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Minutes
Forney City Council
Tuesday, January 19, 2021
6:30 p.m. Regular Meeting
City Hall, 101 E. Main Street, Forney, Texas 75126

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The general public can view the meeting live on our video stream at <https://www.forneytx.gov/803/Watch-Meetings>. If you wish to address the Council on any subject or in open forum at this meeting, you are required to email dbrooks@forneytx.gov no later than Tuesday, January 19, 2021, by 1:00 p.m. You must provide your name and telephone number and state which item(s) you wish to speak on. You will be provided a telephone number and meeting ID which you must dial into 15 minutes prior to the scheduled meeting start time. Due to technical restrictions, those who fail to dial into the meeting at the prescribed time may forfeit their ability to speak at said meeting.

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I. CALL TO ORDER

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Mayor Penn called the meeting to order at 6:32 p.m. Present were Mayor Mary Penn, Mayor Pro Tem Shaun Myers and Council Members James Traylor, Robbie Powers, Kevin Moon, Derald Cooper and David Johnson. Also present was Facilities Director Neil Cardwell.

II. INVOCATION – COUNCIL MEMBER SHAUN MYERS

Pastor Marty Reid gave the invocation.

III. APPROVAL OF MINUTES

1. **Consider approval of the Minutes of the January 5, 2021, City Council meeting.**

Mayor Penn asked if Council had any changes to the Minutes. There being no changes, Mayor Penn called for a motion. Council Member Moon made a motion to approve the Minutes of the January 5, 2021 City Council meeting and Council Member Powers seconded the motion. The motion passed by a vote of 6 ayes and 1 abstain [Johnson].

IV. CONSENT AGENDA

The items on the Consent Agenda are considered to be self-explanatory by the Council and will be enacted in one motion. There will be no separate discussion of these items unless requested by a Council Member.

1. **Consider Approval of the Acceptance of Public Improvements for the 7-Eleven project.**
2. **Consider Approval of the Acceptance of Public Improvements for the Akron Way Phase I roadway project.**
3. **Consider approval of a preliminary plat for Dossett Addition, located northwest of the intersection of Farm-to-Market Road 740 and County Road 209 in the City of Forney extra-territorial jurisdiction.**
4. **Consider approval of a preliminary plat for the Pinnacle Montessori - Heartland, located northeast of the F.M. 741 and Interstate Highway 20 intersection in the City of Forney extra-territorial jurisdiction.**

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- 5. **Consider approval of the authorization to allow staff to seek bids for the Annual Price Agreement Contract for general asphalt and concrete maintenance and all related issues.**

Mayor Penn asked if Council wanted to pull any of the Consent Agenda items for discussion. No items were pulled, so Mayor Penn called for a motion. Mayor Pro Tem Myers made a motion to approve the entire Consent Agenda and Council Member Moon seconded the motion. The motion passed unanimously by a vote of 7 ayes and 0 nays.

V. PUBLIC HEARING ITEMS / ACTION ON PUBLIC HEARING ITEMS

- 1. **Public Hearing on the proposed annexation of approximately 34.2 acres of land located in the Absolom Hyer Survey, Abstract 203 at 11379 County Road 212, owned by the Beene Family Limited Partnership and discussion and possible action on an Ordinance approving the annexation.**

City Attorney Jon Thatcher discussed this item. The City of Forney received a petition for annexation from Stillwater Capital on behalf of the property owner for an approximate 34.2 acres of land on County Road 212. This property is part of a proposed development for light industrial purposes on CR 212. The City of Forney entered into a development agreement on December 15, 2020 with Stillwater Capital on behalf of the individual property owners for the full development of the proposed project. The property considered for annexation is adjacent to the city limits on the northern side of the property.

The proposed annexation is pursuant to Subchapter C-3 of Chapter 43 of the Texas Local Government Code. One public hearing is required prior to the consideration of any ordinance approving the annexation.

Public utilities as well as the County and the School District have been provided with notice of the public hearing for the proposed annexation. Additionally, the City has qualified that the aforementioned development meets the requirements in Section 43.0672 of the Texas Local Government Code proposing the services and schedule to be provided to the property upon annexation.

Following the public hearing, the City Council may consider action on the proposed ordinance to approve the annexation.

Mayor Penn opened the public hearing, but no one had signed up to speak, so the public hearing was closed. Mayor Penn called for a motion. Council Member Traylor made a motion to approve the Ordinance and Council Member Johnson seconded the motion. The Ordinance caption was read as follows:

ORDINANCE NO. 21-01

AN ORDINANCE ANNEXING THE HEREINAFTER DESCRIBED TERRITORY TO THE CITY OF FORNEY, KAUFMAN COUNTY, TEXAS, AND EXTENDING THE BOUNDARY LIMITS OF SAID CITY SO AS TO INCLUDE SAID HEREINAFTER DESCRIBED PROPERTY WITHIN SAID CITY LIMITS, AND GRANTING TO ALL THE INHABITANTS OF SAID PROPERTY ALL THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BINDING SAID INHABITANTS BY ALL OF THE ACTS, ORDINANCES, RESOLUTIONS, AND REGULATIONS OF SAID CITY; AND ADOPTING A SERVICE PLAN OR AGREEMENT.

106
107 The motion passed unanimously by a vote of 7 ayes and 0 nays.

108
109 **2. Public Hearing on the proposed annexation of approximately 3.95**
110 **acres of land located in the Absolom Hyer Survey, Abstract 203 at**
111 **11263 County Road 212, owned by George Brown and discussion**
112 **and possible action on an Ordinance approving the annexation.**

113
114 City Attorney Jon Thatcher discussed this item. The City of Forney received a petition for
115 annexation from Stillwater Capital on behalf of the property owner for an approximate 3.95
116 acres of land on County Road 212. This property is part of a proposed development for light
117 industrial purposes on CR 212. The City of Forney entered into a development agreement on
118 December 15, 2020 with Stillwater Capital on behalf of the individual property owners for the
119 full development of the proposed project. The property considered for annexation is adjacent to
120 the city limits on the northern side of the property.

121
122 The proposed annexation is pursuant to Subchapter C-3 of Chapter 43 of the Texas Local
123 Government Code. One public hearing is required prior to the consideration of any ordinance
124 approving the annexation.

125
126 Public utilities as well as the County and the School District have been provided with notice of
127 the public hearing for the proposed annexation. Additionally, the City has qualified that the
128 aforementioned development meets the requirements in Section 43.0672 of the Texas Local
129 Government Code proposing the services and schedule to be provided to the property upon
130 annexation.

131
132 Following the public hearing, the City Council may consider action on the proposed ordinance to
133 approve the annexation.

134
135 Mayor Penn opened the public hearing, but no one had signed up to speak, so the public
136 hearing was closed. Mayor Penn called for a motion. Council Member Cooper made a motion
137 to approve the Ordinance and Council Member Moon seconded the motion. The Ordinance
138 caption was read as follows:

139
140 **ORDINANCE NO. 21-02**

141
142 **AN ORDINANCE ANNEXING THE HEREINAFTER DESCRIBED TERRITORY TO THE CITY OF**
143 **FORNEY, KAUFMAN COUNTY, TEXAS, AND EXTENDING THE BOUNDARY LIMITS OF SAID**
144 **CITY SO AS TO INCLUDE SAID HEREINAFTER DESCRIBED PROPERTY WITHIN SAID CITY**
145 **LIMITS, AND GRANTING TO ALL THE INHABITANTS OF SAID PROPERTY ALL THE RIGHTS**
146 **AND PRIVILEGES OF OTHER CITIZENS AND BINDING SAID INHABITANTS BY ALL OF THE**
147 **ACTS, ORDINANCES, RESOLUTIONS, AND REGULATIONS OF SAID CITY; AND ADOPTING**
148 **A SERVICE PLAN OR AGREEMENT.**

149
150 The motion passed unanimously by a vote of 7 ayes and 0 nays.

151
152 **3. Public Hearing on the proposed annexation of approximately 7.9**
153 **acres of land located in the Absolom Hyer Survey, Abstract 203 at**
154 **11305 County Road 212, owned by Edwina Elaine Edwards and**
155 **discussion and possible action on an Ordinance approving the**
156 **annexation.**

158 City Attorney Jon Thatcher discussed this item. The City of Forney received a petition for
159 annexation from Stillwater Capital on behalf of the property owner for an approximate 7.9 acres
160 of land on County Road 212. This property is part of a proposed development for light
161 industrial purposes on CR 212. The City of Forney entered into a development agreement on
162 December 15, 2020 with Stillwater Capital on behalf of the individual property owners for the
163 full development of the proposed project. The property considered for annexation is adjacent to
164 the city limits on the northern side of the property.

165
166 The proposed annexation is pursuant to Subchapter C-3 of Chapter 43 of the Texas Local
167 Government Code. One public hearing is required prior to the consideration of any ordinance
168 approving the annexation.

169
170 Public utilities as well as the County and the School District have been provided with notice of
171 the public hearing for the proposed annexation. Additionally, the City has qualified that the
172 aforementioned development meets the requirements in Section 43.0672 of the Texas Local
173 Government Code proposing the services and schedule to be provided to the property upon
174 annexation.

175
176 Following the public hearing, the City Council may consider action on the proposed ordinance to
177 approve the annexation.

178
179 Mayor Penn opened the public hearing, but no one had signed up to speak, so the public
180 hearing was closed. Mayor Penn called for a motion. Mayor Pro Tem Myers made a motion to
181 approve the Ordinance and Council Member Johnson seconded the motion. The Ordinance
182 caption was read as follows:

183
184 **ORDINANCE NO. 21-03**

185
186 **AN ORDINANCE ANNEXING THE HEREINAFTER DESCRIBED TERRITORY TO THE CITY OF**
187 **FORNEY, KAUFMAN COUNTY, TEXAS, AND EXTENDING THE BOUNDARY LIMITS OF SAID**
188 **CITY SO AS TO INCLUDE SAID HEREINAFTER DESCRIBED PROPERTY WITHIN SAID CITY**
189 **LIMITS, AND GRANTING TO ALL THE INHABITANTS OF SAID PROPERTY ALL THE RIGHTS**
190 **AND PRIVILEGES OF OTHER CITIZENS AND BINDING SAID INHABITANTS BY ALL OF THE**
191 **ACTS, ORDINANCES, RESOLUTIONS, AND REGULATIONS OF SAID CITY; AND ADOPTING**
192 **A SERVICE PLAN OR AGREEMENT.**

193
194 The motion passed unanimously by a vote of 7 ayes and 0 nays.

195
196 **4. Public Hearing on the proposed annexation of approximately 1.14**
197 **acres of land located in the Absolom Hyer Survey, Abstract 203 at**
198 **11237 County Road 212, owned by Bobby Wayne Hilbert and**
199 **discussion and possible action on an Ordinance approving the**
200 **annexation.**

201
202 City Attorney Jon Thatcher discussed this item. The City of Forney received a petition for
203 annexation from Stillwater Capital on behalf of the property owner for an approximate 1.14
204 acres of land on County Road 212. This property is part of a proposed development for light
205 industrial purposes on CR 212. The City of Forney entered into a development agreement on
206 December 15, 2020 with Stillwater Capital on behalf of the individual property owners for the
207 full development of the proposed project. The property considered for annexation is adjacent to
208 the city limits on the northern side of the property.

209

210 The proposed annexation is pursuant to Subchapter C-3 of Chapter 43 of the Texas Local
211 Government Code. One public hearing is required prior to the consideration of any ordinance
212 approving the annexation.

213
214 Public utilities as well as the County and the School District have been provided with notice of
215 the public hearing for the proposed annexation. Additionally, the City has qualified that the
216 aforementioned development meets the requirements in Section 43.0672 of the Texas Local
217 Government Code proposing the services and schedule to be provided to the property upon
218 annexation.

219
220 Following the public hearing, the City Council may consider action on the proposed ordinance to
221 approve the annexation.

222
223 Mayor Penn opened the public hearing, but no one had signed up to speak, so the public
224 hearing was closed. Mayor Penn called for a motion. Council Member Powers made a motion
225 to approve the Ordinance and Council Member Cooper seconded the motion. The Ordinance
226 caption was read as follows:

227
228 **ORDINANCE NO. 21-04**

229
230 **AN ORDINANCE ANNEXING THE HEREINAFTER DESCRIBED TERRITORY TO THE CITY OF**
231 **FORNEY, KAUFMAN COUNTY, TEXAS, AND EXTENDING THE BOUNDARY LIMITS OF SAID**
232 **CITY SO AS TO INCLUDE SAID HEREINAFTER DESCRIBED PROPERTY WITHIN SAID CITY**
233 **LIMITS, AND GRANTING TO ALL THE INHABITANTS OF SAID PROPERTY ALL THE RIGHTS**
234 **AND PRIVILEGES OF OTHER CITIZENS AND BINDING SAID INHABITANTS BY ALL OF THE**
235 **ACTS, ORDINANCES, RESOLUTIONS, AND REGULATIONS OF SAID CITY; AND ADOPTING**
236 **A SERVICE PLAN OR AGREEMENT.**

237
238 The motion passed unanimously by a vote of 7 ayes and 0 nays.

239
240 **5. Public Hearing on the proposed annexation of approximately**
241 **25.3345 acres of land located in the Absolom Hyer Survey, Abstract**
242 **203 on County Road 212, owned by Platform 80-20, LP and**
243 **discussion and possible action on an Ordinance approving the**
244 **annexation.**

245
246 City Attorney Jon Thatcher discussed this item. The City of Forney received a petition for
247 annexation from Platform 80-20, LP for an approximate 25.3345 acres of land on County
248 Road 212. This property is part of a proposed development for light industrial purposes on CR
249 212. The City of Forney entered into a development agreement on December 15, 2020 with
250 the property owner for the full development of the proposed project. The property considered
251 for annexation is adjacent to the city limits on the southeastern side of the property as well as
252 across CR 212.

253
254 The proposed annexation is pursuant to Subchapter C-3 of Chapter 43 of the Texas Local
255 Government Code. One public hearing is required prior to the consideration of any ordinance
256 approving the annexation.

257
258 Public utilities as well as the County and the School District have been provided with notice of
259 the public hearing for the proposed annexation. Additionally, the City has qualified that the
260 aforementioned development meets the requirements in Section 43.0672 of the Texas Local

261 Government Code proposing the services and schedule to be provided to the property upon
262 annexation.

263
264 Following the public hearing, the City Council may consider action on the proposed ordinance to
265 approve the annexation.
266

267 Mayor Penn opened the public hearing, but no one had signed up to speak, so the public
268 hearing was closed. Mayor Penn called for a motion. Council Member Johnson made a motion
269 to approve the Ordinance and Mayor Pro Tem Myers seconded the motion. The Ordinance
270 caption was read as follows:

271
272 **ORDINANCE NO. 21-05**

273
274 **AN ORDINANCE ANNEXING THE HEREINAFTER DESCRIBED TERRITORY TO THE CITY OF**
275 **FORNEY, KAUFMAN COUNTY, TEXAS, AND EXTENDING THE BOUNDARY LIMITS OF SAID**
276 **CITY SO AS TO INCLUDE SAID HEREINAFTER DESCRIBED PROPERTY WITHIN SAID CITY**
277 **LIMITS, AND GRANTING TO ALL THE INHABITANTS OF SAID PROPERTY ALL THE RIGHTS**
278 **AND PRIVILEGES OF OTHER CITIZENS AND BINDING SAID INHABITANTS BY ALL OF THE**
279 **ACTS, ORDINANCES, RESOLUTIONS, AND REGULATIONS OF SAID CITY; AND ADOPTING**
280 **A SERVICE PLAN OR AGREEMENT.**

281
282 The motion passed unanimously by a vote of 7 ayes and 0 nays.

- 283
284 **6. Hold a public hearing and discuss and consider approval of an**
285 **Ordinance rezoning 113.878 acres of land from Agricultural District**
286 **to Planned Development District with a base zoning of Light**
287 **Industrial District. The property is located west of Helms Trail and**
288 **north of Plantation Ridge. [Read Ordinance Caption]**

289
290 Community Development Director Peter Morgan discussed this item. Mr. Jonathan Stites
291 requests approval to rezone approximately 113.878 acres of property located south of west of
292 Helms Trail and north of Plantation Ridge. The property is located south of the future Akron Way
293 road. The purpose of the rezoning is to establish a planned development district with standards
294 for light industrial development.

295
296 **Current Standards:**

297 The property consists of 113.878 acres of land and is currently zoned in the Agricultural district.
298 The property is currently vacant and undeveloped. Access to the property is provided by the
299 new extension of Akron Way. Single-family residential lots are located adjacent to the southwest
300 property line.

301
302 **Rezoning Request:**

303 The requested rezoning replaces the existing Agricultural zoning with a light industrial Planned
304 Development. The primary use is distribution center, with a detailed definition provided in the
305 planned development conditions.

306
307 The planned development conditions are similar to the other nearby light industrial based
308 planned developments (Amazon, Blue Jay, and Goodyear). The maximum building height is
309 sixty feet (60') and open storage is permitted.

310
311 Screening is required adjacent to the residential properties located southwest of the property. A
312 sound study was completed by the applicant and the screening/fencing plan reflects the study

313 recommendations. A twelve foot (12') to fourteen foot (14') tall masonry screening wall is
314 provided adjacent to the residential properties. A six foot (6') tall chain link security fence is
315 shown adjacent to Helms Trail and on the west property line, but the chain link sections are
316 optional.

317
318 The Site Plan shows that two buildings are proposed on the property. Building 1 is shown to be
319 1,272,240 square feet and Building 2 is shown to be 645,840 square feet. Each building has
320 separate access points and parking/loading areas. The building elevation plan shows that the
321 buildings are designed to be fifty feet (50') in height.

322
323 The remaining zoning standards, including area regulations, must comply with the Zoning
324 Ordinance regulations. The landscape plan shows that the quantity of trees is provided in
325 accordance with the parking and street frontage requirements. A tree survey must be approved
326 prior to the issuance of any building or grading permit.

327
328 **Accessibility:**
329 The property provides direct access to Akron Way. A traffic impact analysis was provided and
330 has been reviewed by the City Engineer.

331
332 **Comprehensive Plan:**
333 The 2016 Comprehensive Plan does not provide a designation for this property.

334
335 **Public Notification:**
336 Staff provided notification of this public hearing to adjacent property owners and the notice was
337 published in the Forney Messenger. Staff received one email in opposition of the request.

338
339 **Recommendation:**
340 On January 7, 2021, the Planning and Zoning Commission voted to recommend approval with
341 the condition that the sound study recommendations are followed for the screening wall
342 adjacent to residential properties. The applicant has revised the screening/fencing plan to
343 comply with the recommendations.

344
345 The screening wall is 12-14 feet tall and 2,655 feet in length.

346
347 Mayor Penn opened the public hearing, but no one had signed up to speak, so the public
348 hearing was closed. Mayor Penn called for a motion. Council Member Cooper made a motion
349 to approve the Ordinance and Council Member Moon seconded the motion. The Ordinance
350 caption was read as follows:

351
352 **ORDINANCE NO. 21-06**
353
354 **AN ORDINANCE OF THE CITY OF FORNEY, TEXAS, AMENDING THE COMPREHENSIVE**
355 **ZONING ORDINANCE NO. 1085, AND MAP, AS AMENDED, BY CHANGING THE ZONING ON**
356 **APPROXIMATELY 113.878-ACRES OF LAND SITUATED IN THE (HEIRS OF) SAMUEL SMITH**
357 **SURVEY, ABSTRACT NO. 450, CITY OF FORNEY, KAUFMAN COUNTY, TEXAS, FROM AG-**
358 **AGRICULTURAL DISTRICT TO PD-PLANNED DEVELOPMENT OVERLAY DISTRICT, WITH A**
359 **BASE ZONING DISTRICT DESIGNATED AS LI – LIGHT INDUSTRIAL DISTRICT; PROVIDING**
360 **A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER**
361 **CLAUSE; PROVIDING A PENALTY CLAUSE; AND PROVIDING FOR PUBLICATION AND AN**
362 **EFFECTIVE DATE.**

363
364 The motion passed unanimously by a vote of 7 ayes and 0 nays.

365

366 7. **Hold a public hearing and discuss and consider approval of an**
367 **Ordinance rezoning 43.615 acres of land from Agricultural District to**
368 **Planned Development District with a base zoning of Light Industrial**
369 **District. The property is located at the southeast corner of U.S.**
370 **Highway 80 and S. Gateway Boulevard. [Read Ordinance Caption]**
371

372 Community Development Director Peter Morgan discussed this item. Mr. Bill Baumgardner
373 requests approval to rezone approximately 43.615 acres of property located at the southeast
374 corner U.S. Highway 80 and S. Gateway Boulevard. The purpose of the rezoning is to establish
375 a planned development district with standards for light industrial development.
376

377 **Current Standards:**

378 The property consists of 43.615 acres of land and is currently zoned in the Agricultural district.
379 The property is currently vacant and undeveloped. Access to the property is provided by Akron
380 Way. The Goodyear distribution facility is located the west, across S. Gateway Boulevard, and
381 the Amazon DDX7 facility is located to the south, across Akron Way.
382

383 **Rezoning Request:**

384 The requested rezoning replaces the existing Agricultural zoning with a light industrial Planned
385 Development. The primary use is distribution center, with a detailed definition provided in the
386 planned development conditions. The definition of distribution center does include “making
387 products on demand”, which staff would typically recommend as a use allowed with the
388 approval of a Conditional Use Permit (CUP). The planned development conditions also list
389 ‘Manufacturing, General’ as a permitted use, but only with CUP approval.
390

391 The planned development conditions are similar to the other nearby light industrial based
392 planned developments (Amazon, Blue Jay, and Goodyear). The maximum building height is
393 sixty feet (60’) and open storage is permitted. The building elevation plan with the site plan
394 request shows a building height of fifty feet, six inches (50’6”).
395

396 The Site Plan shows that the proposed building consists of 621,874 square feet. Automobile
397 and truck parking spaces are provided, with access from S. Gateway Boulevard and Akron
398 Way. Screening is not required since the property is not adjacent to any residential properties
399 or districts.
400

401 The majority of remaining zoning standards must comply with the Zoning Ordinance
402 regulations. The landscape plan shows that the quantity of trees is provided in accordance
403 with the parking and street frontage requirements. A tree survey must be approved prior to the
404 issuance of any building or grading permit.
405

406 **Accessibility:**

407 The property provides direct access to Akron Way and S. Gateway Boulevard. A traffic impact
408 analysis was provided and has been reviewed by the City Engineer.
409

410 **Comprehensive Plan:**

411 The 2016 Comprehensive Plan designates the future land use as Retail Regional.
412

413 **Public Notification:**

414 Staff provided notification of this public hearing to adjacent property owners and the notice was
415 published in the Forney Messenger. Staff did not receive any public comment.

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Recommendation:

On January 7, 2021, the Planning and Zoning Commission voted to recommend approval with a stipulation that “making products on demand” shall require approval of a Conditional Use Permit. The applicant has revised the request to comply with the stipulation by requiring approval of a Conditional Use Permit for “making products on demand”.

Mayor Penn opened the public hearing, but no one had signed up to speak, so the public hearing was closed. Mayor Penn called for a motion. Mayor Pro Tem Myers made a motion to approve the Ordinance and Council Member Johnson seconded the motion. The Ordinance caption was read as follows:

ORDINANCE NO. 21-07

AN ORDINANCE OF THE CITY OF FORNEY, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE NO. 1085, AND MAP, AS AMENDED, BY CHANGING THE ZONING ON APPROXIMATELY 43.615-ACRES OF LAND SITUATED IN THE (HEIRS OF) SAMUEL SMITH SURVEY, ABSTRACT NO. 450, CITY OF FORNEY, KAUFMAN COUNTY, TEXAS, FROM AG-AGRICULTURAL DISTRICT TO PD-PLANNED DEVELOPMENT OVERLAY DISTRICT, WITH A BASE ZONING DISTRICT DESIGNATED AS LI – LIGHT INDUSTRIAL DISTRICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER CLAUSE; PROVIDING A PENALTY CLAUSE; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

The motion passed unanimously by a vote of 7 ayes and 0 nays.

- 8. Hold a public hearing and discuss and consider approval of an Ordinance zoning 39.16 acres of land to Light Industrial District. The property includes Kaufman County Appraisal District Parcels 7814, 7815,7817, and 7818. [Read Ordinance Caption]**

Community Development Director Peter Morgan discussed this item. Platform 80-20, LP, requests approval to zone approximately 39.16 acres of property including Kaufman County Appraisal District Parcels 7814, 7815,7817, and 7818. The purpose of the zoning is to establish light industrial zoning standards for property being annexed into Forney city limits.

Current Standards:

The property consists of 39.16 acres of land. Approximately 14 acres is located inside Forney city limits and is zoned in the Agricultural District. Approximately 25 acres is currently located in Forney extra- territorial jurisdiction (ETJ) and is being considered by the City Council for a voluntary annexation. The property is largely vacant and undeveloped, with some residential structures adjacent to C.R. 212. Access to the property is provided by C.R. 212. The Amazon FTW5 facility is being constructed to the east of the property and the Gateway Parks residential subdivision is located to the south of the property.

Rezoning Request:

The requested zoning establishes Light Industrial as the zoning district for the property. The application letter states that the zoning request is to facilitate the eventual development and construction of approximately 800,000 square feet of warehouse and distribution uses, delivered in multiple phases.

The zoning request would establish the Zoning Ordinance as the regulatory zoning document for the property, with Light Industrial area regulations, approved uses, and other development

469 standards being enforced. The property also must be developed in accordance with additional
470 regulations approved by City Council in a development agreement between the City of Forney
471 and Platform 80-20, LP. The development agreement allows the following:
472

- 473 1. Distribution center as a permitted use;
- 474 2. Maximum building height of fifty feet (50');
- 475 3. Minimum required off-street parking for storage or warehousing, and light
476 manufacturing uses shall be 1 space for every 1,500 square feet of total
477 floor area;
- 478 4. Commercial trucks shall not be allowed to park or cause stacking of
479 trucks to occur on a public roadway, including CR 212; and
- 480 5. For storage, warehouse, or distribution center buildings, no front façade
481 offset of any kind shall be required, including without limitation, any such
482 offsets required under Section 33.4.F of the Zoning Ordinance or any
483 other section thereof.
484

485 Staff review finds that the zoning request is in conformance with the development agreement
486 approved by City Council.
487

488 **Accessibility:**

489 The property has direct access to C.R. 212.
490

491 **Comprehensive Plan:**

492 The 2016 Comprehensive Plan does not provide a future land use designation for the property.
493

494 **Public Notification:**

495 Staff provided notification of this public hearing to adjacent property owners and the notice was
496 published in the Forney Messenger. Staff did not receive any public comment.
497

498 **Recommendation:**

499 On January 7, 2021, the Planning and Zoning Commission voted to recommend approval.
500

501 Mayor Penn opened the public hearing, but no one had signed up to speak, so the public
502 hearing was closed. Mayor Penn called for a motion. Council Member Moon made a motion to
503 approve the Ordinance and Council Member Cooper seconded the motion. The Ordinance
504 caption was read as follows:
505

506 **ORDINANCE NO. 21-08**

507
508 **AN ORDINANCE OF THE CITY OF FORNEY, TEXAS, AMENDING THE COMPREHENSIVE**
509 **ZONING ORDINANCE NO. 1085, AND MAP, AS AMENDED, BY CHANGING THE ZONING ON**
510 **APPROXIMATELY 39.16-ACRES OF LAND SITUATED IN THE A. HYER SURVEY, ABSTRACT**
511 **NO. 203, CITY OF FORNEY, KAUFMAN COUNTY, TEXAS, FROM AG-AGRICULTURAL**
512 **DISTRICT TO PD-PLANNED DEVELOPMENT OVERLAY DISTRICT, WITH A BASE ZONING**
513 **DISTRICT DESIGNATED AS LI - LIGHT INDUSTRIAL DISTRICT; PROVIDING A**
514 **SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER**
515 **CLAUSE; PROVIDING A PENALTY CLAUSE; AND PROVIDING FOR PUBLICATION AND AN**
516 **EFFECTIVE DATE.**
517

518 The motion passed unanimously by a vote of 7 ayes and 0 nays.
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9. Hold a public hearing and discuss and consider approval of an Ordinance zoning 47.16 acres of land to Planned Development District with a base zoning of Light Industrial District. The property is located south of U.S. Highway 80 and west of Co. Rd. 212. [Read Ordinance Caption]

Community Development Director Peter Morgan discussed this item. Mr. Stephen Holley requests approval to zone approximately 47.16 acres of property located south of U.S. Highway 80 and west of Co. Rd. 212. The purpose of the zoning is to establish light industrial zoning standards for property being annexed into Forney city limits.

Current Standards:

The property consists of 47.16 acres of land. The property is currently located within Forney extra- territorial jurisdiction (ETJ) and is being considered by the City Council for a voluntary annexation. The property is largely vacant and undeveloped, though some residential and non-residential structures do exist on the property. Access to the property is provided by C.R. 212. The Goodyear distribution facility is located to the east of the property.

Zoning Request:

The requested zoning establishes Light Industrial as the zoning district for the property. The request letter states that the zoning request is to permit the development of a warehouse and distribution center. The applicant states that given that this development is located near U.S. Highway 80 and is a relatively low-intensity use, we (the applicant) believe it is keeping with the character of the surrounding area.

The Site Plan exhibit shows that the proposed building is 916,160 square feet. The zoning request would establish the Planned Development Ordinance as the regulatory zoning document for the property, with Light Industrial regulations, approved uses, and other development standards being enforced. The property also must be developed in accordance with additional regulations approved by City Council in a development agreement between the City of Forney and Stillwater Capital. The development agreement (attached) accepts the planned development conditions being proposed by this zoning request.

Staff review finds that the zoning request is in conformance with the development agreement approved by City Council.

Accessibility:

The property has direct access to C.R. 212.

Comprehensive Plan:

The 2016 Comprehensive Plan does not provide a future land use designation for the property due to its location outside city limits.

Public Notification:

Staff provided notification of this public hearing to adjacent property owners (in accordance with Texas Local Government Code) and the notice was published in the Forney Messenger. Staff did not receive any public comment.

Recommendation:

On January 7, 2021, the Planning and Zoning Commission voted to recommend approval.

571
572 Mayor Penn opened the public hearing, but no one had signed up to speak, so the public
573 hearing was closed. Mayor Penn called for a motion. Mayor Pro Tem Myers made a motion to
574 approve the Ordinance and Council Member Traylor seconded the motion. The Ordinance
575 caption was read as follows:

576
577 **ORDINANCE NO. 21-09**
578

579 **AN ORDINANCE OF THE CITY OF FORNEY, TEXAS, AMENDING THE COMPREHENSIVE**
580 **ZONING ORDINANCE NO. 1085, AND MAP, AS AMENDED, BY CHANGING THE ZONING ON**
581 **APPROXIMATELY 47.16-ACRES OF LAND SITUATED IN THE A. HYER SURVEY, ABSTRACT**
582 **NO. 203, CITY OF FORNEY, KAUFMAN COUNTY, TEXAS, FROM AG-AGRICULTURAL**
583 **DISTRICT TO PD-PLANNED DEVELOPMENT OVERLAY DISTRICT, WITH A BASE ZONING**
584 **DISTRICT DESIGNATED AS LI - LIGHT INDUSTRIAL DISTRICT; PROVIDING A**
585 **SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER**
586 **CLAUSE; PROVIDING A PENALTY CLAUSE; AND PROVIDING FOR PUBLICATION AND AN**
587 **EFFECTIVE DATE.**

588
589 The motion passed unanimously by a vote of 7 ayes and 0 nays.

590
591 City Attorney Thatcher requested that Mayor Penn take Discussion/Action Item No.1 under
592 advisement at this time.

- 593
594 **1. Discuss and consider a Resolution approving a Development**
595 **Agreement between the City of Forney and Bellagio Laguna Azure,**
596 **LLC for the development of an approximate 106.99 acres of land**
597 **located on FM 741 within the City of Forney and its extraterritorial**
598 **jurisdiction; setting a date, time and place for a public hearing on**
599 **the proposed annexation of an approximate 4.28 acres located at**
600 **8092 S FM 741, Forney, Texas, within the Absolom Hyer Survey,**
601 **Abstract 203, owned by Bellagio Laguna Azure, LLC.**
602

603 City Attorney Thatcher advised that the development actually covers 349.09 acres of land.
604 Bellagio Laguna Azure, LLC ("Bellagio") controls an approximate 349.09 acres of land, all of
605 which is located within the corporate limits of the City of Forney, except for 4.28 acres, which is
606 currently located within the City's ETJ. The property is located southeast of the Forney High
607 School on FM 741 and extends to the opposite side of FM 741 between the intersections of FM
608 741/Lakemont DR and FM 741/Precinct Rd. Bellagio desires to develop the property for both
609 single family and multi-family uses, commercial/restaurant uses, with a public/private lagoon
610 amenity.

611
612 Currently, the City does not have land use control over the property that is not located in the
613 city limits. The agreement contemplates annexation of the outside 4.28 acres into the City and
614 serves as the petition for annexation. The development agreement proposes that the property
615 will be developed for the aforementioned uses. The zoning for the majority of the property is up
616 for your consideration during the same Council meeting.

617
618 The development would be subject to water, wastewater and roadway impact fees and other
619 required development fees. Portions of the property are within the Talty SUD water service
620 area. The development would not pay water impact fees for the development within another
621 service area unless it becomes decertified at some point prior to the actual development
622 occurring on that property.
623

624 The proposed development agreement contemplates the petition to create a public
625 improvement district for the financing of certain public improvements within the development.
626 Further, the agreement provides for the development of a private amenity, specifically, a
627 lagoon, during the first phase of the development and provides development regulations
628 including regulated building materials for the full development.
629

630 The proposed Resolution approves the Development Agreement and accepts it as the petition
631 for annexation of the 4.28 acres and calls for the public hearing on the annexation during the
632 City's next regular Council meeting on February 2, 2021.
633

634 Mayor Penn called for a motion. Council Member Johnson made a motion to approve the
635 Resolution and Council Member Moon seconded the motion. The motion passed unanimously
636 by a vote of 7 ayes and 0 nays.
637

638 **10. Hold a public hearing and discuss and consider approval of an**
639 **Ordinance rezoning 349.09 acres of land from Agricultural District to**
640 **a Planned Development District with a mix of residential and non-**
641 **residential uses. The property includes 246.38 acres located**
642 **southeast of Forney High School and south of F.M. 741 and 102.71**
643 **acres located east of F.M. 741 and Lakemont Drive. [Read Ordinance**
644 **Caption]**
645

646 Community Development Director Peter Morgan discussed this item. Mr. David Schnurbusch,
647 representing the property owner, requests approval of the rezoning for approximately 349.09
648 acres of property located southeast of Forney High School and south of F.M. 741. The purpose
649 of the rezoning is to establish a mixed use development.
650

651 **Current Standards:**

652 The property is currently vacant and undeveloped. The current zoning for the property is
653 Agricultural District.
654

655 **Rezoning Request:**

656 The requested rezoning request is to replace the existing Agricultural District zoning with a
657 Planned Development that would incorporate a mix of uses. The concept plan provides the
658 geographical location of five different base zoning tracts for the entire property. The
659 development conditions detail the tracts as:
660

- 661 **A. Area A – Single-Family-6 (SF-6) District**
- 662
- 663 a. Minimum lot area: 5,000 sq. ft.
- 664
- 665 b. Minimum lot width: 40 ft.
- 666
- 667 c. Minimum front yard: 20 ft.
- 668
- 669 d. Minimum garage door setback: 25 ft.
- 670
- 671 e. Minimum side yard: 5 ft.
- 672
- 673 f. Maximum lot coverage: 50 percent
- 674

675 g. Minimum home size: 1,800 sq. ft. with a condition that for every two
676 dwelling units built at 2,000 sq. ft. or larger, one home may be built at 1,600
677 sq. ft. (Staff recommends a minimum of 1,800 square feet conditioned floor
678 area for all single-family homes)
679

680
681 **B.** Area B – Single-Family-6 (SF-6) District

- 682 a. Minimum lot area: 6,250 sq. ft.
- 683
- 684 b. Minimum lot width: 50 ft.
- 685
- 686 c. Minimum front yard: 20 ft.
- 687
- 688 d. Minimum garage door setback: 25 ft.
- 689
- 690 e. Minimum side yard: 5 ft.
- 691
- 692 f. Maximum lot coverage: 50 percent
- 693

694 g. Minimum home size: 1,800 sq. ft. with a condition that for every two
695 dwelling units built at 2,000 sq. ft. or larger, one home may be built at 1,600
696 sq. ft. (Staff recommends a minimum of 1,800 square feet conditioned floor
697 area for all single-family homes)
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701 **C.** Area C – Single-Family-6 (SF-6) District

- 702 a. Minimum lot area: 7,750 sq. ft.
- 703
- 704 b. Minimum lot width: 62 ft.
- 705
- 706 c. Minimum front yard: 20 ft.
- 707
- 708 d. Minimum garage door setback: 25 ft.
- 709
- 710 e. Minimum side yard: 6 ft.
- 711
- 712 f. Maximum lot coverage: 50 percent
- 713

714 g. Minimum home size: 1,800 sq. ft. with a condition that for every two
715 dwelling units built at 2,000 sq. ft. or larger, one home may be built at 1,600
716 sq. ft. (Staff recommends a minimum of 1,800 square feet conditioned floor
717 area for all single-family homes)
718
719

720 **D.** Tract D – Mixed Use (MU) District and Multi-Family (MF-15) District

- 721 a. Permitted uses: Includes the man-made Lagoon (fee based) with
722 related accessories as depicted on Exhibit D, multi-family, swimming
723 pool, offices, hair salon, nail salon, spa, service kiosk, health club,
724 restaurant, coffee shop, farmer's market, playground, food trucks, etc.
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- b. Lagoon is identified as a man-made body of water (approximately 2 surface acres), allowing for swimming and water sports, and including programmed amenities with a beach atmosphere.
 - c. Multi-family includes a maximum of 30 dwelling units per gross acre, with a minimum project size of 8 acres. The maximum number of multi-family units in Area D shall be 300 units.

735 **E. Area E – Multi-Family (MF-15) District**

- 736
737
738
- a. Maximum of 300 units.

739 The development conditions provide the detailed requirements for open space, screening,
740 landscaping, signage and other design elements. The development conditions state that the
741 maximum density is 3.7 single-family residential dwelling units per gross single-family residential
742 acre, or approximately 1,150 single-family residential lots based on the 310 single-family
743 residential gross acres. The Concept Plan provides the street and trail layout for the overall
744 development.

745
746 The applicant has indicated that a separate development agreement with City Council will
747 establish the phasing of development (amenity must be provided with phase 1), exterior
748 construction materials and the parkland dedication requirements. Staff does not recommend
749 approving the zoning until a development agreement is first approved.

750
751 **Accessibility:**

752 The property provides direct access to F.M. 741 at multiple locations. Connectivity is also
753 provided to adjacent properties. A traffic impact study needs to be approved prior to a final plat
754 being approved.

755
756 **Comprehensive Plan:**

757 The Comprehensive Plan does not provide a future land use designation for this property.

758
759 **Future Requirements:**

760 If approved, future development of the property will require approval of:

- 761
762
763
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766
1. Preliminary and Final Plats
 2. Traffic Impact Analysis
 3. Site Plans
 4. Civil Plans
 5. Building Plans (staff approved)

767 **Public Comment:**

768 Staff has received 13 emails in opposition of the request and 7 emails in support of the request.
769 During the Planning and Zoning Commission public hearing 3 members of the public spoke in
770 opposition of the request.

771
772 **Recommendation:**

773 On December 3, 2020, the Planning and Zoning Commission voted 5 to 1 (Bingham) to
774 recommend approval with the condition that the minimum home size for all single-family
775 residential housing is 1,800 square feet of conditioned floor area. The recommendation was

776 provided after the applicant confirmed that a development agreement would be presented for
777 City Council consideration.

778
779 Mayor Penn opened the public hearing. The following person signed up to speak at this time:
780

781 Chantel Lacelle
782 1345 Sandpiper
783 Forney, Texas 75126
784 Ms. Lacelle thanked the Council for their service and for allowing her to speak.
785 She is opposed to this project.
786

787 There being no one else to speak during the public hearing, Mayor Penn closed the public
788 hearing. Mayor Penn asked Darrell Grooms, the developer's representative, to talk about the
789 project in order to answer the many questions she had received. Mr. Grooms stated that
790 housing would start in the mid-\$250's and the lot sizes are regulated by the Development
791 Agreement. The lagoon is going to have 2 acres of surface water. It is a true blue lagoon.
792 They are using a special blue liner which will go all the way to sand. It will have astro turf which
793 will enable year-round usage. This a newer amenity. People will be able to come in and swim
794 and there will be short-term rentals. TxDOT controls FM741 and has set a construction date for
795 2025. It will be 15-17 months before the first house will be built. It could take up to a decade to
796 build out the 1100 units in the project. The hours of operation are 8:00 a.m. to 10:00 p.m.
797 Sunday through Thursday and 8:00 a.m. to 11:00 p.m. Friday and Saturday.
798

799 Mayor Penn stated that Michelle Long had sent in several questions. A lot of them, the City has
800 no control over and those would fall into the category of HOA, TABC, etc. Mayor Penn asked
801 Chief Lunt his opinion regarding any increase in the crime rate. Lunt stated there is no reason
802 this development would cause an increase in crime. We have a low crime rate and he has no
803 special concerns related to this development.
804

805 Mayor Pro Tem Myers stated that TxDOT has published the following dates for area road
806 construction: US80 – 2022; FM1641 -- 2022; Phase 1 FM548 – 2023. Who all uses our
807 infrastructure? All the MUD's – all those people use our infrastructure, but our citizens have to
808 pay for it. Getting projects like this helps our city. Kaufman County is the second fastest
809 growing county in the nation.
810

811 Council Member Moon stated that this project will not happen overnight. With regard to a fire
812 station on that side of town, as our city grows, fire stations will be built as the need arises.
813

814 Council Member Johnson stated he also had received a lot of emails today. You have to base
815 your decision on the best interests (long-term) of everyone. You have to look at the big picture.
816 Look at the tax rate – how much added revenue there is – existing vs. new development.
817 Johnson stated he is a proponent of growth. Every city in the Metroplex is going through this.
818 Texas openly seeks this growth. No city is 100% prepared for their growth. You have to play by
819 TxDOT rules.
820

821 Mayor Penn called for a motion. Council Member Johnson made a motion to approve the
822 Ordinance as per the recommendation of the Planning and Zoning Commission and Council
823 Member Moon seconded the motion. The Ordinance caption was read as follows:
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ORDINANCE NO. 21-10

AN ORDINANCE OF THE CITY OF FORNEY, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE NO. 1085, AND MAP, AS AMENDED, BY CHANGING THE ZONING ON APPROXIMATELY 349.09 ACRES OF LAND IN THE A. HYER SURVEY, ABSTRACT NO. 203, IN THE CITY OF FORNEY, KAUFMAN COUNTY, TEXAS, FROM AG –AGRICULTURAL DISTRICT TO PD – PLANNED DEVELOPMENT OVERLAY DISTRICT, WITH BASE ZONING DISTRICTS DESIGNATED AS SF-6 – SINGLE-FAMILY RESIDENTIAL-6 DISTRICT, MU – MIXED USE DISTRICT, AND MF-15 – MULTI-FAMILY RESIDENTIAL-15 DISTRICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER CLAUSE; PROVIDING A PENALTY CLAUSE; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

The motion passed unanimously by a vote of 7 ayes and 0 nays.

VI. DISCUSSION / ACTION ITEMS

2. Discuss and consider approval of a preliminary plat for the Seefried Addition, located west of Helms Trail and north of Plantation Ridge.

Community Development Director Peter Morgan discussed this item. Mr. Jonathan Stites requests approval of a preliminary plat for the Seefried Addition. The purpose of the preliminary plat is to establish the boundaries and easements necessary for the development of the property.

Current Standards:

The property consists of 113.878 acres of vacant and undeveloped land zoned within the Agricultural District. The applicant has made a request to rezone the property to a Light Industrial based planned development. The property has direct access to the future Akron Way.

Preliminary Plat:

The preliminary plat consists of two (2) lots and 113.878 acres of land. The primary access to the property is from the future Akron Way. A traffic impact analysis has been reviewed by the City Engineer. The plat is designed in conformance with the City of Forney Subdivision Ordinance.

Recommendation:

On January 7, 2021, the Planning and Zoning Commission voted to recommend approval.

Mayor Penn called for a motion. Mayor Pro Tem Myers made a motion to approve the preliminary plat and Council Member Traylor seconded the motion. The motion passed unanimously by a vote of 7 ayes and 0 nays.

3. Discuss and consider approval of a site plan for the Seefried Addition, located west of Helms Trail and north of Plantation Ridge.

Community Development Director Peter Morgan discussed this item. Mr. Jonathan Stites requests approval of a site plan for the Seefried Addition. The purpose of the site plan is to establish the site design for the light industrial development of the property.

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Current Standards:

The property consists of 113.878 acres of land and is zoned within the Agricultural District. The applicant has made a request to rezone the property to a Light Industrial based planned development. The property is currently vacant and undeveloped. The site plan shows access to the future Akron Way.

Site Plan:

The site plan is designed in accordance with the proposed planned development zoning conditions. The Site Plan shows that two buildings are proposed on the property. Building 1 is shown to be 1,272,240 square feet and Building 2 is shown to be 645,840 square feet. Each building has separate access points and parking/loading areas. The building elevation plan shows that the buildings are designed to be fifty feet (50') in height.

Screening is required adjacent to the residential properties located southwest of the property. A sound study was completed by the applicant and the screening/fencing plan reflects the study recommendations. A twelve foot (12') to fourteen foot (14') tall masonry screening wall is provided adjacent to the residential properties. A six foot (6') tall chain link security fence is shown adjacent to Helms Trail and on the west property line, but the chain link sections are optional.

The landscape plan shows that the quantity of trees is provided in accordance with the parking and street frontage requirements. A tree survey must be approved prior to the issuance of any building or grading permit.

Accessibility:

The property provides direct access to Akron Way. A traffic impact analysis was provided and has been reviewed by the City Engineer.

Recommendation:

On January 7, 2021, the Planning and Zoning Commission voted to recommend approval.

Mayor Penn called for a motion. Council Member Moon made a motion to approve the site plan and Council Member Cooper seconded the motion. The motion passed unanimously by a vote of 7 ayes and 0 nays.

4. Discuss and consider approval of a preliminary plat for the Van Trust Gateway Industrial Addition, located south of U.S. Highway 80 and east of S. Gateway Boulevard.

Community Development Director Peter Morgan discussed this item. Mr. Bill Baumgardner requests approval of a preliminary plat for the Van Trust Gateway Industrial Addition. The purpose of the preliminary plat is to establish the boundaries and easements necessary for the development of the property.

Current Standards:

The property consists of 43.615 acres of land and is zoned within the Agricultural District. The applicant has made a request to rezone the property to a Light Industrial based planned development. The property is currently vacant and undeveloped. The project plans propose access to the future Akron Way and to S. Gateway Boulevard.

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Preliminary Plat:

The preliminary plat consists of one (1) lot and 43.615 acres of land. A traffic impact analysis has been reviewed by the City Engineer. The plat is designed in conformance with the City of Forney Subdivision Ordinance.

Recommendation:

On January 7, 2021, the Planning and Zoning Commission voted to recommend approval.

Mayor Penn called for a motion. Council Member Johnson made a motion to approve the preliminary plat and Council Member Powers seconded the motion. The motion passed unanimously by a vote of 7 ayes and 0 nays.

5. Discuss and consider approval of a site plan for the Van Trust Addition, located south of U.S. Highway 80 and east of S. Gateway Boulevard.

Community Development Director Peter Morgan discussed this item. Mr. Bill Baumgardner requests approval of a site plan for the Van Trust Addition. The purpose of the site plan is to establish the site design for the light industrial development of the property.

Current Standards:

The property consists of 43.615 acres of land and is zoned within the Agricultural District. The applicant has made a request to rezone the property to a Light Industrial based planned development. The property is currently vacant and undeveloped. The project plans propose access to the future Akron Way and to S. Gateway Boulevard.

Site Plan:

The site plan is designed in accordance with the proposed planned development zoning conditions. The Site Plan shows that the proposed building consists of 621,874 square feet. Automobile and truck parking spaces are provided, with access from S. Gateway Boulevard and Akron Way. Screening is not required since the property is not adjacent to any residential properties or districts.

The landscape plan shows that the quantity of trees is provided in accordance with the parking and street frontage requirements. A tree survey must be approved prior to the issuance of any building or grading permit.

Accessibility:

The property provides direct access to Akron Way and S. Gateway Boulevard. A traffic impact analysis was provided and has been reviewed by the City Engineer.

Recommendation:

On January 7, 2021, the Planning and Zoning Commission voted to recommend approval.

Mayor Penn called for a motion. Council Member Powers made a motion to approve the site plan and Mayor Pro Tem Myers seconded the motion. The motion passed unanimously by a vote of 7 ayes and 0 nays.

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VII. OPEN FORUM/CITIZEN COMMENTS

This is the public's opportunity to address the City Council on any matter related to the City. In accordance with the Texas Open Meetings Act, Section 551.042, the City Council cannot discuss, consider, or take action on matters not listed on the agenda. The City Council will receive citizen comments on non-agenda items, and if necessary, may refer the matter to City staff for research, resolution or referral to Council on a future agenda. As described in the City's Public Meeting Procedures, comments will be limited to three (3) minutes.

No one signed up to speak in open forum.

VIII. CITY MANAGER'S REPORT

THE CITY MANAGER WILL DISCUSS CURRENT CITY ACTIVITIES, UPCOMING MEETINGS, FUTURE LEGISLATIVE ACTIVITIES, AND OTHER RELATED MATTERS FOR POSSIBLE ACTION, INCLUDING THE FOLLOWING:

Mayor Penn stated that Mr. Carson is out on sick leave and that we hope he gets well soon. Neil Cardwell is filling in for Mr. Carson and he stated he had no comments. Mayor Penn asked everyone to sign up for the Bond Committee.

Council Member Powers asked how Forney can get a vaccination hub. Who can we talk to? Chief Lunt stated that he will follow up. The rollout has been a struggle everywhere.

IX. COUNCIL COMMENTS

PURSUANT TO SECTION 551.0415 TEX. GOV'T CODE, CITY COUNCIL MEMBERS MAY MAKE A REPORT ABOUT ITEMS OF COMMUNITY INTEREST DURING A MEETING OF THE GOVERNING BODY WITHOUT HAVING GIVEN NOTICE OF THE REPORT. ITEMS OF COMMUNITY INTEREST INCLUDE:

Council Member Traylor stated that he manages seniors and it is very frustrating trying to find where they can go or who can come in and vaccinate them.

Mayor Pro Tem Myers stated that he looking into the amount of funding that the Fisd will receive from our recent developments. It is \$4.9 million dollars. He thanked Staff for their hard work and wished everyone a good night.

Council Member Powers thanked staff for their hard work. She thanked Chief Lunt for working for the citizens.

Council Member Moon had no comments.

Council Member Cooper thanked Council Member Johnson for trying to explain it all.

Council Member Johnson told everyone to get on multiple lists. He and his wife are in the high risk category and haven't been able to get vaccinated yet. Kudos to Staff and thank you for all your support. He announced that he would not be filing for re-election this year – due to his wife's health issues and that he has spent 48 years in municipal government. It is time for him to move on. This is a great Council and Staff.

Mayor Penn told David it has been a pleasure serving with him. Penn stated that several community members have come up with Covid. Please keep everyone in your prayers. She stated she appreciates Staff and this Council.

1028 Mayor Penn announced that Council would now adjourn into Executive Session under the Open
1029 Meetings Act, Chapter 551, Texas Government Code, Section 551.071 and called for a motion.
1030 Council Member Johnson made a motion to adjourn into Executive Session at 8:31 p.m. and
1031 Council Member Powers seconded the motion. The motion passed unanimously by a vote of 7
1032 ayes and 0 nays.
1033

1034 **X. EXECUTIVE SESSION**

1035 PURSUANT TO THE OPEN MEETINGS ACT, CHAPTER 551, TEXAS GOVERNMENT CODE,
1036 THE CITY COUNCIL WILL RECESS INTO EXECUTIVE SESSION (CLOSED MEETING) TO
1037 DISCUSS THE FOLLOWING:

1038
1039 **1. Consult with legal counsel regarding pending or contemplated**
1040 **litigation or a settlement offer and/or matters in which the duty of the**
1041 **attorney to the governmental body under Texas Disciplinary Rules**
1042 **of Professional Conduct of the State Bar of Texas clearly conflicts**
1043 **with Chapter 551 of the Texas Government Code (Tex. Gov't Code**
1044 **Section 551.071):**

1045
1046 **a. PUC Docket No. 47814; SOAH Docket No. 46-18-1344.WS –**
1047 **Petition of High Point Water Supply Corporation, Talty**
1048 **Special Utility District and Markout Water Supply Corporation**
1049 **Appealing the Decision by the City of Forney Affecting**
1050 **Wholesale Water Rates.**

1051
1052 **b. CARES Act CRF Funding**
1053

1054 **XI. RECONVENE INTO REGULAR SESSION**

1055 IN ACCORDANCE WITH TEXAS GOVERNMENT CODE, CHAPTER 551, THE CITY COUNCIL
1056 WILL RECONVENE INTO REGULAR SESSION TO CONSIDER ACTION, IF ANY, ON MATTERS
1057 DISCUSSED IN EXECUTIVE SESSION.
1058

1059 Council returned to Chambers at 9:21 p.m. Mayor Penn called for a motion to adjourn out of
1060 Executive Session at that time. Council Member Moon made a motion to adjourn out of
1061 Executive Session and Council Member Powers seconded the motion. The motion passed
1062 unanimously by a vote of 7 ayes and 0 nays.
1063

1064 City Attorney Thatcher read the following statement into the records:
1065

1066 On March 27, 2020, President Trump signed the CARES Act into law to provide
1067 resources to help governments and other entities respond to the Coronavirus
1068 pandemic. Within the CARES Act, the Coronavirus Relief Fund (CRF) was created
1069 to provide financial resources to state and local governments. The State of Texas
1070 received \$11.24 billion from the United States Department of Treasury for direct
1071 coronavirus related expenses. Less than half of that amount was to be made
1072 available to local governments. Of that amount, \$3.2 billion was sent directly by the
1073 Treasury to the largest 6 cities and 12 counties (populations over 500,000; i.e.
1074 Dallas County and cities situated within Dallas County). The remaining 1.85 billion
1075 was to be made available to counties below 500,000 in population and the cities
1076 within them (such as Forney) through the management of the Texas Department of
1077 Emergency Management (TDEM) rather than by direct funding.
1078

1079 The City of Forney was allocated approximately \$1.395 million based on the
1080 population of the City within its corporate boundaries. Twenty percent of the City's
1081 allocation was available immediately upon certification to the State that the grant
1082 terms would be followed by the City. The remaining balance of the allocated funds
1083 would be transferred to the City in the form of a reimbursement for those necessary
1084 expenditures incurred by the City due to the public health emergency and as long
1085 as the expenditures meet the criteria of Section 601(d) of the Social Security Act,
1086 which include the following:

- 1087 1. The expenditures were incurred due to the public health emergency with
1088 respect to the Coronavirus pandemic;
- 1089 2. The expenditures were not accounted for in the budget most recently
1090 approved as of March 27, 2020 (the date of the enactment of the CARES
1091 Act) for the state or local government; and
- 1092 3. The expenditures were incurred during the period that begins March 1,
1093 2020, and ends on December 30, 2020.

1094
1095
1096 Further, the eligible expenditures for consideration to be reimbursed include the
1097 following categories:

- 1098 1. Medical expenses
- 1099 2. Public health expenses
- 1100 3. Payroll expenses for public safety, public health, health care, human
1101 services, and similar employees whose services are substantially
1102 dedicated to mitigating or responding to the COVID-19 public health
1103 emergency.
- 1104 4. Expenses of actions to facilitate compliance with COVID-19 related
1105 public health emergency.
- 1106 5. Expenses associated with the provision of economic support in
1107 connection with the COVID-19 public health emergency.
- 1108 6. Any other COVID-19 - related expenses reasonably necessary to the
1109 function of government that
1110 satisfy the fund's eligibility criteria.
- 1111 7.

1112
1113 In September 2020, Mayor Penn executed the grant certification to the State
1114 through IDEM and the City received the initial 200/o of the allocation or
1115 \$279,081.00. At this time, the City of Forney created an informal staff committee with
1116 the purpose to review the CRF guidelines and formulate a spending plan to receive
1117 the remaining funds available to the City. Instruction provided to the City from TDEM
1118 was that any projects and purchases that were going to be submitted for
1119 reimbursement had to be completed by December 30, 2020, which included
1120 completion of any construction projects. Additionally, IDEM stated that payroll
1121 expenses would not be considered as eligible expenditures for reimbursement
1122 since they were already budgeted items. With this instruction, the City pursued
1123 projects and purchases under the remaining 5 categories as outlined above.

1124
1125 Due to the limited timeframe with which the City was given to identify and complete
1126 projects and purchases, the City Council approved, by resolution, the delegation of
1127 purchasing authority under the CRF to the City Manager, Tony Carson. Initial
1128 expenditures by the City included additional body worn cameras for public safety
1129 personnel, materials for facilities to provide better social distancing practices

1130 between City personnel and the general public, additional personal protective
1131 equipment (PPE) and sanitation materials for City facilities, information
1132 technology equipment necessary for teleconferencing and video conferencing
1133 capabilities, and the purchase of additional fleet vehicles for the City to allow for
1134 better social distancing practices for City personnel. The City utilized existing
1135 funds within its general fund to fund the projects and purchases. The funds would be
1136 reimbursed by the State through IDEM upon approval of the expenditures.

1137
1138 In November 2020, IDEM informed all local governments that all spending plans
1139 and completed paperwork must be submitted to IDEM by December 17, 2020
1140 rather than at the end of the year. Due to the amount of work that IDEM had
1141 inherited in managing the CRF, they retained the services of third-party auditors
1142 as consultants to work directly with the local governments including the City of
1143 Forney. One of the consultants for IDEM was scheduled to work with the City of
1144 Forney to review the City's spending plan prior to submission. Before the
1145 spending plan could be reviewed, the consultant and the local area manager for
1146 IDEM requested that Forney submit its payroll expenses for its public safety
1147 departments since March 1, 2020 rather than submit the invoices for the individual
1148 expenses that the City had made to facilitate IDEM in the application review
1149 process. This instruction was a stark departure from the previous instruction
1150 provided by IDEM. This expenditure for public safety personnel costs totaled more
1151 than \$3.78 million and would be more than enough in eligible expenditures to
1152 receive the full reimbursement of the remaining CRF funds for the City. As such,
1153 the City did not have to submit the individual projects and purchases that were
1154 originally contemplated and the use of CRF funds for these purposes was never
1155 considered by IDEM. They were never approved nor were they ever denied.
1156 Further, there has never been any notice by IDEM to the City through
1157 correspondence with IDEM or any of its contractors that the City has committed any
1158 violation of any sort.

1159
1160 The City's application and spending plan have completed all phases of IDEM's
1161 review process and the City is awaiting receipt of 100% of the balance of the CRF
1162 funds for the City. The funds will be returned to the City's general fund, which will
1163 be available to offset the initial cost of the projects and purchases originally
1164 contemplated for use under the grant so that no additional funding will be required
1165 from the City's general fund. Because the City of Forney will not have to use general
1166 fund revenue towards the purchases made by the City, including the purchase of
1167 several new vehicles, the City will be able to forgo these purchases in future fiscal
1168 years, which will allow additional funds to be allocated to other areas, such as
1169 road and other infrastructure maintenance. The CRF grant under the CARES Act,
1170 administered through the State of Texas, required the City of Forney to expend
1171 funds of the City in order to be eligible for reimbursement through the grant.

1172
1173 Prior to certification of the CRF funds for the City of Forney, the City Council and
1174 administration made the decision to defer other expenses as much as was feasible
1175 during the budget planning process for fiscal year 2021. It was determined
1176 necessary to understand the long-term impacts of the COVID-19 pandemic on the
1177 City's finances. All personnel cost increases including salary adjustments would be
1178 tabled until at least halfway through the fiscal year to allow City administration the
1179 ability to review the City's revenue from ad valorem tax payments, the majority of
1180 which is received by the end of January each year, as well as revenue from sales

1181 tax. The City Council and City administration will continue to review the state of
1182 the City's finances and review any of the deferred budget matters through the
1183 remainder of the 2021 fiscal year.

1184
1185 The City Council for the City of Forney prides itself on being good stewards of public
1186 monies and seeks after the best interests of the City of Forney as a whole. Thank
1187 you.

1188
1189 There being no further business to come before the Council, Mayor Penn called for a motion to
1190 adjourn at 9:30 p.m. Mayor Pro Tem Myers made a motion to adjourn and Council Member
1191 Powers seconded the motion. The motion passed unanimously by a vote of 7 ayes and 0 nays.

1192
1193 **PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FORNEY,**
1194 **TEXAS, this _____ day of _____, 2021.**

1195
1196
1197
1198 **ATTEST:** _____
Mary Penn, Mayor

1199
1200
1201 _____
Dorothy Brooks, City Secretary

1202
1203