



**CITY OF TYLER
CITY COUNCIL COMMUNICATION**

Agenda Number: Z-7

Date: April 25, 2007

Subject: APPLICATION Z04-07-033A DAVIS THORNTON LTD
Request that the City Council consider a request to change the zoning from “AG” Agricultural District to “C-1” Light Commercial District, a 42.546 acre tract of land, being a portion of a 177 acre tract out of the Marshall University Survey, A-624 and Thomas Price Survey, A-794. This tract is located one lot south of the southwest intersection of Grande Blvd. and Old Jacksonville Hwy. on the west side of Old Jacksonville Hwy.

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Item Reference:

The applicant is requesting a zoning change to allow for commercial development.

Section 10-225, "C-1" Light Commercial District, allows as permitted uses restaurants, private clubs, antique shops, banks, service stations, offices and retail stores with no outdoor display or storage of merchandise or goods allowed. The maximum building height allowed within this district is two and one-half (2 1/2) stories or 42' in height. Off-street parking is determined by the specific use proposed. Properties with a commercial designation are subject to the requirements of the Subdivision and Landscape Ordinances.

The adjacent properties to the south are currently zoned “C-1” Light Commercial District and “R-1B” Single-Family Residential District; properties to the north are currently zoned “AG” Agricultural District and “C-1” Light Commercial District. Properties to the east are zoned “PUR” Planned Unit Residential District “AG” Agricultural District and properties to the west are “R-1B” Single-Family Residential District. The adjoining lands to the east and south are part of the Oak Hill mixed-use development and the Ashmore residential subdivision is located to the east.

The applicant is requesting a zoning change to allow for commercial development. This development is part of an overall master planned community. The applicant has provided the planning department with the general land plan that illustrates a mixed-use development that allows residents to access services within their neighborhood. The request to rezone as a “C-1” Light Commercial Zoning District was selected because “PCD” Planned Commercial Development allows more intensive uses than desired by the applicant. It is expected that the businesses will face internal streets. The Oak Hill master plan identifies several collectors that allow access from Grande Boulevard, Old Jacksonville Highway, and Three Lakes Parkway as well as a shared access drive located off of Old Jacksonville Highway that provides access to the proposed “C-1” subject property.

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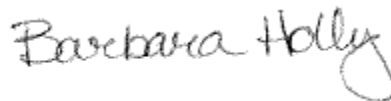
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The access ensues that the traffic will not be funneled solely to Old Jacksonville Highway; but, multiple access points will produce good traffic dispersion. This request is consistent with the development pattern in the area and the rezoning of the property will be a continuation of the existing light commercial zoning to the north. If approved, this would establish a commercial land use.

On April 3, 2007, the Planning and Zoning Commission held a public hearing on this request. Steve Thornton spoke on behalf of the application. Of the nine notices mailed; one notice was returned in favor and one notice was returned in opposition to the request. The total calculated protest is .21%.

RECOMMENDATION:

The Planning and Zoning Commission, by a vote of 6-0, recommends approval of the request to change the zoning from "AG" Agricultural District to "C-1" Light Commercial District.



Drafted/Recommended By: Barbara Holly
Department Leader Director of Planning

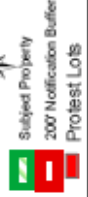
Edited/Submitted By:
City Manager



200 0 200 Feet

ZONING CASE

Zoning Cases #: Z04-07-033A
 Existing Zoning: AG Proposed Zoning: C-1
 Applicant: DAVIS THORNTON LTD.



ORDINANCE NO. O-2007-42

AN ORDINANCE AMENDING THE CITY OF TYLER ZONING ORDINANCE OF THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS; DIRECTING THE AMENDMENT OF THE ZONING MAP; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission of the City of Tyler, Texas, and the City Council of the City of Tyler, Texas, in compliance with the Charter and the State law with reference to the zoning ordinance of the City of Tyler, Texas, and zoning map, have given requisite notices by publication and otherwise and after holding a due hearing and affording a full and fair hearing to all the property owners, generally and to the persons interested, situated in the affected area and in the vicinity thereof, the City Council is of the opinion that the zoning change should be made as set forth herein;

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

PART 1: That the following zone change is hereby approved as follows:

I. APPLICATION Z04-07-033A

That the following described property, which has heretofore been zoned "AG" Agricultural District, shall hereafter bear the zoning classification of "C-1" Light Commercial District to-wit:

A 42.546 acre tract of land, being a portion of a 177 acre tract out of the Marshall University Survey, A-624 and Thomas Price Survey, A-794, more particularly described by Exhibit "A".

PART 2: That the City Manager is hereby ordered and directed to cause the zoning map to be amended to reflect the above described zoning change.

PART 3: Should any section, subsection, sentence, provision, clause or phrase be held to be invalid for any reason, such holding shall not render invalid any other section, subsection, sentence, provision, clause or phrase of this ordinance and same are deemed severable for this purpose.

PART 4: That this ordinance shall be effective on and after its date of passage and approval by the City Council.

PASSED AND APPROVED this the 25th day of April, A.D., 2007.

