

**STATE OF TEXAS
COUNTY OF DENTON
CITY OF CORINTH**

On this the 19th day of April 2018 the City Council of the City of Corinth, Texas met in a Regular Session at the Corinth City Hall at 7:00 P.M., located at 3300 Corinth Parkway, Corinth, Texas. The meeting date, time, place and purpose as required by Title 5, Subtitle A, Chapter 551, Subchapter C, Section 551.041, Government Code, with the following members to wit:

Members Present:

Bill Heidemann, Mayor
Sam Burke, Council Member
Joe Harrison, Mayor Pro-Tem
Lowell Johnson, Council Member
Scott Garber, Council Member
Don Glockel, Council Member

Members Absent:

None

Staff Members Present:

Bob Hart, City Manager
Barbara Cabbage, Interim Planning and Development Director
Cody Collier, Public Works Director
Debra Walthall, Chief of Police
Kevin Tyson, Police Lieutenant
Jimmie Gregg, Police Lieutenant
Kim Pence, City Secretary
Jason Alexander, Economic Development Corporation Director
Brenton Copeland, Technology Services Assistant Manager
Mack Reinwand, Messer, Rockefeller, &Fort

CALL TO ORDER, INVOCATION, PLEDGE OF ALLEGIANCE & TEXAS PLEDGE:

"Honor the Texas Flag: I pledge allegiance to thee, Texas, one state under God, one and indivisible".

Mayor Heidemann called the meeting to order at 7:00 p.m., Councilmember Garber delivered the invocation and led in the Pledge of Allegiance and the Texas Pledge.

PROCLAMATION:

Mayor Heidemann proclaimed the month of May as Motorcycle Safety Awareness Month

CONSENT AGENDA

All matters listed under the Consent Agenda are considered to be routine and will be enacted in one motion. Should the Mayor, a Councilmember, or any citizen desire discussion of any Item that Item will be removed from the Consent Agenda and will be considered separately.

1. Consider and act on minutes from the March 1, 2018 Workshop Session.
2. Consider and act on minutes from the March 1, 2018 Regular Session.
3. Consider and act on minutes from the March 15, 2018 Workshop Session.
4. Consider and act on minutes from the March 15, 2018 Regular Session.
5. Consider and act on minutes from the March 22, 2018 Special Session.
6. Consider and act on a Resolution appointing Bob Hart to the Upper Trinity Regional Water District.
7. Consider authorizing the City Manager to approve the Professional Services Contract with Lamb-Star Engineering for design services to remodel the Public Works Facility and site/drainage design work for the Fire Department's Training facility.
8. Consider and act on the abandonment by Ordinance of the temporary grading easement being described and depicted in Exhibit "A" (the "Temporary Grading Easement") and attached to the proposed Ordinance. This abandonment shall extend only to the Temporary Grading Easement title and interest that the City Council may legally and lawfully abandon. The permanent easement acquired by the City pursuant to Cause No. PR-2009-00932 in the Probate Court of Denton County, Texas and recorded as Doc No. 2010-27633 in the Deed Records of Denton County, Texas is not impacted by this Ordinance and all rights pertaining thereto are retained by the City of Corinth.
9. Consider and act on a Resolution of the City Council of the City of Corinth denying a Special Use Permit for the installation of a new 121-foot tall cell tower and associated equipment on a property legally described as Lot 1-R, Block A, North Central Texas College Addition No. 2.

MOTION made by Councilmember Garber to approve the Consent Agenda as presented. Seconded by Councilmember Johnson.

AYES: Burke, Garber, Johnson, Harrison, Glockel
NOES: None
ABSENT: None

MOTION CARRIED

CITIZENS COMMENTS

In accordance with the Open Meetings Act, Council is prohibited from acting on or discussing (other than factual responses to specific questions) any items brought before them at this time. Citizen's comments will be limited to 3 minutes. Comments about any of the Council agenda items are appreciated by the Council and may be taken into consideration at this time or during that agenda item. Please complete a Public Input

form if you desire to address the City Council. All remarks and questions addressed to the Council shall be addressed to the Council as a whole and not to any individual member thereof. Section 30.041B Code of Ordinance of the City of Corinth.

No one spoke.

PUBLIC HEARING

10. TO HEAR PUBLIC OPINION REGARDING A REQUEST BY THE APPLICANT, ROBERT P. GARZA, AUTHORIZED REPRESENTATIVE FOR THE PROPERTY OWNER NANCY REED, FOR A ZONING CHANGE AMENDING THE COMPREHENSIVE ZONING ORDINANCE BEING A PART OF THE UNIFIED DEVELOPMENT CODE NO. 13-05-02-08 AND PLANNED DEVELOPMENT ORDINANCE NO. 07-03-01-05 BY REVISING THE LAND USE REGULATIONS AND DEVELOPMENT STANDARDS ON PROPERTY LEGALLY DESCRIBED AS TRACT 1 BEING 3.189 ACRES SITUATED IN THE L. YOUNG SURVEY, COUNTY ABSTRACT 1451 IN THE CITY OF CORINTH, DENTON COUNTY, TEXAS. This property is located on the northwest corner (NWC) of Post Oak Drive and Robinson Road.

Barbara Cabbage, Interim Planning and Development Director - The subject property zoned Neighborhood Shopping as one of the non-residential elements of the Planned Development ordinance created in 1986 for the Oakmont Subdivision. In 2007 this zoning district, Neighborhood Shopping was amended to add "Specialty Coffee Shop with Drive-Thru" and to provide site plan documents for a retail center. The proposed retail project did not develop. All the uses that are permitted within the Neighborhood Shopping areas shall be as follows:

- Bakery
- Bank
- Barber and Beauty shops
- Convenience store
- Day Care Center
- Drug store or Pharmacy
- Dry Cleaning and laundry
- Florist or garden shops (no outside storage or sales)
- Grocery Store
- Hardware Store
- Household appliance sales
- Personal services (i.e., Dressmaker, shoe shoe shops, tailor, etc.)
- Pet Grooming and supplies
- Photo service
- Retail shops
- Specialty coffee shop
- Studio- music, dance or drama
- Veterinarian (no outside runs)
- Uses similar to the above mentioned permitted uses, provided that these similar uses be allowed only if approved by the City of Corinth Planning and Zoning Commission and the City Council.
- Temporary buildings and uses incidental to construction work on the premises, which shall be

removed upon the completion or abandonment of construction work.

