

# STAFF REPORT



**SUBJECT:** Case No.: PD2021-002

Applicant Reese Flanagan of MMA, LLC, representing Troy Kunkel of Cowtown Properties, is requesting a rezone of property located at 525 W Collins, Parcel R33237, of SHAPARD & COLLINS, BLOCK 6, LOTS 1 & 2 & A0032 BLAIR JOHN, of the City of Stephenville, Erath County, Texas, from (IND) Industrial to (PD) Planned Development.

**DEPARTMENT:** Development Services

**STAFF CONTACT:** Steve Killen

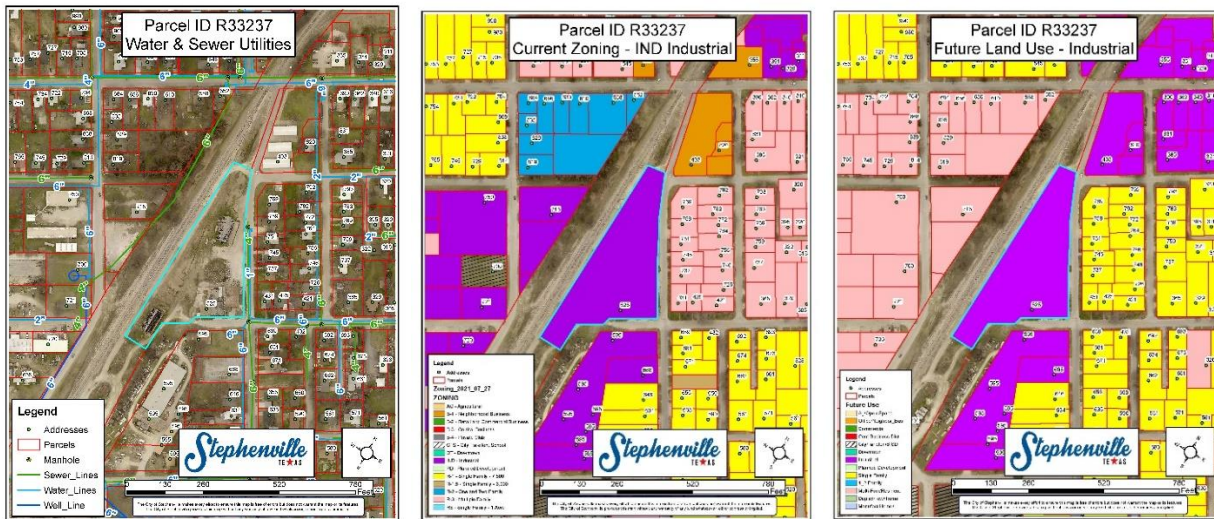
## RECOMMENDATION:

The Planning and Zoning Commission convened on October 20, 2021, and by a unanimous vote of 7/0, recommended the City Council approve the rezoning request.

## BACKGROUND:

### APPLICANT REQUEST:

On August 15, 2021, the applicant presented the Conceptual Plan to the Planning and Zoning Commission for an intended townhome development. The concept plan proposed 43 units on 2.62 acres (density of 16.41 units per acre) with 86 parking spaces and 37 guest spaces. The applicant is now requesting approval of the Planned Development. Sections 8.E and 8.J outline the requirements that must be met in order to approve the PD.



## DESCRIPTION OF REQUESTED ZONING

### Sec. 154.08. Planned development district (PD).

#### 8.A Description.

- (1) Planned development districts are designed for greater flexibility and discretion in the application of residential and non-residential zoning and for increased compatibility and the more effective mitigation of potentially adverse impacts on adjacent land than is possible under standard district regulations. It is recognized that it is desirable for certain areas of the city to be developed in accordance with development plans prepared and approved as a part of the ordinance authorizing the zoning necessary for the proposed development.
- (2) Improvements in a "PD" District are subject to conformance with a development plan approved by the City Council on Planning and Zoning Commission recommendation and after public hearing thereon. No development plan may increase gross density in excess of that allowed by the base district.

**8.B Permitted Uses.** In a PD Development District, no land shall be used and no building shall be installed, erected for/or converted to any use other than a hereinafter provided.

*NON-RESIDENTIAL PLANNED DEVELOPMENTS.* Considered appropriate where the following conditions prevail:

- (1) The project utilized innovative land development concepts and is consistent with the Comprehensive Land Use plan and the goals and objectives of the city;
- (2) Non-residential uses are situated such that an appreciable amount of land is available for open space or joint use as parking space and is integrated throughout the planned development;
- (3) The site exhibits environmentally natural features which should be considered for preservation and/or enhancement;
- (4) Aesthetic amenities may be provided in the planned development design which are not economically feasible to provide in conventional non-residential projects; and
- (5) The project provides a compatible transition between adjacent existing single-family residential projects and provides a compatible transition for the extension of future single-family projects into adjacent undeveloped areas.

*RESIDENTIAL PLANNED DEVELOPMENT.* Considered appropriate where the following conditions prevail:

- (1) The project utilized innovative land development concepts and is consistent with the Comprehensive Land Use plan and the goals and objectives of the city;
- (2) Dwelling units are situated such that an appreciable amount of land for open space is available and is integrated throughout the planned development;
- (3) The project utilizes an innovative approach in lot configuration and mixture of single-family housing types;
- (4) Higher densities than conventional single-family projects of the same acreage is achievable with appropriate buffering between existing conventional single-family developments and increased open space;
- (5) The site exhibits environmentally natural features which should be considered for preservation and/or enhancement;
- (6) Aesthetic amenities may be provided in the planned development design which are not economically feasible to provide in conventional single-family projects; and
- (7) The project provides a compatible transition between adjacent existing conventional single-family residential projects and provides a compatible transition for the extension of future conventional single-family projects into adjacent undeveloped areas.

**8.C Prohibited Uses.**

- (1) Any building erected or land used for other than the use shown on the Planned Development Site Plan, as approved by the City Council.
- (2) Any use of property that does not meet the required minimum lot size; front, side and rear yard dimensions; and/or lot width, or exceeds the maximum height, building coverage or density per gross acreage as shown in the development's recorded Planned Development Site Plan, as approved by City Council.

- (3) Any use deemed by the City Council as being detrimental to the health, safety or general welfare of the citizens of Stephenville.

**8.D Ownership.** An application for approval of a Planned Development Plan under the Planned Development District regulations may be filed by a person having legal ownership of the property to be included in the Development Plan. In order to ensure unified planning and development of the property, the applicant shall provide evidence, in form satisfactory to the City Attorney, prior to final approval of the Development Plan, that the property is held in single ownership or is under single control. Land shall be deemed to be held in single ownership or under single control if it is in joint tenancy, tenancy in common, a partnership, a trust or a joint venture. The Development Plan shall be filed in the name(s) of the record owner(s) of the property, which shall be included in the application.

**8.E Development Schedule.**

- (1) An application for a Planned Development District shall be accompanied by a development schedule indicating the approximate date on which construction is expected to begin and the rate of anticipated development to completion. The development schedule, adopted and approved by the City Council, shall become part of the Planned Development Ordinance and shall be adhered to by the owner, developer and their assigns or successors in interest.
- (2) Annually, upon the anniversary date, or more frequently if required, the developer shall provide a written report to the Planning and Zoning Commission concerning the actual development accomplished as compared with the development schedule.
- (3) The Planning and Zoning Commission may, if in its opinion the owner or owners of the property are failing or have failed to meet the approved development schedule, initiate proceedings to amend the Official Zoning map or the Planned Development District by removing all or part of the Planned Development District from the Official Zoning Map and placing the area involved in another appropriate zoning district. After the recommendation of the Planning and Zoning commission and for good cause shown by the owner and developer, the City Council may extend the development schedule as may be indicated by the facts and conditions of the case.

**8.F Plat Requirements.** No application for a building permit for the construction of a building or structure shall be approved unless a plat, meeting all requirements of the City of Stephenville has been approved by the City Council and recorded in the official records of Erath County.

**8.G Concept Plan.** The applicant for any PD Planned Development shall submit a concept plan to the Planning and Zoning Commission for review prior to submitting a Development Plan. The concept plan shall contain appropriate information to describe the general land use configuration, proposed densities or lot sizes, proposed amenities and proposed regulation.

**8.H Development Plan Approval Required.** No building permit or certificate of occupancy shall be issued and no use of land, buildings or structures shall be made in the "PD" District until the same has been approved as part of a development plan in compliance with the procedures, terms and conditions of this section of the ordinance.

**8.I Approval Procedures.**

- (1) An application for development plan approval shall be filed with the Director of Community Development accompanied by a development plan.
- (2) The procedures for hearing a request for a zoning change to "PD" shall be the same as for a requested change to any other district as set forth Section 20 of the Zoning Ordinance.
- (3) Any substantive revision to a development plan between the public hearing before the Planning and Zoning Commission and the public hearing before the City Council shall necessitate the development plan being referred back to the Planning and Zoning Commission for review and evaluation unless the revision constitutes a minor change as provided below, or the change was condition of the approval.
- (4) Any revisions to the development plan after the public hearing before the City Council shall be submitted to the Director of Community Development for distribution, review and written evaluation by city staff prior to submission to and approved by the City Council.
- (5) Minor changes to an approved development plan, which will not cause any of the following circumstances to occur, may be authorized by the Director of Community Development or his or her designee:

- (a) A change in the character of the development;
  - (b) An increase in the gross floor areas in structures;
  - (c) An increase in the intensity of use;
  - (d) A reduction in the originally approved separations between buildings;
  - (e) Any adverse changes in traffic circulation, safety, drainage and utilities;
  - (f) Any adverse changes in such external effects on adjacent property as noise, heat, light, glare, vibration, height scale or proximity;
  - (g) A reduction in the originally approved setbacks from property lines;
  - (h) An increase in ground coverage by structures;
  - (i) A reduction in the ratio of off-street parking and loading space; and
  - (j) A change in the size, height, lighting or orientation of originally approved signs.
- (6) The decision of the Director of Community Development or his or her designee as to whether minor changes are being requested may be appealed to the Planning and Zoning Commission. Any change deemed not to be minor change, as indicated above, shall be processed as a new application in accordance with the provisions of this section and Section 20.1 of the Zoning Ordinance.

**8.J Development Plan Requirements.** The development plan submitted in support of a request for development plan approval shall contain sufficient information delineating the characteristics of the site, changes in those characteristics as may be proposed by the development, how the development will relate to public services and facilities and what protection features are included to insure that the development will be compatible with existing and allowable development on adjacent property. The development plan shall show at least the following items of information:

- (1) The location of all existing and planned non-single-family structures on the subject property;
- (2) Landscaping lighting and/or fencing and/or screening of common areas;
- (3) General locations of existing tree clusters, providing average size and number and indication of species;
- (4) Location and detail of perimeter fencing if applicable;
- (5) General description/location of ingress and egress with description of special pavement treatment if proposed;
- (6) Off-street parking and loading facilities, and calculations showing how the quantities were obtained for all non single-family purposes;
- (7) Height of all non-single-family structures;
- (8) Proposed uses;
- (9) Location and description of subdivision signage and landscaping at entrance areas;
- (10) Street names on proposed streets;
- (11) Proposed minimum area regulations including, set-backs, lot-sizes, widths, depths, side-yards, square footage or residential structures;
- (12) Indication of all development phasing and platting limits; and
- (13) Such additional terms and conditions, including design standards, as the Planning and Zoning Commission and the City Council deem necessary.

**8.K Conditions for Development Plan Approval.**

- (1) A development plan shall be approved only if all of the following conditions have been found during the review and process:
  - (a) That the uses will be compatible with and not injurious to the use and enjoyment of other property, nor significantly diminish or impair property values with the immediate vicinity;

- (b) That the establishment of the use or uses will not impede the normal and orderly development and improvements of surrounding vacant property;
  - (c) That adequate utilities, access roads, drainage and other necessary supporting facilities have been or will be provided;
  - (d) That the design, location and arrangement of all driveways and parking spaces provides for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent developments;
  - (e) That adequate nuisance prevention measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration;
  - (f) That directional lighting will be provided so as not to disturb or adversely affect neighboring properties.
- (2) In approving a development plan, the City Council may impose additional conditions necessary to protect the public interest and welfare of the community.

**8.L Additional Conditions.** Every Planned Development District approved under the provisions of this Ordinance shall be considered as an amendment to the Ordinance as applicable to the property involved. In an approved Planned Development District, the City Council may impose conditions relative to the standard of development, and such conditions shall be complied with before a certificate of occupancy is issued for the use of the land or any structure which is part of the Planned Development District; and such condition shall not be construed as conditions precedent to the approval of the zoning amendment, but shall be constructed as conditions precedent to the granting of a certificate of occupancy.

**8.M Revocation.**

- (1) Approval of a development plan may be revoked or modified, after notice and hearing, for either of the following reasons:
  - (a) Approval was obtained or extended by fraud or deception; or
  - (b) That one or more of the conditions imposed by the City Council on the development plan has not been met or has been violated.
- (2) Development controls:
  - (a) The City Council may impose more restrictive requirements than those proposed in the development plan in order to minimize incompatibilities;
  - (b) A "PD" District shall have a minimum lot area of not less than one acre under unified control;
  - (c) The parking requirements of the Zoning Ordinance shall apply to all uses in the "PD" District unless otherwise specified on the development plan; and
  - (d) "PD" provisions may vary setbacks with approval.

**FACTORS TO CONSIDER:**

- Compliance with Comprehensive Plan?
- Is application consistent with Plan?
- If not, have conditions changed or new information been offered to support change?
- Surrounding Zoning and Land Use
- Infrastructure Impacts
- Size and Location of Parcel - is land large enough and in proper location for proposed use?
- Reasonable Use of Property - does proposed change provide reasonable use of property?

- Zoning has great discretion - deny if applicant has not proven it is in the best interest of City to rezone

## ALTERNATIVES

- 1) Accept the recommendation from the Planning and Zoning Commission and approve the rezoning request.
- 2) Over-rule the recommendation of the Planning and Zoning Commission and deny the rezoning request.