JOSEPH O. SEEBER, MAYOR
OF THE CITY OF TYLER, TEXAS

APPROVED:

A T T E S T:

CASSANDRA BRAGER, CITY CLERK

CITY ATTORNEY

EXHIBIT 'A'

Metes and Bounds Description
42.546 Acre Tract
for Zoning Application
Northeast Portion of Oak Hill

All that certain tract or parcel of land situated in the Marshall University Survey, Abstract 624, and the Thomas Price Survey, Abstract 794, Smith County, Texas, being out of and a part of that certain called 184.007 acre tract described in a Special Warranty Deed from Cherokee of VA L.L.C., to S & T Development, Ltd., dated December 29, 2006, and filed for record under Clerk's File Number 2007-R00000313 of the Official Public Records of Smith County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a ½" iron rod set for the easternmost northeast corner of said called 184.007 acre tract, same being in the west right-of-way line of F.M. Road 2493, same being the west line of that certain called 7.49 acre tract described in a Deed Without Warranty from St. Louis Southwestern Railway Company to the State of Texas, dated June 24, 1996, and recorded in Volume 3817, Page 570 of said Official Public Records;

THENCE, South 25°54'25" West, with the east line of said 184.007 acre tract, same being said west right-of-way line of F.M. Road 2493, a distance of 1,699.97 feet to a ½" iron rod set for the southeast corner of the herein described tract;

THENCE, North 66°56'16" West, at 447.59 feet pass a ½" iron rod found for the northeast corner of Lot 9, N.C.B. 1660-A, of Oak Hill Unit 1, a subdivision of record in Cabinet 'D', Slide 354-C of the Plat Records of Smith County, and continuing in all a total distance of 907.36 feet to a ½" iron rod found for the northwest corner of said Lot 9, same being the southwest corner of the herein described tract, same being in the east right-of-way line of a proposed street (Oak Hill Boulevard);

THENCE, North 21°00'34" East, with said east right-of-way line of said proposed street, a distance of 20.24 feet to a ¼" iron rod set for a corner, same being the beginning of a curve to the left having a radius of 1,000.00 feet;

THENCE, continuing with said east right-of-way line of said proposed street, and along said curve to the left having a radius of 1,000.00 feet, a central angle of 28°24'50", and a chord bearing and distance of North 06°48'09" East, 490.85 feet, an arc length of 495.91 feet to a ½" iron rod set for a corner and the end of said curve;

THENCE, North 07°35'55" West, continuing with said east right-of-way line of said proposed street, a distance of 244.13 feet to a ½" iron rod set for a corner, same being the beginning of a curve to the right having a radius of 450.00 feet;

THENCE, continuing with said east right-of-way line of said proposed street, and along said curve to the right having a radius of 450.00 feet, a central angle of 39°29'06", and a chord bearing and distance of North 12°20'17" East, 304.01 feet, an arc length of 310.11 feet to a ½" iron rod set for a corner and the end of said curve;

EXHIBIT "A" TO ORD. NO. 0-2007-42 - PAGE 2 OF 2

Exhibit 'A'
42.546 Acres
Page 2

THENCE, North 32°04'50" East, continuing with said east right-of-way line of said proposed street, a distance of 147.89 feet to a ½" iron rod set for a corner, same being the beginning of a curve to the left having a radius of 500.21 feet;

THENCE, continuing with said east right-of-way line of said proposed street, and along said curve to the left having a radius of 500.21 feet, a central angle of 26°11'21", and a chord bearing and distance of North 18°59'10" East, 226.65 feet, an arc length of 228.64 feet to a ½" iron rod set for a corner and the end of said curve, same being in the north line of said 184.007 acre tract, same being in the centerline of an aerial power line;

THENCE, North 86°10'08" East, with said centerline of said aerial power line, a distance of 191.93 feet to a ½" iron rod set for a north corner of said 184.007 acre tract, same being in the center of a metal tower;

THENCE, North 88°35'59" East, continuing with said centerline of said aerial power line, a distance of 435.28 feet to a ½" iron rod set for a north corner of said 184.007 acre tract, same being in the west line of Lot 3, N.C.B. 1660-A, of Oak Hill Unit 2, a subdivision of record in Cabinet 'D', Slide 354-D of the Plat Records of Smith County;

THENCE, South 01°24'53" East, with said west line of said Lot 3, a distance of 35.03 feet to a ½" iron rod found for the southwest corner of said Oak Hill Unit 2;

THENCE, North 88°35'51" East, a distance of 246.79 feet to a ½" iron rod found for the southeast corner of said Lot 3, Oak Hill Unit 2;

THENCE, South 00°59'35" East, a distance of 122.68 feet to a ½" iron rod set for a north corner of said 184.007 acre tract, same being in the south line of a 30-foot wide easement granted to Mobile Pipeline Company, of record in Volume 1406, Page 709 of said Deed Records;

THENCE, North 88°08'58" East, with said south line of said 30-foot wide easement, a distance of 261.64 feet to a ½" iron rod set for a north corner of said 184.007 acre tract;

THENCE, South 64°05'35" East, a distance of 209.60 feet to the POINT OF BEGINNING and containing 42.546 acres of land.

I hereby certify that the above description was prepared from an actual survey made on the ground under my direction and supervision during the Month of July, 2006. GIVEN UNDER MY HAND AND SEAL this date, 13 March 2007.

(Reference is hereby made to the plat of survey, Job No. 06-767A. Bearings are based on the Texas Coordinate System, North Central Zone, NAD83 Map Datum)

Robert Matush
Registered Professional Land Surveyor
Texas Registration No. 3683