At this time, the applicant, Robert Garza, authorized representative for the property owner, is requesting a zoning change to amend the 2007 zoning ordinance associated with the site. Mr. Garza's client is proposing a two-lot non-residential subdivision where the Children's Lighthouse Day Care would be constructed on the north end of the property and on lot 2 (southern portion of the tract of land) a retail center is proposed as a separate project in the future. Both the daycare center and retail are allowed uses in the Neighborhood Shopping district. Vibhuti Patel has had the property under contract since October 2017 and will be developing the site for the Children's Lighthouse.

The amendment to the existing ordinance is necessary as the site plan associated with the 2007 ordinance amendment is no longer valid. The applicant has submitted a PD Concept Map for Children's Lighthouse Addition providing conceptual placement of the daycare on Lot 1 and a conceptual layout of a building on Lot 2. There are aspects of the UDC not found in the current Neighborhood Shopping requirements from the 2007 ordinance amendment which was created before the UDC was approved and has now been incorporated in the ordinance provided, in particular the Residential Adjacency Standards associated with residential properties within 400' of a non-residential development. The applicant and developer have worked with City Staff to incorporate these standards into this project.

Associated with this zoning amendment is a companion item being a petition from the applicant for a Major Subdivision Waiver requesting relief from the driveway separation distance requirements of the Unified Development Code, Section 3.05.04, Access Management, to allow a separation distance of approximately 171' from the Post Oak intersection for a new driveway. The Unified Development Code requires 200' separation. The second driveway will reduce the loading on the northern driveway, will help internal circulation and reduce U-turn conflicts in the public Right of Way. The applicant has provided additional documents associated with this companion item. The zoning change and the MSW will be acted on separately.

The Planning and Zoning Commission approved unanimously on April 16, 2018 with conditions that all the engineering documents are taking care of prior to any construction. The Final Plat was approved with the same stipulations.

We worked with the applicant to do a couple things, we asked him to put speed humps along the driveway and designate the right side of the parking lot as employee parking. We talked about vehicle stacking, as parents pull in, drop them off and sometimes they are out on the street. At a Day Care Center we don't have that issue for the most part. You pull in to the parking space and you have to go in and sign in the child and when you come and pick them up it is the same process.

Phase II is conceptual and all that can go in there are the items listed above. There are things that we removed from the list and I would like to recommend removal of the veterinarian, the other one was the drive-thru associated with the Coffee Shop, the Savings and Loan which we deleted and the Gas Services with the Convenient Store. The Convenient Store can stay however the gas services would go away.

Staff recommends approval of the zoning change amending the Planned Development ordinance however Staff does not support including the vehicle stacking for the child care use. If the applicant would like to proceed with this item it would be more appropriate to process it with a Major Subdivision Waiver or

alternative options such as deceleration lanes approved by the City Engineer. In addition, Staff has added a "Condition" to the ordinance that speed humps would be required on the driveway within the daycare area of Lot 1 and pre-approved product and placement through the Fire Department.

The dimensional site plan does not show what the design map shows because if the Major Subdivision Waiver was not changed, it would not make sense to go through the cost to change the documents that had already been drawn up. Staff's recommendation is if the City Council approves the Major Subdivision Waiver, then the documents would be changed and the proposed entrance on Robinson would be greyed out and it would make the 2nd driveway on Post Oak more prominent.

Robert Garza, RPGA, Design Group Inc. - The current PD is fairly outdated and has very little information or requirements. We came in to this thinking nothing was going to have to happen or change. Barbara Cabbage has done an excellent job educating us on the Unified Development Code (UDC).

The typical children's Lighthouse Facility today is just over 11,000 square feet. Typically we locate these facilities adjacent to residential communities because Children's Lighthouse wants to serve as a neighborhood service. We also locate them on access routes to allow working parents to readily access the facility on their way to and from their home.

The facility is a one-story pitched roof facility so that it blends in with the residential community. The typical proto-type has a combination of stone and stucco. We learned that stucco was not part of the accepted material so we re-designed the elevation so they are 100% stone. These are the changes that were made as part of us working with staff to comply. If this is, in fact, the direction we are going to take, the exit off of Robinson road is intended to be in the future along with Phase II of the development.

Mrs. Patel did go out to the neighborhoods within the 200 foot radius as suggested by staff. She introduced herself and passed out flyers and during that process she received no negative comments. We do believe that we have done our due diligence not only to update the site plan and to the current UDC but also reaching to the citizens within the 200 foot radius.

Councilmember Harrison - did you go out to the POA and discuss it with them?

Robert Garza, RPGA, Design Group Inc. - I don't think we did. One of the ladies on the POA did approach the Patel's after the Planning and Zoning Commission meeting and ask the Patel's to come to a meeting they will be having on May 6th.

Mayor Heidemann opened the public hearing at 7:35 p.m.

Victor Burke, 2217 Knob Hill Drive - Opposed to the proposed re-zoning. Concerned with additional traffic in that area.

Melvin Locklear, 1602 Oak Hollow Drive - Opposed to the proposed re-zoning. Traffic issues.

Cheryl Locklear, 1602 Oak Hollow Drive - Opposed to the proposed re-zoning. Traffic is an issue that has not been addressed.

Katherine Clark, 1510 Pecan Valley Court - Opposed to the proposed re-zoning. Intersection is already

too busy. I live within the 200 foot radius and I was not notified.

Eric Seymour, 2204 Redrock Drive - Opposed to the proposed re-zoning. I have two children and very concerned about the heavy traffic in that area.

Laurie Feltus, 1855 Vintage Drive - Opposed to the proposed re-zoning, Decrease property values, drainage issues. Traffic issues with no traffic study. Does not want retail or gas station. Office space would be better.

Mayor Heidemann closed the Public Hearing at 7:45 p.m.

Robert Garza, RPGA, Design Group Inc. - the capacity I was asked to get was maximum capacity. Typically these centers run very well at about 115 children. Capacity is dictated by licensing is what our building is designed for but by no means does that mean there will be 250 cars coming in and out of that facility. Child care is probably the least interrupted use based on the current zoning and the zoning we are modifying. There are many other uses that are allowed by right that would be much more interrupted than a day care facility. Lastly, I would like to point out that Nancy Reed has owned this property for well over 30 years and she has every right to develop that or sell it to someone who wants to develop it in the current zoning that is allowed by right. We are going through this process because we are not doing a large retail building that is currently allowed.

Barbara Cabbage, Interim Planning and Development Director - Mr. Garza talked on the residential adjacency standards, before 2013 the Unified Development Code, there were no residential adjacency standards so a garbage dumpster could be 10 feet from your property line. Lighting, there were no restrictions on that. The residential adjacency standards are very strict and really have improved on what could go on this property and the impact it could have on the neighboring residents.

The Planning and Zoning Commission recommended approval of this PD Amendment with the one stipulation of eliminating vehicle stacking and I would think it would be appropriate to remove veterinarian use as well.

Councilmember Burke - they have the right to build a day care correct?

Barbara Cabbage, Interim Planning and Development Director - it is a permitted use within that zoning district, yes.

Councilmember Burke - with a PD in place it would allow them to build that strip center style with materials at a lesser quality, design of a lesser quality then what they are proposing correct?

Barbara Cabbage, Interim Planning and Development Director - correct.

Councilmember Burke - one outcome of denying this zoning change might be of lesser quality and cheap materials and there is not anything this body can do about it, is that correct?

Barbara Cabbage, Interim Planning and Development Director - that is correct.

Councilmember Garber - does that at all change with the fact that they are not developing that property all at one time?

Barbara Cabbage, Interim Planning and Development Director - with a Planned Development you open that up to certain things that you could propose to put into the Ordinance. The uses still allow at this time by opening up the PD you could stipulate certain things that you would like to see.

Councilmember Glockel - if you only have 115 children, how many families typically does that represent?

Robert Garza, RPGA, Design Group Inc. - we can speak on what we have experienced in the past or we can speak on what we have experienced as individuals, I myself have two kids and we were taking two kids to daycare because we were both working parents. On average I would say if you have 115 kids and we took just a minimum of two kids, that would mean that you would have just over 50 families showing up to day care and dropping them off. We also had to do a TIA Study to determine if we needed a full traffic impact analysis and our numbers did not reach the threshold that demanded that traffic study.

Councilmember Glockel - what time of day do you see your rush?

Robert Garza, RPGA, Design Group Inc. - operating hours are 6:30 am to 6:30 pm. The peak hours that take place are usually 6:30 am and about 6:00 pm.

Councilmember Glockel - the way the drive is designed, how many vehicles can you stack in the facility before you back out on Post Oak?

Robert Garza, RPGA, Design Group Inc. - we don't stack. The parents have to park and come in to both drop off the kids and pick them up. We have 53 parking spaces on the daycare side. Per the Children's Lighthouse Corporate Study of Parking, which is a 15 minute increment parking study, we only need 43 spaces so we are 10 spaces over what we need.

10a. Consider and act on an ordinance amending the Comprehensive Zoning Ordinance being a part of the Unified Development Code, Ordinance No. 13-05-02-08, as amended and amending Planned Development Ordinance No. No. 07-03-01-05 by revising the Land Use Regulations and Development Standards on property legally described as Tract 1 being 3.189 acres situated in the L. Young Survey, County Abstract 1451 in the City of Corinth, Denton County, Texas. This property is located on the northwest corner (NWC) of Post Oak Drive and Robinson Road.

MOTION made by Councilmember Burke to approve the Ordinance amending the Comprehensive Zoning Ordinance being a part of the Unified Development Code, Ordinance No. 13-05-02-08, as amended and amending Planned Development Ordinance No. No. 07-03-01-05 by revising the Land Use Regulations and Development Standards on property legally described as Tract 1 being 3.189 acres situated in the L. Young Survey, County Abstract 1451 in the City of Corinth, Denton County, Texas. This property is located on the northwest corner (NWC) of Post Oak Drive and Robinson Road. Seconded by Councilmember Garber.

AYES: Burke, Garber, Glockel
NOES: Johnson, Harrison
ABSENT: None

MOTION CARRIED

11. Discuss and consider a petition for a Major Subdivision Waiver for relief from the driveway separation distance requirements of the Unified Development Code, Section 3.05.04, Access Management, to allow a separation distance of approximately 171' from the Post Oak intersection for a new driveway. The property is located on 3.017 acres legally described as Tract 1 being 3.189 acres situated in the L. Young Survey, County Abstract 1451 in the City of Corinth, Denton County, Texas. This property is located on the northwest corner (NWC) of Post Oak Drive and Robinson Road.

Mike Brownlee, City Engineer - this item is directly related to item #10. The Major Subdivision Waiver for the Children's Lighthouse Addition is required since the proposed new driveway (connected to Post Oak) is at variance with the city's Access Management Standards. The proposed waiver to the access management standards would allow a second driveway connected to Post Oak. There are two proposed driveway connected to Post Oak, and one proposed driveway connected to Robinson Road to serve the two lots with cross access between the lots. The driveway closest to the Post Oak/Robinson intersection is the topic for the waiver.

The development is a two phase project. Phase 1 includes the day care center. There was concern that without the proposed second driveway connected to Post Oak, that southbound Post Oak traffic would be forced to either go the busy northern Post Oak Driveway (with median cut) or go all the way to the most southern driveway (located in the undeveloped Phase 2) and subsequently make a U-turn at Vintage Drive to make their way back to Post Oak. The second driveway (from Post Oak) will reduce the loading on the northern driveway, will help internal circulation and reduce U-turn conflicts in the public Right of Way.

Staff recommends approval of a petition for a Major Subdivision Waiver for relief from the driveway separation distance requirements of the Unified Development Code, Section 3.05.04, Access Management, to allow a separation distance of approximately 171' from the Post Oak intersection for a new driveway. The property is located on 3.017 acres legally described as Tract 1 being 3.189 acres situated in the L. Young Survey, County Abstract 1451 in the City of Corinth, Denton County, Texas. This property is located on the northwest corner (NWC) of Post Oak Drive and Robinson Road.

