of the City of The Colony, as amended;

WHEREAS, the City Council, after determining all legal requirements of notice and hearing have been met, has further determined the following amendment to the zoning laws would provide for and would be in the best interest of the health, safety, morals, and general welfare:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS:

Section 1.

That Planned Development Number 14 is hereby established for a certain 7.33 acre tract of land located south of Ridgpoint Drive, on the west side of F.M. 423/Main Street, situated in the T. Wilson Survey, Abstract No. 1352, Denton County, Texas, and more specifically described on the attached Exhibit A, providing for the following uses:

Permitted uses shall be all principal and accessory uses which are allowed by right in the (GR) General Retail District, in accordance with Appendix A, Section 10 of the Comprehensive Zoning Ordinance, as amended, except as otherwise provided in Section 3 below and shall be developed in accordance with all applicable regulations of the (GR) General Retail District and the Comprehensive Zoning Ordinance, as amended, except as otherwise provided in Section 3 (special standards) below.

A Specific Use Permit shall be required for uses in the (GR) General Retail District, in accordance with Appendix A, Section 10 of the Comprehensive Zoning Ordinance, as amended, except as otherwise provided in Section 3 below. Such Specific Use Permit(s) shall be subject to the conditions established in Appendix A, Sections 10-900 and 10-2200 of the Comprehensive Zoning Ordinance, as amended, and shall be developed in accordance with all applicable regulations, except as otherwise provided in Section 3 (special standards) below.

Section 2.

That development shall be in conformance with the Conceptual Plan, attached hereto as Exhibit B.

Section 3.

That development shall be in accordance with the following special conditions, restrictions and regulations:

1. The only uses permitted by-right in the (GR) General Retail District shall be:

- a. Retail: Antiques Shop  
Art Supply Store  
Bakery  
Bookstore  
Camera Shop  
Clothing Store  
Florist Shop  
Furniture Store  
General Retail (excluding convenience store)  
Medical Appliance Sales  
Optical Shop  
Paint and Wallpaper Store  
Pet Store and Supplies  
Pharmacy  
Restaurant (dine-in only)  
Sporting Goods Store  
Swimming Pool Supply
- b. Office: Bank/Financial Institution  
Clinic; Medical, Dental, or Optical  
General Office  
Veterinarian Clinic (without outside runs or kennels)
- c. Personal Services: Barber or Hair Salon  
Dry Cleaning Pickup and Receiving  
Photography Studio  
Radio, Television or Electronic Repair  
Shoe Repair  
Tailor

2. The following uses shall require a Specific Use Permit and such uses are limited to:
  - a. Personal Services: Automobile Lube Center (no repair, fluid exchange and lube only)  
Full Service Car Wash
  - b. Institutional: Community Welfare/Health Center  
Day Care Center  
Home For Aged  
Nursing Home/Convalescent Home  
School; Business  
Studio; Art, Music, Dance, Drama or Similar Skills
3. The maximum height of any structure shall be limited to one (story).
4. In lieu of the required screening wall, the following landscaping elements shall be required:
  - a. Photinia shrubs, thirty-six (36) inch tall at the time of planting, spaced no greater than forty-eight (48) inches on center and one (1), two (2) inch caliper shade tree, planted at a rate of one (1) tree for each forty (40) linear feet of required landscape screen.
5. All landscaped areas shall be irrigated by fully automated underground irrigation systems.
6. All roof-top mounted equipment shall be screened from view on all four sides of the structure.

#### Section 4.

That the Official Zoning Map is hereby amended to reflect the action taken herein.

#### Section 5. Penalty Clause

That any person, firm or corporation violating a provision of this ordinance, upon conviction, is guilty of a misdemeanor and shall be subject to a fine in a sum not to exceed Two Thousand Dollars (\$2,000.00) for each offense and a separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

Section 6.  
Severability Clause

That the provisions of this ordinance, if held invalid or unconstitutional by a Court of competent jurisdiction, shall not affect the validity of the remaining portions of this ordinance; and the City Council hereby declares it would have passed such remaining portions of the ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 7.  
Savings Clause

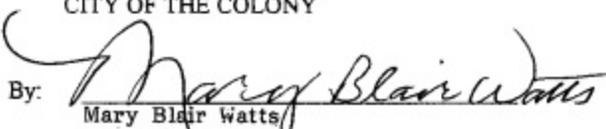
That Ordinance Number 61, otherwise known as the Comprehensive Zoning Ordinance, as amended, shall remain in full force and effect.

Section 8.

That this ordinance shall become and be effective on and after its adoption.

PASSED AND APPROVED this the 5th day of May, 1997.

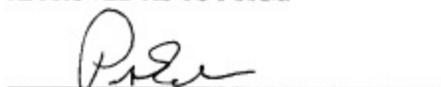
CITY OF THE COLONY

By:   
Mary Blair Watts  
Mayor

ATTEST:

  
Patti A. Hicks, TRMC  
City Secretary

APPROVED AS TO FORM:

  
City Attorney

APPROVED AS TO CONTENT:

  
Samuel D. Chavez  
City Planner

## Exhibit A

### LEGAL DESCRIPTION

Being a tract of land out of the T. Wilson Survey, Abstract No. 1352, Denton County, Texas and being a portion of a tract of land described in deed recorded by County Clerk No. 96-0000540, Deed Records, Denton County, Texas and being described as follows:

**BEGINNING** at a capped iron pin found in the west line of FM 423, for the northeast corner of tract being described. Said point being the southeast corner of Lot 11, Block F, Ridgepointe, Phase 2-A, an addition to the City of The Colony, according to plat recorded in Cabinet M, Slide 311, Plat Records Denton County, Texas;

**THENCE** S 06°30'25" E, along the westerly right-of-way of FM 423, a distance of 129.47 feet to a capped iron pin found for corner;

**THENCE** S 37°03'26" E along the westerly right-of-way of FM 423, a distance of 117.00 feet to an "x" found cut in concrete, said pint being the beginning of a curve to the right with a radius of 2,820.20 feet;

**THENCE** southeasterly along said curve and the west line of FM 423 to a capped iron pin found for the end of said curve, whose chord bears S 01°16'47" E 102.08 feet;

**THENCE** S 00°14'26" E, a distance of 323.55 feet and continuing along the west line of FM 423 to a capped iron pin found for the southeast corner of tract being described. Said point being the northeast corner of a tract of land as described in deed recorded in Vol. 2418, Page 201, Deed Records, Denton County, Texas;

**THENCE** S 68°40'32" W a distance of 209.10 feet along the north line of said tract of land as described in deed recorded in Vol. 2418, Page 201 to a 1/2" iron pin set for corner;

**THENCE** N 69°00'10" W, a distance of 211.60 feet along the north line of said tract of land as described in deed recorded in Vol. 2418, Page 201 to a capped iron pin found for corner;

**THENCE** S 64°56'22" W, a distance of 201.88 feet and continuing along said tract of land as described in deed recorded in Vol. 2418, Page 201 to a capped iron pin found in the east line of Ridgepointe, an addition to the City of the Colony, for the southwest corner of tract being described;

**THENCE** N 05°08'17" W, a distance of 310.74 feet along the east line of said Ridgepointe to a 1/2" iron rod pin set for corner;

**THENCE** N 84°51'43" E, a distance of 10.00 feet to a 1/2" iron rod pin set for corner;

**THENCE** N 05°08'17" W, a distance of 136.09 feet to a 1/2" iron rod pin set for corner;

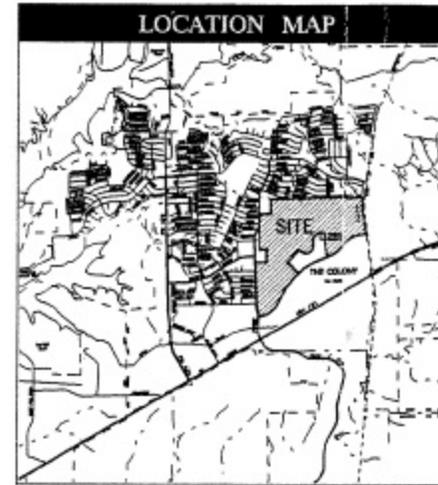
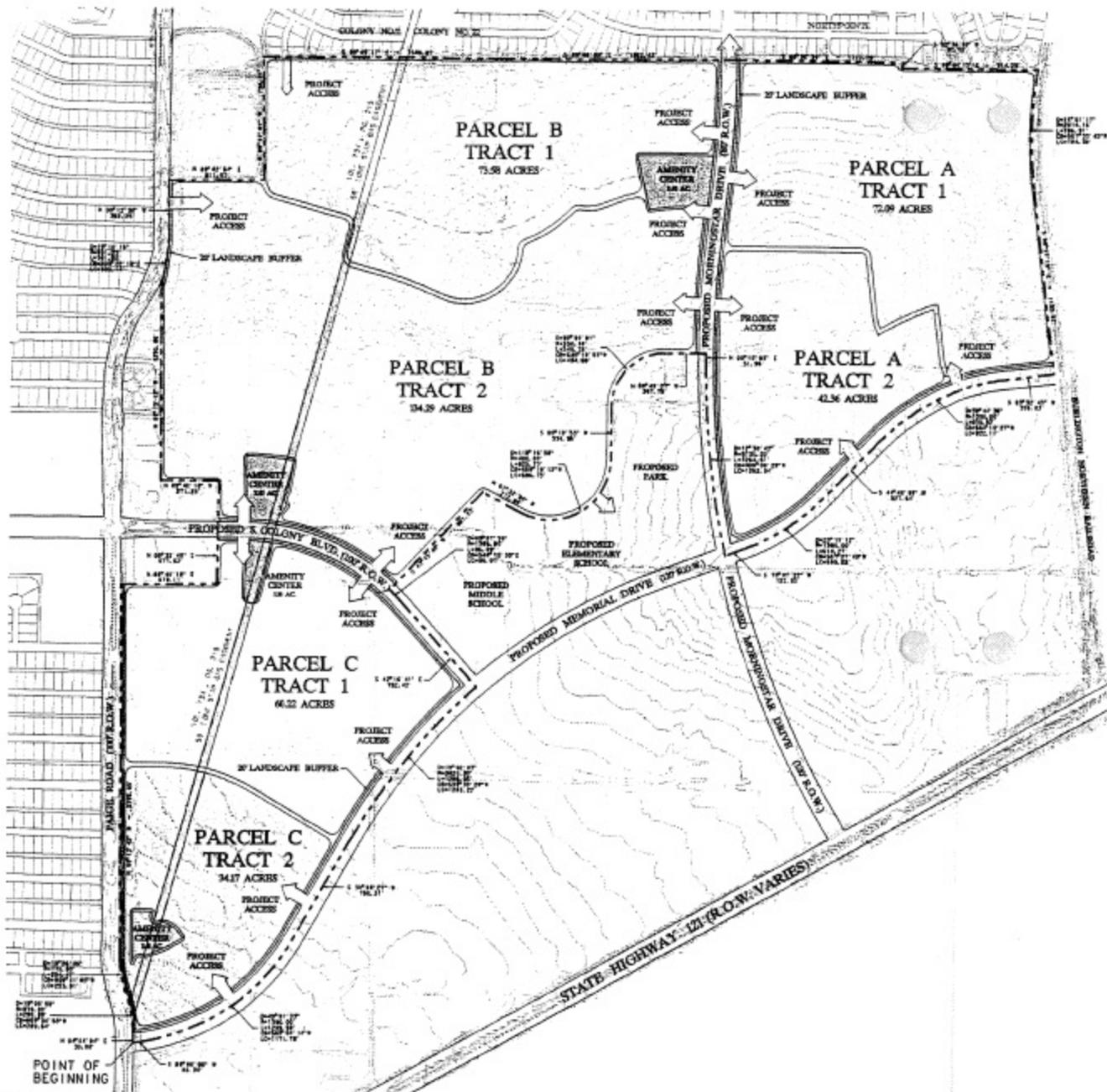
**THENCE** N 39°51'43" E, a distance of 56.57 feet to a 1/2" iron rod pin set in the south line of Block G, Ridgepointe;

