AGENDA
BENBROOK CITY COUNCIL
THURSDAY, DECEMBER 15, 2016
911 WINSCOTT ROAD, BENBROOK, TEXAS
PRE-COUNCIL WORKSESSION 7:00 P.M.
CENTRAL CONFERENCE ROOM

1. Review and discuss agenda items for regular meeting

REGULAR MEETING 7:30 P.M.
COUNCIL CHAMBERS
ALL AGENDA ITEMS ARE SUBJECT TO FINAL ACTION

I. CALL TO ORDER

II. INVOCATION/PLEDGE OF ALLEGIANCE

Invocation To Be Given By Pastor Mike Redd Of Benbrook United Methodist Church

III. MINUTES

1. Approve Minutes Of The Regular Meeting Held December 1, 2016

Documents:

CC MINUTES-12-01-16.PDF

IV. PRESENTATION BY PLANNING AND ZONING COMMISSION

PZ-2016-04 Adopt An Ordinance Amending Title 17-Zoning Of The Benbrook Municipal Code (1985), As Amended, By Changing The Zoning Classification Of 23.0478 Acres Of Land In The Hays Covington Survey, Abstract Number 257, City Of Benbrook, Tarrant County, Texas From "BR-PD" One Family Reduced Planned Development District And "D-PD" Multiple Family Planned Development District To "D" Multiple Family District; And 28.2513 Acres Of Land In The Hays Covington Survey, Abstract Number 257, City Of Benbrook, Tarrant County, Texas From "D-PD" Multiple Family Planned Development District, "HC-PD1" Highway Corridor Planned Development District 1, And "HC-PD2" Highway Corridor Planned Development District 2 To "D" Multiple Family District And By Amending The Official Zoning Map To Reflect The Change

Documents:

PZ-2016-04 ZONING CHANGE 23.0478 ACRES HAYS COVINGTON.PDF
PZ-2016-04 ORDINANCE ZONING CHANGE.PDF

V. REPORTS FROM CITY MANAGER

A. GENERAL

G-2274 Make Appointments To Boards And Commissions

Documents:

G-2274 MAKE APPOINTMENT TO BOARDS.PDF

G-2275 Adopt Ordinance Amending Chapter 5.04 – Alcoholic Beverage Sales Of The Benbrook Municipal Code

Documents:

G-2275 ADOPT ALCOHOLIC BEVERAGE AMENDMENTS.PDF

G-2275 Ordinance

Documents:

G-2275 ORDINANCE CHAPTER 5.04 ALCOHOL BEVERAGE.PDF

G-2276 Approve Contact For Sale Of 913 Timberline Drive

Documents:

G-2276 APPROVE CONTRACT SALE OF 913 TIMBERLINE DRIVE.PDF

VI. INFORMAL CITIZEN COMMENTS

State Law Prohibits Any Deliberation Of Or Decisions Regarding Items Presented In Informal Citizen Comments. City Council May Only Make A Statement Of Specific Factual Information Given In Response To The Inquiry; Recite An Existing Policy; Or Request Staff Place The Item On An Agenda For A Subsequent Meeting. The Exception To Informal Comments Is That Once An Election Date Has Been Set By City Council Comments Relative To Elections Will Not Be Broadcast On The City's Cable Channel. However, A Copy Of The Tape Containing Citizens' Comments Will Be Available At City Hall For Review Or Purchase By Interested Citizens.

VII. COUNCIL MEMBER AND STAFF COMMENTS

– Announcements From City Councilmembers And City Staff May Be Made For Items To Include: Expression Of Thanks; Congratulations; Condolence; Recognition Of Public Officials, Employees Or Citizens; Information Regarding Holiday Schedules; Reminders Of Community Events Or Announcements Involving An Imminent Threat To The Public Health And Safety Of The Municipality That Has Arisen After The Posing Of The Agenda. No Discussion Or Formal Action May Be Taken On These Items At This Meeting

VIII. ADJOURNMENT

MINUTES
OF THE
REGULAR MEETING OF THE
BENBROOK CITY COUNCIL
THURSDAY, DECEMBER 1, 2016

The regular meeting of the Benbrook City Council was held on Thursday December 1, 2016 at 7:30 p. m. in the Council Chambers at 911 Winscott Road with the following Council members present:

Jerry Dittrich
Renee Franklin
Larry Marshall
Rickie Allison
Jim Wilson
Mark Washburn
Ron Sauma

Also Present:
Andy Wayman, City Manager
Dave Gattis, Deputy City Manager
Joanna King, City Secretary

Others Present:
Bill Smith
Denise Huneycutt, Benbrook News
Lynda Monaco
Sam Rios, Boy Scout Troop 720
Jordan Cyprian, Boy Scout Troop 720
Jeremy Henderson, Boy Scout Troop 720
Dan Cooper, Scout Master Troop 720

I. CALL TO ORDER

Meeting called to order at 7:30 p. m. by Mayor Dittrich.

II. INVOCATION/PLEDGE OF ALLEGIANCE

Invocation given by Councilmember Renee Franklin.
The Pledge of Allegiance was recited.

III. MINUTES

1. Approve Minutes of the Regular Meeting held November 17, 2016

Motion by Dr. Marshall, seconded by Mr. Allison to approve the minutes of the regular meeting held November 17, 2016.

Vote on the Motion:

Ayes: Ms. Franklin, Dr. Marshall, Mr. Allison, Mayor Dittrich, Mr. Wilson, Mr. Washburn, Mr. Sauma

Noes: None

Motion carries unanimously.

IV. REPORTS OF CITY MANAGER

Andy Wayman gave the following report: The Texas Supreme Court recently issued its opinion in *Lira v. Greater Houston German Shepherd Dog Rescue.* Pursuant to the opinion, the Texas Municipal League recommends an ordinance update to ensure city ownership of unclaimed stray animals.

The proposed ordinance amends Chapter 6.12.100 of the Benbrook Municipal Code by:

- Clarifying that a stray animal becomes City property upon the expiration of any hold period.
- Protects Benbrook and partner rescue organizations from potential liability but does not in any way impact services or care of animals.

Motion by Mr. Wilson, seconded by Mr. Washburn to adopt Ordinance No. 1403, amending Chapter 6.12.100 of the Benbrook Municipal Code to clarify that a stray animal becomes the property of the City of Benbrook upon the expiration of any hold period.

Vote on the Motion:

Ayes: Ms. Franklin, Dr. Marshall, Mr. Allison, Mayor Dittrich, Mr. Wilson, Mr. Washburn, Mr. Sauma

Noes: None

Motion carries unanimously

Ordinance No. 1403 being **"AN ORDINANCE OF THE CITY OF BENBROOK AMENDING CHAPTER 6.12.100 - IMPOUNDMENT, OF THE BENBROOK MUNICIPAL CODE (1985) TO ESTABLISH CITY OWNERSHIP OF IMPOUNDED ANIMALS; PROVIDING THAT THIS ORDINANCE SHALL BE**

CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; PROVIDING A PENALTY CLAUSE; AND PROVIDING AN EFFECTIVE DATE."

SECTION II
PENALTY CLAUSE

Any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses to comply with or who resists the enforcement of any provisions of this ordinance shall be fined not more than Five Hundred Dollars ($500.00) for all violations of this ordinance. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION IX
EFFECTIVE DATE

This ordinance shall be in full force and effect from and after its passage and publication as required by law.

V. INFORMAL CITIZEN COMMENTS

Lynda Monaco, member of 4PAWS announced that 4PAWS is selling cookbooks for their annual Fundraiser drive. She may be contacted at lyndamon99@yahoo.com.

VI. COUNCIL MEMBER AND STAFF COMMENTS

Councilmember Franklin informed citizens that the Annual Christmas Tree Lighting has been moved to Friday, December 9, 2016 at Dutch Branch Park. Pictures with Santa Clause will be held at the YMCA on Friday December 2, 2016 at 7:00 P.M.

VII. ADJOURNMENT

Meeting adjourned at 7:40 p.m.

APPROVED:

_____
Jerry B. Dittrich, Mayor

ATTEST:

_____
Joanna King, City Secretary

City of Benbrook

CITY COUNCIL COMMUNICATION

DATE:	REFERENCE NUMBER:	SUBJECT:	PAGE
12/15/16	PZ-2016-04	Adopt an ordinance amending Title 17-Zoning of the Benbrook Municipal Code (1985), as amended, by changing the zoning classification of 23.0478 acres of land in the Hays Covington Survey, Abstract Number 257, City of Benbrook, Tarrant County, Texas from "BR-PD" One Family Reduced Planned Development District and "D-PD" Multiple Family Planned Development District to "D" Multiple Family District; and 28.2513 acres of land in the Hays Covington Survey, Abstract Number 257, City of Benbrook, Tarrant County, Texas from "D-PD" Multiple Family Planned Development District, "HC-PD1" Highway Corridor Planned Development District 1, and "HC-PD2" Highway Corridor Planned Development District 2 to "D" Multiple Family District and by amending the official zoning map to reflect the change	1 of 16

Staff Report
Planning and Zoning Commission Meeting
November 10, 2016

SUBJECT PROPERTY: Tract 1: 23.0478 acres of land in the Hays Covington Survey, Abstract Number 257

Tract 2: 28.2513 acres of land in the Hays Covington Survey, Abstract Number 257

LOCATION: Planning Area "D", northwest of Benbrook Boulevard (U.S. Highway 377), southwest of I-20/Loop 820, north of Westpark Section 2, and The Ridges of Benbrook Apartments, formerly Clover on the Ridge and Summit on the Ridge. Tract 1 being located between Walnut Creek and the Union Pacific Railroad and southwest of I-20/Loop 820 to a northwesterly projection of Mercedes Street; and Tract 2 being located east of Walnut Creek, northeast of Mercedes Street and southwest of I-20/Loop 820 Tract 2).

AREA: 51.299 acres, identified as Tract 1 and Tract 2

SUBMITTED BY:	DISPOSITION BY COUNCIL: ☐ APPROVED ☐ OTHER (DESCRIBE)	PROCESSED BY: CITY SECRETARY
CITY MANAGER		DATE:

OWNER: BFIP Partners, Ltd., Bo Peek, Ltd.