Councilmember Burke - is our police department involved in deciding whether or not this is going to create a safety risk for the children walking back and forth to school?

Jimmie Gregg, Corinth Police Lieutenant - this is the first time I have seen this presentation. My concerns would be the cars making the U-Turns at the intersection of Post Oak and Robinson.

Councilmember Burke - I don't recall a No U-Turn sign there.

Jimmie Gregg, Corinth Police Lieutenant - there is none at this time.

Councilmember Burke - can we place it?

Jimmie Gregg, Corinth Police Lieutenant - that is something we can do.

MOTION made by Councilmember Burke to approve a petition for a Major Subdivision Waiver for relief from the driveway separation distance requirements of the Unified Development Code, Section 3.05.04, Access Management, to allow a separation distance of approximately 171' from the Post Oak intersection for a new driveway. The property is located on 3.017 acres legally described as Tract 1 being 3.189 acres situated in the L. Young Survey, County Abstract 1451 in the City of Corinth, Denton County, Texas. This property is located on the northwest corner (NWC) of Post Oak Drive and Robinson Road. Seconded by Councilmember Glockel.

Councilmember Johnson - being that we approved the daycare this is one of the things that we can do to help with the traffic there within that area and I think there should be more research to be done. The No U-Turn signs and things like that will help as well.

AYES: Burke, Garber, Johnson, Glockel
NOES: Harrison
ABSENT: None

MOTION CARRIED

PUBLIC HEARING:

12. TO HEAR PUBLIC OPINION REGARDING AMENDING THE CITY OF CORINTH COMPREHENSIVE ZONING ORDINANCE BEING A PART OF THE UNIFIED DEVELOPMENT CODE ORDINANCE NO. 13-05-02-08 INCLUDING SECTIONS 2.07.03 AND 2.07.04 BY AMENDING USES PERMITTED, USES PROHIBITED, USES PERMITTED BY SPECIFIC USE PERMIT AND CONDITIONAL DEVELOPMENT STANDARDS RELATED TO INDUSTRIAL, COMMERCIAL, OFFICE, RETAIL, AND RESIDENTIAL LAND USE CATEGORIES.

Bob Hart, City Manager - this item is on the agenda tonight as a Public Hearing only. No action is required. There will be a series of Workshops and additional public input would be involved before any consideration is needed.

Barbara Cabbage, Interim Planning and Development Director - The Unified Development Code was adopted in May 2013. Text amendments following adoption and miscellaneous updates are necessary to eliminate unclear language, correct errors, and update content based on interpretations and practices of the department. Updates can be initiated by changes in State, Federal and Local laws as well. Since its adoption, updates have been made to the UDC; "Uses" have been added and "processes" have been changed too.

Staff, P&Z and City Council over the last five years have discussed updating the "Uses". With the changes in our City with regards to growth and infrastructure improvements including Interstate 35, FM 2181, FM 2499 and Lake Sharon Drive, it seems the perfect time to re-evaluate the Use Chart. Associated with the Use Chart is the Conditional Development Standards. Some "Uses" are not permitted outright but may be allowed if certain standards and conditions are met and the Planning and Zoning Commission and City Council grants approval. Conditional Development Standards assure neighbors, residential and non-residential alike, that uses of adjacent properties will be as compatible as possible with the property uses

established. Some of the ones we have been looking at is adding some regulations to hotels and motels. We have a lot of interest in the City to bring in hotels and motels and we want to make sure that we get ahead of it and recognize the districts as far as where they need to go.

We want to have as much public input as we can. Some of the suggestions that Councilmember Harrison had was contacting the HOA's, Churches, and the schools to get their input.

Mayor Heidemann opened the Public Hearing at 8:25 p.m. No one spoke during the Public Hearing. Mayor Heidemann closed the Public Hearing at 8:26 p.m.

PUBLIC HEARING:

13. Conduct a public hearing on the need to continue Section 130.04 of the Corinth Code of Ordinances, imposing a curfew for juveniles and consider an act on amending Chapter 130 of the Corinth Code of Ordinances to continue the Curfew for Minors for an additional three (3) years.

Kevin Tyson, Corinth Police Lieutenant - On April 16, 2009 the Corinth City Council adopted Ordinance 09-04-16-05 establishing curfew hours for minors. With limited exceptions, persons under the age of 17 years, and readopted the curfew provisions in 2012 and again in 2015.

In 1995, the Texas Legislature enacted provisions that address a City's authority to enact juvenile curfew ordinances. This legislation requires a city to conduct periodic reviews of its curfew ordinance. A city must review its curfew ordinance at least every three years, addressing the ordinance's effect on the community and on problems the ordinance was intended to remedy. The current curfew regulations of the City will expire and Ordinance No 18-04-19 will continue the curfew regulations for an additional three (3) years.

Data was collected from the Corinth Police Department's Records Management System (RMS) and the Corinth Municipal Court software system (INC0DE). The data was then organized and analyzed showing trends in different activities to help determine the effectiveness of the ordinance. The data is presented in both written and graph format representing several categories to explain the trends.

Beginning in 2009, data collection methods changed in that if a citation only was issued, it was not counted as an arrest. Only those juveniles physically taken into custody are counted as arrests. The arrest data is for persons under seventeen years of age who were physically taken into custody during curfew hours. Data was collected for calendar years 2015-2017.

From calendar year 2015 to calendar year 2017, the Corinth Police Department issued 270 citations to juveniles (persons under the age of 17). These citations include traffic violations, and City Ordinance violations. Of the 270 citations issued to juveniles, 74 were issued during curfew hours. See Exhibit A

An examination of the data collected and included in this analysis reveals that the Juvenile Curfew Ordinance is an effective tool that assists officers, reduces juvenile delinquency and victimization. It is the recommendation of the Corinth Police Department that the City Council review this report and consider continuing the Juvenile Curfew Ordinance.

Mayor Heidemann opened the Public Hearing at 8:30 p.m. No one spoke during the Public Hearing. Mayor Heidemann closed the Public Hearing at 8:30 p.m.