**THENCE** N 84°51'43" E, a distance of 253.47 feet along the south line of said Block G, Ridgepointe to a capped iron pin found for corner;

**THENCE** N 24°35'46" E, a distance of 230.33 feet along the easterly line of Block G and Block F said Ridgepointe to a capped iron pin found for the most north northwest corner of tract being described;

**THENCE** N 84°51'47" E, a distance of 132.40 feet and continuing along the south line of side Block F to the **POINT OF BEGINNING** and containing 7.269 acres of land, more or less.





#### PROJECT SUMMARY

NET RESIDENTIAL LOT AREA	496.71 ACRES
R.O.W. AREA	18.22 ACRES
AMENITY CENTER AREA	8.52 ACRES
GAS EASEMENT / OPEN SPACE AREA	6.00 ACRES
20' LANDSCAPE BUFFER AREA *	7.39 ACRES
GROSS SITE AREA	456.84 ACRES

#### PARCEL / TRACT SUMMARY

LOCATION	NO. OF LOTS	TYF. LOT SIZE	HOUSE S.F. MIN.
PARCEL A \ TRACT 1	267	65'x110'	1500 S.F.
PARCEL A \ TRACT 2	136	75'x120'	1700 S.F.
PARCEL B \ TRACT 1	240	50'x110'	1400 S.F.
PARCEL B \ TRACT 2	313	65'x110'	1500 S.F.
PARCEL C \ TRACT 1	215	50'x110'	1400 S.F.
PARCEL C \ TRACT 2	190	40'x110'	1300 S.F.

Exhibit B

#### OWNER / DEVELOPER

LEGEND VILLAGES, L.L.C.  
6995 E PRECINCT LINE ROAD  
N. RICHLAND HILLS, TX. 76180  
(817) 788-1000

#### PLANNER / ENGINEER

CARTER & BURGESS INC.  
7950 ELMBROOK DRIVE  
DALLAS, TX. 75247  
(214) 638-0145

FEBRUARY 18, 1997  
CITY OF THE COLONY, DENTON COUNTY, TEXAS  
CARTER & BURGESS, INC.

# THE LEGENDS

# CONCEPT PLAN

LEGEND VILLAGES, L.L.C.

**CITY OF THE COLONY, TEXAS**

**ORDINANCE NO. 2017 - \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, AMENDING PLANNED DEVELOPMENT 14 ORDINANCE, ORDINANCE NO. 97-973, BY ADDING “AUTOMOBILE GARAGE (INSIDE)” LAND USE TO SECTION 3.1.C; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY OF A FINE NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000) FOR EACH AND EVERY OFFENSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Planning and Zoning Commission and the City Council of the City of The Colony, Texas, in compliance with the laws of the State of Texas, and the Code of Ordinances of the City of The Colony, Texas, have given the requisite notices by publication and otherwise, and have held due hearings and afforded a full and fair hearing to all property owners generally and to all persons interested, and the City Council of the City of The Colony, Texas, is of the opinion and finds that said changes should be granted, and that the Code of Ordinances should be amended.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS:**

**SECTION 1.** That the findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

**SECTION 2.** That Section 3, of the Planned Development 14 Ordinance No. 97-973 of the City of The Colony, Texas, is hereby amended by adding “Automobile Garage (Inside)” land use to Section 3.1.C

**SECTION 3.** If any section, article paragraph, sentence, clause, phrase or word in this Ordinance, or application thereto any persons or circumstances is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance; and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

**SECTION 4.** That all provisions of the Ordinances of the City of The Colony, Texas, in conflict with the provisions of this Ordinance be, and the same are hereby amended, repealed, and all other provisions of the Ordinances of the City not in conflict with the provisions of this Ordinance shall remain in full force and effect.

**SECTION 5.** Any person, firm, or corporation violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court of the City of The Colony, Texas, shall be punished by a fine not to exceed the sum of Two

Thousand Dollars (\$2,000.00) for each offense. Every day a violation occurs shall constitute a separate offense.

**SECTION 6.** This Ordinance shall become effective from and after its date of passage in accordance with law.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, THIS \_\_\_\_\_ day of \_\_\_\_\_, 2017.**

\_\_\_\_\_  
Joe McCourry, Mayor

**ATTEST:**

\_\_\_\_\_  
Tina Stewart, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Jeff Moore, City Attorney

**MINUTES  
CITY OF THE COLONY  
PLANNING AND ZONING COMMISSION  
DECEMBER 13, 2016**

After determining that a quorum was present, the Planning and Zoning Commission of the City of The Colony, Texas convened into Regular Session which was held on Tuesday, December 13, 2016 at 6:30 PM in the City Council Chambers located in City Hall, 6800 Main Street, The Colony, Texas, at which time the following items were addressed:

**Board Members Present:** Karen Hames, Chairman Detrick DeBurr, Vice Chairman, Shannon Hebb, Brian Buffington, Janece Pool and Cesar Molina Jr.

**Board Members Absent:** Shawn Rockenbaugh

**City Council Liaison:** David Terre, City Council Place 4

**Staff Present:** Gordon Scruggs, P.E. Director of Engineering and Development Services, Brian McNulty, Engineering Technician, and David Ritter, City Attorney

<b>1.0</b>	<b>CALL REGULAR SESSION TO ORDER</b>
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Chairman Hames called the meeting to order at 6:30 p.m.

<b>1.1</b>	<b>CITIZEN INPUT</b>
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No citizen came forward for input.

<b>2.0</b>	<b>CONSENT AGENDA</b>
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<b>2.1</b>	Consider approval of the minutes of the November 22, 2016 Regular Session.
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<b>2.2</b>	<b><i>RP15-0012, Lot 1R, Block 7, Garza Little Elm Lake Estates Replat</i></b> Consider <b>denial</b> of a replat for Lot 1R, Block 7, Garza Little Elm Lake Estates, being a replat of Lots 1-7, Block 7, Garza Little Elm Lake Estates, recorded in Volume 2, Page 80, Plat Records, Denton County, Texas, 0.438 acres out of the George Emberlin Survey, Abstract no. 394, an addition of the City of The Colony, Denton County, Texas located at southeast corner of W Lake Highlands Drive and Main Street, within General Retail (GR) zoning district.
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<b>2.3</b>	<b><i>RP16-0003, Lots 2R1, 2R2, 2R3, Block 12, Garza Little Elm Lake Estates Replat</i></b> Consider <b>denial</b> of a replat for Lots 2R1, 2R2, 2R3, Block 12, Garza Little Elm Lake Estates, being a replat of Lot 2, Block 12, Garza Little Elm Lake Estates, recorded in Volume 2, Page 80, Plat Records, Denton County, Texas, 0.897 acres out of the George Emberlin Survey, Abstract no. 394, an addition to the City of The Colony, Denton County, Texas located at northeast corner of N Shore Drive and Willow Court, within Planned Development 1 (PD 1) zoning district.
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<b>2.4</b>	<b><i>RP16-0004, Lot 11R, Block 1, Garza Little Elm Lake Estates Replat</i></b> Consider <b>denial</b> of a replat for Lot 11R, Block 1, Garza Little Elm Lake Estates, being a replat of Lots 11 and 12, Block 1, Garza Little Elm Lake Estates, recorded in Volume 2, Page 80, Plat Records, Denton County, Texas, 0.138 acres, an addition of the City of The Colony, Denton County, Texas located near the northwest corner of Witt Drive and Main Street, within General Retail (GR) zoning district.
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<b>2.5</b>	<b><i>RP16-0008, Lot 41R, Block 1, Garza Little Elm Lake Estates Replat</i></b> Consider <b>denial</b> of a replat for Lot 41R, Block 1, Garza Little Elm Lake Estates, being a replat of Lots 41 - 46, Block 1, Garza Little Elm Lake Estates, recorded in Volume 2,
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	Page 80, Plat Records, Denton County, Texas, 0.414 acres, out of George Emberlin Survey, Abstract No. 394, an addition to the City of The Colony, Denton County, Texas located west of Elm Street and south of East Lake Highlands Drive, within General Retail (GR) and High Commercial (HC) zoning districts.
<b>2.6</b>	<b><i>SP16-0017, Boathouse Parking Addition Development Plan Amendment</i></b> Consider approving a Development Plan amendment for the Boathouse multi-family project to add 16 parking spaces at the southwest corner of Lake District Drive and Plano PKWY.

Chairman Hames read the Consent Agenda items into the record.

Commissioner Hebb asked why these plats are being denied.

Mr. Scruggs responded that items 2.1 through 2.5 are all replats and have been in the process for more than few months and in some cases a year. They have not responded to staff comments and have not submitted the plat and required drawings as needed. So staff recommends denial for these plats.

**Commissioner Hebb moved to accept Items 2.1, 2.2, 2.3, 2.4, 2.5, and 2.6 as stated (including denial of Items 2.2 – 2.5) Commissioner Buffington seconded the motion. Motion carried (6-0).**

<b>3.0</b>	<b>PUBLIC HEARING ITEMS</b>
<b>3.1</b>	<b><i>SI16-0001, Zoning Ordinance Amendment - Definition of Single Family</i></b> Conduct a public hearing, discuss and consider making a recommendation to City Council on an amendment to Appendix A, Zoning Ordinance, Section 25-101(21) containing definition of Family.

Chairman Hames read the public hearing item 3.1 into record.

Mr. Scruggs presented the staff report.

Chairman Hames opened and closed the public hearing at 6:36 p.m. with no one wishing to speak.

City Attorney, Mr. Ritter advised if Commission would like to go to Executive Session to discuss this item.

The Commission went into executive session at 6:37 p.m.

The Commission re-convened into regular session at 6:57 p.m.

Commissioner DeBurr stated that there might be bigger issues related to this item, but the Commission has to move forward with the item at hand.

Commissioner Molina stated that he has some reservation with the definition requiring no more than 2 unrelated people in a single family home.

Commissioner Pool agreed with Commissioner Molina that requiring no more than 2 is very restrictive.

Commissioner DeBurr asked for confirmation that if the item is recommended for denial, Council can still approve the item with super-majority vote. Chairman Hames stated affirmative.

**Commissioner DeBurr moved to deny Item 3.1 Commissioner Molina seconded the motion. Motion carried (5-1) with Commissioner Hebb opposing.**

3.2	<b><i>PDA16-0002, Amendment to Planned Development District No. 14</i></b> Conduct a public hearing, discuss and consider making a recommendation to City Council on request for Planned Development 14 (PD 14) amendment to allow “Auto Repair Garage (inside)” use within existing building at 4173 Main Street location.
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Chairman Hames read the public hearing item 3.2 into record.

Mr. Scruggs presented the staff report.

Commissioner Hebb asked if this tire shop is attached with the used car sales business on Main Street and they are moving the tire shop to this new location.

Mr. Scruggs clarified that this is the oil change business on Main Street where they are renting space from Pennzoil and the building is Main Oil and Lube.

Commissioner Hebb asked as part of the tire shop where they will store used tires.

Mr. Scruggs stated that the used tires will be stored inside.

Chairman Hames opened the public hearing at 7:15 p.m.

Vincent Tracy from 4177 Main Street approached the Commission. He is representing the business next door, Midas where they also work on cars and have used tired. Midas has a dedicated enclosure for used tires and once a month those tires are picked up by a company for proper disposal or re-use. Historically tire change businesses along Main Street have illegally dumped their used tires in the Midas tire enclosure and there have been issues with trash disposal along Office Creek within the woods. His concern is how the used tires will be handled in this proposed location.

Chairman Hames asked if there was anyone from Royal Discount Tires present.

Mr. Campos, representing Royal Discount Tires approached the Commission. He stated that the tires will be disposed once a week and will be stores inside. There will not be any tires outside.

Chairman Hames closed the public hearing at 7:18 p.m.

Commissioner Hebb asked how the Code Enforcement is involved in this issue, in terms of tires being dumped or junk cars being disposed near the creek.

Mr. Scruggs stated that Code Enforcement is responsible to enforce these requirements. He added that in the past two years there was only one issue at the existing Pennzoil location regarding clearing up the tires and the site. That has been takes care of by the applicant.

Commissioner DeBurr asked which zoning districts allow this land use by right.

Mr. Scruggs stated that General Retail (GR) allows this land use by right. PD 14 however has explicitly prohibited this land use.

Commissioner Hebb asked whether this PD amendment would allow the tire shop to open anywhere within this building. Also are they allowed to work on cars outside?

Mr. Scruggs responded that due to the car wash bays face Main Street due to Gateway Overlay requirements, tire shops will not be allowed to locate at the car wash area. If approved, the tire shop will not be allowed to work on cars outside the building.

**Commissioner DeBurr moved to approve Item 3.2 Commissioner Pool seconded the motion. Motion carried (6-0).**

3.3	<p><b><i>Z16-0002 Lakeview Villas Zoning Change from General Retail (GR) and Shopping Center (SC) to Townhouse Dwelling (TH) Zoning District</i></b></p> <p>Conduct a public hearing, discuss and consider making a recommendation to City Council on a request for Zoning Change from Shopping Center (SC) and General Retail (GR) to Planned Development-Townhouse Dwelling (PD-TH) zoning district allowing town homes development at 4851 Westport Drive property described as Colony No 33 Lot Tract 1(SW Corner) and A0173A BBB &amp; CRR, Tract 34, 1.586 Acres, Old DCAD Tract # 13.</p>
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Chairman Hames read the public hearing item 3.2 into record.

Mr. Scruggs presented the staff report.

Developer, Warren Packer with P Custom Homes gave a presentation to the Commission regarding the proposed townhomes.

Commissioner Molina asked which section of Westport Drive will be improved along with this project and whether there will be a trail connection from this property to the City trail.

Mr. Packer stated the section of Westport that will be fronting this property will be improved. He is still working on the trail connection and open space along the lake, but there will be a connection to the City trail.

Chairman Hames asked due to the fact that these residences are being added was there any consideration given to complete a traffic study.

Mr. Scruggs stated that based on the number of units being added a traffic study wasn't required due to minimal impact.

Commissioner Buffington asked how tall the retaining walls will be between the businesses and these townhomes.

Mr. Packer responded that the screening walls will probably be 6' tall.

Commissioner Buffington asked what, if any, type of fence will be built along the lake side and towards the west boundary of the property.

Mr. Packer stated that there will be wrought iron fence on the lake side and along the west.

Commissioner Buffington asked what the grade difference is between the hill side townhomes and the businesses.

Mr. Packer answered that the garages for the hill side units are in the basement effectively raising the townhomes to provide view of the lake. The ground level for the businesses is in the same level of the garage roof.

Commissioner Hebb asked if Westport has right-of-way connecting to Main Street.

Mr. Scruggs responded affirmative and also confirmed that essentially there are two entry exit points for this development, one through Main Street and the other via S Colony Blvd.

Commissioner Hebb asked about the condition of Westport Drive from Main Street to this development and whether the City has any plans of improvement.

Mr. Scruggs responded that the segment of Westport Drive from Main Street to this project is in poor condition and the City does not have any plans of improvements as of now.

Commissioner Hebb asked whether there will be some terraced area in the common space close to the lake where home owners could have picnic or enjoy as common area.

Mr. Packer stated that each townhome lot will have their own back yard and front yard. The common area will be separated by a retaining wall and Home Owners Association (HOA) will be responsible for maintenance.

Commissioner Hebb asked about the elevator shafts and how they are going to be installed.

Mr. Packer responded that the elevator shafts are going to be built for each unit and they will be installed at the home owner's choice.

Commissioner Hebb asked if residential elevators have to be inspected every year like commercial elevators. Chairman Hames added that staff needs to look into requirements for residential elevators.

Commissioner Pool asked if the units are going to be built as they are sold or are they going to be pre-built and then sold.

Mr. Packer answered that there will be a sales office and once 50% of the units are sold then construction will begin.

Commissioner Pool asked what type of price range will be for these units.

Mr. Packer stated that currently single family homes in Frisco and surrounding areas are expensive ranging somewhere from \$450 to \$600 thousands. These units will be more affordable and attractive to millennials and empty nesters.

Chairman Hames opened the public hearing at 7:45 p.m.

Gary Herman approached Commission. He asked depending on 33 units being proposed how the traffic will be handled coming in and out of this project.

Mr. Scruggs stated that usually the morning traffic will take Westport Drive and make a right turn on Main Street. The evening traffic will take left turn at S Colony and enter the Westport Drive from the other side.

Chairman Hames closed the public hearing at 7:48 p.m.

**Commissioner DeBurr moved to approve Item 3.3 Commissioner Buffington seconded the motion. Motion carried (6-0).**

There being no further business to come before the Commission, Chairman Hames adjourned the Regular Session of the Planning and Zoning Commission at 7: 51 p.m.

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Karen Hames, Chairman

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Surupa Sen, AICP, Senior Planner

# CITY COUNCIL Agenda Item Report

Agenda Item No. 117

Submitted by: Surupa Sen

Submitting Department: Development Services

Meeting Date: January 17, 2017

## **SUBJECT**

Z16-0002 Lakeview Villas Zoning Change from General Retail (GR) and Shopping Center (SC) to Townhouse Dwelling (TH) Zoning District:

Conduct a public hearing, discuss and consider approving an ordinance to allow Zoning Change from Shopping Center (SC) and General Retail (GR) to Planned Development-Townhouse Dwelling (PD-TH) zoning district allowing town homes development at 4851 Westport Drive property and the adjacent tract of land (Development Services, Sen)

## **Recommendation:**

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

December 13, 2016 – The Planning and Zoning Commission voted (6-0) to recommend approval of the request for Zoning Change from Shopping Center (SC) and General Retail (GR) to Planned Development-Townhouse Dwelling (PD-TH) zoning district allowing town homes development at 4851 Westport Drive property and the adjacent tract of land.

## DEVELOPMENT REVIEW COMMITTEE (DRC) REVIEW

The Development Review Committee (DRC) recommends approval of the zoning change request.

## OPTIONS

1. Approve as submitted.
2. Approve with conditions.
3. Postpone consideration.
4. Table item.

## ATTACHMENTS

1. Staff Report
2. Z16-0002 Location Map
3. Zoning Exhibit
4. Elevations
5. Proposed Ordinance
6. PZ Minutes 12-13-16

## ATTACHMENTS

- [Staff Report.doc](#)
- [Z16-0002 Location Map.pdf](#)
- [Zoning Exhibit.pdf](#)

- [Elevations.pdf](#)
- [Proposed Ordinance.doc](#)
- [PZ Minutes 12-13-16.doc](#)

## CITY COUNCIL REPORT

**AGENDA DATE:** January 17, 2017

**DEPARTMENT:** Development Services Department

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**SUBJECT** *Z16-0002 Lakeview Villas Zoning Change from General Retail (GR) and Shopping Center (SC) to Townhouse Dwelling (TH) Zoning District*

Conduct a public hearing, discuss and consider approving an ordinance to allow Zoning Change from Shopping Center (SC) and General Retail (GR) to Planned Development-Townhouse Dwelling (PD-TH) zoning district allowing town homes development at 4851 Westport Drive property and the adjacent tract of land.

**OWNER/ENGINEER**

Owner/Developer:	Armor Safe Technologies	The Colony, Texas
Engineer/Surveyor:	Selzer Associates	Dallas, Texas

**EXISTING CONDITION OF PROPERTY**

The property is currently undeveloped.

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

December 13, 2016 – The Planning and Zoning Commission voted (6-0) to recommend approval of the request for Zoning Change from Shopping Center (SC) and General Retail (GR) to Planned Development-Townhouse Dwelling (PD-TH) zoning district allowing town homes development at 4851 Westport Drive property and the adjacent tract of land.

**DEVELOPMENT REVIEW COMMITTEE (DRC) REVIEW**

The Development Review Committee (DRC) recommends approval of the zoning change request.

**OPTIONS**

1. Approve as submitted.
2. Approve with conditions.
3. Postpone consideration.
4. Table item.

**ATTACHMENTS**

1. Staff Analysis
2. Location Map
3. Zoning Exhibit
4. Proposed Elevation
5. Proposed Planned Development Ordinance
6. Minutes of December 13, 2016 Planning and Zoning Commission meeting

# ATTACHMENT 1

## Staff Analysis

### Summary of Request

P Custom Homes LLC proposes to develop a Luxury Townhouse project on the vacant land located at 4851 Westport overlooking Lake Lewisville. These three story townhome units will have a modern appearance with rooftop decks overlooking the lake. Three bedroom townhomes with an optional fourth bedroom/study/game room or media are proposed on the uphill residences ranging in size from 2850 to 3250 s.f. estimated sale price for the townhomes will vary from the high \$300's to the low \$400's. Home Owners Association (HOA) will be responsible for maintaining the exteriors and grounds and landscaping as well as the pool and open areas and screening wall.

The up hill townhomes will have lake view from the living area and roof top entertainment decks. The townhomes facing the lake will have views from the master bed room, living room and open air roof deck. The site will include a community pool and grilling area with views of the lake for the residences. Access will be provided to the City hike and bike trail on the Army Corp property directly behind the townhouses.

In compliance with the Fire Code each townhome will be fully sprinkled with 2 hour rated fire walls separating each unit. A masonry screening wall will be built between the townhome property and the properties to the east. The developer is willing to improve the parts of Westport Drive and provide landscaping within right of way of Westport Drive.

### Development Standards

The applicant is proposing following development standards for this townhome development. The Planned Development – Townhouse (PD-TH) zoning ordinance will include these standards applicable to this property only.

Min. Lot Area:	2,000 sq.ft.
Min. Lot Width:	20 ft.
Min. Dwelling Area:	2,000 sq.ft.
Min. Front Yard:	0
Min. Side Yard:	0
Min. Rear Yard:	10 ft.
Max. Lot Coverage:	80%
Max. Bldg. Height:	3 stories plus basement with stair and elevator penthouse for roof access - 49 ft. max.
Off-Street Parking:	2 spaces per townhouse plus guest parking

The Colony Zoning Ordinance has the following development standards for Townhouse Dwelling zoning.

<b><u>TH Dwelling Zoning District Development Standards (The Colony Zoning Ordinance)</u></b>	
Min. Lot Area	1,800 SF
Min. Lot Width	10 feet
Min. Dwelling Area	1,100 SF
Min. Front Yard	None
Min. Side Yard	None*
Min. Rear Yard	None
Max. Lot Coverage	None
Max. Building Height	2 Stories

\*A one-family attached dwelling shall provide a minimum required side yard adjacent to a side street of ten (10) feet and no complex of attached one-family dwellings shall exceed three hundred (300) feet in length. A minimum required side yard of five (5) feet shall be provided at the end of each one-family attached dwelling complex so that the end of any two (2) adjacent building complexes shall be at least ten (10) feet apart.

Existing Condition of Property

The subject property is vacant.

Platting Status

The property will have to be final platted into separate lots for each townhouse.

Adjacent Zoning/Land Use

North - Shopping Center (SC) – Lakeside Montessori School

South - General Retail (GR) – Angelina’s Mexican Restaurant

East- Shopping Center (SC) & General Retail (GR) – Cougar Car Wash, Advance Autoparts

West- Agriculture (A) – Vacant land overlooking Lake Lewisville

Infrastructure Improvements

Developer is planning to repair segment of Westport Drive fronting this property as that is the primary access road for this development.

Estimated Taxable Value

The applicant has estimated sales price ranging from high \$300,000 to low \$400,000 for the townhomes. With 33 new townhomes, the project will generate approximately \$13 million in taxes.

Circulation and Parking

Table 13-100 Off Street Parking Schedule requires 2.0 parking spaces per townhome dwelling unit. Each residence will have a private two car garage on the ground level. 16 additional off street parking for visitors will be provided.

Exterior Building Material

The townhouses will be built with 100% stone/brick on all facades.

Parkland Dedication

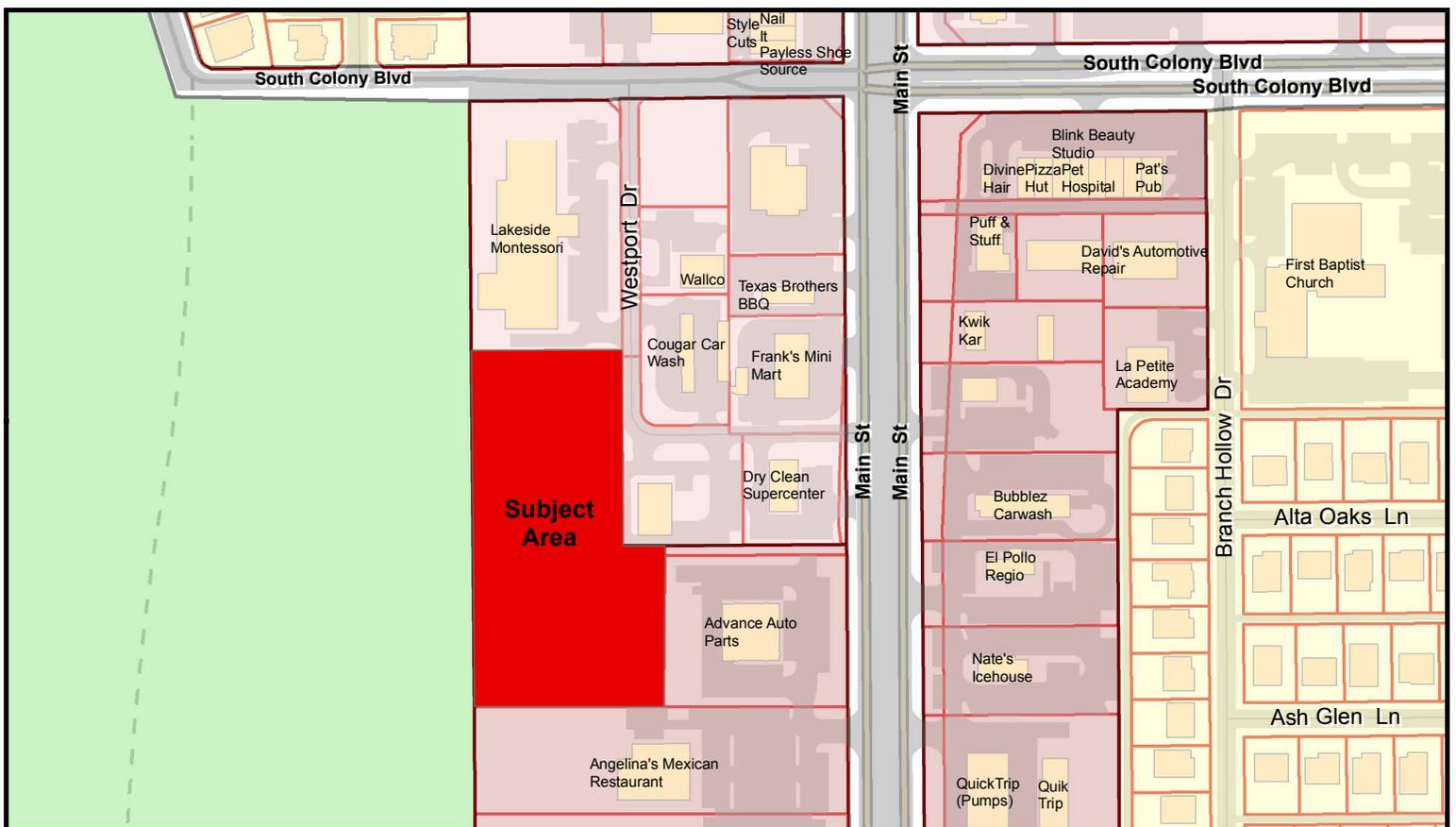
This development is required to provide parkland dedication or money in lieu of parkland dedication.