APPLICANT: Richpenn Resources International, Inc./Brad Bowen

TRACT 1

AREA/LOCATION: 23.0478 acres of land in the Hays Covington Survey, Abstract Number 257 located between Walnut Creek and the Union Pacific Railroad and southwest of I-20/Loop 820 to a northwesterly projection of Mercedes Street

EXISTING ZONING: "BR-PD" One Family Reduced Planned Development District
"D-PD" Multiple Family Planned Development District

LAND USE PLAN REFERENCE: Undeveloped Floodplain and Low Density Single Family

PROPOSED ZONING: "D" Multiple Family District

TRACT 2

AREA/LOCATION: 28.2513 acres of land in the Hays Covington Survey, Abstract Number 257 located east of Walnut Creek, northeast of Mercedes Street and southwest of I-20/Loop 820

EXISTING ZONING: "HC-PD1" Highway Corridor Planned Development District 1
"HC-PD2" Highway Corridor Planned Development District 2
"D-PD" Multiple Family Planned Development District

LAND USE PLAN REFERENCE: Commercial, Undeveloped Floodplain and High Density Multi-Family

PROPOSED ZONING: "D" Multiple Family District

BACKGROUND INFORMATION

The Z-16-02 subject property (Tracts 1 and 2) includes approximately 51.2 acres of land, originally preliminary platted in 2004 as part of the Benbrook Towne Crossing Addition. The Benbrook Towne Crossing preliminary plat included approximately 200.3 acres of land and was generally located on the north and south sides of Mercedes Street, northwest of Benbrook Boulevard (US Highway 377) to the city limits and southwest of I-20/Loop 820. In 2010, approximately 42.46 acres of land, including the Tract 2 portion of Z-16-02, was replaced by the Benbrook Field Addition preliminary plat, generally located north of Mercedes Street to Loop 820/I-20, between Benbrook Boulevard and a proposed alignment of the extension of Vista Way, east of Walnut Creek. The 2004 Benbrook Towne Crossing preliminary plat included Tract 1 and has expired. Most recently, expiration of the 2010 Benbrook Field preliminary plat was extended for a period of

two years (S-16-02) by the Planning and Zoning Commission at their regular meeting held on September 8, 2016.

Three final plats of single lots were processed and approved in 2011 from the Benbrook Field preliminary plat. The three final plats accommodate two fast food restaurants on Benbrook Boulevard and a dental clinic on Mercedes Street. No new streets have been constructed in the 2010 preliminary plat area.

The existing "BR-PD" One Family Reduced Planned Development District zoning on the 23.0478-acre Tract 1 was approved in September 2004, when the zoning classification of the property was changed from "SD" Suburban District. The 28.2513-acre Tract 2 site was zoned a mix of "HC-PD1" Highway Corridor Planned Development District 1, "HC-PD2" Highway Corridor Planned Development District 2 and "D-PD" Multiple Family Planned Development in August 2007, although the bulk of the 28-plus acres was zoned "D-PD" District.

PLANNING REVIEW

1. According to the applicant's letter of intent, a zone change to "D" Multiple Family District is proposed because of demand for various housing types within the area, including multi-family developments. The proposed "D" zoning district provides an alternative to traditional single family homes and often serve as a buffer between commercial and various other uses. The "D" zoning district allows medium to high density multi-family dwelling units and is intended to comprise larger tracts of land designed to provide amenities such as open space and recreation space. The district is intended to be located near high volume thoroughfares because of the traffic generating potential of medium to high density dwelling units allowed within the district.

2. The table below includes various regulations that would affect development in the "D" zoning district:

"D" Multiple Family District Regulations	
Density	Max. 25 dwelling units/acre
Floor Space	750 sq. ft., exclusive of garage, porches, breezeways, storage, etc.
Height	2 ½ stories/max. 35 ft. within 100 ft. of single family zoning districts
Front Yard	25 ft.
Rear Yard	20 ft.
Side Yard	10 ft.
Lot Area	3,500 sq. ft./dwelling unit/no less than 8,400 sq. ft.
Exterior Materials	80% masonry
Roof Pitch	Min. 4:12 for tile; Min. 7:12, all other materials
Usable Open Space	Min. 200 sq. ft./dwelling unit

Site Plan	Approval required by the Planning and Zoning Commission

3. The subject property is located within four future land use plan designations: Commercial, Undeveloped Floodplain, Low Density Single Family and High Density Multi-Family. Section 211.004 of the Texas Local Government Code requires that "Zoning regulations must be adopted in accordance with a Comprehensive Plan…" Although the proposed zone change is not consistent with the existing Commercial and Low Density future land use designations of the Comprehensive Plan, the proposed zoning district is consistent with the existing High Density Multi-Family future land use, which represents the bulk of the 28.2513-acre, Tract 2. The proposed zoning district is also compatible with surrounding zoning districts and uses. The existing Undeveloped Floodplain future land use designation of the property results from Walnut Creek, which bisects the property. This area is required to be preserved, and can act as an amenity to development of the property. Since the adoption of the City's Comprehensive Plan in 1990, many factors have changed and evolved in Benbrook. Comprehensive plans are used as a guide to growth and development in cities, but as cities change, comprehensive plans also need to change. For example, in 2004 the future land use designation for the property was Mixed Use Village and Undeveloped Floodplain, but was changed in 2007 to remove the mixed use village classification. The proposed revisions reflect an adjustment of the high density multi-family boundaries, and does not introduce new land uses into the area.

   The below table illustrates the land use distribution in Planning Area D that would reflect the new land uses reflected by the proposed Z-16-02 rezoning application. The resulting total multi-family land would be approximately 15.38 percent of the residential land within the City and remain below the 20 percent ceiling of multi-family to the total residential noted in Principle 3.1.2 of the Land Use element of the Comprehensive Plan.

   Summary of Existing and Proposed Land Uses in Area D (acres)

LAND USE	CURRENT	PROPOSED	NET CHANGE
Low Density Single Family	372.3 acres	363.79 acres	-8.51 acres
Medium Density Multi-Family	0 acres	0 acres	0 acres
High Density Multi-Family	33.06 acres	49.06 acres	+ 16.0 acres
Commercial	106.84 acres	99.35 acres	- 7.49 acres
Community Facilities	48.8 acres	48.8 acres	0 acres
Undeveloped Floodplain	57.0 acres	57.0 acres	0 acres
Right-of-Way	133.9 acres	133.9 acres	0 acres

4. According to the preliminary plat, access to the property will be from the future extension of Vista Way, which will be built by the City's Tax Increment Finance District, and the extension of Mercedes Street.

5. Nearly fifty percent of the combined site is encumbered by the 100-year floodplain and floodway. The floodway is a no-build zone. Tract 1 includes approximately 8.5 acres outside of the floodplain and Tract 2 includes approximately 17.5 acres outside of the floodplain. The floodway follows the boundaries of Walnut Creek, which bisects the property. Pursuant to Chapter 16.16 of the Subdivision Ordinance, any existing creeks, lakes, reservoirs, or drainage channels traversing along or across portions of additions, will remain in its natural state as an open channel at all times. Tract 2 is further affected by steep slopes. The impact of the floodplain and steep slopes areas will be limiting factors on actual density of future development. The applicant and TIF District are jointly reviewing the floodplain boundaries through an engineering study.

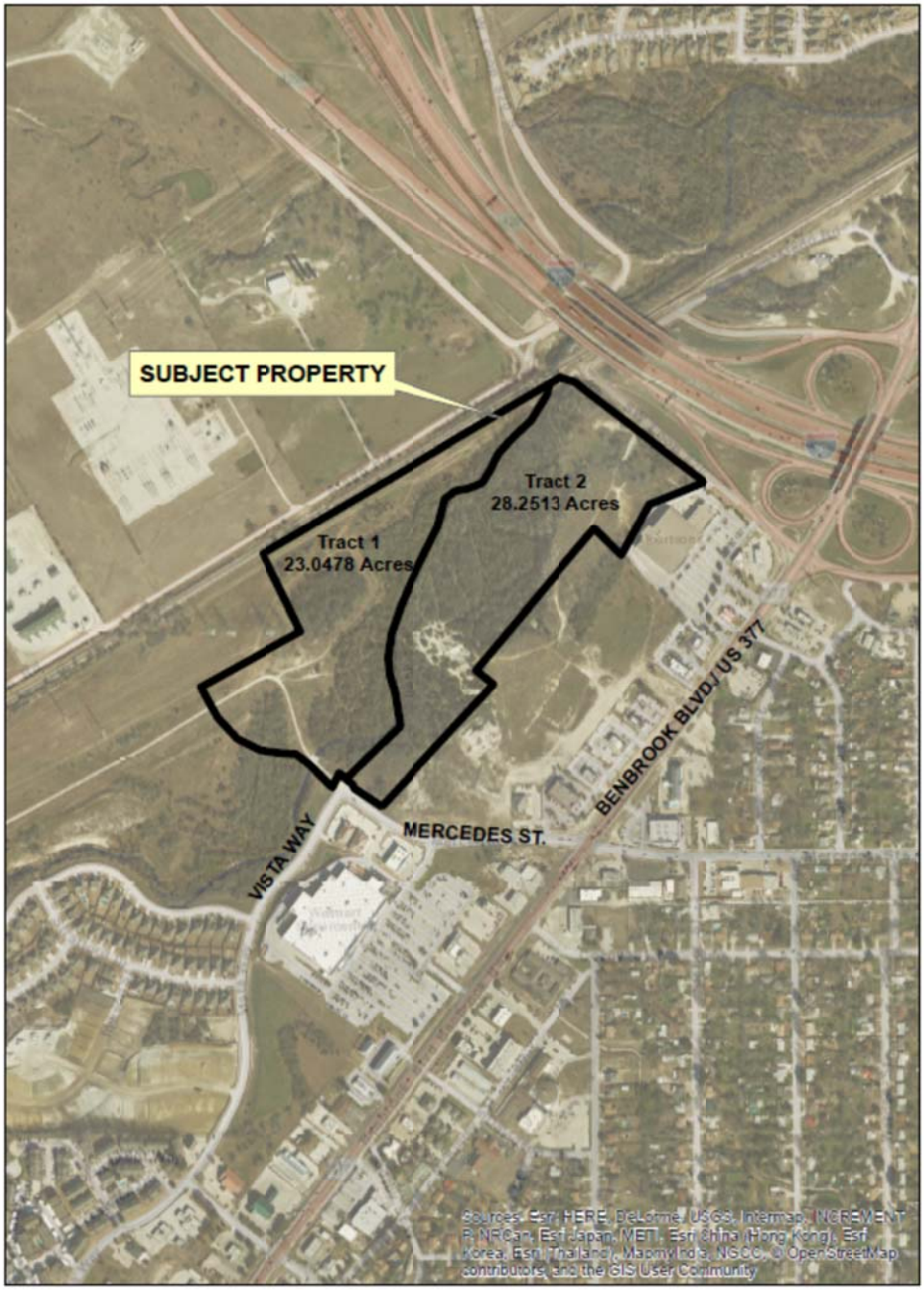
RECOMMENDATION

Staff recommends approval of Z-16-02, to approve the rezoning of approximately 23.0478 acres of land in the Hays Covington Survey, Abstract Number 257, from “BR-PD” One Family Reduced Planned Development District and “D-PD” Multiple Family Planned Development District to “D” Multiple Family District (between Walnut Creek and the Union Pacific Railroad and southwest of I-20/Loop 820 to a northwesterly projection of Mercedes Street); and the rezoning of approximately 28.2513 acres of land in the Hays Covington Survey, Abstract Number 257, from “HC-PD1” Highway Corridor Planned Development District Number 1, “HC-PD2” Highway Corridor Planned Development District Number 2, and “D-PD” Multiple Family Planned Development District to “D” Multiple Family District (east of Walnut Creek, northeast of Mercedes Street and southwest of I-20/Loop 820). Staff also recommends that the Land Use Plan also be modified to reflect the new land use boundaries.

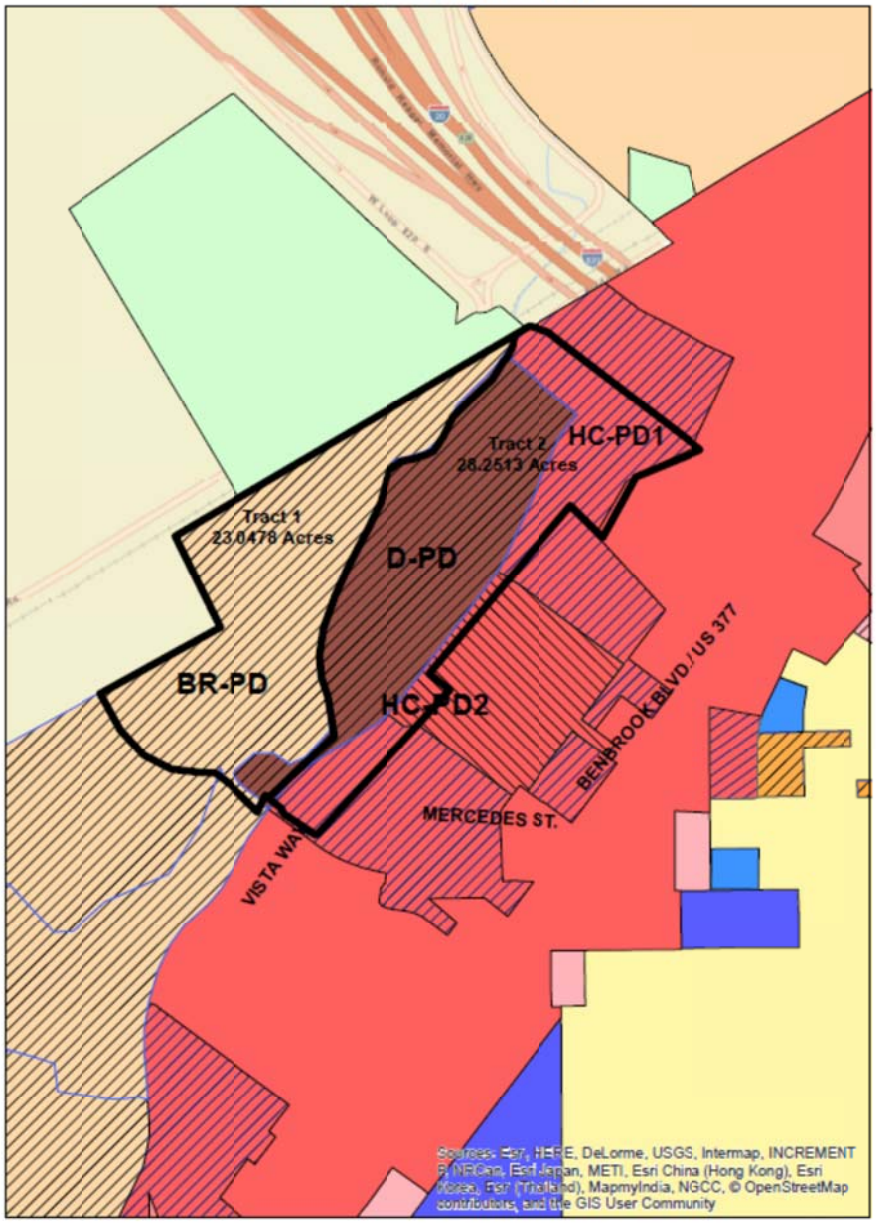
ATTACHMENTS

1. Aerial Map
2. Existing Zoning Map
3. Proposed Zoning Map
4. Existing Land Use Map
5. Planning Area D (Existing Land Use Map)
6. Applicant’s Exhibits
7. Applicant’s Letter of Intent

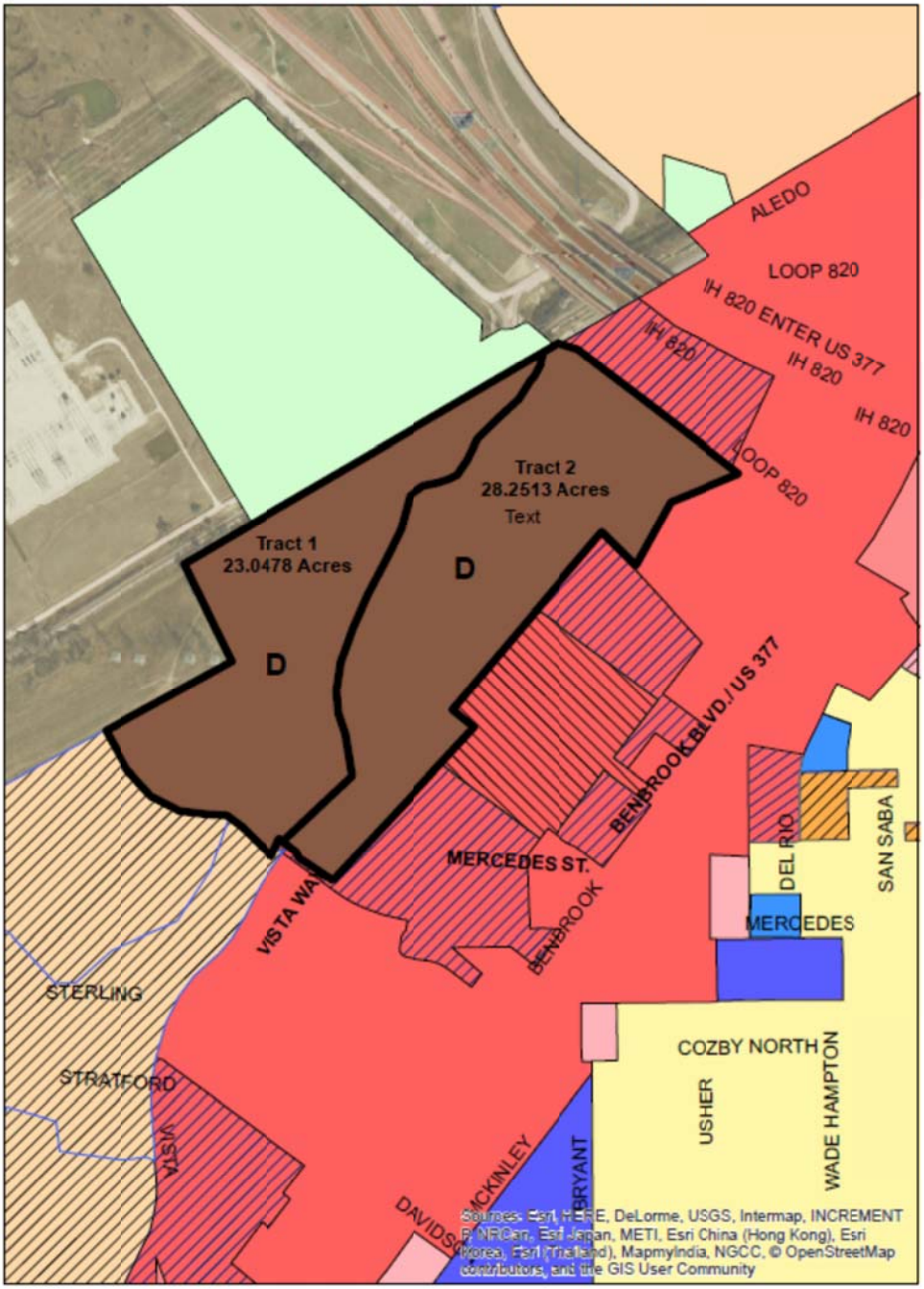
AERIAL MAP


SUBJECT PROPERTY
Tract 2
28.2513 Acres
Tract 1
23.0478 Acres
BENBROOK BLVD / US 377
MERCEDES ST.
VISTA WAY