MOTION made by Councilmember Garber to approve the Ordinance to continue the Curfew for Minors for an additional three (3) years. Seconded by Councilmember Glockel.

AYES: Burke, Johnson, Garber, Harrison, Glockel
NOES: None
ABSENT: None

MOTION CARRIED

BUSINESS:

14. Discuss and consider a petition for a Major Subdivision Waiver for relief from the driveway separation distance requirements of the Unified Development Code, Section 3.05.04, Access Management, to allow a separation distance of 244', curb-to-curb, in lieu of 250' from the Post Oak intersection, and a separation distance of 77', curb to curb, in lieu of 250' from the nearest adjacent driveway. The property is located on 3.017 acres legally described as a portion of Lot 1, Block 1, State Farm Addition, in the City of Corinth, Denton County, Texas. This property is located south of the Post Oak Drive intersection on the southbound frontage road of IH-35E and is commonly known as 1251 Post Oak Drive.

Mike Brownlee, City Engineer - The proposed major subdivision waiver would allow for construction of a new driveway connection for the subject property to the southbound frontage road. Per city ordinances, a Major Subdivision Waiver is required for significant changes to both the standards and intent of the UDC Subdivision Regulations, and requires approval through the Planning and Zoning Commission and City Council process.

The property is currently developed as an office use for an insurance claims center with two driveway connections from Pecan Creek Circle. There is currently no end user associated with the planning of the development. The intent of the developer is to attract a retail or restaurant user by improving the site. Staff is in support of adding a driveway provided that TX DOT issues can be resolved, including the need for off-site improvements. This will require that engineering studies, exhibits and preliminary plans are prepared by the developer to support discussions with TX DOT. Alternatively, cross access between the adjoining properties with a shared common driveway would also provide access from the frontage road, but there is no consensus between the affected property owners concerning the need or timing for cross access.

The variance from the city's driveway separation distances are shown in the table below. The standards are taken from the City of Corinth Access Management regulations found in Section 3.05.04, Access Management of the Unified Development Code. The new driveway would be located 244' downstream of the Post Oak intersection and 77' upstream of the nearest adjacent driveway for the Christian Brothers Automotive.

Condition:	Access Management Requirement	Actual Conditions
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Distance Between the Intersection 250' on TX DOT ROW with 244' Curb to Curb from the Post
Oak
And Driveway Right-in and Right-out Intersection

Distance Between Adjacent 250' on TX DOT ROW with 77' Curb to Christian Brothers
Driveway Right-in and Right-out Driveway

Staff recommends approval of the petition for relief from the driveway separation criteria provided that the developer can satisfy any TX DOT concerns for adding a driveway at this location. In addition to support from the city, the developer will need to provide preliminary designs, studies and exhibits which will provide the basis for the new driveway and any other required improvements needed to build a new driveway in harmony with future expansion of the IH-35E corridor.

The item was recommended for approval at the Planning and Zoning Meeting held March 26, 2018 conditional upon the results of a traffic study and TX DOT approval of the driveway.

Councilmember Harrison - what are the uses that go on this property?

Barbara Cabbage, Interim Planning and Development Director - the property is zoned Highway Commercial and it is part of the Oakmont Master Plan Development. There are a number of uses, grocery store, church, gas station etc.

MOTION made by Councilmember Johnson to approve a petition for a Major Subdivision Waiver for relief from the driveway separation distance requirements of the Unified Development Code, Section 3.05.04, Access Management, to allow a separation distance of 244', curb-to-curb, in lieu of 250' from the Post Oak intersection, and a separation distance of 77', curb to curb, in lieu of 250' from the nearest adjacent driveway. The property is located on 3.017 acres legally described as a portion of Lot 1, Block 1, State Farm Addition, in the City of Corinth, Denton County, Texas. This property is located south of the Post Oak Drive intersection on the southbound frontage road of IH-35E and is commonly known as 1251 Post Oak Drive. Seconded by Councilmember Garber.

AYES: Burke, Garber, Johnson, Harrison, Glockel

NOES: None

ABSENT: None

MOTION CARRIED

15. CONSIDER AND ACT ON AN ORDINANCE OF THE CITY OF CORINTH, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF CORINTH, TEXAS, BY AMENDING CHAPTER 71, STOPPING, STANDING AND PARKING, BY MODIFICATIONS TO SECTION 71.02, PARKING DESIGNATIONS FOR PORTIONS OF PUBLIC RIGHTS-OF-WAY, PROHIBITING PARKING, STANDING, AND STOPPING ALONG PORTIONS OF INTERSTATE HIGHWAY 35 SERVICE ROAD (STEMMONS FREEWAY), PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO HUNDRED DOLLARS (\$200.00) FOR EACH OFFENSE;

PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Bob Hart, City Manager - this is at the location of Classical Academy that we have discussed a number of times.

Kevin Tyson, Police Lieutenant - beginning in September 2017 the police department received complaints of vehicles stopping on the service road to I 35E at Meadowview Drive which has almost caused multiple vehicle accidents. This back up is caused by vehicles waiting to get into Corinth Classical Academy to pick up children after school. PD officials have met with Classical Academy Directors on multiple occasions to try to alleviate the traffic issue and by passing the ordinance and posting signs this should alleviate the problem. This will allow officers to enforce the violation and keep the roadway clear.

MOTION made by Councilmember Glockel to approve the Ordinance Chapter 71, Prohibiting parking, standing, and stopping along portions of Interstate Highway 35 Service Road. Seconded by Councilmember Garber.

AYES: Burke, Garber, Johnson, Harrison, Glockel
NOES: None
ABSENT: None

MOTION CARRIED

16. Consider and act on a Resolution nominating one candidate to a slate of nominees for the Board of Managers of the Denco Area 9-1-1 District.

Bob Hart, City Manager - Jim Carter is the representative for our area. He is a former Commissioner and former Mayor of Trophy Club. We brought this Resolution to you to see if the Council would like to nominate another candidate, nominate him or just be silent and wait until the ballot is brought before you.

Mr. Carter has served a number of time and he does want to continue serve again. I think if you wait for the ballot you can vote for him then.

