After determining that a quorum was present, the Planning and Zoning Commission convened a Work Session on **Wednesday, March 19, 2014 at 5:15 p.m.** in the City Council Work Session Room at City Hall, 215 E. McKinney Street, Denton, Texas at which time the following items were considered:

**PRESENT:** Chair Jean Schaake. Commissioners: Brian Bentley, Frank Conner, Devin Taylor, Jim Strange and Amber Briggle.

**ABSENT:** Commissioner Thom Reece.

**STAFF:** Athenia Green, Brian Lockley, Aaron Leal, Earl Escobar, Ron Menguita, Erica Marohnic, Darren Groth, Cindy Jackson, Mike Bell, John Cabrales, Jr., Michele Berry, and Nana Appiah.

**WORK SESSION**

Schaake called the Work Session to order at 5:16 p.m.

1. **Clarification of agenda items listed in the Regular Session agenda for this meeting, and discussion of issues not briefed in the written backup materials.**

There was no clarification of agenda items.

3. **Receive a report, hold a discussion, and give staff direction regarding the Denton Plan Update. (Ron Menguita)**

Schaake stated Work Session Item 3 would be heard before Work Session Item 2. Menguita provided the Denton Plan 2030 Update schedule that contained items that have been completed, are still in process, and those that are upcoming. This item will come back before this Commission as a Public Hearing Item.

John Fernsler with William, Roberts, and Todd (WRT)

Fernsler stated we are in the homestretch of the Comprehensive Plan. The character of Denton recognizes Denton’s small-town charm and North Texas heritage, Denton’s commitment to sustainability, and Denton’s creativity and innovation, technology and music and arts scene. The Strength of Our Economy focuses on supporting and encourages our entrepreneurs and small businesses. Our People, Institutions, and Government include: Denton’s sense of community, welcoming, and shared values, Fairness and equal opportunity, and Denton’s customer-friendly and open government. The Sound Growth targets: managed, balanced, and sustainable growth, a compact development pattern, and thriving universities with stable and healthy neighborhood edges.
Fernsler provided the comparison of the Refined Land Use Map, including Preferred Concept and Revised Future Land Use Map. Some of the progress since the Denton Plan 1999 includes: Downtown Master Plan, Downtown Implementation Plan, Clear Creek Natural Heritage Center, Environmentally Sensitive Areas, and Sustainability Plan. Fernsler provided the comparison of developing the Plan Elements for the Denton Plan 2030 and the 1999 Denton Plan.

Menguita stated the next steps of the process are: Denton Plan 2030 Development, Draft Denton Plan 2030, City Council and Commissions and Boards review, Community Forum 3, and Plan Refinement and Adoption. Menguita stated they are hoping by the end of May 2014 the consultant will make any revisions to the plan. This will go into the summer months, and then go before the Boards and Commissions during Work Session items to discuss the elements. Then this will go back before the City Council. Finally, the Community Forum 3 meeting would be held towards late summer or maybe September 2014. Menguita stated in November 2014 staff would like the item to be available for adoption and potentially be done with the Comprehensive Plan Update.

Conner questioned residential areas within the Denton Plan Update; specifically income bracket related. Fernsler stated that is a good yet complicated question. Fernsler stated the individuals that will move to Denton will be coming for work as well as based on their income bracket.

Taylor questioned a line between the 2030 Denton Plan and the Future Land Use Map; if those are together or separate. Fernsler stated the Denton Plan will be the glue for all the other plans within the City. Some of those plans would need to be updated along with the Denton Plan.

Schaake requested this Commission stay updated on the Denton Plan Update. There was no further discussion.

2. Hold a discussion on gas well development relating to residential development, including Master Planned Communities, setbacks, overlay limitations, disclosure notices and matters relating to enforcement of the Denton Development Code. (Darren Groth)

Lockley stated this is a follow-up to a request made by Briggle. Lockley introduced Groth. Groth stated the questions he is responding to were requested by Briggle and Taylor. Groth stated there are eight questions he will be addressing.

Question 1). Commissioner Briggle requested a discussion on the setbacks of development from gas wells and gas wells from development. Groth stated in 2001, setback set at 500 feet. This was measured from structure to wellhead. In 2004, setback distance could be reduced to 250 feet, with property owners consent. The distance remained at 500 feet. In 2010, setback distance increased to 1,000 feet; measuring from Drilling and Production Site boundary. Finally, in 2013, setback distance increased to 1,200 feet, the Zoning Board of Adjustment can reduce the distance to 500 feet. Briggle questioned if the separation requirements are specific to new gas wells coming to existing homes; Groth stated correct. The site is defined by the platted area. Groth stated the changes now are instead of measuring the setback from the wellhead to the structure it is now measured from the site boundaries. Groth provided an example of the site boundary being 100 acres. Lockley informed Commissioners there isn’t a minimum pad site. The City has per
code; it states the pad site should coincide with that location. Conner discussed mineral rights; Lockley stated the surface rights owners have signed off on these sites. Bentley questioned if there is a maximum pad site. Groth stated as of 2010, there is now a five acre maximum. Taylor questioned if once the spot has been issued they can come back and put more wells on the site; Groth not per say, they are looked at a case by case basis. Briggle questioned if the City has plats like this; Groth stated the example provided is a current plat within the City.

Question 2). What are other municipalities within the Barnett Shale doing or not doing as far as setbacks regarding a new residence next to an existing gas well? Groth stated those are considered “reverse” setbacks. The cities of Fort Worth, Arlington, Southlake, and Mansfield all follow the Fire Code regulations. The city of Grand Prairie requires a 300 foot no build easement either from the center of the pad site or from each well. The City of Flower Mound in regards to reverse setback is based on the permit date for the pad site/property and the effective ordinance. There is an option for an applicant to seek a reduction before the oil and gas board of appeals. Briggle questioned any clarification from Leal on Flower Mound’s requirements. Leal stated he is familiar with the legal issues that Flower Mound has encountered; however, that cannot be discussed in an open session. Groth stated he has spoken with an inspector in Flower Mound and with the 1,500 foot distance they haven’t applied it to these wells, it came into effect in August 2011. All of their wells came into effect prior to that date. Groth provided Fire Code 2012 Edition feedback and as to where they can and cannot be located.

Question 3). Location map of the gas wells in Denton. Groth stated the interactive map is available on the City of Denton website for public use. It contains gas well information, plats, and well information. There is a lot of data available on the website. Schaake questioned the color coding on the map provided in staff backup. Groth stated they are color coordinated by the gas well operator. Strange questioned what the density looks like for the far west section on the map compared to the city limits. Groth stated the density is less in the western section; however, the number of wells is higher. There are more wells per pad site. Strange questioned the mineral well owners input on their ability to access what they own; Groth stated the mineral owners approve of the drilling, a lease is signed and a vast majority of them support that inspections are occurring. Those owners want the process done the right way in accordance with state and local laws and regulations.

Question 4). What are the definitions for both Master Planned Community (MPC) and Planned Development (PD)? Groth stated there are a lot of similarities of the two types of developments. The MPC District is intended to accommodate large-scale, unified, comprehensively planned development that conforms with and enhances the goals and policies contained within the Denton Plan. The [Master] Planned Development is a development that comprehensively incorporates a combination of specific site design, site access, architectural, landscaping, buffering, screening, and development design standards.

Question 5). What jurisdiction does this Commission have over setbacks for MPC and PD Developments. Groth provided comparisons to Hunter Ranch-MPC and Robson Ranch PD. Schaake questioned the process of amendments to the ordinance. Groth stated a request would have to come before this Commission that would limit what the request is for. Conner questioned no drill zones and how they are reinforced; Groth stated they are enforced within the Hunter
Ranch Ordinance. Groth stated the developers came up with their restrictions. Question 6). What is the setback distance disclosure agreement that Councilman Gregory initiated for zoning case Z13-0006, aka the Kelsoe Tract, and what are the implications moving forward for this project and others? Groth stated this goes back to zoning case Z13-0006, the Kelsoe Tract; where stipulations were added to ensure notice is adequately provided to homeowners about setback distance information. The developer shall give notification of the location and existence of the gas well pad sites depicted on [GWP02-0006]. A note shall be placed on residential plats, and subdivision Declaration of Restrictive Covenants; or a restriction in the Deeds for all subdivision lots.

Question 7). If the single-family residence is sold, does the disclosure agreement run in perpetuity with the purchasing family? Groth stated a notice is placed on the plat to notify property owners of the gas well information. Question 8). Can staff provide more background information regarding DDC Section 35.22.5.A.1.b? Groth provided the text that is stated in the DDC. Taylor stated he believes his section of the DDC is outdated and doesn’t read the same information as provided. Leal stated sections C, D, E, and F are all new sections to the DDC. Taylor stated he read the discussed section as the clause from the Mayor in 2010. Groth stated he wasn’t here during that time; however, he can provide clarification. Schaake stated it would be appropriate to have a follow-up to this question. Briggle stated there is a lot of discussion about mineral owners. Mineral owners are pretty well protected in Texas. Briggle stated she doesn’t feel that a 250 foot is a large enough reverse setback. Briggle added she would like to see this conversation continue in the future. Conner stated he doesn’t mind keeping this discussion going as well; however, he doesn’t want this Commission to put time into it and it be going nowhere. Schaake stated the tool that can be used now is providing the property owners the notification of the gas well setbacks.

There was no further discussion. Schaake stated this discussion will continue at some point. No further discussion. Schaake we would like to have another look at this at some point. Schaake adjourned the Work Session at 6:35 p.m. A brief recess was held from 6:35 to 6:57 p.m.

4. Future Agenda Items Discussion:
   A. Food Truck Park Clarification
   B. Mobile, Manufacture, and Modular Homes

Schaake stated these items would be heard during the Future Agenda Items section.

REGULAR MEETING

The Planning and Zoning Commission convened a Regular Meeting of the Planning and Zoning Commission of the City of Denton, Texas which was held on Wednesday, March 19, 2014 and began at 6:30 p.m. in the City Council Chambers at City Hall, 215 E. McKinney at which time the following items were considered:

Schaake called the Regular Meeting to order at 6:57 p.m.
1. **PLEDGE OF ALLEGIANCE:**

   A. U.S. Flag
   B. Texas Flag "Honor the Texas Flag - I pledge allegiance to thee, Texas one state under God, one and indivisible."

2. **CONSIDER APPROVAL OF THE PLANNING AND ZONING COMMISSION MINUTES FOR:**

   A. March 5, 2014

   Commissioner Devin Taylor motioned, Commissioner Brian Bentley seconded to approve the meeting minutes. Motion approved (6-0).

3. **CONSENT AGENDA:** Staff recommends approval of the following items because they meet the requirements of the Denton Development Code. Approval of the Consent Agenda includes staff recommendations for approvals and authorizes staff to proceed. The Planning and Zoning Commission has reviewed the applications and has had an opportunity to raise questions regarding the items prior to consideration:

   A. Consider a Final Plat of Lot 1, Block A of the McKinney Street Substation Addition. The approximately 6.23 acre property is generally located on the south side of East McKinney Street, approximately 1,300 feet east of Mack Drive and 450 feet west of Springtree Street. The property is located within Neighborhood Residential Mixed Use (NRMU) and Neighborhood Residential Mixed Use 12 (NRMU-12) zoning districts. (FP13-0033, DME McKinney Substation, Mike Bell)

   B. Consider a Final Replat of Lots 3R1A, 3R1B, and 3R1C, Block 1 of the U.S. Bank Addition. The approximately 3.08 acre property is generally located on the north side of W. University Drive (U.S. 380), east of Cornell Lane, and west of Hinkle Drive. The property is located within a Community Mixed Use General (CM-G) zoning district. (FR13-0013, U.S. Bank Addition, Mike Bell)

   Commissioner Frank Conner motioned, Commissioner Jim Strange seconded to approve the Consent Agenda. Motion approved (6-0).
4. **ITEMS FOR INDIVIDUAL CONSIDERATION:**

A. **Consider a hardship variance to Section 35.20.4.D, (access to arterial streets) of the Denton Development Code regarding a driveway on Nottingham Drive, classified as a secondary arterial street. The 2.597 acre subject property is generally located at the southeast corner of Nottingham Drive and University Drive (U.S. 380).** (V13-0005, Mulkey-Mason Funeral Home Variance, Michele Berry).

Lockley introduced Berry. Berry stated this is a request to consider a hardship variance to Section 35.20.4.D of the DDC. This is regarding a driveway on Nottingham Drive, which is classified as a secondary arterial street. The reasons for this request at that the applicant desire a limousine access pattern, direct access on the site, and the applicant believes the lot is too large not to have direct access. The Development Review Committee recommends denial of this request. Should this Commission decide to approve this request, staff recommends the following conditions: the driveway is designed and signed as exit only, the driveway is gated and used only for funeral processions, and police escort identification required to control traffic when funeral processions exit through the driveway. The applicant is present.

Lee Allison, Allison Engineering, 4401 N-135, Suite 102, Denton, Texas

Allison stated he is representing the project. The property owner Dean Mulkey is present as well. The variance would be for the funeral home use only. The site is surrounded by arterial streets; the lesser street is a secondary arterial. Allison referred to the Transportation Criteria Manual requirements for right-turn lanes. There is flexibility within the guidelines. Allison stated he feels there is plenty of room for what is being requested.

Bentley stated this is requested as a hardship variance; Bentley added he doesn’t feel this to be a hardship. This site started with a blank slate of land; Bentley stated the applicant could locate a different layout. Bentley stated there was no travel pattern of the vehicles. Allison stated a turning radius wasn’t provided because he doesn’t disagree. The limousine can fit; however, when there are two or three limousines, a hurst, and the funeral traffic flow it makes a difference.

Briggle questioned the projected vehicle flow for a funeral. Allison stated it is dense; they could have small funerals at this location with approximately five to ten people or 100-200 people. They could even have around 300-500 people attend at Denton Bible Church. Schaake questioned if the proposed driveway is an existing house to the driveway currently. Allison stated correct. Schaake stated it would allow better access onto the property and wouldn’t be used on a daily basis.

Taylor questioned the stop line from University Drive. Allison stated the stop line is about 160 foot; however, there would be a police escort to stop the lights. Taylor acknowledged. Bentley questioned reversing the flow of the access; Allison stated it is a matter of the procession and lining the limousine up before the procession. Bentley questioned the gravel driveway being legal nonconforming or grandfathered; Escobar stated because of the platting it has to comply with the DDC regulations. Bentley questioned the requirement that a driveway be directly across from another driveway. Escobar stated south on the property there are two driveways that match
up. Escobar stated the proposed driveway could allow access to the church and not just the subject site. There could be conditions added that it be narrowed, gated, only open during funeral sessions, a signed exit only, and police escorted. Escobar stated those are some of the suggestions by staff. Leal stated as far as grandfathering, the applicant is replatting the property, so the grandfathered rights are lost.

Commissioner Devin Taylor motioned, Commissioner Amber Briggle seconded to deny this request. Motion failed (3-3). Leal stated this motion fails and would have to come back before this Commission with full Commission present. It is required this item be postponed to the April 9, 2014 meeting date.

5. **PUBLIC HEARING:**

A. Hold a public hearing and consider making a recommendation to City Council regarding a Specific Use Permit (SUP) to allow a wrecker services and impound lots use on a property located in an Employment Center Industrial (EC-I) zoning and use district on approximately 1.3 acres. The subject property is generally located south of Smith Street, east of Dallas Drive, and north of Teasley Lane. (S12-0001, Akers Towing, Nana Appiah)

Lockley introduced Appiah. Appiah stated this request is for a Specific Use Permit to allow a wrecker services and impound lots use on a property located in an Employment Center Industrial zoning district on approximately 1.3 acres. Appiah provided the Limitation 29 (L29) Conditions that are provided in the staff backup. Appiah stated all of the conditions have been met except for condition four. There had been several deliberations as to how this request could be met; however, it has not been met yet. On August 9, 1978, a Certificate of Occupancy (C.O.) was issued for automotive store; however, no wrecker or towing was associated with this use. On May 7, 1986, a C.O. was issued for automobile paint and body shop. On April 5, 1988, a C.O. was issued for auto repair. August 9, 1989, a C.O. was issued for auto repair and refinish. April 15, 1999, a C.O. was issued for auto paint and body repair. Then on March 4, 2002 a C.O. was issued for auto storage. There was no wrecker or towing authorized with the issuance of this C.O. Staff sent 15 Public Hearing notices to property owners within 200 feet of the subject site, and 68 courtesy notices to property owners within 500 feet of the subject site. At this time staff has received one returned response in favor and one returned response neutral to this request. The Development Review Committee recommends approval of this request subject to the seven conditions listed in the staff backup.

Bentley referred to Condition four (4) stating the screening fence shall be wood materials. Bentley stated wood deteriorates. Appiah stated it can be maintained, there are no conditions to maintain. Strange referred to Condition six (6); questioning if the applicant has time to correct the violation. Appiah stated that is correct. Lockley stated the issue is the opaqueness of the fence materials. The condition wording could be changed from wood to opaque to allow for more options. The issue with some materials such as plastic could dilapidate faster than wood. Bentley stated the condition could state wood or cement or a product of nature that is long lasting materials.
Leal stated Condition six (6) is inconsistent with Subchapter 6 of the DDC. That subchapter is specific and cannot be revoked or modified. Leal stated he would recommend this to be consistent to the DDC or if this Commission chooses they could recommend that to the City Council. Schaake questioned Leal if his recommendation would be to strike that condition; Leal stated if it were move forward than to make it consistent with Subchapter 6 of the DDC.

Greg Edwards, Greg Edwards Engineering, 1621 Amanda Ct, Ponder, TX 76259

Edwards stated he is representing Akers Towing. Edwards thanked staff. Edwards stated he doesn’t believe that neither he nor Akers Towing were aware staff’s recommendation would be for modification of the site. There are several of the items that appear to only be a viable process to meet; which would be with a sand filter. Edwards stated he is unaware how it would work, when you are burying porous materials; on a rainy day there is no sheen of oil on the property. This is a very clean operation. Edwards stated Joe Akers stated there are more materials left on the ground at the site the vehicle is picked up at. There are no toxins to harm anyone, the water, or the fish in the water. Edwards stated he would like the conditions listed to be removed. Edwards stated Joe Akers purchased materials for a six foot screening fence. Edwards would like to see the conditions be modified to allow the materials already purchased.

Bentley questioned Edwards if he would like the request to be made to allow the six foot fence that was already purchased. Edwards stated that is correct. Bentley stated there can be issues with a six foot fence being too low. This could allow for trespassing on the property. Edwards stated the screening is primarily for the visual screening of the site; the primary purpose is not for protection.

Schaake questioned the reasoning behind Conditions 2 through; Appiah stated those conditions are for meeting the requirements of the Limitation 29. Schaake questioned when those conditions took place; Appiah stated in 2010. In 2010, it was allow with all of the conditions listed today; however, it was not allowed prior to 2010.

Lockley stated there are several properties surrounding the subject site that have storage areas; the City for some time now has received several complaints in regards to visible storage. Taylor referred to environmental requirements; it was until 2010 that wrecking yards weren’t allowed at all. Taylor questioned other zoning categories and how long there have been ground water requirements. Viera stated in 2009, it was brought to the Cities attention that many wreckers were not allowed by drainage ways. It was then required to add conditions for environmental requirements. The conditions didn’t make any assumptions to the existing businesses. Taylor questioned if there were any environmental requirements prior to 2009. Viera stated prior to 2009 for uses such as wreckers and towing, it wasn’t required. Viera stated the parking lot requirement was issued into a storm drain because the potential of spills from fluids. The City Council approved an ordinance putting a definition throughout the Industrial Center Employment zoning district for towing yards.

Taylor referred to storage units that were granted Specific Use Permits in the 1970-1980’s; Taylor questioned any changes. Appiah stated expansion of special exceptions and applicability table for expanding. Appiah provided Subchapter 11 of the DDC that discussed Applicability Tables. Lockley stated the use of the business as it currently is, is expanding for business. There
has never been a permit issued for auto wrecking. Edwards stated expansion as he reads it is expanding the business. Edwards stated he didn’t realize the interpretation expanding the storage use would permit by the state. Edwards stated they would hold off on the expansion and this business is not an auto wrecking salvage yard. This is a tow truck bringing cars into a state licensed storage facility so they can be reclaimed by their owner. There is no dismantling of the cars, only towing services.

Bentley stated he feels the recommendations should be left in place. Strange questioned the business owner how long he had his state license for towing. Gloria Akers stated the reason she is upset is there are a lot of things being said that aren’t true. There are two addresses to this location, 750 and 770 Fort Worth Drive. One address is the wrecker service and the other address is a paint and body shop. That use was grandfathered in. Akers stated they have been there since 1978, and had been the towing company for the City. Akers stated they had been used to clean all the streets of the City and tow all the cars sitting around. The lot is only setup for 25 vehicles. The surrounding properties support this business. Akers added as far as the drainage issue, the lime gravel can be kept very clean. Strange questioned how long they have had their license for towing; Akers stated since 1978, the Texas Department of Licensing and Registration with 25 cars since 2010. Akers added prior to that they weren’t required to have the licensing. Schaake opened the Public Hearing.

Fred Hill, 108 Bentwood Court, Denton, Texas

Hill stated this wrecker service was there in the 1960’s; the history of it is that it has been there for a long time. The use is not a wrecking yard; they do not sale cars or repair them. The business owner maintains a good relationship with the people in that area.

Schaake closed the Public Hearing; there was no one else to speak on this item.

Bentley stated he would like to motion approval of this request with staff’s conditions that includes the removal of Condition six (6), and to modify Condition 4 to read opaque screening. Leal stated Conditions 1-4 are consistent with L29; this means these four conditions have to be followed with the approval recommendation process. In order to get away from these requirements an amendment to L29 would have to be made. This Commission could provide a finding or statement to L29 conditions. Bentley referred to Condition 4, stating L29 doesn’t specify about the height requirement or buffer. Leal stated that is correct, the previous statement was an error on his behalf. Taylor stated he doesn’t see an issue with them coming into compliance since they have been occupying the space for several years. Taylor stated he does have concerns with expanding the lot; they would need to meet the environmental requirements. Taylor stated he would like to see staff and the applicant work out alternatives if there is an expansion in the future to this site in regards to Limitation 29.

Schaake stated the motion on the table is to approve this request based on staff’s conditions with the approval of Conditions 1-5. This also includes the notion on Condition 4 that the fence screening needs to be of wood or other opaque materials. Schaake stated that notion needs to be made separately from the motion unless the Bentley would like to accept. Bentley stated he would accept that notation to the motion. Schaake stated that notion is that staff would work with
the applicant in mitigation on Conditions 2 and 3 for the existing business. Bentley and Taylor stated they would accept that notion.

Commissioner Brian Bentley motioned, Commissioner Devin Taylor seconded to approve this request based on Conditions 1-5 of staff’s conditions with the following amendments: a notion within Condition four (4) be made that the fence screening be of wood or other opaque materials, and staff and the applicant meet to discuss mitigation on Conditions two (2) and three (3) for the existing business. Motion approved (6-0)

B. Hold a public hearing and consider making a recommendation to City Council regarding a Specific Use Permit (SUP) to allow a multi-family development. The approximately 4.13 acre property is located on the west side of Sherman Drive, west of the intersection of Sherman Drive and Linwood Drive. The site is located within a Neighborhood Residential Mixed Use (NRMU) zoning district. (S13-0011, University North Apartments, Cindy Jackson)

Lockley introduced Marohnic. Marohnic stated this is a Specific Use Permit for multi-family on 4.13 acres. The subject site is located within the Neighborhood Residential Mixed-Use zoning district. Marohnic stated with the proposed multi-family use is for 76 units, which would be 18.4 dwelling units per acre. This would be approximately 256 bedrooms, and a 5,000 square foot clubhouse. Marohnic provided the proposed site plan and building elevations. Staff sent 24 Public Notices to property owners within 200 feet of the subject site, and 79 courtesy notices within 500 feet of the subject site. At this time staff has received three responses in favor of this request and one neutral to the request. The three in favor were from the property owner; therefore, they do not count. The Development Review Committee (DRC) recommends denial of this request. The applicant is present.

Bentley stated if this were a typical apartment structure than it would allow 123 lease holders; however, since this is a lease by bedroom complex than it would be approximately 256 lease holders. Bentley stated this is a satellite living space for Texas Woman’s University (TWU). The shortest path for those commuters from the subject site to TWU would be down Bell Avenue. Bentley questioned if a traffic analysis has been completed. Marohnic stated it would be required at the time of platting. Marohnic added Escobar might be able to elaborate more. Escobar stated that typically occurs during the planning phase and the final plat.

Conner questioned the units to be one, two, and three bedroom units. Marohnic stated they would be two, three, and four bedroom units. Schaake acknowledged. Bentley questioned if staff has completed a landscape analysis. Marohnic stated the DRC comments were released stating a Type B buffer along the northern property line and a Type C buffer on the commercial former Piggly Wiggly parking lot would be required. Bentley questioned the parking lot bump outs and landscaping. Marohnic stated Section 35.13.13.2 of the DDC doesn’t list a required number of bump outs or landscape items per parking spaces.

Strange referred to the drainage to the north of the property, questioning what storm water requirements or detention pond would be needed. Escobar stated an underground parking lot
detention area would be required. Strange acknowledged. Schaake questioned if this structure would be four-story. Marohnic confirmed.

Matt Jones, 5946 Cape Coral, Austin, Texas
Jones stated this property has been vacant for 50 years; he isn’t aware if it has ever been developed. Jones stated TWU has 12,000 students in Denton; there are approximately 2,000 beds on campus. There are others off campus as well. There are approximately 10,000 students that do not reside on campus and have to commute throughout the City to their residence. There is a demand for student housing around the campus; however, there isn’t room for it. The subject site is in great need for revitalization. Jones stated they have spent five months working on this project, and a lot of money put into it. There is not any room for changes.

Bentley stated student apartments near the campus are important; however, this isn’t a good location for those apartments. Schaake questioned if a neighborhood meeting was held. Jones stated no. Jones added there were no responses from the public hearing and courtesy notices sent; therefore, he felt there was no opposition to the request. Schaake stated it is a good idea to hold neighborhood meetings; Jones stated he can hold one before the City Council meeting. Schaake opened the Public Hearing.

Ryan Davenport, 1920 Northlake Trail, Denton, Texas
Davenport stated he is present on behalf of the seller of the property. Davenport stated he resides in the area. The Piggly Wiggly and neighboring nursing home are both unoccupied structures. There needs to be a customer base to the area. As a citizen, Davenport likes the idea that Denton is expanding. There needs to be a location to place these students.

Schaake stated there was a Public Hearing card provided of a citizen that didn’t wish to speak, they were opposed to the request. Robert Killam, 910 Edgewood Place, Denton, Texas

Glen Haas, 2218 Fowler Drive, Denton, Texas
Haas stated he is representing the opinion that changing the zoning eliminates the opportunity to do something extraordinary with this main street of Denton. These ideas are something with local interests and consistent with current zoning. Haas stated he would like to see a community center or something on those lines rather than a satellite location for TWU. Haas wanted to make sure this Commissions vote reflects the commitment to community and local values. Haas would like to see something consistent with the Better Blocks program.

Robert Hill, 910 Edgewood Place, Denton, Texas
Hill stated he uses Linwood Drive to commute. There is a concern about traffic for that area. The traffic light at Bell Avenue and University Drive gets a lot of traffic and backed up throughout the day. There is a potential for 256 vehicles to be added to the commute in that area. Depending on the weather you might not see a lot of foot traffic to the campus. Hill stated he is also concerned about the four-story structure to the area; would like to see it left as single-family residence in the area.
Robert Schloss, 616 Linwood Drive, Denton, Texas
Schloss stated he is registered nurse and resides across the street from the subject site. He is opposed to living near a four-story apartment complex. The neighboring gas station leaves their business lights on 24 hours a day. There could be a better use of the property than an apartment complex.

Roger McSween, 620 Linwood Drive, Denton, Texas
McSween stated he is retired Denton Independent School District staff, and resides next to Robert Schloss. McSween stated he is concerned about property value and traffic with this proposed structure. McSween stated he was informed these students would ride bicycles to school; however, Sherman Drive isn’t a road to commute on a bicycle.

Chuck Buchanan, 700 Linwood Drive, Denton, Texas
Buchanan stated he came into this meeting with an open mind. However, based on the applicant’s attitude he is appalled. There has been no contact to the neighbors about what is going on with this site.

Bilal Almadloun, 514 Sunrise Cove, Denton, Texas
Almadloun stated he is worried about the drainage. There are concerns about the four-story structure blocking the sun for the area. Almadloun is opposed to this request.

Lori Adams, 800 Sherman Drive, Denton, Texas
Adams stated she has resided at her residence for 22 years. Adams agreed with all the neighbors and doesn’t want to see the view and area blocked by a four-story apartment complex. There are already issues in the area with the lights. There is a lot of traffic on Sherman Drive and a lot of accidents that occur in that area. It is a very congested area. Adams added she didn’t like the applicant’s attitude towards it all.

Doug Haggard, 703 Linwood Drive, Denton, Texas
Haggard stated he is concerned about the neighboring vacant buildings. As well as the visitor traffic if there is already over 200 proposed students to reside there. There would be a lot of neighborhood involvement if a neighborhood meeting was held.

Bentley stated he would like to add two (2) items to the motion. 1). Staff needs to report their verbiage dealing with the Bell Avenue Conservation District, 2). Complete a traffic analysis for this area considering this is a straight location through the Bell Avenue Conservation District, Bell Avenue is very narrow. Schaake stated this is a motion to deny this request with notes to City Council to review the Bell Avenue Conservation District and their standards of protection for that district and the completion of a traffic analysis. Briggle stated she would like to second this motion.

Briggle stated she agrees with the neighborhood. This property could be better used than student housing. The area is better for single-family residence. Briggle stated she would like to see a neighborhood community center developed in that space. Briggle thanked Glen Haas on his statement towards Extraordinary Developments. Bentley added a comment to the applicant that apartment complexes are allowed in almost all the zoning districts within the City. Strange
agreed and stated he would like to see a neighborhood meeting held between the time of this meeting and the City Council hearing.

Commissioner Brian Bentley motioned, Commissioner Amber Briggs seconded to deny this request with two notes to City Council; those are as follows: 1). Staff to review the Bell Avenue Conservation District and their standards of protection, 2). Complete a traffic analysis for this area. Motion denied (6-0).

C. **Hold a public hearing and consider making a recommendation to City Council regarding an Alternative Environmentally Sensitive Area Plan.** The 3.71 acre site is located at the northeast corner of E. University Drive (U.S. 380) and Loop 288 within an Employment Center Industrial (EC-I) zoning district. (ADP13-0004, Loop 288 & University Dr., Cindy Jackson)

Lockley introduced Marohnic. Marohnic stated a handout was provided during the Work Session in regards to this item. The applicant is proposing an Alternative Environmentally Sensitive Area Plan to accommodate a future commercial development. The subject site is 3.71 acres, of which 2.67 acres are encumbered by 100-year floodplain, with nested riparian buffer. This leaves approximately 1.014 acres unencumbered. The applicant proposes to reclaim the floodplain with fill material to increase the development area and potential of the property. The property is zoned Employment Center- Industrial zoning district. Marohnic provided a Federal Emergency Management Agency floodplain map; this included the 500-year floodplain, 100-year floodplain, and floodway. Marohnic provided an Environmentally Sensitive Area (ESA) map that included where the riparian buffer and undeveloped floodplain are located. Based on the Denton Development Code (DDC) the applicant’s proposal will involve disturbances outside of the riparian buffer but within the fringe of the undeveloped floodplain.

Staff sent 18 Public Hearing Notices to property owners within 200 feet of the subject site and 32 courtesy notices to property owners within 500 feet of the subject site. At this time staff has received 8 returned notices in opposition of this request, and one returned request in favor. The Development Review Committee recommends denial of this request. However, should this Commission decide to recommend approval of this request; staff recommends four conditions, which are listed in the staff backup.

Taylor questioned the intended development for this site; Marohnic stated for future commercial uses. The applicant didn’t want the information to be provided in the staff backup because they didn’t want the proposal to be binding. Bentley stated those houses surrounding the property were annexed into the City not too long ago, there are primarily single-family in that area. Bentley stated maybe the zoning district applied wasn’t the right zoning district to have been applied to the site.

Lee Allison, Allison Engineering, 4401 N- I35, Suite 102, Denton, Texas
Allison stated, William Cudd, the property owner is present as well. There seems to be some irregularities in the staff backup. The primary focus at this time for the property owner is to fill the land and not worry about the use at this time. This project has been in process since March 2013. Allison stated a floodplain model had been completed and a concept plan has been

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developed. There are some project issues which are: the spread of water, firm boundary, and coordination of parameters before preparing a Conditional Letter of Map Revision. This may result in adjusting the wall by one or two feet fewer. Allison stated the floodplain limits are unrealistic.

Strange questioned if this variance request is for the fill only; Allison stated correct. Bentley questioned if any vegetation would be disturbed. Allison stated the vegetation is far to the left of the wall. It is five foot outside the stream buffer. Lockley stated the site plan provided is for illustration purposes, until the applicant can determine how much fill can be added.

Schaake opened the Public Hearing.

Howard Taylor, 213 Willow Stone, Denton, Texas
Taylor stated he didn’t want to speak on this item; he is here to gather more information for this request.

Helen Reed, 3104 Twilight Drive, Denton, Texas
Reed stated they were blindsided by this request. Reed stated their neighborhood is very close to one another. There is a lot of back up traffic that occurs on University Drive (Hwy 380). There is a lot of through traffic in the neighborhood that tries to bypass the traffic on University Drive. This site is within the floodplain, the site flooded approximately 10 years prior.

Trevor Hesleett, 3103 Morningside Drive, Denton, Texas
Hesleett stated the noise and pollution from the neighboring QuickTrip gas station has caused a lot of issues for them as well as the lights from QuickTrip shine through his house windows at all hours. Hesleett stated any additions to the area are going to cause more noise throughout the area. Hesleett recommended having the site zoned single-family.

Sarai Hesleett, 3103 Morningside Drive, Denton, Texas
Hesleett stated her house faces the vacant acres. If anything is added onto those acres her house will have to face the back of that development. There shouldn’t be industrial uses added into the residential area that exists. Hesleett stated she would like to see a park or community garden added.

William Cudd, 3504 Falcon Ct, Denton, Texas
Cudd stated he would like to express his apologizes to the property owners if they felt left out in the process. There aren’t a lot of services in the area and he would like to develop some services for those property owners to utilize. Cudd stated he doesn’t want to see a gas station developed on that space.

Rosemary Lawyer, 3309 Broken Bow, Denton, Texas
Lawyer apologized to the property owners for not receiving any feedback from herself and Cudd. Lawyer added she supports the neighbors and agrees to their not being industrial uses developed on the site. Lawyer suggested a bank or equal use that the property owners could utilize.
There was no one else to speak on this item. Schaake closed the Public Hearing. Bentley stated the staff report is inconsistent in three locations. Bentley questioned a larger scale or volume development on the industrial use; Marohnic stated yes, on the 1.4 acres it is allowed. Conner questioned how long the subject site has been zoned industrial; Marohnic stated since 2002.

Taylor stated this area is a strange area, residential was supposed to be done away with in this area. Taylor stated he doesn’t feel this issue could be resolved during this meeting. Taylor questioned postponing this request to be potentially rezoned to something with neighborhood resource category. Marohnic stated to possibly be rezoned to a more residential friendly area. Taylor stated correct; Taylor stated he hates to delay this request. Marohnic stated staff would be willing to continue to work with the developer. Allison stated this is not industrial zoning, it is Employment Center Industrial. Allison stated this isn’t a zoning request. Allison informed the developer ahead of time that a neighborhood meeting was not needed since it was not a zoning case. Allison stated maybe continuing it would be sufficient; it would allow time to meet with the neighborhood. The developer doesn’t want to start the zoning process.

Bentley stated he supports the applicant, at this time in the process it is only to find out how much land can be reclaimed. Bentley stated he doesn’t feel the land is large enough for a catastrophic use. Lockley stated based on the comments these are issues to discuss in the future. Lockley reminded the Commission this is for an ESA. Schaake questioned Lockley on his recommendation. Lockley stated if this Commission proceeds with the ESA with a condition on the fill amount; then the land use can be discussed later with City Council. Marohnic reminded the Commission staff is recommending denial; however should this Commission choose to approve this request there are conditions to be included.

Conner stated the applicant wants to improve the property. The other discussions could be held at a later date, and should not hold up this request. Bentley stated he doesn’t feel this could be resolved during this meeting. There does need to be development on the property; however, there are concerns from the neighbors. Bentley suggested postponing this request to the April 9, 2014 meeting. Schaake suggested staff initiate a zoning request. Lockley stated part of the request could be made to recommend a staff initiated rezoning. Lockley stated staff would look at a zoning class and compatibility that would be the best for the area. Lockley stated they could move forward with the variance and staff works with the initiated zoning. Taylor questioned if the applicant would like to move forward with the variance with restrictions or postpone this request to the April 9, 2014 meeting. Allison questioned what restrictions. Allison added the option is still available to develop the site as it is today. Taylor stated the revision to Condition four (4), hold a neighborhood meeting before City Council, and staff initiated rezoning.

Commissioner Devin Taylor motioned, Commissioner Brian Bentley seconded to postpone this meeting to a date certain of April 9, 2014, applicant to hold a neighborhood meeting, and staff initiated rezoning. Motion carried (6-0).

Bentley requested an overlay map to be provided at the April 9, 2014 meeting. Allison confirmed. Schaake questioned if this item will have to be renoticed. Lockley stated no, because it has been postponed.
6. **FUTURE AGENDA ITEMS:** Under Section 551.042 of the Texas Open Meetings Act, respond to inquiries from the Planning and Zoning Commission or the public with specific factual information or recitation of policy, or accept a proposal to place the matter on the agenda for an upcoming meeting.

Schaake requested Work Session Items 4A and 4B be postponed to the April 9, 2014 meeting. Taylor requested to add the noise ordinance change made by City Council to be added to the agenda. Leal stated that can be added. Schaake adjourned the meeting at 10:47 p.m.

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Jean Schaake  
Chair  
Planning & Zoning Commission

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Athenia Green  
Administrative Assistant