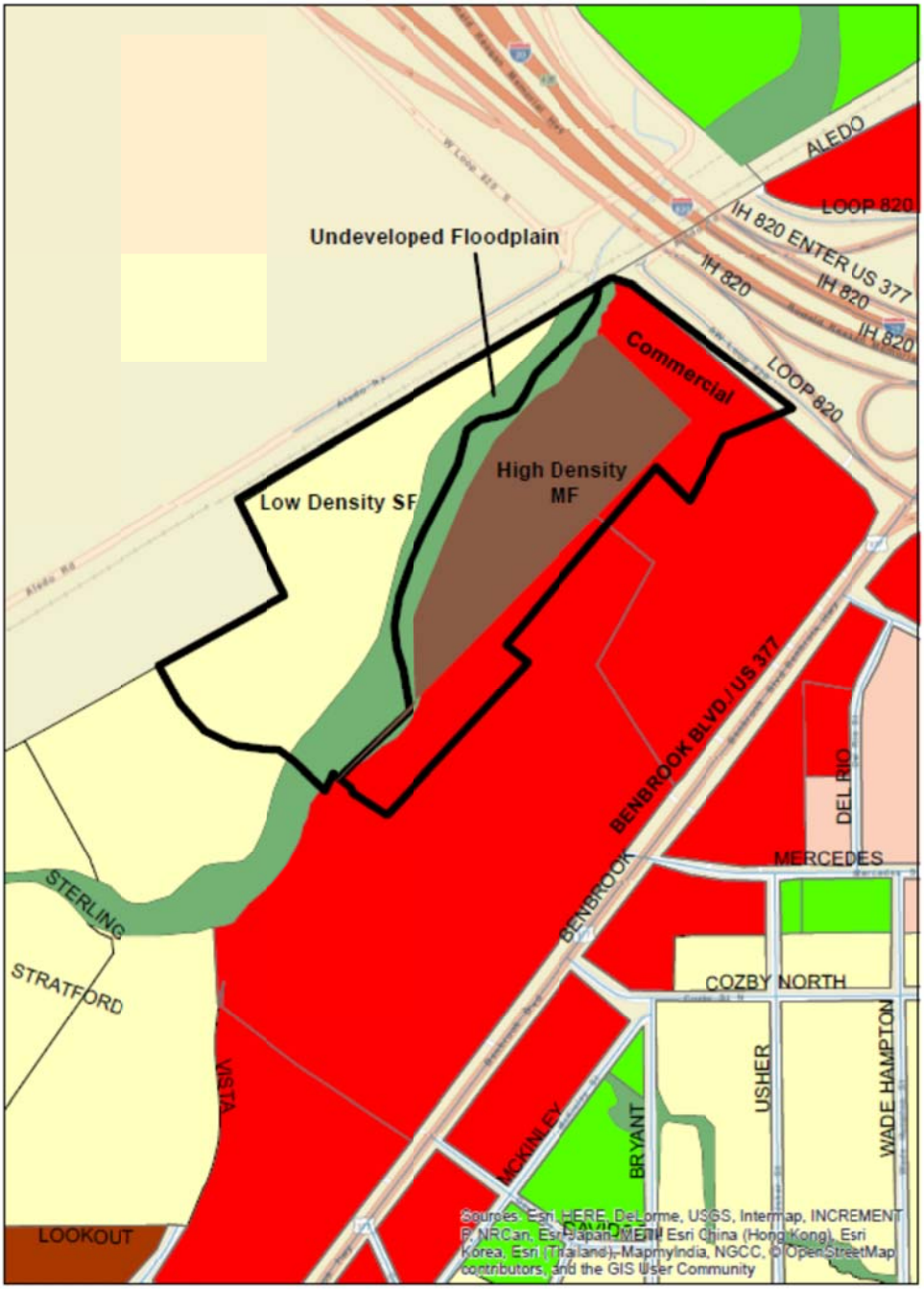
EXISTING ZONING MAP



PROPOSED ZONING MAP

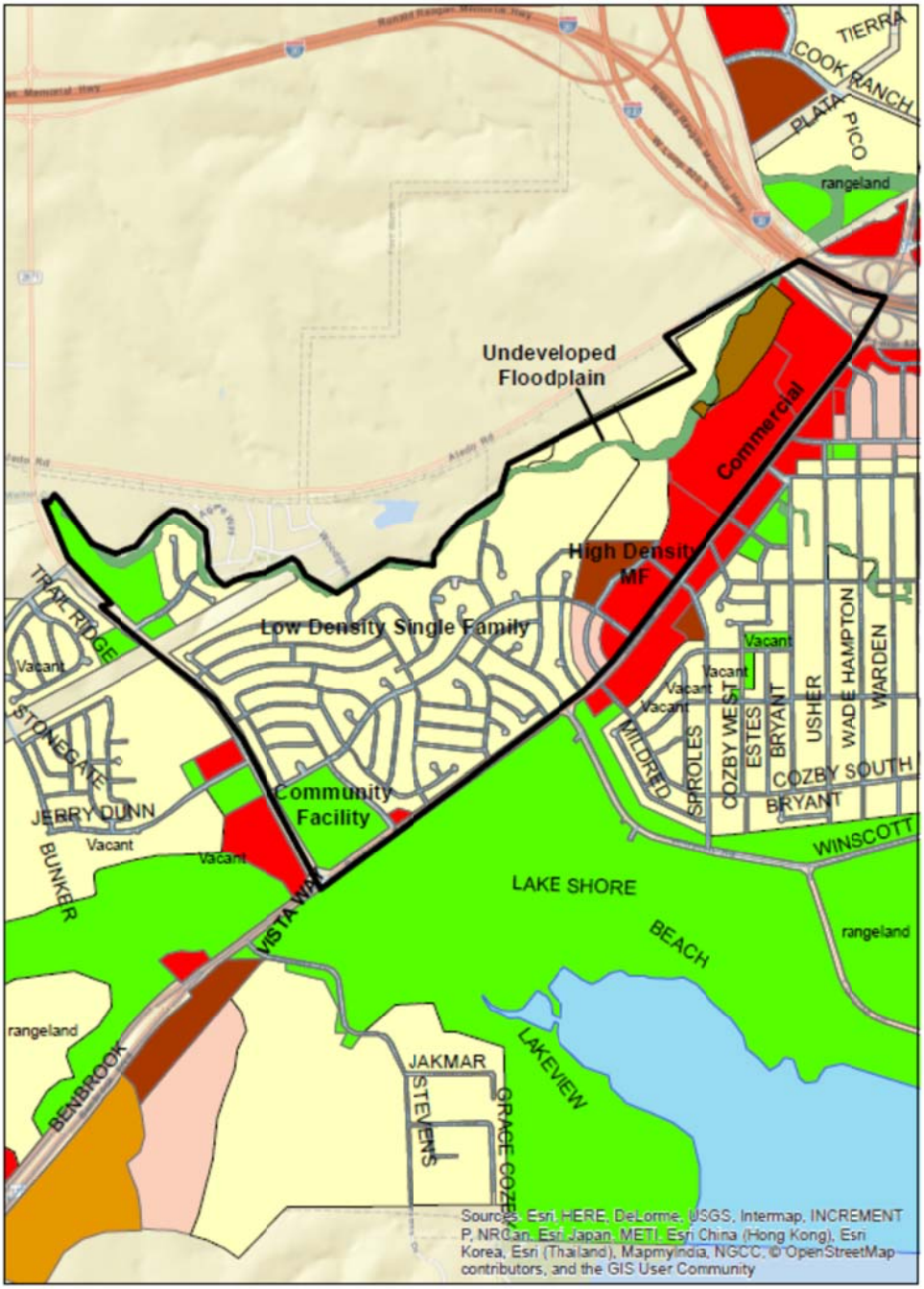


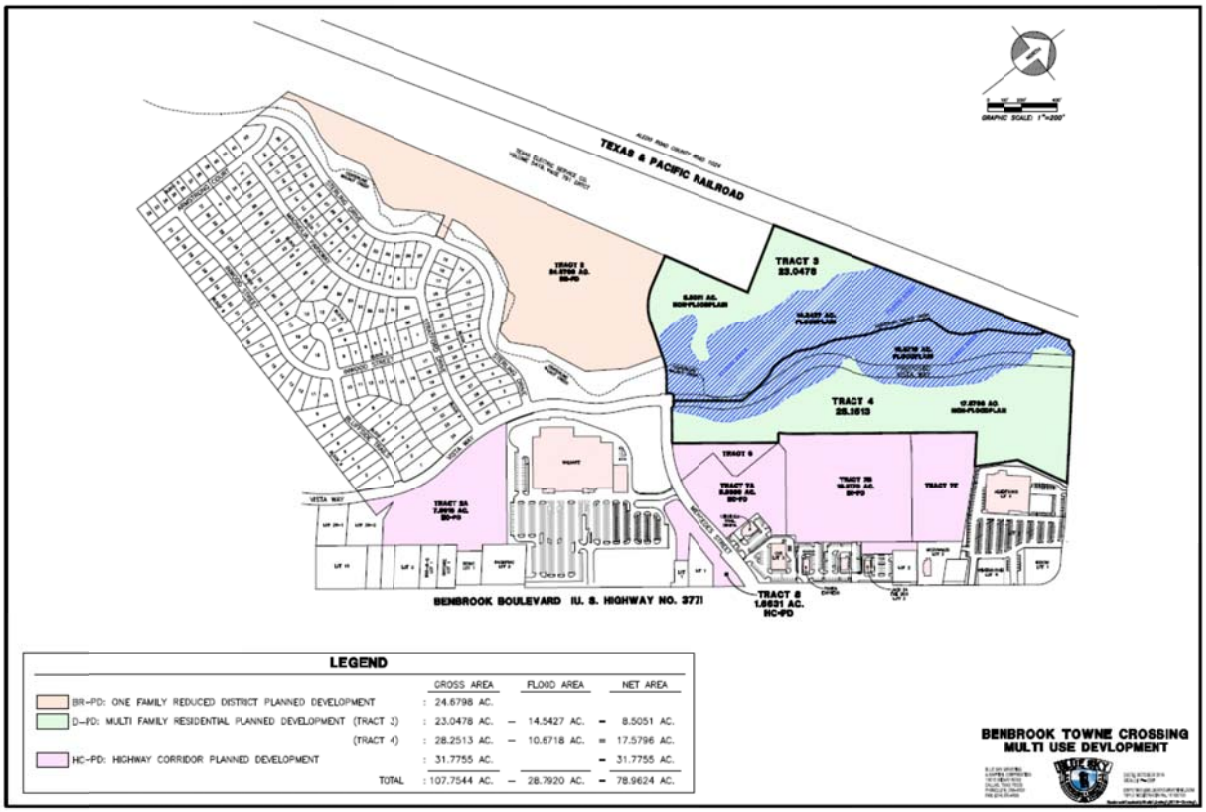
EXISTING LAND USE PLAN



EXISTING LAND USE PLAN

PLANNING AREA D




TEXAS & PACIFIC RAILROAD
TRACT 3
23.0478
TRACT 4
28.2513
TRACT 6
TRACT 8
1.6631 AC.
HC-PD
BENBROOK BOULEVARD (U. S. HIGHWAY NO. 377)
LEGEND
GROSS AREA
FLOOD AREA
NET AREA
BR-PD: ONE FAMILY REDUCED DISTRICT PLANNED DEVELOPMENT : 24.6798 AC.
D-PD: MULTI FAMILY RESIDENTIAL PLANNED DEVELOPMENT (TRACT 3) : 23.0478 AC. – 14.5427 AC. = 8.5051 AC.
(TRACT 4) : 28.2513 AC. – 10.6718 AC. = 17.5796 AC.
HC-PD: HIGHWAY CORRIDOR PLANNED DEVELOPMENT : 31.7755 AC. = 31.7755 AC.
TOTAL : 107.7544 AC. – 28.7920 AC. = 78.9624 AC.
BENBROOK TOWNE CROSSING
MULTI USE DEVLOPMENT

REASON SUPPORTING PROPOSAL

At the time that Benbrook Field Planned Development Zoning Ordinance 1239 was adopted in 2007 the focus of the Benbrook Field project were the commercial and single family components of the development which accounted for 46 and 73 acres, respectively of the project's total 138 acres, with only 19 acres being allocated for high density or multi-family development. At that time new housing growth in DFW was steady, commercial growth was strong and development of the key pieces of the commercial property in the project (those with SH 377 frontage) were imminent, with major national retail tenants committed to the Benbrook market.

Then the 2008 financial crisis and "housing bubble bust" occurred. The real estate market crashed, housing plummeted, commercial projects were scrapped and financial institutions failed. Since that time, almost nine years, 3.5 acres of the 46 acres of our commercial property (7.6%) and 26 of the 73 acres of single family zoned land (35.6%) has been developed.

The DFW housing market has rebounded with multi family housing components experiencing substantial growth and the commercial/retail market slowly approaching pre- 2008 levels. Given the demographics of the Benbrook market, the greatest demand at this time is for various types of residential products including single family and multi family.

Residential developers today are interested in building larger, multi-phase projects, which require larger tracts of land. With only 19 acres of land, 8 acres of which is in the floodplain and undevelopable, our project does not meet the land requirements developers have.

After recently conducting a flood study of the creek, which bisects our property, we have definitively determined the quantity and configuration of land in the northwest corner of our project that can be reclaimed from the floodplain and developed. Due to it's topography, natural amenities, visibility, accessibility, location and size we feel that the property we are proposing will be a perfect site for development of a multi family residential project. This tract of land will be an excellent buffer use between the single family residential property to the southwest and the commercial property, railroad tracks and freeway frontage to the north and east, and is of sufficient size to attract numerous developers who have currently express an interest in developing in Benbrook.

Unapproved Minutes
Planning and Zoning Commission
November 10, 2016

A. ZONING ORDINANCE

Z-16-02 Consider rezoning of 23.0478 acres of land in the Hays Covington Survey, Abstract Number 257 from "BR-PD" One Family Reduced Planned Development District and "D-PD" Multiple-Family Planned Development District to "D" Multiple-Family District (between Walnut Creek and the Union Pacific Railroad and southwest of I-20/Loop 820 to a northwesterly projection of Mercedes Street); and rezoning of 28.2513 acres of land in the Hays Covington Survey, Abstract Number 257 from "HC-PD1" Highway Corridor Planned Development District Number 1, "HC-PD2" Highway Corridor Planned Development District Number 2, and "D-PD" Multiple-Family Planned Development District to "D" Multiple-Family District (east of Walnut Creek, northeast of Mercedes Street and southwest of I-20/Loop 820)

Chairman Valverde introduced the item and asked for a presentation from the applicant.

Brad Bowen, 450 North Kimbell, Southlake, representing Richpenn Resourses, said that they have been involved with development in the City of Benbrook for approximately 15 years and they bought the subject tract of approximately 200 acres in 2006. Mr. Bowen said the property is comprised of multiple uses, with the front part or east part, is comprised of 60 to 70 acres, mostly zoned for commercial use. The remainder of the property located behind the commercial tracts to the west, along the railroad tracks, is zoned multiple-family and single-family.