Notification

The Zoning Ordinance requires newspaper notification a minimum of fifteen (15) days prior to the City Council meeting for zoning change. Notice for this Public Hearing was published in *The Dallas Morning News* on December 2, 2016. In addition, the Zoning Ordinance also requires notification of property owners located within 200 feet of the subject property a minimum of fifteen (15) days prior to the public hearing at the Council meeting. Notices were mailed on November 30, 2016 to eleven (11) property owners. Three informational phone calls were received regarding this project.

Development Review Committee Review

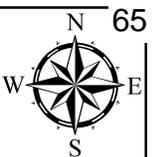
The Development Review Committee recommends approval of the zoning change request.



**Project No. Z16-0002 - Project Name: Lakeveiw Villas Zoning Change**

- |  |  |   |   |   |
|--|--|---|---|---|
| <span style="color: red;">■</span> Lakeview Villas     | <span style="color: blue;">■</span> Business Park/Industrial | <span style="color: grey;">■</span> Heavy Commercial        | <span style="color: orange;">■</span> Mobile Home             | <span style="color: lightgreen;">■</span> Planned Development |
| <span style="color: green;">■</span> Agricultural      | <span style="color: yellow;">■</span> Duplex Dwelling        | <span style="color: darkblue;">■</span> Industrial          | <span style="color: lightgrey;">■</span> Neighborhood Service | <span style="color: lightyellow;">■</span> Shopping Center    |
| <span style="color: lightblue;">■</span> Business Park | <span style="color: pink;">■</span> General Retail           | <span style="color: mediumgrey;">■</span> Office District 1 | <span style="color: white;">■</span> Single Family Dwelling   |   |

This map was generated by GIS data provided by The Colony GIS Department. The City of The Colony does not guarantee the correctness or accuracy of any features on this map. These digital products are for illustration purposes only and are not suitable for site-specific decision making.



Colony Townhomes  
4851 Westport Dr.  
The Colony, Texas

Site Plan



U.S. CORP OF ENGINEERS  
VOLUME 379, PAGE 34  
D.R.D.C.T.  
63.950 ACRES  
NOT PLATTED



ISSUED
11/09/2016



11 NORTH ELEVATION - "B" UNITS  
514-02-01 Exterior Elevations 01-01

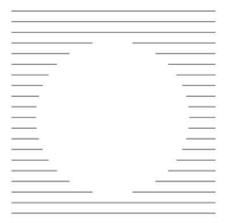


3 SOUTH ELEVATION - "B" UNITS  
514-02-01 Exterior Elevations 01-01



1 EAST ELEVATION - "B" UNITS  
514-02-01 Exterior Elevations 01-01

Colony Townhomes  
4851 Westport Dr.  
The Colony, Texas  
Exterior Elevations



Project No. 514.02.01

SHEET  
**A**  
3.1

# Selzer Associates

4514 Travis Street  
Suite 235  
Dallas, Texas 75205-5448

214-528-4499 VOICE  
214-528-7375 FAX  
www.selzerarch.com

ISSUED

11/09/2016



WEST ELEVATION - "A & C" UNITS  
1/8" = 1'-0" 514-02-01 Exterior Elevations 01-01



1 WEST ELEVATION - "B" UNITS  
1/8" = 1'-0" 514-02-01 Exterior Elevations 01-01

Colony Townhomes  
4851 Westport Dr.  
The Colony, Texas  
Exterior Elevations

Project No. 514.02.01

SHEET  
**A**  
3.2

**CITY OF THE COLONY, TEXAS**

**ORDINANCE NO. 2017 - \_\_\_\_\_**

**LAKEVIEW VILLAS TOWNHOMES ZONING CHANGE**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, AMENDING THE ZONING ORDINANCE BY APPROVING A ZONING CHANGE FROM SHOPPING CENTER (SC) AND GENERAL RETAIL (GR) TO PLANNED DEVELOPMENT - TOWNHOUSE DWELLING (PD-TH) OF THE PROPERTY LOCATED AT 4851 WESTPORT DRIVE DESCRIBED AS COLONY NO 33 LOT TRACT 1 (SW CORNER) AND A0173A BBB & CRR, TRACT 34, 1.586 ACRES, OLD DCAD TRACT # 13, THE COLONY, DENTON COUNTY, TEXAS; BEING MORE PARTICULARLY DESCRIBED IN EXHIBIT "A" AND DEPICTED ON EXHIBIT "B" WHICH ARE ATTACHED HERETO AND INCORPORATED HEREIN, PROVIDING FOR DEVELOPMENT REGULATIONS WHICH ARE ATTACHED HERETO AND INCORPORATED HEREIN AS EXHIBIT "C" TO DEVELOP A TOWNHOME PROJECT CALLED LAKEVIEW VILLAS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS,** the Planning and Zoning Commission and the City Council of the City of The Colony, Texas, in compliance with the laws of the State of Texas, and the Code of Ordinances of the City of The Colony, Texas, have given any requisite notices by publication and otherwise, and have held due public hearings and afforded a full and fair hearing to all property owners generally and to all persons interested, and is of the opinion and finds that Zoning Change Application No. Z16-0002 to allow zoning change from Shopping Center (SC) and General Retail (GR) to Planned Development - Townhouse Dwelling (PD-TH) of the property located at 4851 Westport Drive described as Colony No 33 Lot Tract 1 (SW Corner) and A0173A BBB & CRR, Tract 34, 1.586 Acres, Old DCAD Tract # 13, The Colony, Denton County, Texas, being more particularly described in Exhibit "A" and depicted on Exhibit "B" which are attached hereto and incorporated herein, providing for development regulations which are attached hereto and incorporated herein as exhibit "c" should be approved.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS:**

**SECTION 1.** That the findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

**SECTION 2.** That the City Council of the City of The Colony, Texas, does hereby approve the Zoning Change.

**SECTION 3.** That it is hereby declared that only residential townhomes will be allowed in this Planned Development and any other land use allowed shall be purely accessory to the

residential land use.

**SECTION 4.** That it is hereby declared that in case of any development standard not specifically mentioned in Exhibit C, The Colony Zoning Ordinance requirement shall apply.

**SECTION 5.** That it is hereby declared to be the intention of the City Council of the City of The Colony, Texas, that the phrases, clauses, sentences, paragraphs and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

**SECTION 6.** That any provision of any prior ordinance of the City whether codified or uncodified, which are in conflict with any provision of this Ordinance, are hereby repealed to the extent of the conflict, but all other provisions of the ordinances of the City whether codified or uncodified, which are not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

**SECTION 7.** That this Ordinance shall become effective immediately upon its passage.

**DULY PASSED** by the City Council of the City of The Colony, Texas, this the \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
JOE McCOURRY, MAYOR

**ATTEST:**

\_\_\_\_\_  
Tina Stewart, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Jeff Moore, City Attorney

**Exhibit A**  
**Legal Description**

Being a portion of that certain Lot, Tract of Parcel of land located in the B. B.B. & C.R.R. Company Survey Abstract 173, the Colony, Denton County, Texas and being part of Tract I of THE COLONY NO. 33 ADDITION, an addition to the City of The Colony, Denton County, Texas, according to the plat thereof recorded in Cabinet D, Slide 281, Plat Records, Denton County, Texas, and being all of a 1.586 acre tract of land described in Deed to Equine Investment Properties, Inc., recorded in Volume 4374, Page 2287, Deed Records, Denton County, Texas, and being more particularly described as follows:

Commencing in the West line of main street (A.K.A. F. M. 423) a variable width right-of-way, at the Southeast corner of Lot 1, Block A, Recetrac, South Colony, addition, an addition to the City of the Colony, Denton County, Texas, recorded in Cabinet T, Page 9, Plat Records, Denton County, Texas, same being the northeast corner of the tract of land described in deed to Angelina's Restaurant, Inc., recorded in Volume 4228, Page 962, Deed Records, Denton County, Texas;

Thence South 89 degrees 52 minutes 54 seconds West, along the North line said of Angelina's Restaurant, Inc., tract, a distance of 250.00 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "RPLS 5310" set at the place of beginning of the herein described tract, said point being the Southwest corner said Lot 1, said point also being the Southeast corner of said 1.586 acre tract, from which a yellow plastic cap stamped "DCA" found for reference bears North 00 degrees 01 minutes 49 seconds East, a distance of 0.41 feet;

Thence South 89 degrees 52 minutes 54 seconds West, a distance of 279.12 feet to a 1/2 inch iron rod found at the Northwest corner of said Angelina's Restaurant, Inc. tract same being the Southwest corner of said 1.586 acre tract, said point also being in the East line of a tract o land described in deed to U. S. Corp of Engineers, Recorded in Volume 379, Page 34, Deed Records, Denton County, Texas;

Thence North 00 degrees 29 minutes 34 seconds West, along the East line of said U.S. Corp of Engineers tract, passing at a distance of 236.16 feet a 3/8 inch iron rod found at the Northwest corner of said 1.586 acre tract, same being Southwest corner of said 1.398 acre tract, and continuing for a total distance of 515.28 feet to a 1/2 inch iron road found with a yellow plastic cap stamped "RPLS 3963" found at the Northwest corner of said 1.398 acre tract, same being the Southwest corner of Lot 1, Block A of Lakeside Montessori Academy Addition, an addition to the City of Colony, Denton County, Texas, according to the Plat thereof recorded in Cabinet V, Page 183, Plat Records, Denton County, Texas;

Thence South 89 degrees 58 minutes 35 seconds East, a distance of 219.79 feet to an "X" found at the Southeast corner of said lakeside Montessori Academy Addition, same being the Northeast corner of said 1.398 acre tract, said point also being the most Westerly Northwest corner of Lot 1, Block 1 of Kwik Kar Addition, an addition to the City of the Colony, Denton County, Texas according to the Plat thereof recorded in Cabinet P, Page 167, Plat Records, Denton County, Texas, said point also being in the West line of a 27 foot access, drainage and utility easements as recorded in Volume 1866, Page 260, Deed Records, Denton County, Texas, from which an "X" found for reference bears North 59 degrees 12 minutes 28 seconds West, a distance of 0.67 feet;

Thence South 00 degrees 11 minutes 10 seconds West, Partially along the West line of said 27 foot easement, a distance of 279.444 feet to a 1/2 inch iron rod found at the Southwest corner of

said Lot 1, Block 1, Kwik Kar Addition, said point also being in the North line of said 1.588 acre tract, at the Southeast corner of said 1.398 acre tract;

Thence North 69 degrees 58 minutes 38 seconds East, along the common line of said 1.586 acre tract and said Kwik Kar Addition, a distance of 77.46 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "RPLS 5310" set at the Northeast corner of said 1.588 acre tract, same being the Northwest corner of said Racetrac, South Colony, Addition;

Thence South 00 degrees 01 minutes 49 seconds West, a distance of 235.46 feet to the place of beginning and containing 2.983 acres of land, SAVE AND EXCEPT:

A 1.398 acre tract of land described in Deed to Purple House Properties, L.P., recorded in Document NO. 2006-54391, Deed Records, Denton County, Texas.

## Exhibit B Development Plan



**Exhibit C**  
**Development Standards**

Min. Lot Area	2,000 sq. ft.
Min. Lot Width	20 ft.
Min. Dwelling Area	2,000 sq. ft.
Min. Front Yard	0
Min. Side Yard	0
Min. Rear Yard	10 ft.
Max. Lot Coverage	80%
Max. Bldg. Height	3 stories plus basement with stair and elevator penthouse for roof access – 49 ft. max.
Off-Street Parking	2 spaces per townhouse plus guest parking

**MINUTES  
CITY OF THE COLONY  
PLANNING AND ZONING COMMISSION  
DECEMBER 13, 2016**

After determining that a quorum was present, the Planning and Zoning Commission of the City of The Colony, Texas convened into Regular Session which was held on Tuesday, December 13, 2016 at 6:30 PM in the City Council Chambers located in City Hall, 6800 Main Street, The Colony, Texas, at which time the following items were addressed:

**Board Members Present:** Karen Hames, Chairman Detrick DeBurr, Vice Chairman, Shannon Hebb, Brian Buffington, Janece Pool and Cesar Molina Jr.

**Board Members Absent:** Shawn Rockenbaugh

**City Council Liaison:** David Terre, City Council Place 4

**Staff Present:** Gordon Scruggs, P.E. Director of Engineering and Development Services, Brian McNulty, Engineering Technician, and David Ritter, City Attorney

<b>1.0</b>	<b>CALL REGULAR SESSION TO ORDER</b>
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Chairman Hames called the meeting to order at 6:30 p.m.

<b>1.1</b>	<b>CITIZEN INPUT</b>
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No citizen came forward for input.

<b>2.0</b>	<b>CONSENT AGENDA</b>
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<b>2.1</b>	Consider approval of the minutes of the November 22, 2016 Regular Session.
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<b>2.2</b>	<b><i>RP15-0012, Lot 1R, Block 7, Garza Little Elm Lake Estates Replat</i></b> Consider <b>denial</b> of a replat for Lot 1R, Block 7, Garza Little Elm Lake Estates, being a replat of Lots 1-7, Block 7, Garza Little Elm Lake Estates, recorded in Volume 2, Page 80, Plat Records, Denton County, Texas, 0.438 acres out of the George Emberlin Survey, Abstract no. 394, an addition of the City of The Colony, Denton County, Texas located at southeast corner of W Lake Highlands Drive and Main Street, within General Retail (GR) zoning district.
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<b>2.3</b>	<b><i>RP16-0003, Lots 2R1, 2R2, 2R3, Block 12, Garza Little Elm Lake Estates Replat</i></b> Consider <b>denial</b> of a replat for Lots 2R1, 2R2, 2R3, Block 12, Garza Little Elm Lake Estates, being a replat of Lot 2, Block 12, Garza Little Elm Lake Estates, recorded in Volume 2, Page 80, Plat Records, Denton County, Texas, 0.897 acres out of the George Emberlin Survey, Abstract no. 394, an addition to the City of The Colony, Denton County, Texas located at northeast corner of N Shore Drive and Willow Court, within Planned Development 1 (PD 1) zoning district.
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<b>2.4</b>	<b><i>RP16-0004, Lot 11R, Block 1, Garza Little Elm Lake Estates Replat</i></b> Consider <b>denial</b> of a replat for Lot 11R, Block 1, Garza Little Elm Lake Estates, being a replat of Lots 11 and 12, Block 1, Garza Little Elm Lake Estates, recorded in Volume 2, Page 80, Plat Records, Denton County, Texas, 0.138 acres, an addition of the City of The Colony, Denton County, Texas located near the northwest corner of Witt Drive and Main Street, within General Retail (GR) zoning district.
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<b>2.5</b>	<b><i>RP16-0008, Lot 41R, Block 1, Garza Little Elm Lake Estates Replat</i></b> Consider <b>denial</b> of a replat for Lot 41R, Block 1, Garza Little Elm Lake Estates, being a replat of Lots 41 - 46, Block 1, Garza Little Elm Lake Estates, recorded in Volume 2,
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	Page 80, Plat Records, Denton County, Texas, 0.414 acres, out of George Emberlin Survey, Abstract No. 394, an addition to the City of The Colony, Denton County, Texas located west of Elm Street and south of East Lake Highlands Drive, within General Retail (GR) and High Commercial (HC) zoning districts.
<b>2.6</b>	<b><i>SP16-0017, Boathouse Parking Addition Development Plan Amendment</i></b> Consider approving a Development Plan amendment for the Boathouse multi-family project to add 16 parking spaces at the southwest corner of Lake District Drive and Plano PKWY.

Chairman Hames read the Consent Agenda items into the record.

Commissioner Hebb asked why these plats are being denied.

Mr. Scruggs responded that items 2.1 through 2.5 are all replats and have been in the process for more than few months and in some cases a year. They have not responded to staff comments and have not submitted the plat and required drawings as needed. So staff recommends denial for these plats.

**Commissioner Hebb moved to accept Items 2.1, 2.2, 2.3, 2.4, 2.5, and 2.6 as stated (including denial of Items 2.2 – 2.5) Commissioner Buffington seconded the motion. Motion carried (6-0).**

<b>3.0</b>	<b>PUBLIC HEARING ITEMS</b>
<b>3.1</b>	<b><i>SI16-0001, Zoning Ordinance Amendment - Definition of Single Family</i></b> Conduct a public hearing, discuss and consider making a recommendation to City Council on an amendment to Appendix A, Zoning Ordinance, Section 25-101(21) containing definition of Family.

Chairman Hames read the public hearing item 3.1 into record.

Mr. Scruggs presented the staff report.

Chairman Hames opened and closed the public hearing at 6:36 p.m. with no one wishing to speak.

City Attorney, Mr. Ritter advised if Commission would like to go to Executive Session to discuss this item.

The Commission went into executive session at 6:37 p.m.

The Commission re-convened into regular session at 6:57 p.m.

Commissioner DeBurr stated that there might be bigger issues related to this item, but the Commission has to move forward with the item at hand.

Commissioner Molina stated that he has some reservation with the definition requiring no more than 2 unrelated people in a single family home.

Commissioner Pool agreed with Commissioner Molina that requiring no more than 2 is very restrictive.

Commissioner DeBurr asked for confirmation that if the item is recommended for denial, Council can still approve the item with super-majority vote. Chairman Hames stated affirmative.

**Commissioner DeBurr moved to deny Item 3.1 Commissioner Molina seconded the motion. Motion carried (5-1) with Commissioner Hebb opposing.**

3.2	<b><i>PDA16-0002, Amendment to Planned Development District No. 14</i></b> Conduct a public hearing, discuss and consider making a recommendation to City Council on request for Planned Development 14 (PD 14) amendment to allow “Auto Repair Garage (inside)” use within existing building at 4173 Main Street location.
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Chairman Hames read the public hearing item 3.2 into record.

Mr. Scruggs presented the staff report.

Commissioner Hebb asked if this tire shop is attached with the used car sales business on Main Street and they are moving the tire shop to this new location.

Mr. Scruggs clarified that this is the oil change business on Main Street where they are renting space from Pennzoil and the building is Main Oil and Lube.

Commissioner Hebb asked as part of the tire shop where they will store used tires.

Mr. Scruggs stated that the used tires will be stored inside.

Chairman Hames opened the public hearing at 7:15 p.m.

Vincent Tracy from 4177 Main Street approached the Commission. He is representing the business next door, Midas where they also work on cars and have used tired. Midas has a dedicated enclosure for used tires and once a month those tires are picked up by a company for proper disposal or re-use. Historically tire change businesses along Main Street have illegally dumped their used tires in the Midas tire enclosure and there have been issues with trash disposal along Office Creek within the woods. His concern is how the used tires will be handled in this proposed location.

Chairman Hames asked if there was anyone from Royal Discount Tires present.

Mr. Campos, representing Royal Discount Tires approached the Commission. He stated that the tires will be disposed once a week and will be stores inside. There will not be any tires outside.

Chairman Hames closed the public hearing at 7:18 p.m.

Commissioner Hebb asked how the Code Enforcement is involved in this issue, in terms of tires being dumped or junk cars being disposed near the creek.

Mr. Scruggs stated that Code Enforcement is responsible to enforce these requirements. He added that in the past two years there was only one issue at the existing Pennzoil location regarding clearing up the tires and the site. That has been takes care of by the applicant.

Commissioner DeBurr asked which zoning districts allow this land use by right.

Mr. Scruggs stated that General Retail (GR) allows this land use by right. PD 14 however has explicitly prohibited this land use.

Commissioner Hebb asked whether this PD amendment would allow the tire shop to open anywhere within this building. Also are they allowed to work on cars outside?

Mr. Scruggs responded that due to the car wash bays face Main Street due to Gateway Overlay requirements, tire shops will not be allowed to locate at the car wash area. If approved, the tire shop will not be allowed to work on cars outside the building.

**Commissioner DeBurr moved to approve Item 3.2 Commissioner Pool seconded the motion. Motion carried (6-0).**

3.3	<p><b><i>Z16-0002 Lakeview Villas Zoning Change from General Retail (GR) and Shopping Center (SC) to Townhouse Dwelling (TH) Zoning District</i></b></p> <p>Conduct a public hearing, discuss and consider making a recommendation to City Council on a request for Zoning Change from Shopping Center (SC) and General Retail (GR) to Planned Development-Townhouse Dwelling (PD-TH) zoning district allowing town homes development at 4851 Westport Drive property described as Colony No 33 Lot Tract 1(SW Corner) and A0173A BBB &amp; CRR, Tract 34, 1.586 Acres, Old DCAD Tract # 13.</p>
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Chairman Hames read the public hearing item 3.2 into record.

Mr. Scruggs presented the staff report.

Developer, Warren Packer with P Custom Homes gave a presentation to the Commission regarding the proposed townhomes.

Commissioner Molina asked which section of Westport Drive will be improved along with this project and whether there will be a trail connection from this property to the City trail.

Mr. Packer stated the section of Westport that will be fronting this property will be improved. He is still working on the trail connection and open space along the lake, but there will be a connection to the City trail.

Chairman Hames asked due to the fact that these residences are being added was there any consideration given to complete a traffic study.

Mr. Scruggs stated that based on the number of units being added a traffic study wasn't required due to minimal impact.

Commissioner Buffington asked how tall the retaining walls will be between the businesses and these townhomes.

Mr. Packer responded that the screening walls will probably be 6' tall.

Commissioner Buffington asked what, if any, type of fence will be built along the lake side and towards the west boundary of the property.

Mr. Packer stated that there will be wrought iron fence on the lake side and along the west.

Commissioner Buffington asked what the grade difference is between the hill side townhomes and the businesses.

Mr. Packer answered that the garages for the hill side units are in the basement effectively raising the townhomes to provide view of the lake. The ground level for the businesses is in the same level of the garage roof.

Commissioner Hebb asked if Westport has right-of-way connecting to Main Street.

Mr. Scruggs responded affirmative and also confirmed that essentially there are two entry exit points for this development, one through Main Street and the other via S Colony Blvd.

Commissioner Hebb asked about the condition of Westport Drive from Main Street to this development and whether the City has any plans of improvement.

Mr. Scruggs responded that the segment of Westport Drive from Main Street to this project is in poor condition and the City does not have any plans of improvements as of now.

Commissioner Hebb asked whether there will be some terraced area in the common space close to the lake where home owners could have picnic or enjoy as common area.

Mr. Packer stated that each townhome lot will have their own back yard and front yard. The common area will be separated by a retaining wall and Home Owners Association (HOA) will be responsible for maintenance.

Commissioner Hebb asked about the elevator shafts and how they are going to be installed.

Mr. Packer responded that the elevator shafts are going to be built for each unit and they will be installed at the home owner's choice.

Commissioner Hebb asked if residential elevators have to be inspected every year like commercial elevators. Chairman Hames added that staff needs to look into requirements for residential elevators.

Commissioner Pool asked if the units are going to be built as they are sold or are they going to be pre-built and then sold.

Mr. Packer answered that there will be a sales office and once 50% of the units are sold then construction will begin.

Commissioner Pool asked what type of price range will be for these units.

Mr. Packer stated that currently single family homes in Frisco and surrounding areas are expensive ranging somewhere from \$450 to \$600 thousands. These units will be more affordable and attractive to millennials and empty nesters.

Chairman Hames opened the public hearing at 7:45 p.m.

Gary Herman approached Commission. He asked depending on 33 units being proposed how the traffic will be handled coming in and out of this project.

Mr. Scruggs stated that usually the morning traffic will take Westport Drive and make a right turn on Main Street. The evening traffic will take left turn at S Colony and enter the Westport Drive from the other side.

Chairman Hames closed the public hearing at 7:48 p.m.

**Commissioner DeBurr moved to approve Item 3.3 Commissioner Buffington seconded the motion. Motion carried (6-0).**

There being no further business to come before the Commission, Chairman Hames adjourned the Regular Session of the Planning and Zoning Commission at 7: 51 p.m.

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Karen Hames, Chairman

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Surupa Sen, AICP, Senior Planner

# CITY COUNCIL Agenda Item Report

Agenda Item No. 123

Submitted by: Brant Shallenburger

Submitting Department: General Admin

Meeting Date: January 17, 2017

## **SUBJECT**

Discuss and consider approving a resolution authorizing the City Manager to execute changes to the Building Use Policy to allow for alcohol use in certain city facilities under approved permitting guidelines (General Admin, Shallenburger)

## **Recommendation:**

## ATTACHMENTS

- [Building Use Policy Proposed Revisions - Redlined.doc](#)
- [Res 2017-xxx Building Use Policy.doc](#)

City of The Colony  
Building Use Policy

As adopted February 15, 2011  
and as amended on \_\_\_\_\_, 2017

- I. City of The Colony Building use Purpose
  - a. The use of any building owned by the City of The Colony and available for lease is subject to the discretion of the City of The Colony and the City Council.
  - b. The use of any building owned by the City of The Colony and available for rent is subject to the discretion of the City of The Colony and the City Manager.
  - c. The number of attendees of each event shall be limited by that building's capacity requirements provided by local and state law.
  - d. Free use of a building owned by the City of The Colony may be granted subject to the approval of the city manager.
  - e. Authorization of free use of a building owned by the City of The Colony will be based on the party requesting authorization, building, or building space availability, and the nature of the event to be scheduled.
- II. Renting Requirements
  - a. With respect to the building use policy and the interpretation of the City of The Colony; the term "Rent" is defined as the act of a party using a City of The Colony owned building for temporary use in exchange for a fee.
  - b. With respect to the building use policy and the interpretation of the City of The Colony; the term "Temporary" is defined as use of a building not to exceed 1 fiscal year (October-September 31).
  - c. At the City Manager's discretion and depending on the nature of the event being held or the number of attendees, the City of The Colony reserves the right to require an off - duty police officer employed by the City of The Colony be present and paid for by the renting party.
  - d. Events may require one or more City of The Colony off - duty police officer(s) to be present. The number of officers required will be determined by The Colony Police Department.
  - e. The cost of a City of The Colony off - duty police officer or officers will be paid for by the renting party.
  - f. Similarly, depending on the size and the nature of the event and the building being rented, more than one staff member may be required at an additional fee to be paid for by the renting party. Events of 100+ people require one staff member to be present. Events of over 100 people may require two staff members to be present at the event.
  - g. Events that will have less than 100 attendees present will require a staff member to be present to unlock the facility for the renting party and to lock the facility upon conclusion of the event.

- h. Youth - oriented events require a minimum of one person of at least 21 years of age for every 15 people under the age of 18.
- i. At the City Manager's discretion and depending on the nature of the event, the City of The Colony reserves the right to require liability insurance covering the event and naming the City of The Colony as additional insured.

### III. Lease Requirements

- a. The lessee as named per the lease agreement shall have exclusive use of the named space to be leased and shall not sublet any space owned by the City of The Colony.
- b. With respect to the building use policy and the interpretation of the City of The Colony; the term "Lease" is defined as a contract granting the temporary possession and use of an available building or building space owned by the City of The Colony at an agreed lease term that meets one fiscal year (October 1–September 31) in exchange for compensation at a fixed rate agreed upon by both parties.
- c. The City of The Colony will be responsible for the maintenance for the leased building or building space with respect to structural repair, electricity, existing lighting, water service, and sewer service.
- d. The tenant shall not alter the building or building space appearance or structure without written permission from the City Manager.
- e. The tenant shall be responsible for providing all the cleaning supplies required to clean the facility.
- f. If building alteration is approved; the tenant will be responsible for returning the building or building space to its original appearance upon termination of the lease.
- g. Alteration includes, but is not limited to, painting of the walls or ceilings, light fixture replacement, flooring, or removal of any machinery or equipment.

### IV. Lease Request Procedure

- a. Lease request forms are made available online at the City of The Colony website [www.thecolonytx.gov](http://www.thecolonytx.gov) and the City of The Colony Library located at 6800 Main St. The Colony, TX 75056.
- b. Building or building space lease request forms are to be submitted to city staff no less than 2 months prior to the anticipated building or building space usage.
- c. Lease request forms must be completed by an adult of 21 years of age or older.
- d. Schedule of use must be included with the lease request form.
- e. The City of The Colony reserves the right to utilize any leased space not being used at a specified time as named by the lessee in the schedule of use supplied to the City.
- f. The lease request form shall be completed by the individual requesting the space to be leased. The form must be completed with the signee's name, contact information, explanation of need for building or space of interest, and statement of purpose.
- g. Name and contact information must be noted on the lease request form for all responsible persons in the organization leasing the building or building space.
- h. An additional 20% of the lease term amount will be paid up front upon the agreement of both parties to the lease terms in the form of a maintenance deposit. The

maintenance deposit is required of any group, individual, or organization wishing to lease one of the available buildings or building spaces owned by the City of The Colony.

i. Ex:

1. Lease Rate = \$150 monthly
2. Oct. 1 – Sept. 31 = 12 months
3.  $(12)(150) = \$1,800.00$
4.  $(.20)(1800) = \$360.00$

- i. The additional 20% charge will be returned to the group, individual, or organization by mail within one week of termination upon successful inspection by staff.
  - j. If it is discovered during inspection by staff that damage has occurred during the lease term, the leasing party will be held responsible for the repair balance remaining after the 20% maintenance deposit has been applied.
  - k. Lease agreements are not secured until agreed upon by the City of The Colony, City Council and the leasing party.
  - l. Upon the securing of the lease agreement, the lessee will be given two keys to the leased space. The named lessee per the agreement shall be responsible for the two keys provided by the City of The Colony and shall return them the day of the lease termination.
  - m. The leasing party, person or persons as named on the lease agreement shall be the sole users of the keys provided for the leased space. A third party is not authorized to have access to the keys provided.
  - n. Additional keys provided by the City of The Colony for the agreed leased space are provided subject to the number of named responsible persons as noted on the lease request form and lease agreement.
  - o. Available space for lease is currently limited to two spaces located at Municipal Building #5, 6301 Main Street, The Colony, Texas 75056.
  - p. Rental space at Municipal Building #5 will be subject to availability and shall exclude the two spaces available for lease.
  - q. Leases granted will be partially based on past use of city owned and operated facilities by the requesting party.
- V. Rental Request Procedure
- a. Rental request forms are made available online at the City of The Colony website [www.thecolonytx.gov](http://www.thecolonytx.gov) and the City of The Colony Library located at 6800 Main St. The Colony, TX 75056.
  - b. Building or building space rental request forms are to be submitted to city staff no less than 14 days prior to the event and no more than 6 months before the event is scheduled to occur.
  - c. Rental request forms must be completed by an adult of 21 years of age or older.
  - d. The rental request form shall be completed by the individual reserving the space to be rented. The form must be completed with the signee's name, contact information, and the maximum number of persons expected to attend.

- e. If the person requesting the space to be rented does not anticipate attending the event noted in the request form; a representative's name and contact information must be noted on the form, accompanied by the representative's signature, and the representative must be present at the event to be scheduled.
  - f. There will be a \$200 maintenance deposit required from any group, individual, or organization wishing to rent one of the available buildings or building spaces owned by the City of The Colony. The money will only be deposited by the City for the repair of any damages, misuse, or neglect of the facility during the individuals, groups, or organization's usage. Upon satisfactory inspection of the facility by city staff following the conclusion of the event, the maintenance deposit will be returned to the group, individual, or organization by mail within one week of the conclusion of the event.
  - g. The renting organization, group, or individual will be held responsible for any repair expense incurred which shall exceed the \$200 deposit as a result of damage to the facility.
  - h. There is a minimum rental of three hours for every building or building space owned by the City of The Colony available for rent.
  - i. Fees must be paid in full at the time the rental reservation is made.
  - j. Reservations are not secured until full payment has been received.
- VI. Cancellation Policy and Additional Fees
- a. Cancellations must be made a minimum of 48 hours prior to the scheduled event.
  - b. On a cancellation made 48 hours prior to the event taking place; the renter as noted on the rental request form will see a return of their deposit by mail within one week of their cancellation. A 20% fee will be charged for cancellations made within 48 hours of the scheduled event.
  - c. Reservations cannot be changed once full payment has been received.
  - d. There will be a penalty for exceeding the time agreed upon as stated on the rental agreement. Depending on the building being rented and the hourly rate, a penalty may be applied, not to exceed, one and a half times the hourly rate for every fifteen minutes past the agreed ending time of the event.
- VII. Lease Cancellation Policy
- a. If the lessee chooses to terminate the lease prior to the lease ending date as per the agreement by both parties; they must submit their request no later than 30 days of their expected move out date and will be charged for the month following the lease termination.
  - b. Similarly, at the City Manager and City Council's discretion; the City of The Colony reserves the right to terminate the lease with 30 days written notice given in the event that the lessee fails to adhere to the terms of the lease contract or the City of The Colony exercises the option not to renew the lease. Reimbursement to the lessee will depend on the circumstances of the lease termination and will be at the discretion of the City Manager and City Council.
- VIII. Cleaning the Facility

- a. Cleaning the facility is the responsibility of the renting or leasing party. The facility must be cleaned and equipment replaced to its original location prior to the event ending time as noted on the rental agreement. The responsible party must review the condition of the facility with the city staff member prior to and after the function.
  - b. If it is discovered upon staff inspection by the end of the specified ending time of the event as noted on the rental agreement that the facility and facility grounds have not been cleaned; the renting party will forfeit their \$200 maintenance deposit.
  - c. Litter created by the renting party must be removed from the facility.
- IX. Building/Equipment and Damage Fees
- a. Damages to the building or its contents must be reported to the city staff contact immediately, regardless of cause.
  - b. Damage to the building or its contents can result in a forfeiture of the renting party's \$200 maintenance deposit.
  - c. Equipment shall not be removed from the facility.
  - d. There shall not be any decorations on the walls of any rented facility. This includes but is not limited to hanging decorations that would require nails or pins. Decorations on the walls are permitted if existing hardware is used.
- X. Alcoholic Beverages and Smoking
- a. There is no smoking allowed within 15 feet of the entrance of any building, or inside of any building owned by the City of The Colony.
  - b. Possession, sale or service of alcohol shall only be permitted inside of city facilities by obtaining a special event permit, a permit from the city manager or his designee and, if required, a temporary permit or license from the Texas Alcoholic Beverage Commission in compliance with State Law.
  - c. Events at which alcohol will be present shall require one or more City of The Colony off-duty police officer(s) to be present. Officers will be at the sole cost of the renter, unless waived by the city manager or his designee. The number of officers required will be determined by The Colony Police Department.
  - d. No alcohol is allowed in the Recreation Center at any time.
- XI. Outside Vendors or Services
- a. Outside vendors that are hired by the renter to provide services at the event as noted on the rental agreement must be approved by city staff a minimum of 7 days before the event is scheduled to occur.
  - b. The City of The Colony shall not be held liable for services rendered by an outside vendor hired by the renting party.

**RESOLUTION NO. 2017-\_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, AMENDING THE BUILDING USE POLICY, A COPY OF WHICH IS ATTACHED HERETO AND INCORPORATED HEREIN AS EXHIBIT “A”, REGARDING CITY FACILITY SPACE FOR RENTAL AND LEASE; PROVIDING FOR THE USE OF ALCOHOLIC BEVERAGES IN CERTAIN CITY FACILITIES WITH APPROVED PERMITTING FROM THE CITY AND TEXAS ALCOHOLIC BEVERAGE COMMISSION; PROVIDING A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of The Colony City Council finds it in the best interest of the city to amend the Building Use Policy for the purpose of regulating city facility space for rental or lease; and

**WHEREAS**, the City Council desires to allow alcohol use in certain city facilities under approved permitting guidelines.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS THAT:**

**Section 1.** That the Building Use Policy, which is incorporated herein as Exhibit “A”, is hereby adopted for the purpose of regulating rental and lease space in city facilities.

**Section 2.** That all provisions of any resolution of the City Council of the City of The Colony in conflict with the provisions of this resolution be, and the same are hereby, repealed, and all other provisions not in conflict with the provisions of this resolution shall remain in full force and effect.

**Section 3.** This Resolution shall take effect immediately from and after its adoption and it is so resolved.

**PASSED and APPROVED this 17th day of January, 2017.**

\_\_\_\_\_  
Joe McCourry, Mayor

**ATTEST:**

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Tina Stewart, City Secretary

**APPROVED AS TO FORM:**

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Jeff Moore, City Attorney

# CITY COUNCIL Agenda Item Report

Agenda Item No. 112

Submitted by: Julie Arrington

Submitting Department: City Secretary

Meeting Date: January 17, 2017

## **SUBJECT**

A. Council shall convene into a closed executive session pursuant to Section 551.072 of the Texas Government Code to deliberate the purchase, exchange, lease, or value of real property.

B. Council shall convene into a closed executive session pursuant to Section 551.071 of the Texas Government Code to seek legal advice from the City Attorney regarding pending or contemplated litigation – City of The Colony, Texas v. B.S.A. TX-342, Limited Partnership (Budget Suites of America, TX-3472), Cause No. 16-09568-442.

C. Council shall convene into a closed executive session pursuant to Section 551.071 of the Texas Government Code to seek legal advice from the City Attorney regarding pending or contemplated litigation – Atlantic Colony Venture I. LLC and Atlantic Colony Venture II, LLC v. City of the Colony, Texas, et al., Cause No. 16-02219-442.

D. Council shall convene into a closed executive session pursuant to Section 551.071 of the Texas Government Code to seek legal advice from the City attorney regarding pending or contemplated litigation – Appeal of Brazos Electric Power Cooperative, Inc., PUC Docket No. 45175 and City of The Colony, Texas v. Brazos Electric Power Cooperative, Inc. matter, Cause No. 16-06424-16.

## **Recommendation:**

## **ATTACHMENTS**

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# CITY COUNCIL Agenda Item Report

Agenda Item No. 113

Submitted by: Julie Arrington

Submitting Department: City Secretary

Meeting Date: January 17, 2017

## **SUBJECT**

A. Any action as a result of executive session regarding the deliberation of the purchase, exchange, lease, or value of real property.

B. Any action as a result of executive session regarding the pending or contemplated litigation - City of The Colony, Texas v. B.S.A. TX-342, Limited Partnership (Budget Suites of America, TX-3472), Cause No. 16-09568-442.

C. Any action as a result of executive session regarding the pending or contemplated litigation - Atlantic Venture, LLC and Atlantic Colony Venture II, LLC v. City of The Colony, Texas, et al.

D. Any action as a result of executive session regarding pending or contemplated litigation – Appeal of Brazos Electric Power Cooperative, Inc., PUC Docket No. 45175 and City of The Colony, Texas v. Brazos Electric Power Cooperative, Inc. matter, Cause No. 16-06424-16.

## **Recommendation:**

## **ATTACHMENTS**

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