

**MINUTES
OF THE MEETING OF THE
CITY OF BENBROOK
PLANNING & ZONING COMMISSION
THURSDAY, APRIL 13, 2006**

The regular monthly meeting of the Planning & Zoning Commission of the City of Benbrook was held on Thursday, April 13, 2006 at 7:30 p.m. in the Council Chambers at 911 Winscott Road with the following members present:

George Bolton
David Ramsey
Bret Early
Alfredo Valverde
John Dawson
Larry Marshall
Sanjiv Shah

Also Present:

Dave Gattis, Assistant City Manager
Ed Gallagher, City Planner
Sue Clark, Recording Secretary
Keith Bailey, Council Member
Ron Sauma, Council Member
Wade Atkins, City Attorney
Ron Rainey
Patty Bissey
Charlie Anderson
Jim Schell
Gary Moates
George Muckleroy
Gil Daley
Sue Abrahamson
Dan Tully
Bill Collins
Norris Williams
Jerry Holmes
Steve Pee
Robert Jones
Beth Kucera
Ronald Witt
Perry Hill
Charles Kucera
Tom Kellogg
Eric Counts
Peter Ku
and approximately 105 others

I. CALL TO ORDER

Chairman Early called the meeting to order at 7:30 p.m.

II. CONSIDERATION OF MINUTES

Regular Meeting – February 9, 2006

Motion by Bolton to approve the minutes of the February 9, 2006 regular meeting of the Planning and Zoning Commission. Second by Mr. Valverde. The Chair called the question.

Vote on the Motion:

Ayes: Mr. Bolton, Mr. Ramsey, Mr. Valverde, Mr. Early, Mr. Dawson, and Dr. Marshall

Noes: None

Abstain: Mr. Shah

Motion carried 6 – 0 – 1

III. REPORTS OF CITY STAFF

Chairman Early said item G – 06 – 04 would be the first item considered.

A. ZONING

Z – 06 – 01 Consider rezoning of 28.424 acres of land in the James Rogers Survey Abstract Number 1265 and the James Rogers Survey Abstract Number 1264 from “A” One Family District to “G” Commerce District (North of Interstate Highway 20, west of Block 9 of Ridglea Country Club Estates, and east of the westerly TXU Electric transmission line right-of-way)

B. SUBDIVISION PLATS

None

C. PD SITE PLANS

None

D. GENERAL

G – 06 – 04 Consider Land Use Plan amendment of the Comprehensive Plan for Planning Area “B” reducing Low Density Single-Family use and increasing Commerce use (North of Interstate Highway 20, east of Winscott Road, and west of Ridglea Country Club Estates)

Chairman Early explained the role of the Planning and Zoning Commission and the City Council for amendments to the Comprehensive Plan and Zoning Regulations and introduced the item. The Chair asked for a presentation from the applicant.

Jim Schell, 901 Fort Worth Club Building, Fort Worth, introduced himself as attorney for the Benbrook Economic Development Corporation. Mr. Schell said the EDC is requesting a

change in the Land Use Plan, Planning Area B from Low Density Single-Family to Commerce. Mr. Schell said the Benbrook Industrial Park has sold out of lots, and this is a proposal to extend the business uses along this major corridor.

Mr. Schell said the land could never be developed as residential and the grade of the property along the frontage to Interstate 20 is at a natural grade so there is no natural noise barrier. The average daily traffic in front of the tracts is almost 80,000 cars. Mr. Schell said these items make the area inappropriate for residential use and is contrary to the City's Land Use Plan.

There will not be any access to the tracts from the adjacent single-family uses to the east. There are approximately 10 lots in Ridglea Country Club Estates that are directly adjacent to the property. Mr. Schell said Staff has commented that a 20-foot open space or green area could be maintained to provide more than the 10-foot statutory buffer that is required under the City's existing Zoning Regulations.

Mr. Schell said the subject property is really comprised of three tracts of land. The largest tract to the west is a little over 18 acres; the center tract is a TXU right-of-way, and the third 8.2 acres is east of the TXU right-of-way and adjacent to the homes at Ridglea Country Club Estates. All of the other property fronting on Interstate 20, with access only to the highway frontage road, is designated either Commercial or Commerce on the Land Use Plan. Mr. Schell said that presently, the western tract of the subject property is the demarcation of the Commerce and the Low Density Residential uses.

Mr. Schell said the subject property has no potential access from the residential properties to the east. The only access would be from the west off Winscott Road or new ramps from I-20 that are nearing completion. He said because the 8-acre tract adjacent to the Ridglea Country Club Estates properties is the only part that will affect the RCCE, the applicant will request "E" Commercial zoning for that tract and "G" Commerce for the remainder.

The Chair requested that Dave Gattis explain how land use and zoning are linked and what the specific considerations and criteria are. Mr. Gattis said that the competing interest of three groups must be considered: the landowner, the adjacent landowners, and the community at large. The interests of the landowner must be considered since the landowner has the right to a reasonable use of their property. The owner is not entitled to do anything with the property but the City cannot regulate so restrictively that the owner has no use of the property. That right is protected by the U.S. and Texas Constitutions.

Mr. Gattis said the reason the Land Use Plan amendment is being considered first, is because the zoning, in accordance with State law, has to be in conformance with a Comprehensive Plan. If the Commission recommends that the Land Use Plan not be changed, then the Commission will not recommend that the Council change the zoning. The current zoning is in conformance with the Land Use Plan.

Mr. Gattis said the issues to consider for amending the Land Use Plan are: 1) is the existing use an appropriate use or is there another more appropriate use, and 2) is the adjacent property adequately protected by the proposed use. The Land Use Plan is by definition, somewhat more general than zoning in terms of uses and the specifics in terms of buffers or specific uses that may be allowed or disallowed are more appropriate for the zoning issue to be considered.

The Land Use Plan is a guide used for zoning. However, Mr. Gattis said, the zoning consideration will actually affect the subject property. The applicant has requested "G" Commerce, one of the zoning districts that was modeled after the Fossil Creek Business Park. The idea is for a campus type office with some warehouse or research facilities.

Mr. Gattis said the Commission has the option to recommend approval of the zoning application by the City Council as presented, recommend approval with conditions or a "PD" suffix to the application so that there would be specific additional regulations beyond the allowed regulations in "G". They could recommend denial of the application, or they could recommend something less intense than the advertised request. Mr. Gattis said the Commission could recommend the approval of the proposed change of zoning boundary lines because it would be less than the initial proposal.

The Chair asked for a report from Staff.

Ed Gallagher said the Benbrook Economic Development Corporation is the owner of approximately 25 acres located on the north side of Interstate 20, adjacent to Ridglea Country Club Estates in Planning Area "B", which extends from Bryant Irvin Road to U.S. Highway 377. The G-06-04 Land Use Plan amendment application presented by the BEDC, proposes to change the Land Use Plan designation for their property, and the TXU Electric property that bisects the site, from "Low Density Single-Family" to "Commerce".

The site has frontage and access to Interstate 20 to the south and future access to the site is planned from the west through the "G" zoned neighboring property. North of the site is the Fort Worth Horseshoe Club property that is predominantly floodplain and affords no access. To the east of the site is Ridglea Country Club Estates that also affords no access.

Mr. Gallagher said, with the proposed Land Use Plan amendment, a slightly lower overall population projection should be expected as well as a slight change in the ratio of multiple-family to single-family dwelling units. However, neither is an appreciable amount.

The proposed amendment does not introduce an additional use to the area. All of the property to the west of the EDC site, with Interstate 20 frontage, carries a Commercial or Commerce land use designation, while all of the property to the east, without Interstate 20 frontage, is designated "Low Density Single-Family". The proposed amendment will shift the demarcation between the two adjacent uses east to have the subject site designated the same as the other property with Interstate 20 frontage and the future availability of interconnecting streets.

Mr. Gallagher said the Comprehensive Plan, in Section 6, recognizes that some incompatible land uses should be buffered and otherwise protected from each other and that buffering can be achieved through the implementation of a number of design mechanisms. Section 6 also recognizes that protection of existing residents and neighborhoods is a prime concern and that residential uses should be protected from the incompatible intrusion of other land uses.

In Section 6, it is noted that the City has determined that new construction in adjacent undeveloped areas should be compatible with the existing neighborhood. Mr. Gallagher said the Plan further notes that abrupt and significant changes in density should be considered only if the existing development is protected by well-designed buffers, that stormwater can be adequately drained, that the bulk and orientation of new structures will

not disrupt the use of adjoining property, and that adequate utilities are available to serve the site.

Mr. Gallagher said the Comprehensive Plan further notes that the City also recognizes that increased density and diverse land uses within a neighborhood may be suitable if the proper design protections are provided. Principle 3.2.1 in the Plan states, "Site design techniques, such as buffers or screens, access, and building orientation, should be employed to mitigate the negative intrusions on residential areas." The Plan cites such design techniques to include:

1. Buffer zones or screens (separation by distance, fences, walls, dense vegetation, earthen berm, changes in ground elevations etc.)
2. Building orientation
3. Location of vehicular parking and access routes
4. Location of pedestrian paths
5. Location of outdoor activities (including pools and recreation areas)
6. Controls on outdoor lighting (including placement and intensity of luminaries)."

Mr. Gallagher said the Comprehensive Plan also addresses commercial use areas and specifically recognizes the unique location advantages of existing and potential commercial areas along the I-20/Loop 820 corridor. Commercial property along the corridor is indicated as appropriate because it has direct access to residents and businesses in the entire Metroplex. He said the Plan encourages property owners to maximize the development potential of the designated land along the interstate corridor with reasonable limits set by local access streets, utility service capacities, and recognition of the need for compatibility with existing uses on adjacent sites.

In Section 6 of the Plan, Principle 2.1 notes that sufficient land should be provided for commercial and industrial use. According to Principle 2.3, a regulatory environment should be provided that encourages continued viability and expansion of existing conforming businesses and the establishment of new business and industry.

Mr. Gallagher said, while the proposed Land Use Plan amendment has merit primarily based on access, the area will be adjacent to an established, well-maintained neighborhood of larger single-family dwellings. The proposed Land Use Plan amendment recognizes the adjoining single-family neighborhood and suggests, "A 20-foot open space/green area could be maintained between the existing single-family area and the structures supporting the subject easternmost tract" as a buffering provision. With the subject site adjacent to the existing single-family neighborhood, any future rezoning to the "G" Commerce District could include provisions excluding some otherwise permitted uses, limiting structure heights, and increasing setbacks from residential, and landscaping and fencing requirements on the east, 7.185- acre site, adjacent to the Ridglea Country Club Estates. He said such provisions could mitigate negative impacts and increase compatibility of the two land uses.

Mr. Gallagher said the proposed amendment does not appear to create an appreciable impact on traffic, drainage, utilities, and municipal services. Considering the various factors, and with adequate protection of the adjoining residential use, it is the Staff's opinion that the proposed Land Use Plan amendment represents an appropriate use of the site.

A notice of public hearing on the matter was published March 23, and letter notices were mailed to neighboring property owners of record on March 24, 2006.

Mr. Gallagher said Staff recommends that after the public hearing, the Planning and Zoning Commission recommend that the City Council adopt the proposed amendments to the Land Use element of the Comprehensive Plan proposed by the Benbrook Economic Development Corporation in Planning Area "B", with the provision that any subsequent rezoning of the east, 7.185-acre portion include appropriate provisions to mitigate negative impacts on and increase compatibility with the adjacent existing Low Density Single-Family area.

The Chair asked for any comments or questions from the Commission. Mr. Early asked Mr. Gallagher to clarify the ownership of the land under the TXU Electric transmission lines. Mr. Gallagher said TXU Electric Delivery is the fee simple owner of the property and accommodates electric transmission lines and a well site for the Benbrook Water Authority. Staff included the TXU property in the application, rather than have multiple zoning designations in the three tracts.

Dr. Marshall asked Mr. Gallagher if the streets shown on the applicant's map will be the locations for streets when the site is developed. Mr. Gallagher said the preliminary plat of Northeast Winscott Addition, extended Benbrook Parkway to the south to connect to the Interstate Frontage Road and Winbrook to extend east to the limits of the subdivision. Dr. Marshall asked if the street shown on the applicant's map, will be where a new street would be developed and how wide the City would require the street to be. Mr. Gallagher said if the street is a public street, 40-foot width would be required, but the owner could make the street private. Mr. Early said the street grid would be part of a preliminary plat submittal that would require Planning and Zoning Commission approval.

The Chair opened the public hearing at 8:05 p.m. and asked if anyone wished to speak for or against the item.

George Muckleroy, 4305 Mira Loma, said he is the president of the Ridglea Country Club Estates Homeowner's Association. He said what is being proposed will undeniably change the character of a neighborhood that has been there for almost 40 years. Mr. Muckleroy said they have issues that are intertwined with the rezoning proposal and the land use change amendment, therefore he would like to request to reserve time from the Land Use Plan proposal for the zoning discussion as well. He said they have retained counsel that will be able to address some of their proposals and the negotiations they have attempted to begin with the developer and the applicant.

Mr. Muckleroy said the question is where to draw the line. In years past, the City has considered where to draw the line. A prior development plan, dated 2001, shows a greenway network and trails that appears to go up to the TXU transmission line and east to the adjacent property in Ridglea Country Club Estates. He said they understand that the plan is a prior proposal and is not binding; but it is something the City has considered in the past. They would submit it is a better line because it would protect their property values. What they are concerned with is a buffer that helps the neighborhood and the applicant both accomplish their goals. They understand that they are competing goals, but their goal is to minimize the impact.

Mr. Muckleroy said the comments about traffic and development ability of the land because of the nearness to the highway; they cannot contest the noise in the area. Mr. Muckleroy

said they are not going to take the position that they know what is best for development of the land, but they do wish to minimize the impact and maximize the buffer area, not only on the eastern side of the tract but on the northern side as well. He said the Horseshoe Club is in the floodplain and may never be developed, so the change will be there for a long time. The concern for the residents north of the subject property looking south, there would be no buffer if there is no buffer extending north of the subject property.

Gary Moats, Attorney for the RCCE HOA, 801 Cherry Street, Suite 2000, Fort Worth, 76102, said the applicant is a quasi-governmental corporation with ties to the City but is not the City. He said the land use plan that Mr. Muckleroy spoke of earlier is a plan from the applicant, not the City. Therefore, the applicant has acknowledged and planned a greenbelt area with hike and bike trails running through there.

Mr. Moats said they are asking the Commission to postpone any action on the proposed Land Use Plan amendment and will later ask for a postponement on the proposed zoning change request and continue the Public Hearing until the May Planning and Zoning Commission meeting. He said the two items are tied together and they are requesting that the Commission take no action on the Land Use Plan amendment until the Commission takes action on the zoning change request and take action on both items at the same time. He said he will get into more detail about why they are requesting the postponement during the rezoning case.

Mr. Early said the Commission would take action on the first item, the Land Use Plan amendment before the rezoning case will be heard. Mr. Moats said they believe they will be able to work out with the applicant and the developer, Mr. Steve Hawkins, a PD zoning that will include several, but not all, uses in the "E" zoning. Mr. Moats said "E" zoning is what they have proposed in a position statement that was handed out to the Commission at the 7:00 p.m. work session. There are many details to be worked out in the month between meetings, so they are requesting the time to do the work for the Commission, by coming up with a compromise PD zoning.

Jerry Holmes, 6913 Serrano Drive, asked if TXU Electric has been contacted about the proposal. Mr. Gallagher said they were notified of the consideration and previously they have no problem with the zoning being compatible with zoning on either side. Mr. Gattis said they do not care what the zoning is because it is a pre-existing transmission line so there is nothing the City can do about it.

Mr. Moats said one solution is to postpone any action on the Land Use Plan amendment until the Commission hears what they have to say about the zoning and then make a determination at that point or postpone action on the item.

Steve Pee, 6801 Camino Court, asked what the distance is between the transmission lines and the back property lines of the adjacent homeowners to the east. Mr. Gallagher said the distance is approximately 230 feet.

There being no further comments for or against the item, the Chair elected to leave the public hearing open and take comments or questions from the Commission.

Dr. Marshall asked if the applicant had any response or rebuttal from the Homeowner's Association proposal. Mr. Schell, attorney for the applicant said the Benbrook Economic Development Corporation is under contract to rezone the property to "G" Commerce and has negotiated with the purchaser to downzone the request on the 7-acre tract to "E"

Commercial. They are bound by contract to seek the “G” and “E” zoning.

Mr. Early asked if there is a downside to the applicant if the Commission postponed the consideration for a month. Mr. Schell said he is not aware of any time limits on the contract between the EDC and Mr. Hawkins, but in meeting with Mr. Hawkins and other EDC council, it was clear that the EDC intended to stand by the contract conditions and that Mr. Hawkins was not interested in a “Planned Development” zoning. Mr. Schell said he would address that issue during the rezoning consideration.

Mr. Valverde asked that Mr. Schell address the “PD” issue. Mr. Schell said he was not that familiar with the City of Benbrook Zoning Regulations, but he had read the PD section. Mr. Schell said to Mr. Moats that unlike the city of Fort Worth Zoning Ordinance, that does give specific authority in a planned development zoning to designate a group of uses, he cannot find that authority anywhere in the Benbrook Zoning Ordinance. He said in Benbrook, the PD suffix is added to a zoning district and any uses allowed in that district are allowed in the “PD” zoning. It also states that a site plan must be filed with the application for a PD zoning. He said he could find no specific authority in the Benbrook Zoning Ordinance to do what Mr. Moats suggests, which is to eliminate a number of uses.

Mr. Shah said he heard the counsel for the applicant say the proposed developer would agree to “E” zoning on the 7-acre tract, but does the EDC feel they can reach a compromise with the developer that they can live by and the neighbors can live by, or would they prefer that the matter be left up to the Commission. Mr. Schell said they directed the question to Mr. Hawkins and they felt it was a significant compromise for him to agree to the lowest, most restrictive commercial zoning on the 7-acre tract, which in his opinion is the only tract that has any impact on the adjacent 10 houses. As far as the Land Use Plan amendment, the issue before the Commission is the 28 acres, including the 7 acres, a commercial tract. Mr. Schell said the EDC is bound to rezone the entire tract to “G”, but Mr. Hawkins has agreed to still buy if the 7 acres were more limited “E”. In his judgment, Mr. Schell said Mr. Hawkins could always change his mind.

Mr. Valverde asked Mr. Schell if he or the EDC had been informed by Mr. Hawkins if he would be willing to meet with the Ridglea Country Club Estates Homeowner’s Association and work out something different from what was being proposed. Mr. Schell said they did meet with Mr. Hawkins, Mr. Moats, and both officers of the Homeowner’s Association. He said they have reviewed the planned development proposed by Mr. Moats which eliminates a number uses, requires a 10-foot high masonry wall between the single-family and the commercial, and increasing a buffer to 50 feet. Mr. Schell said he did not think those items would be some that Mr. Hawkins would consider. He said Mr. Hawkins is the developer and the EDC is the owner. Mr. Hawkins does not have an overall plan for the development; he is not at that point in the development stage. He first has to get a piece of land that is zoned for the group of uses that he would find appropriate and on 28 acres, Mr. Schell does not think that Mr. Hawkins expects this to be a single user project. The market is going to dictate to some extent, what uses can be used.

Mr. Moats said in response to Mr. Schell’s previous statements about PD zoning in the Benbrook Zoning Ordinance, Section 21, Subsection A, says the Planned Development District may be used either alone or as a suffix to another district to accommodate planned associations of uses, developed as integral land use units, including mixed uses, which may be planned, developed, and operated by either a single owner or a combination of owners. Mr. Moats said he thinks it is clear that “PD” can be used as a suffix to another district, as a stand-alone district, or a “customized district”. He said if ever there was an appropriate

case for customized zoning, you are looking at it. There are neighbors or homeowners that are very afraid of the adverse impact this would have on their neighborhood. Mr. Moats said that when Mr. Schell said there are uses allowed in "E" that are not appropriate for this site; the case is made for a Planned Development on the site.

Dr. Marshall asked about the comment made about a required 10-foot tall masonry wall. Mr. Moats said they have laid out a proposal just to get discussions started and engage in a dialogue with the developer. Mr. Moats said he met with Ron Rainey, Director of EDC, Dwight Heard, attorney for EDC, and George Muckleroy last week and Mr. Rainey said, they frankly do not care what the zoning is as this is a Steve Hawkins deal. Mr. Moats said they are trying to engage the developer in a discussion about the use of the land. He said he and Mr. Schell have been involved in a lot of zoning cases, and in his opinion, it is unusual for the attorneys to be buffered between the developer and residents by the applicant. Mr. Moats said he knows Mr. Hawkins has some family health issues and he does not fault him for not being present but that they believe, if given 30 days, they can become involved in a discussion.

Dr. Marshall said that if the homeowners and Mr. Moats go in to negotiate with Mr. Hawkins the expense of a 10-foot high masonry wall 1,400 feet long, could be a deal killer. If the Commission extended the time of consideration, they need assurance that the homeowner's requests do not include that kind of expense. Dr. Marshall said he thinks the best kind of buffer is landscaping and the natural terrain of the land.

Mr. Moats said the Zoning Ordinance provides for an F-2 masonry wall for buffering. It does not provide for a 10-foot wall, which is something they are asking for in addition to the ordinance. He said he hopes the Commission does not think they are being unreasonable by asking for something that the ordinance calls for.

Mr. Early asked Mr. Moats if any of the options they are requesting are inconsistent with the Commerce area of the Land Use Plan or is the primary discussion and concerns best handled with the zoning of the property. Mr. Moats said if their negotiations with Mr. Hawkins fail, and they cannot reach an agreement or a fair compromise, and then they will be back at the May 11, meeting asking the Commission to deny both items.

The Chair said the options of the Commission are to take action on the item, defer it to later in the meeting and hear the zoning argument, or defer the item until the next Planning and Zoning Commission meeting.

Motion by Dr. Marshall to defer the item G – 06 – 04 to no later than the May 11, 2006 meeting and keep the Public Hearing open. Second by Mr. Ramsey. The Chair called the question.

Vote on the Motion:

Ayes: Mr. Bolton, Mr. Ramsey, and Dr. Marshall

Noes: Mr. Valverde, Mr. Early, Mr. Shah, and Mr. Dawson

Abstain: None

Motion failed 3 – 4 – 0

Motion by Mr. Shah to defer item G – 06 – 04 to later in the meeting when Z – 06 – 01 has been discussed, but to leave the Public Hearing open. Second by Mr. Valverde. The Chair called the question.

Vote on the Motion:

Ayes: Mr. Bolton, Mr. Ramsey, Mr. Valverde, Mr. Shah, Mr. Dawson, and Dr. Marshall

Noes: Mr. Early

Abstain: None

Motion carried 6 – 1 – 0

Z – 06 – 01	Consider rezoning of 28.424 acres of land in the James Rogers Survey Abstract Number 1265 and the James Rogers Survey Abstract Number 1264 from “A” One Family District to “G” Commerce District (North of Interstate Highway 20, west of Block 9 of Ridglea Country Club Estates, and east of the westerly TXU Electric transmission line right-of-way)
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Chairman Early introduced the item and asked for a presentation from the applicant.

Jim Schell, acting on behalf of the Benbrook Economic Development Corporation, said “G” Commerce District is the appropriate zoning for the 18-acre western tract of the property. There would be no impact since there is no access to the low-density single-family area to the east. He said the TXU right-of-way limits the size and square footage of potential building on the easternmost tract and it is significant to limit the zoning to the most restrictive commercial zoning.

The Chair asked Mr. Schell to describe what the applicants are proposing. Mr. Schell said they are requesting the Commission recommend that the 8.1-acre tract on the east be zoned “E” Commercial and the balance be zoned “G” Commerce. He said the Zoning Ordinance is very comprehensive and deals with buffering and for either “G” or “E”, the Ordinance calls for a 6-foot wood fence or F-1 buffer yard,. Mr. Schell said because the Ordinance is so well written and detailed, that it should be relied on for the requirements of a buffer yard between single-family residential and commercial uses, architectural control, the size of the buffer yard, what can be constructed, and even the use of the buffer yard. There can be no accessory buildings, parking facilities, or dumpster locations in the buffer yard, but can be used for passive recreation. Mr. Schell said it is easier for a developer to develop in Benbrook because he can look at Benbrook’s Zoning Ordinance, see the detail, and he knows what he has to do.

The Chair asked for a report from Staff. Mr. Gallagher said the subject property of the Z-06-01 rezoning consideration is a 28.4-acre area in the James Rogers Surveys on the north side of Interstate 20, west of Ridglea Country Club Estates, and east of the most westerly

TXU Electric transmission line. The existing zoning classification is "A" One Family District, and the proposed zoning classification is "G" Commerce District. Most of the subject site, 25.3 acres, in the rezoning application is owned by the Benbrook Economic Development Corporation. The 25.3 acres is the combination of 18.2 acres and 7.1 acres separated by a three-acre TXU Electric line. He said the City of Benbrook is the applicant for the three-acre existing TXU Electric owned property, which is part of the overall 28.4-acre site. The site is vacant except for the electric transmission lines and Benbrook Water Authority well site. With approval of the G-06-04 Land Use Plan amendment consideration, the Land Use Plan designation will be "Commerce"

The City's application for the TXU Electric property is to result in a consistent zoning district and will not affect the two established utility uses. It is Staff's understanding that the Benbrook Economic Development Corporation contracted to sell the 25.3 acres, conditioned on rezoning the property to "G" Commerce District.

The 7.1-acre east Benbrook Economic Development Corporation site is adjacent to the existing Ridglea Country Club Estates single-family neighborhood, a situation that makes the site a candidate for the proposed "G" Commerce District to be supplemented with "PD" Planned Development specifications that may exclude some Permitted Uses and adjust the Height and Area Regulations of "G" District and modify the Landscape and Buffer Requirements.

Mr. Gallagher said State Law requires that zoning regulations be adopted in accordance with a Comprehensive Plan, and with the G-06-04 proposed Land Use Plan amendment for "Commerce" designation, the site would be compatible with the Comprehensive Plan. Any recommendation to the City Council regarding the proposed rezoning should be conditioned on City Council approval of the G-06-04 Land Use Plan amendment.

The Commission has three options. The application can be recommended to the City Council for approval as requested for "G" Commerce District; recommended as a "G-PD" Commerce Planned Development District, or more restrictive district, with specific use, height and area, landscape and other specific regulations; or recommend that the application be denied.

A notice of public hearing on the matter was published March 23, and letter notices were mailed to neighboring property owners of record on March 24, 2006.

Mr. Gallagher said Staff recommends that after the public hearing, the Planning and Zoning Commission recommend that the City Council approve consideration of Z-06-01 for the rezoning of 28.424 acres in the James Rogers Survey Abstract Numbers 1264 and 1265 from "A" One Family District to "G" Commerce District, subject to City Council approval of Land Use Plan amendment presented in consideration G-06-04, and that rezoning of the 7.185-acre portion include appropriate modifications to the existing "G" District and Landscape and Bufferyard requirements with such modifications determined by the Commission to become part of the recommendation to City Council.

Dr. Marshall asked Staff to address the width of the 7.1-acre tract and how it could be developed considering the tract is only 230 feet wide. Mr. Gattis said there is nothing that would prevent the tract from being developed north and south instead of east to west. Mr. Gattis said, as part of the platting process, the City and developer could look at some

creative arrangements with the idea of trying to achieve the lot depth as specified. If that cannot be accomplished, use would not be prohibited or it may be grounds for a variance with the Zoning Board of Adjustment.

The Chair asked for any comments or questions from the Commission. There being none, the Chair opened the public hearing at 8:55 p.m. and asked if anyone wished to speak for or against the item.

George Muckleroy, 4305 Mira Loma, said he is representing the Ridglea Country Club Estates Homeowner's Association. Mr. Muckleroy said they are opposed to the proposed zoning change to "G" Commercial. The many uses allowed in "G" Commercial would harm their properties in their neighborhood from flooding concerns, noise concerns, traffic concerns, and privacy invasion concerns. He said depending on the use, there could be alcohol sales and many well-known concerns that any homeowner would have if land next to them is open to commercial development.

Mr. Muckleroy said before they took the position that they opposes, they tried to gather information and met with the EDC and the developer, Steve Hawkins. He said they asked what their plan is and what they want to use the land for. He said both parties told them different things. Initially the EDC suggested an office park with brick-sided office development would be the best use for the land. When they learned that Mr. Hawkins was going to develop it they decided to meet with him and ask what his plans were for the area. Mr. Muckleroy said that Mr. Hawkins said he intended to have showroom and warehouse type businesses with a sales area in the front and storage areas in the back for different kinds of goods. Mr. Muckleroy said the EDC recommended that rather than take the hard-line position of opposing the "G" zoning, they should look at the "G" and see what uses were objectionable and make a counter proposal. They suggested that they open negotiations and carve out uses and depending on what Mr. Hawkins said he wanted to do with the land, they could very well reach an agreement to limit the uses going in next to their property. Mr. Muckleroy said they tried to do that and read the regulations for "E", "F", and "G" districts, and "G" actually has the farthest setback requirements, so they are in favor of "G" zoning. The uses in "E" are all included in "G" but there are extra uses in "G" that are added to "E". They tried to make their best effort at scratching out uses that would negatively affect their property or bring any type of negative effect.

Mr. Muckleroy said the position they are taking is that they oppose the zoning change to "G", for many of the reasons stated. However, they understand there is a contract that says the land has to be zoned to "G" before it can be sold, but contracts can be amended and deadlines can be pushed back. The parties have expressed a willingness to negotiate and Mr. Hawkins cannot respond or address the issue at this time, which is why they are requesting a continuance for 30 days.

Mr. Muckleroy said they looked at some of Steve Hawkins's developments with business buildings that look like houses. These businesses looked like residential houses with the rooflines, landscaping, etc and might fit well in a transitional zone from single-family low-density use to commercial use. He said, based on what Mr. Hawkins told them at the meeting, it was suggested that they look at the businesses on I-20 West because that may be what he will build. Mr. Muckleroy said those buildings are not a transition type use between single-family and commercial uses. The siding is not brick; it is slab wall concrete, and the bays in the back have big-rig trucks entering. The buildings are high and there is a lot of area that will not soak up rain because it is concrete. He said this is the type of use

they would like to prevent, which is allowed in “G” Commerce zoning, from going in adjacent to their houses.

Mr. Muckleroy said they oppose the rezoning to “G” Commerce, but if the Commission deems it necessary to deny their opposition for whatever reason, they are asking for a continuance for 30 days. He said this would give the parties a good faith opportunity to work out an agreement that they have not been given. During the one-month time, they will attempt to work out the “PD” zoning with Mr. Hawkins and the EDC. He said the RCCE has almost universal opposition to the “G” zoning because it will permanently and undeniably change the character of their neighborhood.

Gary Moats, 801 Cherry Street, Fort Worth, said he is an attorney representing the Ridglea Country Club Estates Homeowner’s Association. Mr. Moats said the Staff report mentions a “PD” zoning to protect the surrounding properties. The proposal to rezone the 7-acre tract to “E” is something they just heard about tonight. He said that is a move in the right direction but they believe further concessions are necessary and further discussions need to be held because there are some uses in “E” that should not be allowed.

Mr. Moats said they are not requesting the Commission to decide the “PD” zoning, they are asking for some time to work it out. If they come back in a month and have not worked it out, they realize the Commission has the authority to tell them what to do, they are just asking for some time to reach an agreement.

Mr. Moats said the setback requirements, sideyard, front yard, and rear yard, in “E”, are basically half of what they are in “G” district. He said that concerns them a great deal. If all of the 7-acre tract were one lot, with “E” zoning, then the sideyard setback would be only 10 feet from the property line of the single-family neighbors on the east. The rear yard in “G” is 40 feet and in “E”, the rear yard is only 20 feet. That is the reason they are asking for the 30 days to have more discussions about a “PD” zoning.

Mr. Moats said the Commission is aware that platting is non-discretionary. If the developer submits a preliminary plat that conforms to City regulations, the Commission is obligated to accept the plat. He said they believe they can accomplish a great deal to protect the neighbors with a site plan that will show the streets and development. The Commission approval of a site plan is discretionary and a preliminary plat would have to be consistent with the site plan.

Mr. Moats said there are 14 houses that would be directly affected by the development, not 10 as earlier stated. Dr. Marshall said there are 12 houses directly adjacent to the development.

Robert Jones, 4208 Winding Way, said he would like to thank their officers and the attorney for speaking on his behalf, but as a landowner with property that is adjacent to the proposed development, he and his family are totally opposed to any change other than single-family residents. He said they have a significant investment in their property and they did not purchase the property under the understanding that the adjacent property would be changed to commercial use. Mr. Jones said he does not believe anyone on the Commission would buy a property to raise their children next to an ambulance dispatch or a movie theater, or any uses allowed in “E” or “G” zoning.

Mr. Jones said the rezoning would have a detrimental effect on their property value, a possible damaging effect due to flooding, and could have a security effect on his children.

Chuck Milliken, 4113 Winding Way, said he has been a Benbrook citizen for 15 years, pay taxes in Benbrook, and he is in favor of economic development. Mr. Milliken said he is not in favor of a warehouse district, which is the potential, 10 feet from the houses adjacent to the development. He said the Commission, with its authority, has the duty and responsibility to protect the interest of all the citizens of Benbrook. He said they want the property developed appropriately, but to protect the citizens that live in Ridglea Country Club Estates.

Beth Kucera, 7055 Serrano Drive, said the houses directly adjacent to the development are not the only houses affected. The other houses nearby and further down are also affected because of the line of vision.

Ron Rainey, 5123 Carimet Boulevard, Benbrook, said he is the Executive Director of Benbrook Economic Development Corporation. Mr. Rainey said he has had numerous conversations with Mr. Hawkins and Mr. Hawkins recognizes the concerns of RCCE. He said when he met with Mr. Hawkins, Mr. Moats, and Mr. Muckleroy, Mr. Hawkins said he would probably build the garden offices that Mr. Muckleroy spoke of, on the 7-acre tract. Mr. Rainey said that from the first day of talking with Mr. Hawkins about the development, Mr. Hawkins has always talked about a Class A, office business park. He heavily landscapes all of his projects and typically uses masonry siding on all of his buildings. He is not interested in having a community redraft an ordinance that says here is the "PD" that you will live under. Mr. Rainey said Mr. Hawkins did agree that he would reduce the request on the 7-acres to "E" zoning to try to accommodate some of the concerns about large warehouses. Some of the uses are not appropriate and some will not even fit on the 7-acre tract. Mr. Rainey said one of the uses marked through on the RCCE HOA submittal is alcohol sales. Benbrook's ordinance does not allow alcohol sales except in a restaurant as a mixed beverage ordinance. They have also stricken restaurants from the site. Mr. Rainey said he does not know if there are any plans ever to have a restaurant, but this City turned out very strongly a couple of years ago in favor of bringing restaurants to Benbrook.

Mr. Rainey said Mr. Hawkins is having some family health problems but that is not the reason he is not at the meeting. He is a developer and he would like to develop the property if he purchases it.

Ronald Witt, 4317 Winding Way, said it seems there are many questions that cannot be answered, whether it is the Staff or the Commission, and he thinks a postponement is really needed to iron out some of these things. There is no one to speak directly for Mr. Hawkins and there are a lot of people at the meeting that are concerned and making a rash decision would be very wrong.

Perry Hill, 6901 Allen Place, said there is no one that would disparage Mr. Hawkins reputation as a reputable developer. Nonetheless, it is a bit naive to write a blank check to anyone because they have no idea what Mr. Hawkins may have planned for the 7-acre strip. Mr. Hill said they are asking for some assurance or mechanism that protects that zone.

Charles Kucera, 7055 Serrano Drive, said he has been through this before in several communities in California. He said in the future, the subject area will be more than just a

strip of land, it will be a thriving community and will need some green areas. The 7 acres could be one of those areas because the Benbrook Economic Development Corporation owns it, which is the City of Benbrook. The area will be developed all the way to Winscott Road so one little area of green space buffering will not hurt Mr. Hawkins and will certainly help them.

The Chair asked Mr. Gattis to clarify the relationship between the Benbrook Economic Development Corporation and the City of Benbrook. Mr. Gattis said the Benbrook Economic Development Corporation is a separate, non-profit corporation, chartered under the Corporation Act of Texas. It is chartered under Chapter 4B, which specifies what kind of board it has and what it can and cannot do. Mr. Gattis said the citizens of Benbrook voted to create it in the mid-1990s, and to fund it with a half-cent sales tax. There is a financial relationship in that the half-cent sales tax goes directly to the EDC and they have a lot of independence on how they use the money. Their budget must be approved by the City Council and the members of their board are appointed by the City Council. When the voters created the corporation, they created it for the purposes of promoting economic development. Mr. Gattis said it should be noted that among the other authorized uses for 4B money is park development. The Corporation always reminds the City that they are independent of the City and the City likes to keep an arms length away from the Corporation. The two are quasi-related but are not the same entity. They have their own board of directors. Mr. Early asked if land owned by the EDC is also owned by the City. Mr. Gattis said no, it is not.

Tom Kellogg, 3725 Streamwood Road, Fort Worth, said Steve Hawkins is an excellent developer but by the time the property is sold, it could be sold to someone other than Mr. Hawkins. Mr. Kellogg said they should be concerned about who eventually owns the land if it is not Mr. Hawkins. He said another concern is if the streets will be public or private streets and who will maintain them.

Mr. Gattis said Staff could not comment on the streets because that is a platting issue to be part of a preliminary plat submittal. The only stipulation of the platting of Northeast Winscott Addition is that developer must extend a street from that development over to this property. What happens to this property is yet to be determined.

The Chair left the public hearing open and asked for any comments or questions from the Commission. Mr. Valverde said for the audience to keep in mind that whatever the Commission decides, it is just a recommendation to the City Council and the Council would not act on the issue until the May 18, 2006 meeting. Therefore, the HOA would have 30 days to meet with Mr. Hawkins and the EDC.

Dr. Marshall said there is a history for this property that everyone should be made aware of. He said there was a development planned for a housing project and was opposed by the same group. He thinks they probably all need to understand that this will probably never become a single-family housing area because of the access to the frontage road and houses would have to align along one road.

Mr. Early said he has not heard much support for the single-family zoning and is not sure how that would ever be developed with a single entrance and exit onto an access road. Mr. Early said he thought the Commission should act on the Land Use Plan amendment to go ahead with what is proposed and then defer the zoning. He said some could envision development of the property that is acceptable, and some can envision it as unacceptable,

and then there are those in between. If there is an opportunity for the applicant, the owner, and the neighborhood to all get together, it would be better for the City and everyone involved.

Mr. Shah said the only area of disagreement he has heard is the 7-acre strip. The rest, everyone is either resigned to the fact that it is going to be what the applicant proposes and they probably do not object as long as their concerns on the 7-acre tract are addressed.

Discussion followed between the Commission and Staff on the Land Use Plan amendment, G – 06 – 04.

Motion by Mr. Valverde that the public hearing be closed and the Commission recommend that the City Council adopt G – 06 – 04, the proposed amendments to the Land Use element of the Comprehensive Plan proposed by the Benbrook Economic Development Corporation in Planning Area “B”, reducing Low Density Single-Family use and increasing Commerce use, with the provision that any subsequent rezoning of the east, 7.185-acre portion include appropriate provisions to mitigate negative impacts on and increase compatibility with the adjacent existing Low Density Single-Family area. Second by Mr. Shah. The Chair called the question.

Vote on the Motion:

Ayes: Mr. Early, Mr. Bolton, Mr. Ramsey, Mr. Valverde, Mr. Shah, Mr. Dawson, and Dr. Marshall

Noes: None

Abstain: None

Motion carried 7 – 0 – 0

Discussion continued among the Commission on item Z – 06 – 01. The Chair asked for any comments from the applicant.

Mr. Schell said the real issue is the impact of the development on the single-family residents adjacent to the development. He said with “E” zoning there are setbacks for front and side yards but no depth requirement. On the 7 acres, they are asking for the more restrictive “E” Commercial zoning. A buffer would be required per the ordinance and a rear yard setback of 20 to 25 feet, the same rear yard as for single-family. Mr. Schell said when he walked the property line of the residences in RCCE, he observed there is a mature line of trees and with that and the buffer required by the ordinance, it is a good place to divide the residential and the commercial use.

Mr. Schell said he was surprised when told that the prior owner had offered to sell the 7-acre tract to the adjacent homeowners and they declined. He said he was greatly surprised to find out that the property had been proposed for development with single-family residential and was opposed by the same group that is present.

Mr. Schell said that even if Mr. Hawkins did not develop the property and sold it to someone else, the City’s architectural standards would prohibit the types of buildings that Mr. Muckleroy said the HOA is afraid will be built on the site.

Eric Counts, 4137 Coral Circle, said a single-family development had been proposed on the property. Mr. Counts said many of the people in Ridglea Country Club Estates bought their homes there because there is only one access road to the Estates. He said the developer was going to sell a house on Winding Way and put an entrance to the property from Ridglea Country Club Estates. Mr. Counts said the homes were to be very inconsistent with the houses in RCCE, and they were concerned it would lower their property values.

Mr. Counts said when the developer came back with another option, which included larger homes and no entrance into Ridglea Country Club Estates, they agreed with the proposal. He said they are not against development, they just want something consistent that will not lower their property values or increase potential risk to their families.

Peter Ku, 4321 Winding Way, said he understands the City and Mr. Hawkins's desires to develop the City. However, he believes if the transition is not made properly, many of the residential people are going to be mad at the City. Mr. Ku said he thinks, given the time, a compromise can be met.

Mr. Moat said, in reference to Mr. Schell's comments earlier about the architectural control requirements in the Zoning Ordinance, a commercial building can use smooth face concrete block, tilt up concrete wall, and free fabricated steel panels if the façades face residential property screened by an 8-foot masonry wall. Mr. Moat said he is just pointing this out to show that if given the time, they can work out a "PD" zoning to address these issues.

The Chair asked for any further comments, questions, or a motion from the Commission. Discussion followed.

Motion by Dr. Marshall to keep the public hearing open and defer item Z – 06 – 01 until the May 11, 2006 Planning and Zoning Commission meeting. Second by Mr. Bolton. The Chair called the question.

Vote on the Motion:

Ayes: Mr. Early, Mr. Bolton, Mr. Ramsey, Mr. Dawson, and Dr. Marshall

Noes: Mr. Valverde and Mr. Shah

Abstain: None

Motion carried 5 – 2 – 0

IV. PRESENTATIONS BY PLANNING AND ZONING COMMISSION MEMBERS

None

V. CITIZENS PRESENTATIONS

None

VI. ADJOURNMENT

The Chair noted there were no additional matters of business on the regular Commission agenda and declared the Commission regular meeting adjourned at 9:55 p.m.

APPROVED: _____, 2006

Chair