Mr. Bowen said that approximately half of the total 51 acres that they are proposing to rezone, 25 acres are in the floodplain and floodway. He said it is proposed that the extension of Vista Way will snake along the east side of Walnut Creek along the floodplain and terminate at the I-20/Loop 820 service road. The portion east of the floodplain is already zoned "D" Multiple-Family, but it is zoned Multiple-Family Planned Development. They are requesting that the "D" zoning extend to the I-20/Loop 820 service road to the north and south to Mercedes Street.

Mr. Bowen said that the portion of land that can be developed on the east side of the creek is approximately 17 acres. On the west side of the creek, would be a perfect buffer to the developed area to the south which is Brookside Phases I and II, to the service road to the north, the railroad to the west and the overhead electric utility lines located to the south.

Mr. Bowen said that the apartments would not be visible from Brookside to the south because of the buffer from Walnut Creek. He said there will be another single-family development across from Brookside on the west side of Walnut Creek with approximately 80 homes, about the same size of Brookside I and II.

Mr. Bowen said that the existing commercial property to the east of the subject property is at about the same elevation of Benbrook Boulevard/US Hwy 377. He said that the property along the proposed extension of Vista Way drops about 50 feet from the commercial area on Benbrook Boulevard/US Hwy 377 so there are significant topography challenges. Whatever is built in that area will not be visible from Benbrook Boulevard/US Hwy 377 and because of that topography, they will be limited on the quantity that can be built on the property.

Mr. Bowen said that the builders they are working with do not build typical apartments that you think of when you hear the word “apartment”. They only build high-end products that are typical of what you would see in Dallas or Fort Worth.

Mr. Valverde asked Mr. Bowen, based on the topography; how many units do they anticipate. Mr. Bowen said that between the anticipated two phases, there would be approximately 400 units.

Mr. Wallis asked how much of the floodplain would be reduced with the development. Mr. Bowen said he did not know but that is the point in going through the process of a Conditional Letter of Map Amendment (CLOMA) with FEMA.

Henry Peek, Grand Prairie, representing Richpenn Resources, said that in working with the engineers studying the floodplain in the area, they will gain approximately three and one-half (3 ½) acres on the west side of Walnut Creek.

Discussion followed between the Commission and applicants about the location of the proposed rezoning area, the number and type of apartments anticipated the changes to the floodplain usable area, the topography and the location of Vista Way.

The Chair asked for a report from staff.

Johnna Matthews said that the subject property is identified as Tract 1 and Tract 2 and is generally located southwest of I-20/Loop 820 and northwest of Benbrook Boulevard, and the intersection of Vista Way and Mercedes Street, both of which will be extended. Ms. Matthews said that Tract 1 includes approximately 23 acres of land and Tract 2 includes approximately 28 acres. Both tracts are currently undeveloped. Surrounding uses include undeveloped land directly to the south, which is included in the preliminary plat for Benbrook Field, various commercial uses further south fronting Benbrook Boulevard, including restaurants, a drug store, a gas station a shopping center, and a storage facility. Mercedes Street at the southwest corner of the site will potentially be extended to the northwest, and Vista Way will be extended as well and will serve as direct access to and from the site. To the north is primarily undeveloped land or there may be a gas well on site.

Ms. Matthews said that Walnut Creek bisects the property and is considered floodway and is essentially a no-build area. The site also includes 100-year floodplain areas. Of the 23 acres included within Tract 1, approximately 14.5 acres are within the boundaries of the floodplain, leaving 8.5 acres outside of the flood plain. Of the 28 acres included within Tract 2, there is approximately 10 acres within the floodplain and over 17 acres outside of the floodplain. The

applicants, along with the Tax Increment Finance District (TIF), are doing an engineering study to define the areas.

Ms. Matthews said that Tract 2 is included within the boundaries of the approved preliminary plat. A recent extension of a period of 2 years of the expiration of this preliminary plat was approved by this board at the regular meeting in September. Several final plats have been approved from this plat including Panda Express, Dairy Queen and a dental office.

The property currently has four zoning designations. Tract 1 is zoned “BR-PD” One Family Reduced Planned Development District and a small portion is zoned “D-PD” Multiple-Family Planned Development. Tract 2 is zoned “D-PD” Multiple-Family Planned Development, “HC-PD1,” Highway Corridor Planned Development District 1 and “HC-PD2,” Highway Corridor Planned Development District 2. The existing zoning was approved in 2004 for Tract 1 and 2007 for Tract 2. The applicant proposes to change the zoning to “D” Multiple-Family for both tracts. A site plan is required to be considered by the Planning and Zoning Commission.

Ms. Matthews said that according to the Zoning Ordinance, the “D” district is intended to be located near high volume thoughrofares because of the traffic generating potential of medium to high density dwelling units allowed within the district.

Ms. Matthews said that according to the Land Use Element of the Comprehensive Plan, the site is located within 4 future land use designations. She said that Tract 1 is located in Undeveloped Floodplain and Low Density Single-Family; and Tract 2, Commercial, Undeveloped Floodplain and High Density Multiple-Family. The land use designations correspond to the zoning districts. For example, the current multiple-family zoned land is located within the High Density Future Land Use Designation, HC-PD1 and HC-PD 2 are located within the Commercial Future Land Use Designation. The portion of the property zoned BR-PD-1 is located within the Low Density Single-Family Future Land Use Designation, and Walnut Creek is the Undeveloped Floodplain Future Land Use Designation.

Ms. Matthews said that the land use element of the Comprehensive Plan will need to be amended to high density multiple-family, for the remaining land area.

Ms. Matthews said that the City is divided into five Planning Areas, A through D for analytical purposes. She said the subject property is located within Planning Area D. The Planning Area map illustrates the desired land uses within Planning Area D, and they include low density single-family, high density multiple-family, community facility, commercial and undeveloped floodplain.

The Comprehensive Plan includes a distribution of uses within each planning area. Ms. Matthews said that if the zone change is approved, and the land use element of the Comprehensive Plan is amended, this will result in a net decrease of 8.51 acres in land allocated for low density single-family; a net increase of 16 acres in land allocated for high density multiple-family and a net decrease of 7.49 acres of land allocated for commercial uses. The Comprehensive Plan anticipated the percentage each land use would be of the overall land area, and the number of acres planned per 100 persons of population. The proposed change will result in approximately 15.38-percent of the residential land within the City, still below the

recommended 20-percent ceiling of multiple-family to the total residential noted in Principle 3.1.2 of the Land Use Element of the Comprehensive Plan. Principle 2.1.1 states that the city should allocate approximately 10-percent of the developable area within the city to commercial. The proposed change will result in a reduction of 7.49 acres of commercial land.

Staff recommends that the Planning and Zoning Commission recommend that the City Council approve Z-16-02, to approve the rezoning of approximately 51 acres of land in the Hays Covington Survey, Abstract Number 257, from “BR-PD” One Family Reduced Planned Development District, “D-PD” Multiple-Family Planned Development District, “HC-PD1” Highway Corridor Planned Development District Number 1, “HC-PD2” Highway Corridor Planned Development District Number 2, and “D-PD” Multiple-Family Planned Development District to “D” Multiple-Family District (east of Walnut Creek, northeast of Mercedes Street and southwest of I-20/Loop 820). Staff also recommends that the Planning and Zoning Commission recommend that the City Council amend the Land Use Element of the Comprehensive Plan to reflect the new land use boundaries.

The Chair opened the public hearing at 8:25 p.m. and asked if anyone wished to speak for or against the item. There being none, the Chair closed the public hearing at 8:26 p.m. and asked for any comments, questions or a motion from the Commission.

The Commission discussed concerns over the possibility of crime, city services, traffic, the effect on the values of single-family developments in the area, the lack of information on the boundaries of the floodplain and what that could mean for the possibility of flooding on the site, and that the proposed zoning change is not consistent with the commercial and low density land use designation of the Comprehensive Plan.

Motion by Mr. Dawson that the Planning and Zoning Commission recommend that the City Council approve the Z – 16 – 02 rezoning request and that the Council approve changes to the Land Use Plan of the Comprehensive Plan. Second by Mr. Russell. The Chair called the question.

Vote on the motion:

Ayes: Mr. O’Donald, Mr. Dawson, Mr. Russell, Mr. Craver, Mr. Casey, and Mr. Wallis

Noes: Mr. Valverde and Mr. Harris

Abstain: None

Motion carried: 6 – 2 – 0

ORDINANCE NO. 1404

AN ORDINANCE AMENDING TITLE 17 - ZONING OF THE BENBROOK MUNICIPAL CODE (1985), AS AMENDED, BY CHANGING THE ZONING CLASSIFICATION OF 23.0478 ACRES OF LAND IN THE HAYS COVINGTON SURVEY, ABSTRACT NUMBER 257, CITY OF BENBROOK, TARRANT COUNTY, TEXAS FROM "BR-PD" ONE FAMILY REDUCED PLANNED DEVELOPMENT DISTRICT AND "D-PD" MULTIPLE FAMILY PLANNED DEVELOPMENT DISTRICT TO "D" MULTIPLE FAMILY DISTRICT; AND 28.2513 ACRES OF LAND IN THE HAYS COVINGTON SURVEY, ABSTRACT NUMBER 257, CITY OF BENBROOK, TARRANT COUNTY, TEXAS FROM "D-PD" MULTIPLE FAMILY PLANNED DEVELOPMENT DISTRICT, "HC-PD1" HIGHWAY CORRIDOR PLANNED DEVELOPMENT DISTRICT 1, AND "HC-PD2" HIGHWAY CORRIDOR PLANNED DEVELOPMENT DISTRICT 2 TO "D" MULTIPLE FAMILY DISTRICT AND BY AMENDING THE OFFICIAL ZONING MAP TO REFLECT THE CHANGE; PROVIDING A CUMULATIVE CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Benbrook is a home rule city acting under its own charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, Chapter 211 of the Local Government Code authorizes municipalities to regulate land use, structures, businesses, and related activities within its corporate limits for the purpose of promoting the public health, safety and general welfare of the community and protecting and preserving places and areas of historical, cultural and architectural importance and significance; and

WHEREAS, the property owner has initiated an application to rezone certain property in accordance with the Land Use Element of the Comprehensive Plan; and

WHEREAS, a public hearing was held on the zone change, Case No. Z-16-02, was held by the Planning and Zoning Commission of the City on the 10th day of November 2016, and by the City Council on the 15th day of December 2016; and

WHEREAS, all requirements of law dealing with other property owners, publications and all procedural requirements have been complied with in accordance with Chapter 211 of the Local Government Code; and

WHEREAS, the City Council has determined that it is advisable and in the public interest to authorize the requested zoning change;

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

SECTION 1

That Title 17 – Zoning of the Benbrook Municipal Code (1985), as amended, is hereby amended to change the zoning classification of 23.0478 acres of land in the Hays Covington Survey, Abstract Number 257, in the City of Benbrook, Tarrant County, Texas such property being more particularly described by metes and bounds as follows, from “BR-PD” One Family Reduced Planned Development District and “D-PD” Multiple Family Planned Development District to “D” Multiple Family District:

BEING ALL THAT CERTAIN LOT, TRACT OR PARCEL OF LAND SITUATED IN THE CITY OF BENBROOK, TARRANT COUNTY, TEXAS, OUT OF THE H. COVINGTON SURVEY, ABSTRACT NO. 257, AND BEING A PART OF THE 120.9242 ACRE TRACT OF LAND CONVEYED TO BO PEEK, LT., AS RECORDED IN COUNTY CLERKS FILE NUMBER D204166053 OF THE DEED RECORDS OF TARRANT COUNTY, TEXAS, AND ALSO BEING A PART OF THE 46.6346 ACRE TRACT OF LAND CONVEYED TO BENBROOK ECONOMIC DEVELOPMENT CORPORATION BY DEED RECORDED IN COUNTY CLERKS FILE NUMBER D204166052 OF THE DEED RECORDS OF TARRANT COUNTY, TEXAS AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS;

COMMENCING AT A POINT FOR THE INTERSECTION OF THE SOUTHEAST RIGHT OF WAY LINE OF THE TEXAS AND PACIFIC RAILROAD WITH THE SOUTHWEST RIGHT OF WAY LINE OF INTERSTATE HIGHWAY NO. 20 (VARIABLE WIDTH RIGHT OF WAY);

THENCE SOUTH 59° 20’ 51” WEST ALONG THE SOUTHEAST RIGHT OF WAY LINE OF SAID TEXAS AND PACIFIC RAILROAD FOR A DISTANCE OF 139.57 FEET TO THE POINT OF BEGINNING ITS INTERSECTION WITH THE CENTERLINE OF WALNUT CREEK;

THENCE SOUTHWESTERLY AND SOUTHEASTERLY ALONG THE CENTERLINE OF SAID WALNUT CREEK AS FOLLOWS:

(1) SOUTH 17°52'11" WEST FOR A DISTANCE OF 36.17 FEET TO A POINT FOR CORNER;

(2) SOUTH 36°42'10" WEST FOR A DISTANCE OF 57.81 FEET TO A POINT FOR CORNER;

(3) SOUTH 41°15'28" WEST FOR A DISTANCE OF 76.14 FEET TO A POINT FOR CORNER;

(4) SOUTH 46°01'06" WEST FOR A DISTANCE OF 102.52 FEET TO A POINT FOR CORNER;

(5) SOUTH 44°08'54" WEST FOR A DISTANCE OF 72.07 FEET TO A POINT FOR CORNER;

(6) SOUTH 25°29'10" WEST FOR A DISTANCE OF 88.71 FEET TO A POINT FOR CORNER;

(7) SOUTH 29°59'00" WEST FOR A DISTANCE OF 64.13 FEET TO A POINT FOR CORNER;

(8) SOUTH 47°51'59" WEST FOR A DISTANCE OF 77.13 FEET TO A POINT FOR CORNER;

(9) SOUTH 72°03'12" WEST FOR A DISTANCE OF 65.79 FEET TO A POINT FOR CORNER;

(10) SOUTH 76°13'59" WEST FOR A DISTANCE OF 72.10 FEET TO A POINT FOR CORNER;

(11) SOUTH 24°40'33" WEST FOR A DISTANCE OF 103.22 FEET TO A POINT FOR CORNER;

(12) SOUTH 19°49'12" WEST FOR A DISTANCE OF 104.07 FEET TO A POINT FOR CORNER;

(13) SOUTH 29°36'33" WEST FOR A DISTANCE OF 82.10 FEET TO A POINT FOR CORNER;

(14) SOUTH 09°51'43" WEST FOR A DISTANCE OF 27.75 FEET TO A POINT FOR CORNER;

(15) SOUTH 21°55'37" WEST FOR A DISTANCE OF 64.12 FEET TO A POINT FOR CORNER;

(16) SOUTH 29°52'30" WEST FOR A DISTANCE OF 103.06 FEET TO A POINT FOR CORNER;

(17) SOUTH 28°48'16" WEST FOR A DISTANCE OF 84.68 FEET TO A POINT FOR CORNER;

(18) SOUTH 16°00'53" WEST FOR A DISTANCE OF 122.29 FEET TO A POINT FOR CORNER;

(19) SOUTH 26°40'37" WEST FOR A DISTANCE OF 98.34 FEET TO A POINT FOR CORNER;

(20) SOUTH 08°07'11" WEST FOR A DISTANCE OF 90.04 FEET TO A POINT FOR CORNER;

(21) SOUTH 00°32'45" EAST FOR A DISTANCE OF 67.72 FEET TO A POINT FOR CORNER;

(22) SOUTH 23°25'30" EAST FOR A DISTANCE OF 51.96 FEET TO A POINT FOR CORNER;

(23) SOUTH 10°46'47" EAST FOR A DISTANCE OF 81.38 FEET TO A POINT FOR CORNER;

(24) SOUTH 03°20'39" EAST FOR A DISTANCE OF 136.21 FEET TO A POINT FOR CORNER;

THENCE SOUTH 38°00’00” WEST AND DEPARTING THE CENTERLINE OF SAID WALNUT CREEK FOR A DISTANCE OF 399.95 FEET TO A POINT FOR CORNER, SAID POINT BEING ON THE NORTHEAST RIGHT OF WAY LINE OF MERCEDES STREET AS SHOWN ON THE PLAT OF BROOKSIDE AT BENBROOK FIELD, AN ADDITION TO THE CITY OF BENBROOK, TEXAS ACCORDING TO THE PLAT THEREOF AS RECORDED IN CABINET A AT SLIDE 11728 OF THE PLAT RECORDS OF TARRANT COUNTY, TEXAS

THENCE NORTH 52°25'26" WEST AND FOLLOWING ALONG SAID BROOKSIDE AT BENBROOK FIELD ADDITION FOR A DISTANCE OF 31.31 FEET TO A POINT FOR CORNER

THENCE SOUTH 82°34'34" WEST AND CONTINUING ALONG SAID BROOKSIDE AT BENBROOK FIELD ADDITION FOR A DISTANCE OF 14.85 FEET TO A POINT FOR CORNER

THENCE SOUTH 37°34'34" WEST AND CONTINUING ALONG SAID BROOKSIDE AT BENBROOK FIELD ADDITION FOR A DISTANCE OF 28.52 FEET TO A POINT FOR CORNER;

THENCE NORTH 52°25'26" WEST AND DEPARTING THE SAID BROOKSIDE AT BENBROOK FIELD FOR A DISTANCE OF 95.72 FEET TO A POINT FOR CORNER, SAID POINT BEING THE BEGINNING OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 17°40’52” WITH A RADIUS OF 300.00 FEET AND A CHORD BEARING NORTH 62°06’07” WEST AT A DISTANCE OF 92.21 FEET;

THENCE NORTHWESTERLY ALONG SAID CURVE TO THE LEFT AN ARC DISTANCE OF 92.58 FEET TO A POINT FOR CORNER;

THENCE NORTH 70°56'33" WEST FOR A DISTANCE OF 23.64 FEET TO A POINT FOR CORNER

THENCE NORTH 70°56'33" WEST FOR A DISTANCE OF 203.24 FEET TO A POINT FOR CORNER, SAID POINT BEING THE BEGINNING OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 42°29’13” WITH A RADIUS OF 300.00 FEET AND A CHORD BEARING NORTH 49°41'56" WEST AT A DISTANCE OF 217.40 FEET;

THENCE NORTHWESTERLY ALONG SAID CURVE TO THE RIGHT FOR AN ARC DISTANCE OF 222.46 FEET TO A POINT FOR CORNER;

THENCE NORTH 28°27'20" WEST FOR A DISTANCE OF 182.25 FEET TO A POINT FOR CORNER;

THENCE NORTH 61°32'40" EAST FOR A DISTANCE OF 522.86 FEET TO A POINT FOR CORNER;

THENCE NORTH 30°40'59" WEST AND CONTINUING ALONG THE COMMON LINE OF SAID TEXAS ELECTRIC SERVICE COMPANY TRACT AND THE BO PEEK, LTD., 120.9242 ACRE TRACT FOR A DISTANCE OF 412.50 FEET TO A POINT FOR THE MOST NORTHERLY CORNER OF SAID TEXAS ELECTRIC SERVICE COMPANY TRACT;

THENCE NORTH 59°20'51" EAST ALONG THE NORTHWEST LINE OF SAID 120.9242 ACRE TRACT, SAME BEING THE SOUTHEAST LINE OF THE AFOREMENTIONED TEXAS AND PACIFIC RAILROAD FOR A DISTANCE OF 1686.83 FEET TO THE POINT OF BEGINNING AND CONTAINING 23.0478 ACRES OF LAND MORE OR LESS.

SECTION 2

That Title 17 – Zoning of the Benbrook Municipal Code (1985), as amended, is hereby amended to also change the zoning classification of 28.0478 acres of land in the Hays Covington Survey, Abstract Number 257, in the City of Benbrook, Tarrant County, Texas such property being more particularly described by metes and bounds as follows, from “D-PD” Multiple Family Reduced Planned Development District, “HC-PD1” Highway Corridor Planned Development District 1 and “HC-PD2” Highway Corridor Planned Development District 2 to “D” Multiple Family District:

BEING ALL THAT CERTAIN LOT, TRACT OR PARCEL OF LAND SITUATED IN THE CITY OF BENBROOK, TARRANT COUNTY, TEXAS, OUT OF THE H.

COVINGTON SURVEY, ABSTRACT NO. 257, AND BEING A PART OF THE 120.9242 ACRE TRACT OF LAND CONVEYED TO BO PEEK, LT., AS RECORDED IN COUNTY CLERKS FILE NUMBER D204166053 OF THE DEED RECORDS OF TARRANT COUNTY, TEXAS, AND A PART OF THE 46.6346 ACRE TRACT OF LAND CONVEYED TO BENBROOK ECONOMIC DEVELOPMENT CORPORATION, AS RECORDED IN COUNTY CLERKS FILE NUMBER D204166052 OF THE DEED RECORDS OF TARRANT COUNTY, TEXAS AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS;

BEGINNING AT A POINT FOR THE INTERSECTION OF THE SOUTHEAST RIGHT OF WAY LINE OF THE TEXAS AND PACIFIC RAILROAD WITH THE SOUTHWEST RIGHT OF WAY LINE OF INTERSTATE HIGHWAY NO. 20 (VARIABLE WIDTH RIGHT OF WAY);

THENCE SOUTH 50° 02' 15" EAST ALONG THE SOUTH RIGHT OF WAY LINE OF INTERSTATE HIGHWAY NO. 20 FOR A DISTANCE OF 20.25 FEET TO A POINT FOR CORNER;

THENCE SOUTH 85° 09' 18" EAST AND CONTINUING ALONG THE SOUTH LINE OF INTERSTATE HIGHWAY NO. 20 FOR A DISTANCE OF 48.73 FEET TO A POINT FOR CORNER;