NO ACTION NECESSARY

17. Consider and act on an ordinance approving an amendment to the fiscal year 2017-2018 Budget and Annual Program of Services to provide for expenditure of funds from the Storm Drainage Fund for the Lynchburg Creek Design Study.

Bob Hart, City Manager - this item is a companion item to the drainage study for Lynchburg Creek. Before you can approve the study you have to have funds available to be appropriated for the study because it was not included in the budget. We placed this on the agenda so we can amend the budget and take \$250,000 out of the Storm Drainage Fund balance so we will be able to fund the study. The fund would still have funds that would exceed the fund balance requirement. Staff recommends

approval of this budget amendment.

MOTION made by Councilmember Harrison to approve the Ordinance amending the budget to provide for expenditures of funds from the Storm Drainage Fund for the Lynchburg Creek Design Study in the amount of \$250,000. Seconded by Councilmember Johnson.

AYES: Burke, Garber, Johnson, Harrison, Glockel
NOES: None
ABSENT: None

MOTION CARRIED

18. Consider approval of the Lynchburg Creek Master Drainage Plan in the lump sum amount of Two Hundred Fifty Thousand Dollars and No Cents (\$250,000).

MOTION made by Councilmember Johnson to approve the Lynchburg Creek Master Drainage Plan in the amount of \$250,000. Seconded by Councilmember Harrison.

AYES: Burke, Garber, Johnson, Harrison, Glockel
NOES: None
ABSENT: None

MOTION CARRIED

COUNCIL COMMENTS & FUTURE AGENDA ITEMS

The purpose of this section is to allow each councilmember the opportunity to provide general updates and/or comments to fellow councilmembers, the public, and/or staff on any issues or future events. Also, in accordance with Section 30.085 of the Code of Ordinances, at this time, any Councilmember may direct that an item be added as a business item to any future agenda.

Councilmember Johnson - the Lake Dallas High School Fire Academy class will graduate on May 11th at 2:00 in Gainesville. We would certainly love to have community support out there it will be on the NCTC Campus and would highly recommend attending. These kids deserve every bit of recognition they can get.

Mayor Heidemann - On Saturday, April 28 we will be making dedication of the Fire Station and the Public Safety facility. There will be food provided by Co Serv and will be a great event.

CLOSED SESSION

Mayor Heidemann recessed the meeting at 8:56 p.m. *See Closed Session.

The City Council will convene in such executive or closed session to consider any matters regarding any of the above agenda items as well as the following matters pursuant to Chapter 551 of the Texas Government Code.

Section 551.071. (1) Private consultation with its attorney to seek advice about pending or contemplated

litigation; and/or settlement offer; and/or (2) a matter in which the duty of the attorney to the government body under the Texas Disciplinary Rules of Professional Conduct of the State of Texas clearly conflicts with chapter 551.

Section 551.072. To deliberate the purchase, exchange, lease or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person.

Council met in Closed Session from 8:58 p.m. until 9:20 p.m.

a. Purchase Right-of-way at 2101 Lake Sharon Blvd

RECONVENE IN OPEN SESSION TO TAKE ACTION, IF NECESSARY, ON CLOSED SESSION ITEMS.

Mayor Heidemann reconvened the Regular Session at 9:24 p.m.

BUSINESS AGENDA:

19. Hear and discuss land owner proposal for resolution of Right-of-Way sale and related issues at 2101 Lake Sharon Blvd.

Mack Reinwand, City Attorney - Mr. Glockel will be acting in this role as a property owner of the City and not as a City Councilmember during his presentation.

Don Glockel, 2101 Post Oak - I wanted to do a building something like John Baum has over there. I spoke to Barbara Cabbage, she told me what I needed to do. She said, first off, your property does not have a minor plat, I asked how do I do that? She explained the whole thing to me. The last two times the City has changed the size of my property and they are going to do it again here in a few months. We know Post Oak or Lake Sharon is going to be built so I chose not to do anything until after that was done. The decision I think when I left Barbara's office was once it is surveyed... I know now how to get a minor plat done and that is how I left it.

As things progressed, December 3rd was the first memorandum of agreement that was furnished to me by Justin Brown and Elaine Herzog, both are gone now. They came to my house, they stood in my drive-way and we talked about it. I have talked to Mack, Mike, Bob Hart and to Fred Gibbs when he was still here. I asked Bob Hart back in April to try to get to the bottom of it and quite frankly don't mean to sound facetious but this is probably in worse shape now then it was when I asked Mr. Hart to fix the problem.

Don Glockel, 2101 Post Oak continued - *Reading from his paperwork that he provided to Council.* Lake Sharon Drive has been selected as one of the improvements to meet these needs. (They are talking about the transportation needs). Then it talks about the Right-of-way and the temporary easements for the improvements for Lake Sharon Drive. It never mentions Post Oak and there is a reason for that.

Then in the next paragraph, it states "This offer is based on a Market Study completed by Jeff Tillman, MAI, on June 15, 2009. The study reflects a value of \$1.75 per square foot for Expanded Permanent Right-of-way and 12% of that value or \$0.21 per square foot for the Temporary Grading Easement." The reason that is important is that I never challenged that price per square foot because, talking to

Elaine and talking to Justin, I said "guys you have seen the study" Is that the low end? Is that the median end? Is that the high end of this study? They replied "Oh Don that is the high end of that study". I said ok, I had no reason not to believe them and so we moved on.

I will also tell you and you will see it in your packet, in this same offering there is a picture and it shows Lake Sharon and it also shows a little thing going up Post Oak. I asked them why are you getting an easement on Post Oak? They said they were going to do some work on Post Oak later and we are just going to buy all the easements at the same time. That made sense to me so I left it with that.

They asked me to come back and they did not offer me anything for prescriptive right-of-way. I can give you definitions and legal interpretations of how that should be done and should not be done but I am going to stick with what I did with the City and the City representatives and quite frankly if they dealt with the general public the way they dealt with me I am glad they are both gone.

On the 2nd page which is my rebuttal dated March 6th and I asked for the expanded permanent right-of-way. I didn't ask for anything there, they offered \$1.75 and because that was the high end, I said ok.

For the prescriptive right-of-way, I also asked for them to give me \$1.75, they were offering zero. The temporary grading was based on a percentage and I didn't argue the price at all with that. If you go over to the 2nd page, number 4 the last sentence "I am requesting \$1.75 square foot as compensation for the said Prescriptive right-of-way of 10,640 square feet - the same amount per square foot as offered for the Expanded Permanent right-of-way by the City". They came back within a day or two and said ok but we can't buy your Prescriptive Right-of-way. You can't tell me yes and no in the same sentence so they said well what we have to do is we will give you more money per foot and you will get the same amount of money but we can't tell anybody we are buying your Prescriptive Right-of-way.

Don Glockel continued - Let's look at #6. I had 30 cedar trees that screened my house and I requested \$20.00 per running foot of fence allowance to replace the cedar screening/loss on approximately 250 feet starting at a point at Post Oak... I did not say starting at my property line, starting at a point at Post Oak and continuing past my 2nd entrance on Lake Sharon. At the time I had a circular drive-way. The circular drive-way had to go away when the right-of-way got moved over. I am asking for a fence... I want to build a fence and she (Barbara) had told me how to plat my property after the survey is done and I want to build a fence from Post Oak down past my 2nd drive-way. I will tell you it why it is important to start on Post Oak in a second.

Then we talked about the trees and I don't know if \$400.00 is right but the number of trees changed all the way through this... 12, 14 to 16 and that is important because the right-of-way kept changing and they kept taking more trees out.

Then on the next page it says Don Glockel and it talks about 2.88 acres and this is Elaine's notes. My property value was from \$1.35 to \$2.10 and they offered me \$1.75 and told me \$1.75 was the top. I didn't think I was negotiating with somebody that was not going to be honest with me but apparently I was.

The other thing, that picture at the top, if you look at the picture you can see my drive-way. I was told that I could not have a crossover in the median because I was too close to that stop sign at the top of the hill. This is a current picture, but anyway from my drive-way to that point is 10 feet more. Then from this stop sign to this guy's drive-way and this guy's drive-way, they have a crossover, so I lost on that one.

I was being told there was nothing happening on Post Oak so when we talked about Lake Sharon and

Post Oak, Lake Sharon is the only thing that is being talked about at this time. I am not aware there is something going on up the road. The map shows the little strip, there is some numbers here and that is the number of trees that is going to go away when Post Oak is built and it shows their size and how far they are from the right-of-way. They are not in my tree study because they are not going to go away, they are not part of the 12 or 14 original ones because Post Oak is not being built at this time. All this time we are talking about a fence, I am talking about building a fence from the top of Post Oak down past my drive-way, not from the north end of Post Oak where my property starts because I didn't know that was going to happen. So my 250 feet of fence I was talking about comes from the top of Post Oak, comes all the way down past my first drive-way and past my second drive-way and the wall was later.

In Elaine's handwriting, it talks about trees at Post Oak in the front are gone. If you look at my contract with the City, every tree that I had would be taken down and laid on my property and I would have a contract with Mission Woods in Sanger, they were going to make them into usable wood.

On 8/11, Jeremy stopped by my property and due to a problem on the east end it would be Monday or Tuesday 8/16 or 8/17 before they touched any of my trees. That Friday my wife called me when she got home from work and said all of the trees were piled up. So I lost all of my trees that the contract said I was supposed to get.

The dollar per foot was not what I argued about. I wanted to get paid for prescriptive and they went back and said that would happen.

Don Glockel continued - On April 29, 2010 is another Memorandum of Agreement. Mysteriously, the market study completed by Jeff Tillman, MAI on June 15, 2009 now values my property at \$2.60 per square foot which is just a fabrication to justify what they are doing. Now he says, the right-of-way and 12% of that value or \$0.315 per square foot for temporary grading which was \$4,098.47 and then he says the City will have approximately two hundred and fifty feet (250') of eight foot (8') cedar fencing with metal posts constructed to replace your current cedar tree screening from Post Oak Drive to the easterly drive-way off of Lake Sharon Drive. That is exactly what I asked for. That is not what got built. The fence that got built was not what I asked for, the fence that got built was built on top of the retaining wall to protect the liability and the safety of my family and other people.

Elaine Herzog told me emphatically "Don Glockel even if you get your platting done you cannot build this fence you are talking about because you can't have solid fence in front of your house" She said you can put it up on Post Oak. I said I want it on Lake Sharon where you took those trees out and she said "no you cannot do that". Does that sound logical? That I can't have an 8' foot solid fence in my front where my drive-way is?

Barbara Cabbage, Interim Planning and Development Director - it depends on the size of your lot.

Don Glockel, 2101 Post Oak - there you go and that was never mentioned until a long time later. I was emphatically told I could not do it. So, I said ok, If I can't build that fence now, then what I want you to do is to go down to the corner and at that time it was Lake Sharon before you get to FM 2181 and look at what you did there on that high rise wall and do whatever you did there on my retaining wall and we will call it quits. They came back a couple days later and said we are going to put an 8' foot fence on top of your retaining wall because that safety wall is much more expensive than an 8' foot fence.

At the end of this agreement, the only thing that we have an issue with is I am not building a fence anymore, the City is putting a fence on top of a retaining wall and the retaining wall happens to be

about 250' feet long now and now it is going all the way up to Post Oak. The only thing I am concerned about is \$2.60 does not come up to \$1.75 a foot for both pieces, and we agreed the math was wrong. They come back again on May 26th. Jeff Tillman, MAI, June 15, 2009, it stated "the study reflects a maximum value of \$2.84 per square foot for Expanded Permanent Right-of-way and now 7.5% of that value or \$0.21 per square foot for the Temporary Grading Easement" so now the amount is back down to \$2,732.31. Also, it states "the City will have eight foot 8' cedar fencing with metal posts constructed along the retaining wall to replace your current cedar tree screening. Where before it said "down past your second driveway".

Don Glockel went over the map he provided to Council. My property line is 7 or 10 inches back to the wall. On the map it says my property line should be 3' feet back to the wall. When I get past my driveway that I use every day, now we are talking about this being 4' foot. When we get down to where my second driveway is I should have had 1' foot of property between this sidewalk and me.

As we start to the west everything starts moving over on me. I don't know how they built this job this far off without somebody catching it. Somebody had to know I would think. Had I signed that plat, that Fred and Mr. Hart gave me to sign, we talked about it, I spoke to the surveyor on my property and he said he did not have a clue where my property lines are but he thinks they are probably under the sidewalk or maybe even under the wall. The Plat did not have any markings where the surveys were and they weren't on the jobsite. Anyway, I would not sign the plat. If I signed that plat then I would have a minor plat and if I ever sell it will be my responsibility to dig out of this mess and I didn't build it.

Anyway, what I did was not take what they offered the first time or what they offered the second time and when they offered the second time, I had conversation with them and it did not add up and did not make any sense to me. That is when they came back with the third offer.

I don't want the utilities on my property, the fence is not mine, the wall is not mine and the sidewalk is not mine. I don't want any part of any of it. This retaining wall is designed to be on right-of-way and it started out that way. As it got built, the wall has a circular design and it arched over into my property. I didn't change the property line, they built the wall in the wrong place, therefore when they put the fence behind it, the fence is in the wrong place and I guess the push now is for me to accept that fence and I don't want any part of that fence.

The issues that we want to resolve:

- Ownership of fence
- Whether or not property owner was fairly paid for property acquired
- Compensation for approximately 250 ft. of property that contains the public improvements
- Who is responsible for platting the property and placement of pins (\$7500)
- Resolution of drainage structure on Post Oak Drive/ Crabtree

Elaine told me, and Justin agreed, that I could not have a fence, I could not build a solid fence but I could build a wrought iron fence once I got my plat resolved. But now that we know there is a hazard on Post Oak and Lake Sharon with a 7.8' foot fall to the ground and most of it is over 5' feet. But anyway, the compensation of approximately 250' foot of property that contains the public improvements, I guess what the intent is here, is for the City and it spells it out in one of the documents that we are going to take that line and we are going to loop it around each of the posts, there is the wall, there is the fence and my property line has got to go between it. In most cases the difference between the fence and the face of that post is less than the length of a pen. If they were building a fence for me it would have been cedar, it would have been capped as I asked for, it would have gone to my second driveway and it would have been on my

property. This fence is not mine.

On June 15, 2009, the study mysteriously went from \$1.75 to \$2.60 to \$2.84 and that is gospel because it is written in the Memorandum of Agreement.

The trees under the contract I never got any of them. The fence is not mine, I don't want the sidewalk on my property, I don't want the fence and I don't want the retaining wall and those are my issues.

It should not be my responsibility to resolve the liability issue created by the City.

Councilmember Garber - what would a perfect solution look like Don?

Don Glockel, 2101 Post Oak - just take an imaginary line outside of what is there. You can't move it. Before it was right, I would just have an imaginary line inside all the infrastructure, the wall on the fence. I would have an imaginary line like what is drawn on this piece of paper. Why can't we do that now? Go down and start at one end or a foot maybe. I don't want to be up under the wall and I don't want the fence because the fence and the wall do not complement each other very well because you can't work on neither one of them.

My agreement with the City was the City to survey it and I would pay for the \$1,850 plat and that was the agreement. My deal was you give me the pins where they belong and I will give the \$1,850 or I will go get the minor plat myself. That was the deal and that was the original deal. I am still good with that.

You are not doing me a favor by doing a survey, it was the City's responsibility to do that, it was the contractor's responsibility to do that and we didn't hold anybody to the fire. We let them walk away without doing their job and now you are saying it is a big deal to me and it is not my responsibility.

Councilmember Garber - I still don't know what you want? What is it that you want?

Don Glockel, 2101 Post Oak - I want a clean demarcation from the City. I even met with the two representatives and they asked me to give a little and I said ok, where can I give, they said well you have to take the fence. I said I am not taking the fence, the fence is not mine and I am not taking it. I want a clean demarcation then we can decide once we decide what the demarcation is going to be, we see how many feet it is, we can negotiate the price and go from there.

Councilmember Garber - you mentioned a few times that you wanted to and were willing to build a fence at the time but thought that you could not. So are you still willing to and do you want to build a fence?

Don Glockel, 2101 Post Oak - absolutely. Not on that wall. I don't want to be the one who is responsible for the liability if it blows down and I am on vacation and someone walks across there and gets hurt they are going to sue me. I would have built the fence from the top of Post Oak down past my second driveway and that was what I was asking for. They didn't even do that, they just built the fence. After our conversation I asked them to build something on top of that wall so my grandkids can't fall off of it or some kid can't cut across. At the time we talked about it I did not know that it was going to be 5' feet high at the north end. If the fence stays, that's great. If the City decides to take the fence down then the City is responsible for the hazard that they built, it is not mine.

Mayor Heidemann recessed the Regular meeting at 10:20 p.m. *See Closed Session.

CLOSED SESSION

The City Council will convene in such executive or (closed session) to consider any matters regarding any of the above agenda items as well as the following matters pursuant to Chapter 551 of

Section 551.071. (1) Private consultation with its attorney to seek advice about pending or contemplated litigation; and/or settlement offer; and/or (2) a matter in which the duty of the attorney to the government body under the Texas Disciplinary Rules of Professional Conduct of the State of Texas clearly conflicts with chapter 551.

Section 551.072. To deliberate the purchase, exchange, lease or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person.

Council met in Closed Session from 10:22 p.m. until 10:54 p.m.

a. Purchase Right-of-way at 2101 Lake Sharon Blvd

After discussion of any matters in closed session, any final action or vote taken will be in public by the City Council. City Council shall have the right at any time to seek legal advice in Closed Session from its Attorney on any agenda item, whether posted for Closed Session or not.

RECONVENE IN OPEN SESSION TO TAKE ACTION, IF NECESSARY, ON CLOSED SESSION ITEMS.

Mayor Heidemann reconvened the meeting at 10:55 p.m.

There was no action taken from Closed Session.

ADJOURN:

Mayor Heidemann adjourned the meeting at 10:56 P.M.

AYES: All

Meeting adjourned.

Approved by Council on the 7th day of June, 2018.

Kimberly Pence

Kimberly Pence, City Secretary
City of Corinth, Texas

