



MINUTES
Regular Meeting of the
Prosper Planning & Zoning Commission
Prosper Town Hall
Council Chambers
250 W. First Street, Prosper, Texas
Tuesday September 19, 2023, 6:00 p.m.

1. Call to Order / Roll Call

The meeting was called to order at 6:00 p.m.

Commissioners Present: Chair Brandon Daniel, Cameron Reeves, Sekou Harris, Glen Blanscet

Staff Present: David Hoover, Director of Development Services; Dakari Hill, Senior Planner; Jerron Hicks, Planner; Reynaldo Merlos, Planning Tech

2. Recitation of the Pledge of Allegiance.

3. CONSENT AGENDA

- 3a. Consider and act upon the minutes from the September 5, 2023, Planning & Zoning Commission meeting.**
- 3b. Consider and act upon a Final Plat for Starview, Phase 2, Block A, Lots 1-12, 1X, & 2X, Block B, Lots 1-20, Block C, Lots 1-24, Block D, Lots 1-32, Block E, Lots 1-13 & 17-20, and Block F, Lots 1-13 & 1X, on 38.4± acres, located on the northeast corner of Lovers Lane and South Coleman Street. The property is zoned Planned Development-67 (PD-67) Gates of Prosper. (D22-0006)**
- 3c. Consider and act upon a request for a Façade Plan for Gas Pumps in accessory to a Big Box, on 20.8± acres, located on the northeast corner of US-380 and FM-1385. The property is zoned Planned Development-94 (PD-94) Westside. (DEVAPP-23-0034)**

Commissioner Blanscet has requested Item 3B to be pulled for discussion. Motion by Commissioner Reeves to approve 3a, and 3c and pull 3b for consideration, second by Commissioner Harris to approve remaining items, subject to Town staff recommendation. Motion carried 4:0.

Dakari Hill (*Staff*): Presented Item 3B on Starview Phase 2

Commissioner Blanscet questions why this plat is more condensed than other previous plats presented.

Dakari Hill (*Staff*): Answers Commissioner Blanscet question that this plat is part of Planned Development 67 (PD-67) Gates of Prosper.

Commissioner Blanscet questions for more information on this plat and the PD.

Dakari Hill (*Staff*): Answers Commissioner Blanscet question that Starview is on the phases that was approved in the Gates of Prosper and met the requirements set in the PD.

Commissioner Harris motions to approve 3b subject to Town staff recommendations. Second by Reeves. Motion passes 4:0.

CITIZEN COMMENTS

No citizen comments.

REGULAR AGENDA

4. **Conduct a Public Hearing and consider and act upon a request to amend the Future Land Use Plan from Downtown Office (DTO) to Downtown Retail (DTR), generally located on the southwest corner of West Seventh Street and North Coleman Road. This is a companion case to ZONE-23-0016. (COMP-23-0003).**

Dakari Hill (*Staff*): Presented item 4 about the Future Land Use Plan (FLUP) amendment from Old Town Office to Downtown Retail and recommends withdrawal.

Chair Brandon Daniel re-opens the Public Hearing.

Commissioner Harris questions if the FLUP will all be Old Town District/Downtown.

Dakari Hill (*Staff*): Answers Commissioner Harris question that yes, it will all be labeled as one area.

Commissioner Harris questions that for all future zoning cases, will those items now be on the Consent Agenda.

David Hoover (*Staff*): Answers Commissioner Harris question that all zoning cases are to remain as individual items on the Regular Agenda.

Chair Brandon Daniel closes the Public Hearing.

Item 4 has been dismissed from further review.

5. **Conduct a Public Hearing and consider and act upon a request for a Specific Use Permit for a new Drive-Through Restaurant, on 1.5± acres, located south of West Frontier Parkway and east of North Dallas Parkway. (ZONE-23-0013)**

Dakari Hill (*Staff*): Presented item 5 about the Specific Use Permit (SUP) for a new drive through restaurant and recommends denial.

Commissioner Harris questions if the restaurant shares the 5 feet with the landscape buffer next door, then would the business next door lose their 10 feet requirement and not be in compliance.

Dakari Hill (*Staff*): Answers Commissioner Harris question that the business next door could fall out of compliance.

Commissioner Harris questions if there are any other items in question for this SUP.

Dakari Hill (*Staff*): Answers Commissioner Harris question that due to the nature of the drive-through aspect, staff wants the applicant to be more in compliance with the landscape recommendation that Town Council has provided for drive-throughs.

Chair Brandon Daniel questions if the total of the setbacks required for both sites is 20 feet.

Dakari Hill (*Staff*): Answers Chair Brandon Daniel question it is preferred that each site has its own 10 ft landscape setback than sharing.

Commissioner Blanscet questions where the real issue is that the plan is not conforming to.

Dakari Hill (*Staff*): Answers Commissioner Blanscet question that the actual drive through lanes is not meeting the landscape requirement.

Commissioner Harris questions if there are any other issues besides the two landscape buffers.

Matt Moore (*Applicant*): presents item 5.

Commissioner Harris questions why he cannot meet the 10 feet requirement.

Matt Moore (*Applicant*): Answers Commissioner Harris question that due to the limited space of the lot, he cannot meet the requirement.

Chair Brandon Daniel questions if this is because of the surrounding properties.

Matt Moore (*Applicant*): Answers Chair Brandon Daniel question that this is all based on interpretation.

Commissioner Reeves questions if the applicant is also working on the site next door.

Matt Moore (*Applicant*): Answers Commissioner Reeves question that he is.

Chair Brandon Daniel questions that the area in question is 6 feet.

Matt Moore (*Applicant*): Answers Chair Brandon Daniel question that it is 6 feet and inches.

Commissioner Blanscet questions what the marking on the drive through lane would be.

Matt Moore (*Applicant*): Answers Commissioner Blanscet question that it is just striping.

Commissioner Harris questions if this plan has been thought out on where to plan for the 5-foot landscape.

Matt Moore (*Applicant*): Answers Commissioner Harris that the plan has been designed to the best of his abilities.

Chair Brandon Daniel requests to see the overall map of the site in question.

Matt Moore (*Applicant*): Comments that there is a 100-foot drainage buffer.

Commissioner Harris questions if this is a 5 foot or no foot scenario.

Matt Moore (*Applicant*): Answers Commissioner Harris question that this is the best he can do. If there was another option, then he would do it.

Chair Brandon Daniel thanks the applicant.

David Hoover (*Staff*): Comments that the Town Council wants screening for all drive-throughs. The lot for the SUP is not complying with the screening and the staff does not believe that this is something that the council wants.

Chair Brandon Daniel questions if there is landscape provided from the lot next door and the gas station.

David Hoover (*Staff*): Answers Chair Brandon Daniel question that yes there is but there still is no sufficient landscape provided for the McDonalds Drive Through.

Commissioner Harris questions if the lot next door is part of this SUP.

David Hoover (*Staff*): Answers Commissioner Harris question that the lot next door is not part of the SUP but the lot in questions is part of the overall development. If this lot does not meet the landscape requirements, it could cause issues for surrounding lots in this development.

Commissioner Harris questions if 5 feet of landscape should make or break this SUP. If the remaining 5 feet are added, does this solve all the issues.

David Hoover (*Staff*): Answers Commissioner Harris question that the issue is the landscape on the drive through lane, which has none. All the recommended screening is being pushed to the edge of the property. The proposed 5 feet of Landscape does not meet the drive-through requirement and could cause the lot next door to also not meet its requirement.

Commissioner Harris questions what the landscape would consist of.

David Hoover (*Staff*): Answers Commissioner Harris question that there is no landscape that will cover the lanes.

Commissioner Reeves comments that you will see the drive throughs regardless of any landscape the development places.

David Hoover (*Staff*): Comments that those are older developments that are not being managed properly.

Commissioner Harris questions how many developments that include Drive throughs have been added in the last year. Are there any additional ordinances that have been added that would have grandfathered previous developments but affect future developments regarding screening.

David Hoover (*Staff*): Answers Commissioner Harris questions that there are no current ordinances that have changed screening. There has been added guidelines from the new Comprehensive Plan as well as from the Town Council. These items can be requested from the Town Staff and Planning Department so we can do better on the drive-through guidelines.

Chair Brandon Daniel questions what the landscape would be in the 100-foot drainage easement.

David Hoover (*Staff*): Answers Chair Brandon Daniel that landscape in a drainage easement is limited to what can be planted there. More than likely, it will be grass.

Chair Brandon Daniel requests for the Landscape Slide.

David Hoover (*Staff*): Comments that the Landscape Plan is on Page 32 of the Agenda Packet.

Commissioner Harris questions if we were to deviate from the Landscape setbacks for this SUP, would this cause issues for future developments in trying to deviate from having landscape in their drive-throughs.

David Hoover (*Staff*): Answers Commissioner Harris questions that the guidelines for drive throughs does not have two drive through lanes that are next to each other. With two drive through lanes with no landscaping next to a fuel station and a bank, it could cause issues for Town Council who wants landscaping in those drive through lanes. Reminds Commissioners that the lot next door is not part of the SUP but when the lot next door does bring in their SUP, we will be having the same discussion.

Commissioner Blanscet questions that the SUP shows no landscape in the drive through lanes.

David Hoover (*Staff*): Answers Commissioner Blanscet question that the area marked with two black dots is the area in question that says there is no landscape provided.

Commissioner Blanscet questions that staff is saying there is no landscape provided yet there is landscape on the south and west side. Staff is saying that there is no landscape in the 30 feet on the east side of the building. Yet there is 15 feet on the west side of the lot.

David Hoover (*Staff*): Answers Commissioner Blanscet question that the 10 feet from the lot next door meet their landscape requirement but the SUP lot only provides 5 feet.

Commissioner Harris questions if the lot next door meets their overall landscape requirement.

David Hoover (*Staff*): Answers Commissioner Harris question that the lot next door meets the landscape on the west side but does not meet it on the east side. That will be addressed when the plans come into review. Per the landscape ordinance they require 10 feet of landscape around their drive through lanes.

Matt Moore (*Applicant*): wants to address the commissioner on the comments made. Provides history on HEB and on conversations he has had with staff. States that drive thrus are viewed in the same category as multifamily. Preferred on Frontier than on the DNT. The lot next door has a 5 feet landscape to help with the buffer.

Commissioner Harris questions if the lot is owned by the same person who owns the land for the SUP.

Matt Moore (*Applicant*): Answers Commissioner Harris that yes, the lots are owned but the same entity.

Commissioner Blanscet questions that the applicant is not meeting the ordinance and cannot argue that he is meeting the ordinance.

Matt Moore (*Applicant*): Answers Commissioner Blanscet questions that he talked with staff and council and would not do this lightly.

Commissioner Blanscet comments that the only portion of the drive through that is not landscape is the inner lanes. The surrounding lots provide landscaping that limits the view from Frontier Road. The issue being discussed is if the commissioners are going to pursue the applicant to follow the ordinance or deviate from it.

Commissioner Reeves questions whether the 15 feet landscape will be one area or if the landscape will be divided into two separate landscape areas with a division in the middle.

Matt Moore (*Applicant*): Answers commissioner Reeves that they will be two separate landscapes as the property line goes through it and there will be two separate irrigation systems in the landscape island.

Dakari Hill (*Staff*): Comments that if the commissioners approved the item, that it would need to be approved with conditions.

Commissioner Harris questions if condition number 2 is needed as the lot next door has not been developed and would be invalid.

Dakari Hill (*Staff*): Answers Commissioner Harris question that only Condition one will need to be added to the approval.

David Hoover (*Staff*): Comments that we cannot put conditions on another development.

Commissioner Harris questions if these conditions are made by staff.

Dakari Hill (*Staff*): Answers Commissioner Harris questions that yes, these are conditions made by staff if approved.

Commissioner Blanscet questions that the condition does not meet the ordinance and the suggestion is that the 5-foot landscape on the west of the property be sufficient.

David Hoover (*Staff*): Answers Commissioner Blanscet question that the commissioners would be allowing a 5-foot landscape buffer on the western side of the property instead of along the drive through lanes.

Chair Brandon Daniel clarifies that the language provided by staff is in reference to condition number one.

Chair Brandon Daniel closes the Public Hearing.

Commissioner Harris comments that the topic of aesthetics is in question. Since Staff is attempting to follow ordinances, it puts them in a difficult position. Multi Family and Drive Thru are hot topics and both P&Z and Town Council have met over to make the best decision. He is opposed to the item due to the ordinance.

Commissioner Reeves comments that the landscape plans is spread around and cover the overall facility which is preferred over just the drive thru. Because there is at least 5 ft he is in favor of the project.

Commissioner Blanscet comments that he is respectful of staff, however the ordinances is more of guide to help cover the unsightly drive throughs. Because it is the internal drive through and that 80 percent does cover the drive through and other projects cover the landscape, he is in favor of the project.

Chair Brandon Daniel comments that the ordinance is the law set by the town but with the purpose of the commissioners to discuss what the interpretation is.

Commissioner Blanscet motions to approve Agenda Item 5 subject to Town Staff recommendation of a 5-foot buffer to the west side of the property. Motion seconded by Commissioner Reeves to approve Agenda Item 5 approved 3:1.

6. Conduct a Public Hearing to Consider an Ordinance Amending Chapter 1, "General Provisions, Administration and Procedures," of the Town's Zoning Ordinance, by Amending Subpart (E) of Subsection 7.11, "Amortization of Nonconforming Uses or Structures," of Section 7, "Nonconforming Uses and Structures," by Providing for Amortization Procedures consistent with Senate Bill 929, and Subpart (A), "Zoning Changes," of Subsection 8.2, "Public Hearing and Notice," of Section 8, "Changes and Amendments to all Zoning Ordinances and Districts and Administrative Procedures," by Providing for Notices relative to a Change in a Zoning Regulation that Could Result in a Nonconforming Use, Consistent with Senate Bill 929.

Dakari Hill (*Staff*): Presents Item 6 regarding Nonconforming Use in a new rezoned area.

Commissioner Harris questions if the language is being changed.

Dakari Hill (*Staff*): Answers Commissioner Harris question that the language and the process is changing by allowing more time for owners to recuperate their investment on a non-conforming use or structure.

Chair Brandon Daniel questions if this will be occurring more often.

David Hoover (*Staff*): Answers Chair Brandon Daniel that this does not happen often but can happen if a town is absorbed or another property is acquired by the town that needs to be rezone.

Commissioner Harris questions if the DNT district will cause issues.

David Hoover (*Staff*): answers this will not be an issue if the owner comes in. It is more if a town decides to rezone an area.

Brandon Daniel opens Public Hearing.

Chair Brandon Daniel closes Public Hearing.

Commissioner Reeves motions to approve Agenda Item 6. Motion seconded by Commissioner Blanscet to approve Agenda Item 6 approved 4:0.

7. Conduct a Public Hearing to Discuss and Consider an Ordinance amending the Town's Subdivision Ordinance by amending Subpart (1) of Section (D), "Plat Required," of Section 10.03.004, "Applicability," to Comply with Revised Language contained in House Bill No. 3699; amending Subsection (B) of Section 10.03.034, "Director of Development Services," relative to Authorizing the Director of

Development Services to Approve or Deny Plats; amending Section 10.03.063, “30-day Time Frame for Plat Approvals,” to Reflect that the Right to 30-day Action for Plat Applications Begins on the Filing Date and One or More 30-day Extensions shall be authorized; adding a Definition of “Filing Date,” amending the Definitions of “Approval” and “Plat,” and repealing the definitions of “Administratively Complete” and “Official Submission Date,” contained in Section 10.03.192, “Words and Terms Defined”; providing that the phrase “Official Submission Date” shall be replaced with the phrase “Filing Date” in Sections 10.03.084(f)(2) and 10.03.085(h)(2).

Dakari Hill (*Staff*): Presents item 7 on time frames for plat approvals.

Chair Brandon Daniel opens Public Hearing.

Chair Brandon Daniel closes Public Hearing.

Commissioner Blanscet motions to approve Agenda Item 6. Motion seconded by Commissioner Harris to approve Agenda Item 7 approved 4:0.

8. Review actions taken by the Town Council and possibly direct Town Staff to schedule topic(s) for discussion at a future meeting.

Dakari Hill (*Staff*): Presented information regarding Prosper Hills Ordinance Adoption, the two Ordinances discussed today, and a zoning case.

Commissioner Harris questions what the reason is for the next zoning case going from Single Family 15 (SF-15) to Downtown Single Family (DTSF).

Dakari Hill (*Staff*): Answers Commissioner Harris question that it is more of reducing the setbacks to allow for a larger home.

Chair Brandon Daniel comments that there will be re-appointments at the next meeting for Chair, Vice-Chair, Secretary.

Chair Brandon Daniel questions if there is a possibility to create a work session on certain topics

Commissioners request a link be sent for the Comprehensive Plan and Pradera.

David Hoover (*Staff*): Answers the commissioners that the links will be sent once the final adoption is completed.

7. Adjourn.

Motioned by Commissioner Harris, seconded by Commissioner Reeves to adjourn. Motion approved 4:0 at 7:35 p.m.

Reynaldo Merlos, Planning Tech

Michael Pettis, Secretary