THENCE SOUTH 49° 11' 03" EAST AND CONTINUING ALONG THE SOUTH LINE OF INTERSTATE HIGHWAY NO. 20 FOR A DISTANCE OF 758.57 FEET TO A POINT FOR CORNER; SAID POINT ALSO BEING MOST NORTHERLY CORNER OF LOT 2 IN BLOCK 1 OF THE MARSHALL T. ROBINSON ADDITION, AN ADDITION TO THE CITY OF BENBROOK, TEXAS, ACCORDING TO THE PLAT THEREOF RECORDED IN CABINET A AT SLIDE 3067 OF THE MAP RECORDS OF TARRANT COUNTY, TEXAS;

THENCE SOUTH 63° 07' 26" WEST AND FOLLOWING ALONG THE NORTHWESTERLY LINE OF SAID LOT 2 IN BLOCK 1 OF THE MARSHALL T. ROBINSON ADDITION AND BEING COMMON TO THE SOUTHEASTERLY LINE OF SAID 46.6346 ACRE TRACT FOR A DISTANCE OF 310.09 FEET TO A POINT FOR CORNER;

THENCE SOUTH 29° 35' 28" WEST AND CONTINUING ALONG THE NORTHWESTERLY LINE OF SAID LOT 2 IN BLOCK 1 OF THE MARSHALL T. ROBINSON ADDITION AND COMMON TO THE SOUTHEASTERLY LINE OF SAID 46.6346 ACRE FOR A DISTANCE OF 256.38 FEET TO A POINT FOR CORNER;

THENCE NORTH 49° 11’ 03" WEST FOR A DISTANCE OF 196.99 FEET TO A POINT FOR CORNER;

THENCE SOUTH 37° 34’ 33" WEST FOR A DISTANCE OF 1061.54 FEET TO A POINT FOR CORNER AND THE BEGINNING OF A POINT OF CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 09° 34’ 18” WITH A RADIUS OF 475.00 FEET WITH A CHORD BEARING SOUTH 42° 21’ 42” WEST AT A DISTANCE OF 76.26 FEET;

THENCE SOUTHWESTERLY ALONG SAID CURVE TO THE RIGHT FOR AN ARC DISTANCE OF 79.35 FEET TO A POINT FOR CORNER;
THENCE SOUTH 52° 25’ 27" EAST FOR A DISTANCE OF 56.81 FEET TO A POINT FOR CORNER;

THENCE SOUTH 37° 34’ 33" WEST FOR A DISTANCE OF 613.85 FEET TO A POINT FOR CORNER IN THE NORTHEAST RIGHT OF WAY LINE OF MERCEDES STREET (VARIABLE WIDTH RIGHT OF WAY) AS DEDICATED AS SHOWN ON THE PLAT OF BROOKSIDE AT BENBROOK FIELD, AN ADDITION TO THE CITY OF BENBROOK, TEXAS ACCORDING TO THE PLAT THEREOF AS RECORDED IN CABINET “A” AT SLIDE 11728 OF THE PLAT RECORDS OF TARRANT COUNTY, TEXAS, SAID POINT BEING IN A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 02° 44’ 47” WITH A RADIUS OF 620.00 FEET AND A CHORD BEARING NORTH 53° 47’ 50” WEST AT A DISTANCE OF 29.72 FEET;

THENCE NORTHWESTERLY AND FOLLOWING ALONG THE NORTHEAST RIGHT OF WAY LINE OF MERCEDES STREET FOR AN ARC DISTANCE OF 29.72 FEET TO A POINT FOR CORNER;

THENCE NORTH 52° 25’ 26" WEST AND CONTINUING ALONG THE NORTHEAST RIGHT OF WAY LINE OF SAID MERCEDES STREET FOR A DISTANCE OF 174.96 FEET TO A POINT FOR CORNER, SAID POINT BEING A CUT-OFF LINERE FOR VISTA WAY;

THENCE NORTH 09° 30’ 31" WEST ALONG THE CUT-OFF LINE OF VISTA WAY FOR A DISTANCE OF 15.42 FEET TO A POINT FOR CORNER;

THENCE NORTH 52° 25’ 26" WEST AND FOLLOWING THE VISTA WAY FOR A DISTANCE OF 28.69 FEET TO A POINT FOR CORNER;

THENCE NORTH 38° 00’ 00" EAST AND DEPARTING THE NORTHEAST LINE OF SAID BROOKSIDE AT BENBROOK FIELD FOR A DISTANCE OF 399.95 FEET TO A POINT FOR CORNER IN THE CENTERLINE OF WALNUT CREEK;

THENCE NORTHWESTERLY AND NORTHEASTERLY ALONG SAID CENTERLINE OF WALNUT CREEK AS FOLLOWS:

(1) THENCE NORTH 03° 20’ 39" WEST FOR A DISTANCE OF 136.21 FEET TO A POINT FOR CORNER;

(2) THENCE NORTH 10° 46’ 47" WEST FOR A DISTANCE OF 81.38 FEET TO A POINT FOR CORNER;

(3) THENCE NORTH 23° 25’ 30" WEST FOR A DISTANCE OF 51.96 FEET TO A POINT FOR CORNER;

(4) THENCE NORTH 00° 32’ 45" WEST FOR A DISTANCE OF 67.72 FEET TO A POINT FOR CORNER;

(5) THENCE NORTH 08° 07’ 11" EAST FOR A DISTANCE OF 90.04 FEET TO A POINT FOR CORNER;

(6) THENCE NORTH 26° 40’ 37" EAST FOR A DISTANCE OF 98.34 FEET TO A POINT FOR CORNER;

(7) THENCE NORTH 16° 00’ 53" EAST FOR A DISTANCE OF 122.29 FEET TO A POINT FOR CORNER;

(8) THENCE NORTH 28° 48’ 16" EAST FOR A DISTANCE OF 84.68 FEET TO A POINT FOR CORNER;

(9) THENCE NORTH 29° 52’ 30" EAST FOR A DISTANCE OF 103.06 FEET TO A POINT FOR CORNER;

(10) THENCE NORTH 21° 55’ 37" EAST FOR A DISTANCE OF 64.12 FEET TO A POINT FOR CORNER;

(11) THENCE NORTH 09° 51’ 43" EAST FOR A DISTANCE OF 27.75 FEET TO A POINT FOR CORNER;

(12) THENCE NORTH 29° 36’ 33" EAST FOR A DISTANCE OF 82.10 FEET TO A POINT FOR CORNER;

(13) THENCE NORTH 19° 49’ 12" EAST FOR A DISTANCE OF 104.07 FEET TO A POINT FOR CORNER;

(14) THENCE NORTH 24° 40’ 33" EAST FOR A DISTANCE OF 103.22 FEET TO A POINT FOR CORNER;

(15) THENCE NORTH 76° 13’ 59" EAST FOR A DISTANCE OF 72.10 FEET TO A POINT FOR CORNER;

(16) THENCE NORTH 72° 03’ 12" EAST FOR A DISTANCE OF 65.79 FEET TO A POINT FOR CORNER;

(17) THENCE NORTH 47° 51’ 59" EAST FOR A DISTANCE OF 77.13 FEET TO A POINT FOR CORNER;

(18) THENCE NORTH 29° 59’ 00" EAST FOR A DISTANCE OF 64.13 FEET TO A POINT FOR CORNER;

(19) THENCE NORTH 25° 29’ 10" EAST FOR A DISTANCE OF 88.71 FEET TO A POINT FOR CORNER;

(20) THENCE NORTH 44° 08’ 54" EAST FOR A DISTANCE OF 72.07 FEET TO A POINT FOR CORNER;

(21) THENCE NORTH 46° 01’ 06" EAST FOR A DISTANCE OF 102.52 FEET TO A POINT FOR CORNER;

(22) THENCE NORTH 41° 15’ 28" EAST FOR A DISTANCE OF 76.14 FEET TO A POINT FOR CORNER;

(23) THENCE NORTH 36° 42’ 10" EAST FOR A DISTANCE OF 57.81 FEET TO A POINT FOR CORNER;

(24) THENCE NORTH 17° 52’ 11" EAST FOR A DISTANCE OF 36.17 FEET TO A POINT FOR CORNER IN THE AFORESAID SOUTHEAST RIGHT OF WAY LINE OF THE TEXAS AND PACIFIC RAILROAD;

THENCE NORTH 59° 20' 51" EAST AND FOLLOWING ALONG THE SOUTHEAST RIGHT OF WAY LINE OF THE TEXAS AND PACIFIC RAILROAD FOR A DISTANCE OF 139.57 FEET TO THE POINT OF BEGINNING AND CONTAINING 28.2513 ACRES OF LAND, MORE OR LESS.

SECTION 3

The zoning district changes established by this Ordinance are in accordance with the comprehensive plan of the city and will promote the health, safety, morals and general welfare of the community. The changes have been designed to lessen congestion in the streets, to secure safety from fire, panic, flood and other dangers, to provide for adequate light and air, to prevent overcrowding of land, to prevent overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provisions of transportation, water, sewerage, parks and other public requirements. They have been made after a full and complete hearing with reasonable consideration, among other things, of the character of the districts and their peculiar suitability for particular uses and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the community.

SECTION 4

The Director of Planning is hereby directed to amend the official zoning map to reflect the changes in classifications approved in this Ordinance.

SECTION 5

This ordinance shall be cumulative of all other ordinances of the City of Benbrook affecting zoning and shall not repeal any of the provisions of such ordinances except in those instances where provisions of such ordinances are in direct conflict with the provisions of this Ordinance.

SECTION 6

All rights or remedies of the City of Benbrook, Texas are expressly saved as to any and all provisions of Title 17 of the Benbrook Municipal Code or of any amendments thereto that have accrued at the time of the effective date of this Ordinance and as to such accrued violations and all pending litigation, both civil and criminal, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the Courts.

SECTION 7

It is hereby declared to be the intention of the City Council 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 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 in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 8

The City Secretary is directed to engross and enroll this Ordinance by copying the caption, Section 1, Section 2 and the effective date clause in the minutes of the City Council and by filing the Ordinance in the Ordinance records of the City.

SECTION 9

The City Secretary of the City of Benbrook is hereby directed to publish the caption, penalty clause, publication clause and effective date clause of this ordinance for two (2) days in the official newspaper of the City of Benbrook, as authorized by Section 52.013 of the Local Government Code.

SECTION 10

This Ordinance shall be in full force and effect from and after its passage and it is so ordained

PASSED AND APPROVED this 15th day of December, 2016.

_____
Jerry B. Dittrich, Mayor

ATTEST:

_____
Joanna King, City Secretary

City of Benbrook

CITY COUNCIL COMMUNICATION

DATE:	REFERENCE NUMBER:	SUBJECT:	PAGE:
12/15/16	G-2274	Make Appointments to Boards and Commission	1 of 1

The even numbered positions on the City's various Boards and Commissions will expire on December 30, 2016. There is also a vacancy in Place 3 on the Economic Development Corporation Board of Directors for a term to expire on December 30, 2017.

Applications were received and submitted to City Council at their November 17, 2016 meeting. City Council conducted interviews with the candidates on December 7 and 8, 2016.

RECOMMENDATION

Staff recommends that City Council:

1. Make the appointments to the various Boards and Commissions for a term to begin December 31, 2016 and expire on December 30, 2018; and

2. Make the appointment to Place 3 on the Economic Development Corporation Board of Directors for a one-year term to expire December 30, 2017.

SUBMITTED BY:	DISPOSITION BY COUNCIL: ☐ APPROVED ☐ OTHER (DESCRIBE)	PROCESSED BY: CITY SECRETARY
CITY MANAGER		DATE:

City of Benbrook

CITY COUNCIL COMMUNICATION

DATE:	REFERENCE NUMBER:	SUBJECT:	PAGE:
12-15-16	G-2275	Adopt Ordinance amending Chapter 5.04 – Alcoholic Beverage Sales fo the Benbrook Municipal Code	1 of 1

The City Council held a work session last March to discuss potential amendments to the Municipal Code Chapter on Alcoholic Beverage Sales. Staff had noted that there were some provisions that were ambiguous, as well as the need to update the language to reflect the local option election authorizing wine for off-premise consumption which passed in 2010. While the City Council discussed a number of potential changes, it was the consensus to make few significant changes.

Discussion

The proposed revisions include:

Sections 5.04.010 and 5.04.020: Revision of pronouns to reflect both genders.

Section 5.04.090: Change “use district” to “zoning district.”

Section 5.04.110: Revisions to paragraph A.1. to clarify to allow the sale of beer in wine in retail stores, but to prohibit stores that only sell beer and wine. Also clarifies criteria for restaurants. Paragraph C. is deleted to prohibit a bar in a hotel/motel.

Section 5.04.120: Clarifies that late hour permits are to be issued by the Texas Alcoholic Beverage Commission (TABC).

Section 5.04.130: Clarifies that temporary mixed drink beverage permits issued by TABC must also meet the 50 percent food sale requirement.

Section 5.04.140: Clarifies reporting requirements for non-alcohol revenues and clarifies that private clubs must meet definition of TABC.

Section 5.04.150: Corrects a misspelling (“at” instead of “as”).

<u>RECOMMENDATION</u>

Staff recommends the City Council adopt Ordinance 1405 amending Chapter 5.04 regarding alcoholic beverage sales.

SUBMITTED BY:	DISPOSITION BY COUNCIL: ☐ APPROVED ☐ OTHER (DESCRIBE)	PROCESSED BY: CITY SECRETARY
CITY MANAGER		DATE:

ORDINANCE NUMBER 1405

AN ORDINANCE OF THE CITY OF BENBROOK, TEXAS, AMENDING CHAPTER 5.04 - "ALCOHOLIC BEVERAGE SALES" OF THE BENBROOK MUNICIPAL CODE, BY REVISING AND CLARIFYING THE REGULATIONS RELATED TO THE LOCATION AND APPLICABILITY FOR VARIOUS ALCOHOL SALES PERMITS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A CUMULATIVE CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Benbrook City Council finds that the regulation of the sale of alcoholic beverages within the City of Benbrook ("City") is necessary to protect the health, safety and welfare of the community; and

WHEREAS, the City Council has previously adopted Chapter 5.04 of the Benbrook Municipal Code regulating alcoholic beverage sales, as most recently amended by Ordinance 1139; and

WHEREAS, the City Council now deems it necessary to amend and clarify the current regulations for the sale of alcoholic beverages so that these activities may be conducted in a manner that protects the health, safety and welfare of the citizens of Benbrook and conforms with established codes and regulations.

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

SECTION 1

That Chapter 5.04 – Alcoholic Beverage Sales, Section 5.04.010 - Application for permit or license—Content, of the Benbrook Municipal Code (1985, as amended) is hereby amended by revising Section 5.04.101 to read as follows:

5.04.010 - Application for permit or license—Content.

Any person applying for a permit or license issued by authority of the Texas Alcoholic Beverage Code, or a renewal of such permit or license or to change the location of the place of business designated in such permit or license, shall deliver to the city secretary, for filing, one copy of the appropriate forms prescribed by the Texas Alcoholic Beverage Commission, together with scale drawings showing the proposed location of applicant's business in relation to streets, property lines, the nearest church, public or private school or public hospital. The officials with primary responsibilities for enforcing the zoning, building and health laws shall determine the use district in which such business is located, the distance to the nearest church, public or private school, or public hospital and any deficiencies in the building proposed or planned for use. Such person shall also provide a statement of his/her name, current address, addresses for the previous ten years, age, all other city permits or licenses held

and the names and addresses of all persons with an interest in such business, which statement shall include an affidavit that the information given is true and correct. The applicant shall give permission for his/her fingerprints, photo, height, weight, coloring, and other description to be obtained by the police department.

That Chapter 5.04 is further amended by revising Section 5.04.020 - Investigation of applicant to read as follows:

5.04.020 - Investigation of applicant.

The city secretary shall direct the applicant to deliver such information to the police department, which shall cause an investigation to be made as to the applicant's reputation as well as those of his/her business associates and also as to the applicant's criminal record, if any. On completion, the police department shall forward such application and information together with the investigative findings to the city secretary's office.

That Chapter 5.04 is further amended by revising Section 5.04.090 – Proper Zoning Use District Required to read as follows:

5.04.090 - Proper zoning use district required.

No person shall engage in the business of manufacturing, distributing or selling any alcoholic beverage in the city unless the place of business of such person is located in a zoning district of the city, as established by present and future zoning regulations of the city, in which the sale of such alcoholic beverage is permitted.

That Chapter 5.04 is further amended by revising Section 5.04.100 – Sale of Beer for Off-premise Consumption to read as follows:

5.04.100 - Sale of beer and wine for off-premises consumption.

It is unlawful for any person to sell beer or wine for off-premises consumption except in original packages.

That Chapter 5.04 is further amended by revising Section 5.04.110 – Location of Alcoholic Beverage Sales by revising paragraph A to read as follows:

A. No person shall sell, store, or otherwise handle for the purpose of sale, or engage in the business of selling, storing or otherwise handling for sale any alcoholic beverage in the city, except in a location where such activity is:

1. either incidental and secondary to use for other retail sales on the same premises, where such other non-alcoholic retail sales shall comprise more than fifty percent of the total revenues of the business on the premises, or

2. where incidental and secondary to the sale of food for human consumption, which shall be construed to mean that at least fifty percent of gross receipts shall be from food sales, and such person holds a food and beverage certificate issued by the State.

That Chapter 5.04 is further amended by revising Section 5.04.110 – Location of Alcoholic Beverage Sales by repealing paragraph C in its entirety.

That Chapter 5.04 is further amended by revising Section 5.04.120 – Late Hours to read as follows:

5.04.120 - Late hours.

A holder of a mixed beverage late hours permit issued by the Texas Alcoholic Beverage Commission may sell and offer for sale mixed beverages between midnight and 2:00 a.m. on any day.

That Chapter 5.04 is further amended by revising Section 5.04.130 – Temporary Mixed Beverage Permit to read as follows:

5.04.130 - Temporary mixed beverage permit.

All temporary mixed beverage permits issued must meet the fifty percent requirement for food sales in addition to the requirements to obtain a temporary permit from the Texas Alcoholic Beverage Commission.

That Chapter 5.04 is further amended by revising Section 5.04.140 – Gross Receipts Report to read as follows:

5.04.140 - Gross receipts report.

All establishments engaging in the sale of alcoholic beverages within the city shall submit to the city secretary a sworn affidavit showing gross receipts and sales of the business. The affidavit shall contain a breakdown between the gross food sales revenues, the gross sales revenues of alcoholic beverages, and gross revenues for all other non-alcohol non-food retail sales. The permittee or licensee shall also file with the city secretary on a quarterly basis, the gross receipts and figures furnished to the state for sales tax and alcoholic beverage tax purposes. This provision applies to restaurants, cafes, cafeterias, eating establishments, and private clubs. Permittees or licensees under this chapter shall supply such copies with applications for renewal. Private clubs, as defined by the Texas Alcoholic Beverage Commission, shall supply such copies on or before January 15th of each year thereafter. Such records shall cover the most recent calendar year.

SECTION 2
CUMULATIVE CLAUSE

This ordinance shall be cumulative of all provisions of ordinances of the City of Benbrook, Texas, except when the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 3
SAVINGS CLAUSE

All rights and remedies of the City of Benbrook, Texas, are expressly saved as to any and all violations of the provisions of any ordinances which accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil or criminal, whether pending in court or not, under such ordinances,

same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 4
SEVERABILITY CLAUSE

If any article, section, sub-section, sentence or phrase of this Ordinance should be held to be invalid for any reason whatsoever, such invalidity shall not affect the remaining portions of this Ordinance which shall remain in full force and effect and to this end the provisions of this Ordinance are declared to be severable.

SECTION 5
PENALTY CLAUSE

Any person, firm, or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be fined not more than Two Thousand Dollars ($2,000) for all violations involving zoning, fire safety or public health and sanitation, including dumping of refuse, and shall be fined not more than Five Hundred Dollars ($500.00) for all other violations of this Ordinance. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 6
PUBLICATION CLAUSE

The City Secretary of the City of Benbrook, Texas, is hereby directed to publish the caption, penalty clause and effective date of this ordinance for two (2) days in the official newspaper of the City of Benbrook, Texas, as authorized by Texas Local Government Code 952.013.

SECTION 7
EFFECTIVE DATE

That this ordinance shall take effect after adoption and publication as required by Law.

PASSED AND APPROVED the 15th day of December 2016.

_____
Jerry B. Dittrich, Mayor

ATTEST

_____
Joanna King, City Secretary

City of Benbrook

CITY COUNCIL COMMUNICATION

DATE:	REFERENCE NUMBER:	SUBJECT:	PAGE:
12/15/16	G-2276	Approve the Contract for the Sale of 913 Timberline Drive	1 of 1

The property at 913 Timberline Drive contained a house that was classified as a repetitive loss property by the National Flood Insurance Program, meaning that it had sustained two or more flood insurance claims of $1,000 or more. The property also had a retaining wall that encroached illegally into the Dry Branch creek bed. In addition, the City's drainage plan identified the need to enlarge the inlet at the front of the property to adequately drain water from the street. Finally, this was one of only two houses that would not be removed from the 100-year floodplain by the Timber Creek Channel project.

In November 2005, the City Council authorized the purchase of the property and the purchase was completed in January 2006. The house was demolished in March 2006 and improvements were made to the creek and the storm drain inlet, and the building pad was elevated above the new 100-year flood level in November 2006. The Letter of Map Revision based on Fill (LOMR-F) officially removing the building site from the 100-year floodplain was received from FEMA on June 19, 2007, delayed primarily by the processing of the LOMR by FEMA on the Timber Creek Channel project.

The City has attempted to sell the property through a sealed bid process in 2007, 2008, 2009 and 2016. No bids were received. On August 18, 2016, the City received an unsolicited offer for $10,000 but the buyers backed out of the purchase. A real estate agent was then contacted to list the property. Multiple bids were received and the best offer was for $15,000. The City of Benbrook will net approximately $12,000 from the sale after deducting customary closing costs and real estate agent fees.

RECOMMENDATION

Staff recommends that City Council approve the contract for the sale of 913 Timberline Drive (Lot 22, Block 16, Timber Creek Addition) to ACS Rentals for $15,000 and that the City retain the mineral rights.

SUBMITTED BY:	DISPOSITION BY COUNCIL: ☐ APPROVED ☐ OTHER (DESCRIBE)	PROCESSED BY: CITY SECRETARY
CITY MANAGER		DATE: