

LEWISVILLE CITY COUNCIL

REGULAR SESSION

NOVEMBER 16, 2015

Present:

Rudy Durham, Mayor

Council Members:

R Neil Ferguson, Mayor Pro Tem
Greg Tierney, Deputy Mayor Pro Tem
Leroy Vaughn
TJ Gilmore
Brent Daniels

City Staff:

Donna Barron, City Manager
Steve Bacchus, Assistant City Manager
Melinda Galler, Assistant City Manager
Eric Ferris, Assistant City Manager
Julie Heinze, City Secretary
Lizbeth Plaster, City Attorney

WORKSHOP SESSION – 5:45 P.M.

With a quorum of the Council Members present, the workshop session of the Lewisville City Council was called to order by Mayor Durham at 5:45 p.m. on Monday, November 16, 2015, in the City Council Conference Room of the Lewisville City Hall, 151 West Church Street, Lewisville, Texas. All City Department Heads were in attendance.

**Proposed Changes to the Animal Services
Ordinance**

(Agenda Item A)

City Manager Donna Barron advised that after being walked through this item, the City Council would need to break at 6:15 p.m. for the Parks and Library Services Development Corporation meeting.

Health and Code Manager Sherry Harper along with Animal Services Supervisor Ethel Strother conducted the attached PowerPoint Presentation for City Council consideration.

City Manager Donna Barron advised that this would be brought back to a future meeting for the City Council to vote on the proposed changes.

WORKSHOP SESSION – 5:45 P.M.

**Proposed Changes to the Animal Services
Ordinance (cont'd)**

(Agenda Item A)

This portion of the meeting concluded at 6:05 p.m. Mayor Durham moved on to the discussion of regular agenda items and consent agenda items as follows:

**Discussion of Regular Agenda Items and
Consent Agenda Items**

(Agenda Item B)

Mayor Durham reviewed Agenda Item A, Invocation. There was no discussion on this item.

Mayor Durham reviewed Agenda Item B, Pledge to the American and Texas Flags. There was no discussion on this item.

Mayor Durham reviewed Agenda Item C, Consideration of Items Relating to the November 3, 2015, City of Lewisville Bond Election: 1) Canvass of the Election Returns for the City Council Bond Election; and 2) Consideration of a Resolution Declaring the Results of the City Council Bond Election. There was no discussion on this item.

Mayor Durham reviewed Agenda Item D-1, Public Hearing: Consideration of an Ordinance Granting a Zone Change From Old Town Mixed Use 2 District (OTMU2) to Parking District (PK); on a 0.403-Acre Lot, Legally Described as Lot 9R, Block 22 of the Kealy Addition, Located on the North Side of East Main Street, West of Railroad Street, at 541 East Main Street, as Requested by Alex Salguero of Alex Paint and Body, LLC, the Property Owner (Case No. PZ-2015-10-15). Economic Development Planning Manager Richard Luedke conducted the presentation included as backup for this item. Discussion was held regarding the size of each of the proposed buildings. Councilman Gilmore expressed concern that in the future there could be parking issues depending upon the use. Discussion was held that the Planning and Zoning Commission had been following the direction of the City Council master plan for this area and some of the issue had also been that the property owner was reluctant to give a timeline of the phases. Councilman Daniels expressed concern that the property owner had followed procedure and he did not feel comfortable now sayings that the City Council was not going to support that. He further indicated that he felt that regardless of any use changes in the future a parking lot would be needed.

Due to timing constraints, Mayor Durham recessed the meeting to begin the Parks and Library Development Corporation meeting at 6:15 p.m.

WORKSHOP SESSION – 5:45 P.M.

**Discussion of Regular Agenda Items and
Consent Agenda Items (cont'd)**

(Agenda Item B)

Mayor Durham called the workshop session back to session at 6:27 p.m. and returned to the discussion of Agenda Item D-1, Public Hearing: Consideration of an Ordinance Granting a Zone Change From Old Town Mixed Use 2 District (OTMU2) to Parking District (PK); on a 0.403-Acre Lot, Legally Described as Lot 9R, Block 22 of the Kealy Addition, Located on the North Side of East Main Street, West of Railroad Street, at 541 East Main Street, as Requested by Alex Salguero of Alex Paint and Body, LLC, the Property Owner (Case No. PZ-2015-10-15). Councilman Daniels stated that one of the things with the 2025 Plan is making sure is that for people coming into Old Town there is a great appearance, and that he felt the property owner had dramatically improved this property. He felt that the property would continue to look better over the next few years. Councilman Gilmore expressed concern that it could also be the appearance for the next 25 years, there was nothing saying the property owner would complete his phases in the next five to ten years. Discussion was held regarding the boundaries of the Old Town District and the different rules regulating parking and setback requirements. Pursuant to City Council questioning, Economic Development Director Nika Reinecke advised that his current building meets or exceeds the parking requirement; however, the property owner needs more parking. Discussion was held that the plan submitted was only a concept, that it was not something that the property owner would be required to stick to. Mayor Durham reminded the City Council that due to the Planning and Zoning Commission's vote, in order for this item to pass this evening, the City Council's vote would need to be unanimous. There was no further discussion on this item.

Mayor Durham reviewed Agenda Item D-2, Public Hearing: Consideration of an Ordinance Granting a Zone Change From Light Industrial District (LI) to Planned Development-Mixed Use District (PD-MU); for The Village at Lewisville, a Proposed Mixed Use Development; on an Approximately 90.588-Acre Tract of Land out of the Stephen Riggs Survey, Abstract No. 1088 and the WM. Brown Survey, Abstract No. 63; Located on Both the East and West Sides of Summit Avenue North of the Kansas City Southern Railroad and Grandys Lane With Frontage on the West Side of I-35E (North Stemmons Freeway) and the East Side of McGee Lane, as Requested by Beverly Development Company, Inc., the Applicant (Case No. PZ-2015-10-16). City Manager Donna Barron advised that Economic Development Director Nika Reneicke along with the applicant would be doing a presentation on this item during the regular meeting. There was no further discussion on this item.

WORKSHOP SESSION – 5:45 P.M.

**Discussion of Regular Agenda Items and
Consent Agenda Items (cont'd)**

(Agenda Item B)

Mayor Durham reviewed Agenda Item D-3, Public Hearing: Consideration of an Ordinance Granting a Zone Change From General Business District (GB) to Mixed Use District (MU); on an Approximately 10.79-Acre Tract of Land out of the East Brown Survey, Abstract No. 62, Located at the Southwest Quadrant of Grandys Lane and I-35E (North Stemmons Freeway) and North of the Kansas City Southern Railroad, as Requested by Santa Fe Realty Corporation, the Property Owner (Case No. PZ-2015-11-17). There was no discussion on this item.

Mayor Durham reviewed Agenda Item D-4, Public Hearing: Consideration of an Ordinance Prohibiting the Use of and Contact With Designated Groundwater From Beneath The Property Generally Described as the 15.2-acre Tract Comprising the Western Portion of an Approximately 29-acre Real Property Parcel Located at 1000 Lake Ridge Road, Lewisville, Texas, to Facilitate Certification of a Municipal Setting Designation (“MSD”) of Said Property by the Texas Commission on Environmental Quality (“TCEQ”), Pursuant to the Texas Solid Waste Disposal Act; Providing for a Repealer; Providing for Severability; Providing a Penalty; Providing an Effective Date; and Declaring an Emergency. City Manager Donna Barron advised that Jack McCranie, Terracon Consultant, Inc., would be making a presentation on this item during the regular meeting. There was no further discussion on this item.

Mayor Durham reviewed Agenda Item E, Visitors/Citizens Forum. There was no discussion on this item.

Mayor Durham reviewed Agenda Item F-5, Approval of City Council Minutes of the November 2, 2015, Workshop Session and Regular Session. There was no discussion on this item.

Mayor Durham reviewed Agenda Item F-6, Acceptance of the 2015 Homeland Security Grant Program’s Urban Area Security Initiative (UASI) Grant Award; and Approval of a Supplemental Appropriation in the Amount of \$130,000 to the FY 2015-2016 Grant Fund for Reimbursable Purchases. There was no discussion on this item.

Mayor Durham reviewed Agenda Item F-7, Approval of a Bid Award for an Annual Requirements Contract for Instrumentation Services to Wunderlich-Malec Engineering Inc., Addison, Texas for an Estimated Amount of \$111,030. There was no discussion on this item.

WORKSHOP SESSION – 5:45 P.M.

**Discussion of Regular Agenda Items and
Consent Agenda Items (cont'd)**

(Agenda Item B)

Mayor Durham reviewed Agenda Item F-8, Approval of Modifications to Policy Statement 3.0, Sections III, IX, and VIII; and Policy Statement 2.0, Sections XI and IV. There was no discussion on this item.

Mayor Durham reviewed Agenda Item F-9, Approval of an Extension of a Professional Services Agreement With Transform Global for Completion of a Resource and Efficiency Assessment for the City of Lewisville; and Authorization for City Manager to Execute the Agreement. There was no discussion on this item.

Mayor Durham reviewed Agenda Item F-10, Approval of a Local Project Advance Funding Agreement (LPAFA) With the Texas Department of Transportation Related to Construction and Funding of Valley Ridge Blvd; and Authorization for the City Manager to Execute the Agreement. There was no discussion on this item.

Mayor Durham reviewed Agenda Item G, Reports: Quarterly Investment Report From July 1, 2015 – September 30, 2015. There was no discussion on this item.

Mayor Durham reviewed Agenda Item H-Closed Session. There was no discussion on this item.

With no further discussion, the workshop session of the Lewisville City Council was adjourned at 6:42 p.m. on Monday, November 16, 2015.

REGULAR SESSION - 7:00 P.M.

With a quorum of the Council Members present, the regular session of the Lewisville City Council was called to order by Mayor Durham at 7:00 p.m. on Monday, November 16, 2015, in the Council Chambers of the Lewisville City Hall, 151 West Church Street, Lewisville, Texas.

Invocation

(Agenda Item A)

At the request of Mayor Durham, Councilman Vaughn gave the invocation.

Pledge to the American and Texas Flags

(Agenda Item B)

At the request of Mayor Durham, Deputy Mayor Pro Tem Tierney gave the pledge to the American and Texas flags.

**Consideration of Items Relating to the
November 3, 2015, City of Lewisville Bond
Election**

(Agenda Item C-1)

The City Council canvassed the following results of the City of Lewisville Bond Election held on November 3, 2015:

City Secretary Julie Heinze read the following results:

Names	Denton County			Dallas County		TOTAL	%
	<u>Absentee</u>	<u>Early Voting</u>	<u>Election Day</u>	<u>Early Voting</u>	<u>Election Day</u>		
PROPOSITION NO. 1							
For	12	1430	1103	5	8	2558	70.449%
Against	5	561	502	3	2	1073	29.551%
PROPOSITION NO. 2							
For	10	1201	994	4	7	2216	61.030%
Against	9	784	615	4	3	1415	38.970%
PROPOSITION NO. 3							
For	18	1600	1239	7	10	2874	78.826%
Against	1	394	376	1	0	772	21.174%
PROPOSITION NO. 4							
For	10	987	824	3	4	1828	50.234%
Against	9	1000	791	5	6	1811	49.766%
TOTAL NUMBER OF VOTERS WHO VOTED AS INDICATED BY POLL LIST		3702		19		3721	

Consideration of Items Relating to the November 3, 2015, City of Lewisville Bond Election: Approval of a Resolution No. 4224-10-2015(R) Declaring the Results of the City Council Bond Election

(Agenda Item C-2)

MOTION: Upon a motion made by Councilman Vaughn and seconded by Councilman Ferguson, the Council voted four (5) “ayes” and no (0) “nays” to approve and adopt **Resolution No. 4224-10-2015(R)**: A Resolution of the City Council of the City of Lewisville, Texas, Canvassing Results of a Bond Election Held November 3, 2015; and Providing an Effective Date. The motion carried.

Public Hearing: Consideration of Ordinance Granting a Zone Change From Old Town Mixed Use 2 District (OTMU2) to Parking District (PK); on a 0.403-Acre Lot, Legally Described as Lot 9R, Block 22 of the Kealy Addition, Located on the North Side of East Main Street, West of Railroad Street, at 541 East Main Street, as Requested by Alex Salguero of Alex Paint and Body, LLC, the Property Owner (Case No. PZ-2015-10-15)

(Agenda Item D-1)

The requested the zone change from OTMU2 to PK will allow the construction of a parking lot for customer and employee parking associated with the applicant’s paint and body shop business, which is located on the adjacent lot to the east. The applicant proposes to surround the parking lot with decorative fencing and landscaping between the parking lot and East Main Street. A future development phase involves the construction of two new buildings fronting East Main Street. The Planning and Zoning Commission recommended denial of the zone change by a vote of 4-2 at their meeting on October 20, 2015. All five voting members (3/4 of all members) must vote in favor of this change to overrule the Planning and Zoning Commission (Lewisville City Charter – Section 17-37d).

The City staff’s recommendation was that the City Council approve the proposed ordinance as set forth in the caption above.

Mayor Durham opened the public hearing.

Richard E. Luedke, Economic Development Planning Manager referenced the PowerPoint Presentation that had been discussed during Workshop Session.

Public Hearing: Consideration of Ordinance Granting a Zone Change From Old Town Mixed Use 2 District (OTMU2) to Parking District (PK); on a 0.403-Acre Lot, Legally Described as Lot 9R, Block 22 of the Kealy Addition, Located on the North Side of East Main Street, West of Railroad Street, at 541 East Main Street, as Requested by Alex Salguero of Alex Paint and Body, LLC, the Property Owner (Case No. PZ-2015-10-15) (cont'd)

(Agenda Item D-1)

Alex Salguero of Alex Paint and Body, LLC, the Property Owner, spoke before the City Council to regarding consideration of this request.

Doug Crow, 111 Oakbend Drive, Coppell, Texas, spoke before the City Council in support of this request.

Mary Herrera, MH General Contractors, LLC, PO Box 487, Little Elm, Texas, spoke before the City Council in support of this request.

Mike Carey, 9355 Blanco Drive, Lantana, Texas, spoke before the City Council in support of this request.

Glen Kimball, 1608 Color Street, Flower Mound, Texas, spoke before the City Council in support of this request.

Mayor Durham advised that Ray Hernandez had submitted a card as a private citizen indicating his support of this item.

MOTION: Upon a motion made by Mayor Pro Tem Ferguson and seconded by Councilman Vaughn, the Council voted five (5) “ayes” and no (0) “nays” to close the public hearing. The motion carried.

Mayor Pro Tem Ferguson made a motion to approve the item as presented. Councilman Daniels seconded the motion. Councilman Gilmore indicated that the residents had given a vision for this area and that is what the Planning and Zoning Commission voted to uphold. He expressed concern in overriding that vote and allowing a parking lot all the way up to the sidewalk with nothing to encumber this from adding more concrete, which goes against what the City has been trying to do in Old Town. He stated that he felt they needed to vote to maintain the high standards and that he would be against this item.

Public Hearing: Consideration of Ordinance Granting a Zone Change From Old Town Mixed Use 2 District (OTMU2) to Parking District (PK); on a 0.403-Acre Lot, Legally Described as Lot 9R, Block 22 of the Kealy Addition, Located on the North Side of East Main Street, West of Railroad Street, at 541 East Main Street, as Requested by Alex Salguero of Alex Paint and Body, LLC, the Property Owner (Case No. PZ-2015-10-15) (cont'd)

(Agenda Item D-1)

Deputy Mayor Pro Tem Tierney questioned if the property could be rezoned to allow parking in the back and while maintaining the OTMU2 in the front. City Attorney Lizbeth Plaster advised that it would need to be rezoned and replatted. Councilman Gilmore expressed his desire if the property owner wished to go this direction that all fees would be waived and indicated that he would be in favor of this option. Deputy Mayor Pro Tem Tierney stated that Old Town was going to need more parking eventually in this area. He indicated that he felt Mr. Salguero had followed the rules and he did not feel he should be penalized that the plan had changed.

Councilman Daniels advised that he understood Old Town was the heart of Lewisville and the City and businesses had invested a considerable amount. He felt this was a good business that would bring more great business to this area.

Councilman Vaughn concurred with the City Council Members that had spoken. He stated that he was supportive of the owner and his business and would like to continue to see him flourish; however, his dilemma was due to the plan for this area. He advised that he would be voting in favor to override the Planning and Zoning Commission's decision.

Discussion was held regarding Deputy Mayor Pro Tem Tierney's suggestion between the City Council and Mr. Salguero. Based upon this discussion, Mr. Salguero withdrew his request in order to work with City staff to consider replatting this property with deed restrictions that will give the City Council a more solid assurance of what the product will be in the future. City Attorney Lizbeth Plaster advised that this did not mean that the City Council was requiring, or requesting, the deed restrictions. Mayor Pro Tem Ferguson along with Councilman Daniels withdrew the previously stated motion.

Public Hearing: Consideration of Ordinance No. 4225-11-2015 (Z) Granting a Zone Change From Light Industrial District (LI) to Planned Development-Mixed Use District (PD-MU); for The Village at Lewisville, a Proposed Mixed Use Development; on an Approximately 90.588-Acre Tract of Land out of the Stephen Riggs Survey, Abstract No. 1088 and the WM. Brown Survey, Abstract No. 63; Located on Both the East and West Sides of Summit Avenue North of the Kansas City Southern Railroad and Grandys Lane With Frontage on the West Side of I-35E (North Stemmons Freeway) and the East Side of McGee Lane, as Requested by Beverly Development Company, Inc., the Applicant (Case No. PZ-2015-10-16)

(Agenda Item D-2)

The proposed Planned Development (PD) for The Village at Lewisville is presented as a customized form-based code tailored for the unique characteristics and challenges that exist on the site. The PD utilizes the Mixed Use District (MU) as the base district while the form-based code provides a flexible development framework that is responsive to market demands while maintaining high quality development standards. The Planning and Zoning Commission recommended unanimous approval (6-0) of the zone at their meeting on November 3, 2015.

The City staff's recommendation was that the City Council approve the proposed ordinance as set forth in the caption above.

Mayor Durham opened the public hearing.

Nika Reinecke, Dir. of Economic Development / Planning and Dan Quinto, Roaring Brook Development Company both gave brief presentation to the City Council regarding this item.

MOTION: Upon a motion made by Mayor Pro Tem Ferguson and seconded by Deputy Mayor Pro Tem Tierney, the Council voted five (5) "ayes" and no (0) "nays" to close the public hearing. The motion carried.

Public Hearing: Consideration of Ordinance No. 4225-11-2015 (Z) Granting a Zone Change From Light Industrial District (LI) to Planned Development-Mixed Use District (PD-MU); for The Village at Lewisville, a Proposed Mixed Use Development; on an Approximately 90.588-Acre Tract of Land out of the Stephen Riggs Survey, Abstract No. 1088 and the WM. Brown Survey, Abstract No. 63; Located on Both the East and West Sides of Summit Avenue North of the Kansas City Southern Railroad and Grandys Lane With Frontage on the West Side of I-35E (North Stemmons Freeway) and the East Side of McGee Lane, as Requested by Beverly Development Company, Inc., the Applicant (Case No. PZ-2015-10-16) (cont'd)

(Agenda Item D-2)

City Attorney Lizbeth Plaster read the ordinance caption into the record as follows:

“An Ordinance of the City Council of the City of Lewisville, Texas, Amending the Zoning Ordinance of the City of Lewisville, Texas by Rezoning an Approximately 90.588-Acre Tract of Land Out of the Stephen Riggs Survey, Abstract No. 1088 and the WM. Brown Survey, Abstract No. 63; Located on Both the East and West Sides of Summit Avenue North of the Kansas City Southern Railroad and Grandys Lane With Frontage on the West Side of I-35E (North Stemmons Freeway) and the East Side of McGee Lane; From Light Industrial District (LI) Zoning to Planned Development-Mixed Use District (PD-MU) Zoning; Correcting the Official Zoning Map: Preserving all Other Portions of the Zoning Ordinance; Providing a Clause Relating to Severability; Determining That the Public Interests and General Welfare Demand This Zoning Change and Amendment Therein Made; Providing a Penalty; and Declaring an Emergency.”

MOTION: Upon a motion made by Councilman Vaughn and seconded by Mayor Pro Tem Ferguson, the Council voted five (5) “ayes” and no (0) “nays” to approve and adopt **Ordinance No. 4225-11-2015 (Z)**, as previously captioned. The motion carried.

**Public Hearing: Consideration of Ordinance
No. 4226-11-2015 (Z) Granting a Zone
Change From General Business District (GB)
to Mixed Use District (MU); on an
Approximately 10.79-Acre Tract of Land out
of the East Brown Survey, Abstract No. 62,
Located at the Southwest Quadrant of
Grandys Lane and I-35E (North Stemmons
Freeway) and North of the Kansas City
Southern Railroad, as Requested by Santa Fe
Realty Corporation, the Property Owner
(Case No. PZ-2015-11-17)**

(Agenda Item D-3)

The applicant has specified that the site will be developed in accordance with the MU District and the Northern Gateway Framework Plan (NGFP), which is attached as a component of the concept plan submittal. The concept plan for the site illustrates five buildings which are in general alignment with the NGFP, which specifies buildings with a mix of office, retail, attached residential, hotel and entertainment land uses. The wooded floodplain on the east side of the site is designated as open space. The Planning and Zoning Commission recommended unanimous approval of the zone change at their meeting on November 3, 2015.

The City staff's recommendation was that the City Council approve the proposed ordinance as set forth in the caption above.

Mayor Durham opened the public hearing.

Nika Reinecke, Dir. of Economic Development / Planning briefly reviewed this item for the City Council. (Mayor Pro Tem Ferguson was absent from the dais during Ms. Reinecke's presentation.)

Mayor Durham advised that O'Neal Gray, Property Owner, had submitted a card indicating his support of this item.

MOTION: Upon a motion made by Deputy Mayor Pro Tem Tierney and seconded by Councilman Vaughn, the Council voted five (5) "ayes" and no (0) "nays" to close the public hearing. The motion carried.

Public Hearing: Consideration of Ordinance No. 4226-11-2015 (Z) Granting a Zone Change From General Business District (GB) to Mixed Use District (MU); on an Approximately 10.79-Acre Tract of Land out of the East Brown Survey, Abstract No. 62, Located at the Southwest Quadrant of Grandys Lane and I-35E (North Stemmons Freeway) and North of the Kansas City Southern Railroad, as Requested by Santa Fe Realty Corporation, the Property Owner (Case No. PZ-2015-11-17) (cont'd)

(Agenda Item D-3)

City Attorney Lizbeth Plaster read the ordinance caption into the record as follows:

“An Ordinance of the City Council of the City of Lewisville, Texas, Amending the Zoning Ordinance of the City of Lewisville, Texas by Rezoning an Approximately 10.79-Acre Tract of Land Out of the E. Brown Survey, Abstract No. 62; Located at the Southwest Quadrant of Grandys Lane and I-35E (North Stemmons Freeway) and North of the Kansas City Southern Railroad; From General Business District (GB) Zoning to Mixed Use District (MU) Zoning; Correcting the Official Zoning Map: Preserving all Other Portions of the Zoning Ordinance; Providing a Clause Relating to Severability; Determining That the Public Interests and General Welfare Demand This Zoning Change and Amendment Therein Made; Providing a Penalty; and Declaring an Emergency.”

MOTION: Upon a motion made by Deputy Mayor Pro Tem Tierney and seconded by Councilman Vaughn, the Council voted five (5) “ayes” and no (0) “nays” to approve and adopt **Ordinance No. 4226-11-2015 (Z)**, as previously captioned. The motion carried.

Public Hearing: Consideration of Ordinance No. 4227-11-2015 Prohibiting the Use of and Contact With Designed Groundwater From Beneath The Property Generally Described as the 15.2-acre Tract Comprising the Western Portion of an Approximately 29-acre Real Property Parcel Located at 1000 Lake Ridge Road, Lewisville, Texas, to Facilitate Certification of a Municipal Setting Designation (“MSD”) of Said Property by the Texas Commission on Environmental Quality (“TCEQ”), Pursuant to the Texas Solid Waste Disposal Act; Providing for a Repealer; Providing for Severability; Providing a Penalty; Providing an Effective Date; and Declaring an Emergency

(Agenda Item D-4)

On November 3, 2015, the City received an MSD application from Terracon Consultants, Inc., on behalf of Mr. Howard L. Nycum, property owner at 1000 Lake Ridge Road in Lewisville. The application was reviewed by City staff and deemed complete, and a public meeting was held on November 5, 2015. Ordinance No. 4158-02-2015 requires a public hearing for consideration of the application by City Council.

The City’s staff recommendation was that the City Council consider the proposed ordinance as set forth in the caption above.

Mayor Durham opened the public hearing

Jack McCranie, Terracon Consultant, Inc. presented the attached PowerPoint for the City Council’s consideration.

MOTION: Upon a motion made by Deputy Mayor Pro Tem Tierney and seconded by Councilman Gilmore, the Council voted five (5) “ayes” and no (0) “nays” to close the public hearing. The motion carried.

Public Hearing: Consideration of Ordinance No. 4227-11-2015 Prohibiting the Use of and Contact With Designed Groundwater From Beneath The Property Generally Described as the 15.2-acre Tract Comprising the Western Portion of an Approximately 29-acre Real Property Parcel Located at 1000 Lake Ridge Road, Lewisville, Texas, to Facilitate Certification of a Municipal Setting Designation (“MSD”) of Said Property by the Texas Commission on Environmental Quality (“TCEQ”), Pursuant to the Texas Solid Waste Disposal Act; Providing for a Repealer; Providing for Severability; Providing a Penalty; Providing an Effective Date; and Declaring an Emergency (cont’d)

(Agenda Item D-4)

City Attorney Lizbeth Plaster read the ordinance caption into the record as follows:

“An Ordinance Prohibiting the Use of and Contact With Designated Groundwater From Beneath the Property Generally Described as the 15.2-Acre Tract Comprising the Western Portion of an Approximately 28-Acre Real Property Parcel Located at 1000 Lake Ridge Road, Lewisville, Texas, to Facilitate Certification of a Municipal Setting Designation (“MSD”) of Said Property by the Texas Commission on Environmental Quality (“TCEQ”), Pursuant to the Texas Solid Waste Disposal Act; Providing for a Repealer; Providing for Severability; Providing a Penalty; Providing an Effective Date; and Declaring an Emergency.”

MOTION: Upon a motion made by Councilman Daniels and seconded by Deputy Mayor Pro Tem Tierney, the Council voted five (5) “ayes” and no (0) “nays” to approve and adopt **Ordinance No. 4227-11-2015**, as previously captioned. The motion carried.

Visitors/Citizens Forum

(Agenda Item E)

No one appeared to speak at this time.

CONSENT AGENDA

(Agenda Item F)

MOTION: Upon a motion made by Councilman Vaughn and seconded by Mayor Pro Tem Ferguson, the Council voted five (5) “ayes” and no (0) “nays” to approve and adopt all remaining items on the Consent Agenda, as recommended and as follows:

5. APPROVAL OF MINUTES: City Council Minutes of the November 2, 2015, Workshop Session and Regular Session.
6. Acceptance of the 2015 Homeland Security Grant Program’s Urban Area Security Initiative (UASI) Grant Award; and Approval of a Supplemental Appropriation in the Amount of \$130,000 to the FY 2015-2016 Grant Fund for Reimbursable Purchases.
7. Approval of a Bid Award for an Annual Requirements Contract for Instrumentation Services to Wunderlich-Malec Engineering Inc., Addison, Texas for an Estimated Amount of \$111,030.
8. Approval of Modifications to Policy Statement 3.0, Sections III, IX, and VIII; and Policy Statement 2.0, Sections XI and IV.
9. Approval of an Extension of a Professional Services Agreement With Transform Global for Completion of a Resource and Efficiency Assessment for the City of Lewisville; and Authorization for City Manager to Execute the Agreement.
10. Approval of a Local Project Advance Funding Agreement (LPAFA) With the Texas Department of Transportation Related to Construction and Funding of Valley Ridge Blvd; and Authorization for the City Manager to Execute the Agreement.

The motion carried.

END OF CONSENT AGENDA

Reports

(Agenda Item G)

- Quarterly Investment Report From July 1, 2015 – September 30, 2015
- Director of Communications and Tourism James Kunke gave a report from the Special Events Team regarding the upcoming events scheduled for the Holiday Stroll on Saturday, December 5th. He also gave a brief review of the upcoming events scheduled at MCL Grand Theatre.
- Director of Public Services Carole Bassinger gave an update on the status of the lake.
- Councilman Daniels advised that he was excited for the Holiday Stroll.
- Councilman Gilmore gave an update on the upcoming events at the Lewisville Library.
- City Manager Donna Barron advised that Carole Bassinger, Director of Public Services, would be retiring at the end of December and only has two more meetings left for the City Council to question her on the status of the lake.
- Mayor Durham advised that Mayor Carey was under the weather and wished him well.
- Mayor Durham thanked the officer for being present.

There were no additional reports at this time.

Mayor Durham adjourned the regular session of the Lewisville City Council into Closed Session at 8:27 p.m. Monday, November 16, 2015, in accordance with the requirements of the Open Meetings Law.

Closed Session

(Agenda Item H)

In accordance with Texas Government Code, Subchapter D, Section 551.072 (Real Estate), the Lewisville City Council convened into Closed Session at 8:27 p.m. on Monday, November 16, 2015, City Council Conference Room of the Lewisville City Hall, 151 West Church Street, Lewisville, Texas, in order to discuss matters pertaining to the following:

Section 551.071 (Consultation with Attorney/Pending Litigation):

1. Texas Commission on Environmental Quality Modification to Municipal Solid Waste Permit No. 1312A; and Texas Commission on Environmental Quality Application to Obtain Municipal Solid Waste Permit Amendment - Permit No. 1312B

Section 551.072 (Real Estate):

2. Property Acquisition

Closed Session (cont'd)

(Agenda Item H)

Section 551.087 (Economic Development):

3. Deliberation Regarding Economic Development Negotiations

The Closed Session was adjourned at 9:19 p.m. on Monday, November 16, 2015.

**Reconvene into Regular Session and
Consider Action, if any, on Items Discussed
in Closed Session**

(Agenda Item I)

Mayor Durham reconvened the Regular Session of the Lewisville City Council at 9:19 p.m. on Monday, November 16, 2015, in the Council Chambers of the Lewisville City Hall.

Mayor Durham opened the floor for action to be taken on the items discussed in the Closed Session. There was no action taken on the items discussed during the Closed Session.

Adjournment

(Agenda Item J)

MOTION: Upon a motion made by Councilman Vaughn and seconded by Deputy Mayor Pro Tem Tierney, the Council voted five (5) "ayes" and no (0) "nays" to adjourn the Regular Session of the Lewisville City Council at 9:19 p.m. on Monday, November 16, 2015. The motion carried.

These minutes approved by the Lewisville City Council on the 7th day of December, 2015.

APPROVED

Rudy Durham
MAYOR

ATTEST:

Julie Heinze
CITY SECRETARY



Proposed Ordinance Revisions

Chapter 3 – Animals



OVERVIEW

The Animal Service Ordinance has been in effect for many years and has allowed staff to protect the public and the health and welfare of sheltered animals. In order to remain current and to assist with direction and enforcement of animal services codes, staff sees the need to revise the current ordinance.

Changes have been made in Chapter 3 of the Animal Services Ordinance in the following outlined areas:

- Revised Definitions
- Deleting and Adding New Language





Revised Definitions

- **At Large or Running At Large** – An animal which roams beyond or off the premise of its owner or custodian with no physical restraint.

The definition does not apply to:

- An animal in any city-designated dog park
- An indigenous wild or feral animal
- An animal used by a peace officer/ law enforcement
- A search and rescue dog



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Revised Definitions, (con't)

Other revised definitions include:

- Basic Grooming
- Microchip implant
- Microchip reader
- Notice
- Owner
- Pet Animals
- Potbellied pig
- Shelter



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Deleting and Adding New Language

Sec. 3-5. – Treatment

- Replacement of language that follows the Texas Department of State Health Services – Health and Safety Code that defines violations including: abandonment of animals, or owners who fail to provide basic care for an animal, etc.

Sec. 3-21 Impoundment

- Language added that designates the animal control authority as the caretaker of impounded animals which allows for administering or overseeing preventative immunizations and/or necessary medical treatments.



Deleting and Adding New Language

Sec. 3-24. Elective Euthanasia:

- New criteria added to protect healthy owner released animals from unnecessary euthanasia.
 - Owners must produce proof of ownership of animals by veterinary or documentation record.
 - The animal control officer reserves the right to refuse elective euthanasia at any time.

Sec. 3-25. Adoptions:

- Removing the wording “rabbit and potbellied pig” from the required sterilization agreement in order to execute an animal adoption.
- Animal Service staff may offer “Pet Animals” for adoption.





Deleting and Adding New Language

Sec. 3-26. Sterilization of Adopted Animal Requirements:

- The word “rabbit” will be removed from the 30th day sterilization agreement once the animal becomes the required four months of age.
- The wording “waived sterilization requirement” is added and allowed if determined by a licensed veterinarian that there is a risk to the animal’s health.
- The wording, “This section does not apply to pet animals offered for adoption” was added.



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Deleting and Adding New Language

Sec. 3-61. Animals at Large

- The “Animals at Large” section replaced the “Stray Animal” section with similar terminology, eliminating the need for two areas. Regulates unrestrained animals on premise or beyond the property line of its owner or custodian.
(Changes also reflected in Sec. 3-22)

Sec. 3-63. Maximum number of animals.

- The wording “three months of age” replaces the “six month of age” requirement. This will be the required age in which an animal will be counted in the maximum number allowed.



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Deleting and Adding New Language

Sec. 3-84. Current permit required—Potbellied pigs.

The following is revised language regarding required permitting for potbellied pigs:

- Eliminating language related to the weight, size, and veterinarian justification requirements for a Pet Potbellied pig.
- Potbellied pigs are permitted in residentially or agriculturally zoned districts only. *(new language)*
- The premises where pigs are kept shall be kept clean at all times. *(new language)*
- Breeding of Potbellied pigs in a residentially zoned district area is prohibited. *(new language)*
- The Potbellied pigs must be registered and recognized by a National Registry Association. *(new language)*
- Potbellied pigs must be vaccinated and immunization records must be presented at the time of licensing. *(new language)*
- Tusk of the pigs must be removed or bluntly trimmed at all times. *(new language)*



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DISCUSSION / QUESTIONS



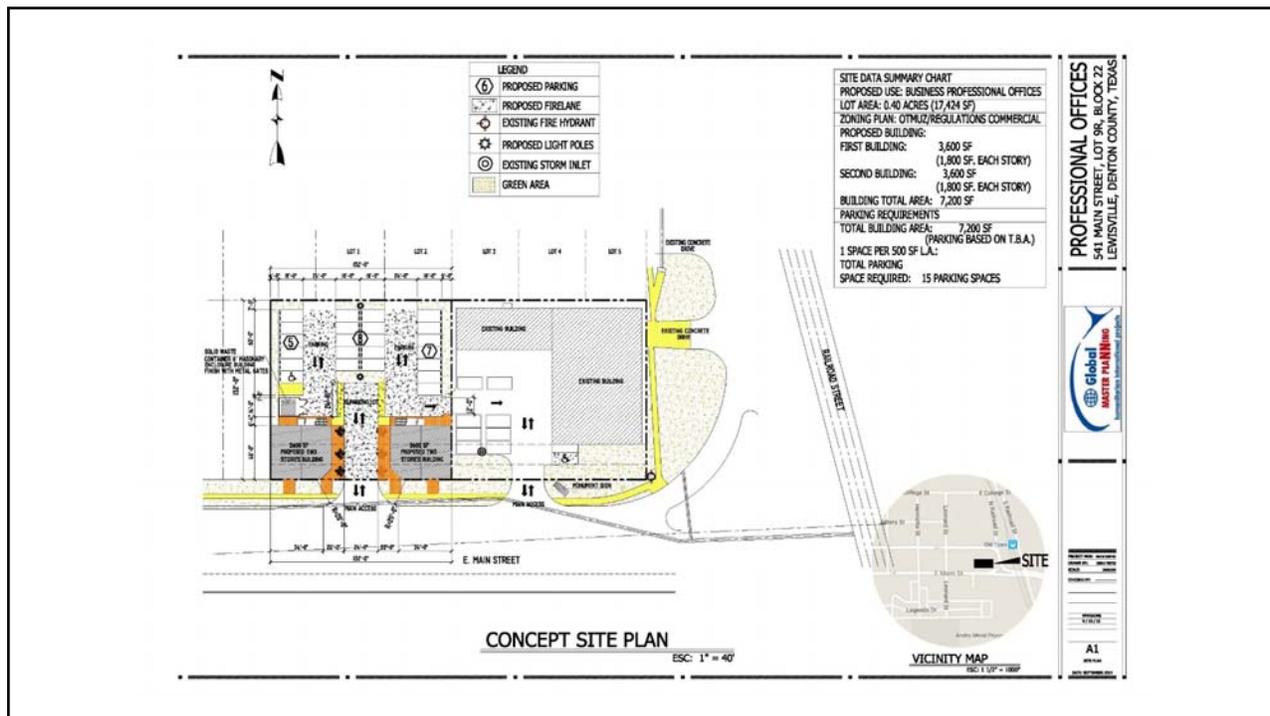
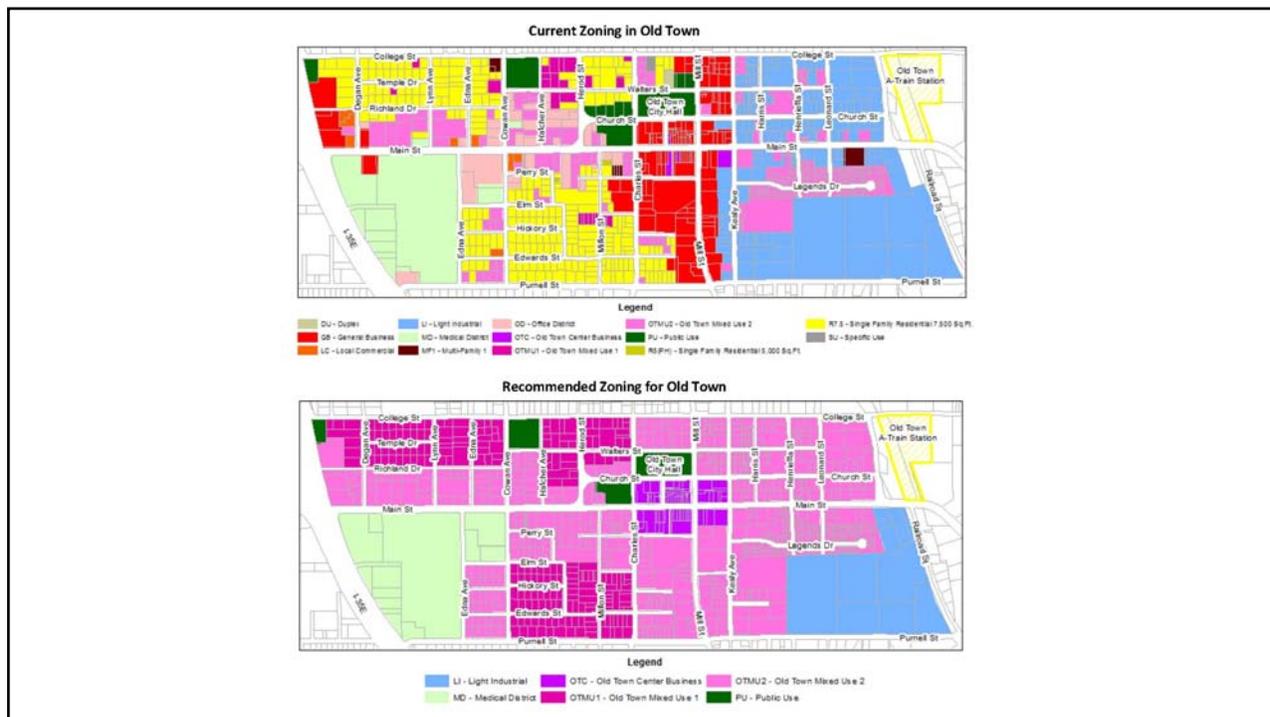
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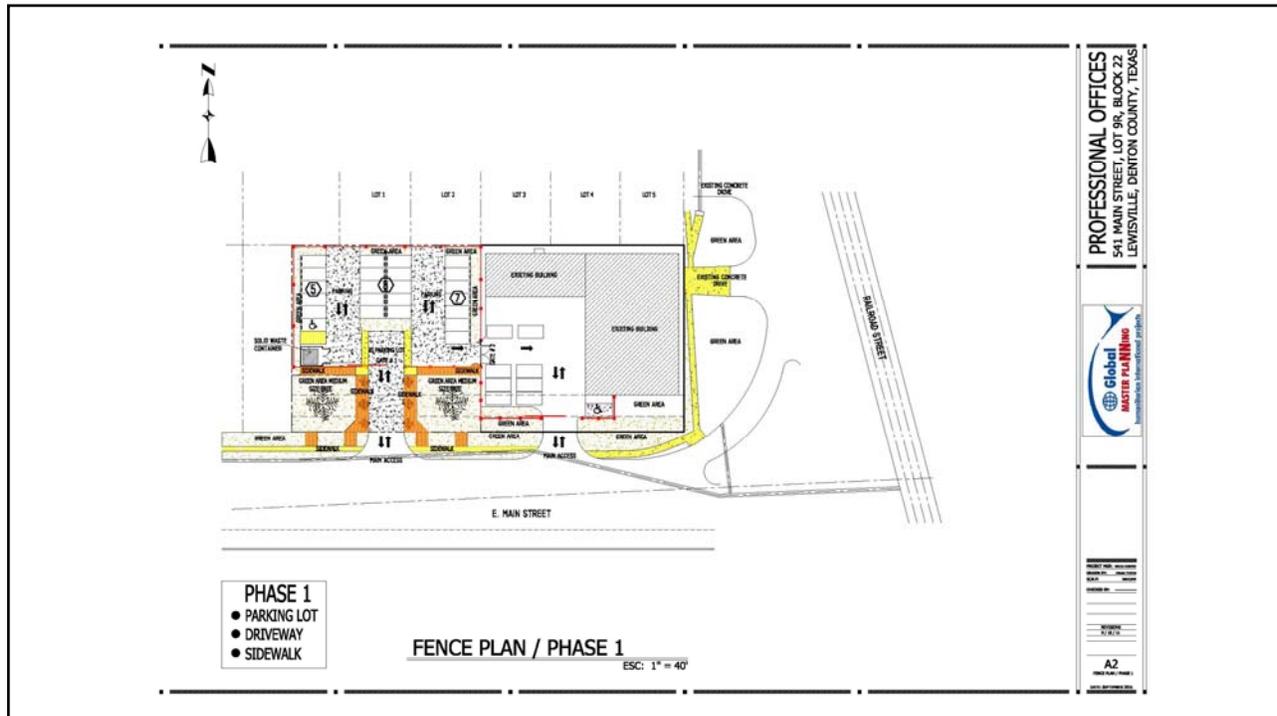
Zoning Change Request 541 East Main Street

Old Town Mixed Mixed Use 2 District (OTMU2)
to
Parking District (K)

Timeline

- December 5, 2005 – Property rezoned from LI to OTMU2, Mary Herrera, applicant/property owner
- April 19, 2012 – Applicant purchased property at 545 East Main Street (Zoned LI)
- September 8, 2012 – Old Town Development Plan submitted for paint and body shop on adjacent property to the east at 545 East Main Street (Zoned LI)
- March 14, 2013 – