

DATE: May 24, 2016
TO: Applicants with Items before City Council
FROM: Christina D. Day, Director of Planning
SUBJECT: Results of City Council Meeting of May 23, 2016

PUBLIC HEARING - ZONING CASE 2016-012
APPLICANT: JAMES BENNY RAY

Request to rezone 6.3 acres located at the northwest corner of K Avenue and 10th Street **from** Light Commercial with Specific Use Permit #515 for Recreation Vehicle Sales and Service **to** Downtown Business/Government and rescind Specific Use Permit #515 for Recreation Vehicle Sales and Service. Zoned Light Commercial with Specific Use Permit #515 for Recreation Vehicle Sales and Service. Tabled May 2, 2016. Project #ZC2016-012.

APPROVED: 7-1 **DENIED:** _____ **TABLED:** _____

STIPULATIONS:

City Council approved Downtown Business/Government zoning with the following restriction:

- Exterior wall construction shall consist of a minimum of 80% masonry on each facade.

The zoning will be noted as Planned Development-11-Downtown Business/Government for administrative purposes of tracking the condition.

ST/ts

xc: James Benny Ray
Rob Baldwin, Baldwin Associates
Tony Pearson, Plano ISD
MaryAnn Lewis, Plano ISD
Dennis Brent, Frisco ISD
Richard Wilkinson, Frisco ISD
Tommy Ellington, Lewisville ISD
Michele Keller, Lewisville, ISD

Zoning Case 2016-012

An Ordinance of the City of Plano, Texas, amending the Comprehensive Zoning Ordinance of the City, Ordinance No. 2015-5-2, as heretofore amended, so as to rezone 6.3 acres of land out of the Joseph Klepper Survey, Abstract No. 213, from Light Commercial with Specific Use Permit No. 515 for Recreation Vehicle Sales and Service to Downtown Business/Government, with a condition, and repealing in its entirety Ordinance No. 2003-11-16, thereby rescinding Specific Use Permit No. 515 for Recreation Vehicle Sales and Service located at the northwest corner of K Avenue and 10th Street in the City of Plano, Collin County, Texas; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, a publication clause, and an effective date.

WHEREAS, the City Secretary of Plano, Texas, directed that notices of a hearing be issued, as required by the Zoning Ordinance of the City of Plano and laws of the State of Texas, at a meeting of the City Council, to be held on the 23rd day of May, 2016, for the purpose of rezoning 6.3 acres of land out of the Joseph Klepper Survey, Abstract No. 213, from Light Commercial with Specific Use Permit No. 515 for Recreation Vehicle Sales and Service to Downtown Business/Government and repealing in its entirety Ordinance No. 2003-11-16, thereby rescinding Specific Use Permit No. 515 for Recreation Vehicle Sales and Service located at the northwest corner of K Avenue and 10th Street in the City of Plano, Collin County, Texas; and

WHEREAS, the City Secretary of the said City accordingly caused to be issued and published the notices required by its Zoning Ordinance and laws of the State of Texas applicable thereto, the same having been published in a paper of general circulation in the City of Plano, Texas, at least fifteen (15) days prior to the time set for such hearing; and

WHEREAS, the City Council of said City, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the aforesaid change in the Zoning Ordinance, on the 23rd day of May, 2016; and

WHEREAS, the City Council is of the opinion and finds that such rezoning, with the condition that exterior wall construction shall consist of a minimum of 80% masonry on each façade, would not be detrimental to the public health, safety, or general welfare, and will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Plano, and as well, the owners and occupants thereof, and the City generally; and

WHEREAS, the City Council is of the opinion and finds that the rescinding of Specific Use Permit No. 515 for Recreation Vehicle Sales and Service would not be detrimental or injurious to the public health, safety and general welfare, or otherwise offensive to the neighborhood; and

WHEREAS, the City Council is of the opinion and finds that such change will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Plano, and as well, the owners and occupants thereof, and the City generally.

IT IS, THEREFORE, ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. The Comprehensive Zoning Ordinance No. 2015-5-2, as the same has been heretofore amended, is hereby further amended so as to rezone 6.3 acres of land out of the Joseph Klepper Survey, Abstract No. 213, from Light Commercial with Specific Use Permit No. 515 for Recreation Vehicle Sales and Service to Downtown Business/Government, with a condition, located at the northwest corner of K Avenue and 10th Street in the City of Plano, Collin County, Texas, said property being described in the legal description on Exhibit "A" attached hereto.

Section II. The change granted in Section I is granted subject the following condition:

The permitted uses and standards shall be in accordance with the Downtown Business/Government (BG) zoning district except that exterior wall construction shall consist of a minimum of 80% masonry on each facade.

Section III. Ordinance No. 2003-11-16 duly passed and approved by the City Council of the City of Plano, Texas, on November 24, 2003, granting Specific Use Permit No. 515 for the additional use of a Recreation Vehicle Sales and Service on 5.4 acres of land out of the Joseph Klepper Survey, Abstract No. 213, located generally along the K Avenue corridor from the Cottonbelt Railroad right-of-way south to State Highway 190, extending west to the Dallas Area Rapid Transit Railroad right-of-way and including one row of lots on the east side of K Avenue from Municipal Drive to Plano Parkway in the City of Plano, Collin County, Texas, more fully described on Exhibit "B" attached hereto, is hereby repealed in its entirety. Consequently, Specific Use Permit No. 515 is hereby rescinded.

Section IV. It is directed that the official zoning map of the City of Plano (which is retained in electronic record format) be changed to reflect the zoning classification established by this Ordinance and the notation of Specific Use Permit No. 515 shall be removed from the official zoning map. The zoning will be noted as Planned Development-11-Downtown Business/Government for the administrative purpose of tracking the condition.

Section V. All provisions of the ordinances of the City of Plano in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

Section VI. The repeal of any ordinance or part of ordinances affected by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

Section VII. Any violation of the provisions or terms of this ordinance by any person, firm or corporation shall be a misdemeanor offense and shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

Section VIII. It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable and the invalidity or partial invalidity of any section, clause or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

Section IX. This Ordinance shall become effective immediately upon its passage and publication as required by law.

PASSED AND APPROVED THIS THE 13TH DAY OF JUNE, 2016.

Harry LaRosiliere, MAYOR

ATTEST:

Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

Paige Mims, CITY ATTORNEY

Exhibit "A"

ZONING CASE 2016-012

Being a tract of land situated in the State of Texas, County of Collin and City of Plano, being part of the Joseph Klepper Survey, Abstract No. 213, being all of Lot 1, Block 1 of Plano Marine Addition, an addition to the City of Plano as recorded in Volume F, page 669 of the Collin County Map Records, being all of Lots 1-4, Block 1 and part of Lots 5-10, Block 2 of the Malaby Addition, an addition to the City of Plano as recorded in Volume 1, Page 20 of the Collin County Map Records, being all of a 0.34 acre tract (abandoned 11th Street Right-of-Way), all of a 0.143 acre tract (abandoned "J" Avenue Right-of-Way), and all of a 0.120 acre tract (abandoned 15' alley Right-of-Way) as recorded in Volume 5491, Page 9228 of the Collin County Land Record, and part of "K" Avenue (60' Right-of-Way) and 10th Street (50' Right-of-Way), with said premises being more particularly described as follows:

Beginning at the intersection of the centerline of said "K" Avenue and said 10th Street;

Thence North 89°56'08" West along the centerline of said 10th Street a distance of 453.93 feet to a point for corner;

Thence North 00°03'37" East, leaving the centerline of said 10th Street, a distance of 25.00 feet to an "X" found for corner in the north Right-of-Way line of said 10th Street and the southwest corner of said 0.143 acre tract (abandoned "J" Avenue Right-of-Way);

Thence North 00°03'37" East along the west line of said 0.143 acre tract (abandoned "J" Avenue Right-of-Way), a distance of 367.89 feet to a capped iron rod found marking the northwest corner of said 0.143 acre tract;

Thence with the north line of said 0.143 acre tract, a north line of said 0.34 acre tract (abandoned 11th Street Right-of-Way), South 89°56'08" East a distance 82.83 feet to an iron rod found for corner;

Thence with the west line of said 0.34 acre tract, the west line of said Lot 1, Block 1 of Plano Marine Addition, and the east Right-of-Way line of Dallas Area Rapid Transit (D.A.R.T) Railway, North 00°03'52" East a distance of 194.92 feet to an iron rod found for corner at the northwest corner of said Lot 1, Block 1 of Plano Marine Addition;

Thence with the north line of said Lot 1, Block 1 of Plano Marine Addition and the south Right-of-Way line of said D.A.R.T Railway, South 89°56'08" East a distance of 38.00 feet to an iron rod found for corner;

Thence with the north line of said Lot 1, Block 1 of Plano Marine Addition and the south Right-of-Way line of said D.A.R.T Railway, North 28°40'44" East a distance of 19.66 feet to an iron rod found for corner;

Thence with the north line of said Lot 1, Block 1 of Plano Marine Addition and the south Right-of-Way line of said D.A.R.T Railway, North 70°03'51" East, 311.71 feet to an iron rod found for corner at the northeast corner of said Lot 1, Block 1 of Plano Marine Addition, and being in the west Right-of-Way line of said "K" Avenue;

Thence departing the west Right-of-Way line of said "K" Avenue, North 90°00'00" East a distance of 30.00 feet to the centerline of said "K" Avenue;

Thence South 00°00'00" East a distance of 711.72 feet along the center line of said "K" Avenue to the POINT OF BEGINNING and CONTAINING 6.31 acres of land, more or less.

Exhibit "B"

SUP No. 515 (Ord. 2003-11-16) – ZC 2003-53

BEING described as Plano Marine Addition, Block 1, Lot 1, located in the Joseph Klepper Survey, Abstract No. 213, in the City of Plano, Collin County, Texas, and containing 1.797 acres recorded in Cabinet F and Page 669 in the Collin County Plat Records, Texas.

BEING described as Malaby Addition, Block 1, Lots 1, 2, 3, and 4, and Block 2, Lots 5, 6A, 6B, 7A, 7B, 8, 9, 10A, and 10B, located in the Joseph Klepper Survey, Abstract No. 213, in the City of Plano, Collin County, Texas, and containing 3.0152 acres recorded in Volume 99-0097248, Page 4471-3297 in the Deed Records of Collin County, Texas.

See below for metes and bounds description of 11th Street Abandonment.

See below for metes and bounds description of J Avenue Abandonment.

See below for metes and bounds description of 15-foot Alley Abandonment

11th Street Abandonment Metes and Bounds

SITUATED in the State of Texas, County of Collin and City of Plano, being part of the Joseph Klepper Survey, Abstract No. 213, being a portion of 11th Street with said premises being more particularly described as follows:

BEGINNING at a 1/2-inch iron rod found marking the southeast corner of Lot 1, Block 1 of Plano Marine Addition, an addition to the City of Plano as recorded in Cabinet F, Page 669 of the Collin County Map Records, said corner being in the west right-of-way line of K Avenue (60 foot right-of-way);

THENCE with the west right-of-way line of K Avenue, south, 40.00 feet to a 1-inch iron rod set marking the intersection of the south right-of-way line of 11th Street with the west right-of-way line of K Avenue, said corner being in the north line of Lot 5, Block 2 of Malaby Addition, an addition to the City of Plano as recorded in Volume 1, Page 20 of the Collin County Map Records;

THENCE with the south right-of-way line of 11th Street and the north line of said Lot 5 and the north line of Lot 1, Block 1 of said Malaby Addition, North 89°56'08" West, 406.54 feet to a 1 inch iron rod set marking the northwest corner of said Lot 1;

THENCE with the west line of said premises, North 00°03'36" East, 20.00 feet to a 1-inch rod set marking the most westerly northwest of said premises;

THENCE with a north line of said premises, South 89°56'08" East, 65.84 feet to a 1-inch iron rod set marking an interior corner of said premises;

THENCE with a west line of said premises, North 00°03'36" East, 20.00 feet to an "X" set in concrete marking the southwest corner of the aforementioned Plano Marine Addition and being in the north right-of-way line of said 11th Street;

THENCE with a north line of said premises, the north line of said 11th Street and the south line of said Plano Marine Addition, South 89°56'08" East, 340.66 feet to the POINT OF BEGINNING and CONTAINING 14,945 square feet or 0.34 acre of land.

J Avenue Abandonment Metes and Bounds

SITUATED in the State of Texas, County of Collin and City of Plano, being part of the Joseph Klepper Survey, Abstract No. 213, being a portion of 11th Street with said premises being more particularly described as follows:

COMMENCING at an "X" set in concrete marking the southwest corner of Lot 1, Block 1 of Plano Marine Addition, an addition to the City of Plano as recorded in Cabinet F, Page 669 of the Collin County Map Records, said corner being in the west right-of-way line of K Avenue (60 foot right-of-way);

THENCE with the north right-of-way line of 11th Street, North 89°56'08" West, 65.84 feet and South 00°03'36" West, 20.00 feet to a 1-inch iron rod set marking the northeast corner and point of beginning for the herein described premises;

THENCE with the east line of said premises, South 00°03'36" West, 367.89 feet to an "X" set marking the southeast corner of said premises in the north line of 10th Street;

THENCE with the south line of said premises and the north line of 10th Street, North 89°56'08" West, 17.00 feet to an "X" set marking its southwest corner;

THENCE with the west line of said premises, North 00°03'36" East, 367.89 feet to a 1-inch iron rod set marking its northwest corner;

THENCE with the north line of said premises, South 89°56'08" East, 17.00 feet to the POINT OF BEGINNING and CONTAINING 6,254 square feet or 0.143 acre of land.

15-Foot Alley Abandonment Metes and Bounds

SITUATED in the State of Texas, County of Collin and City of Plano, being part of the Joseph Klepper Survey, Abstract No. 213, being a 15-foot wide alley south of 11th Street and north of 10th Street and being more particularly described as follows:

BEGINNING at an "X" set in concrete in the north right-of-way line of 10th Street (50 foot right-of-way), said corner marking the southwest corner of Lot 10, Block 2 of Malaby Addition, an addition to the City of Plano recorded in Volume 1, Page 20 of the Collin County Deed Records and the southeast corner of said 15-foot wide alley;

THENCE with the north right-of-way line of 10th Street, North 89°56'08" West, 15.00 feet to an "X" set in concrete marking the southwest corner of said alley and the southeast corner of Lot 4, Block 1 of said Malaby Addition;

THENCE with the west right-of-way line of said alley and the east line of said Block 1, north, 347.89 feet to a 1-inch iron rod set in the south right-of-way line of 11th Street (40 foot right-of-way) to an "X" set in concrete in the south right-of-way line of 10th Street and marking the northeast corner of Lot 1, Block 1 of said Malaby Addition, the northwest corner of said premises and the northwest corner of said alley;

THENCE with the south right-of-way line of 11th Street and the north line of said premises, South 89°56'08" East, 15.00 feet to a 3/4-inch iron pipe found marking the northeast corner of said alley and the northwest corner of Lot 5, Block 2 of said Malaby Addition;

THENCE with the east right-of-way line of said alley and the west line of Block 2 of said Malaby Addition, south, 347.89 feet to the POINT OF BEGINNING and CONTAINING 5,218 square feet or 0.120 acre of land.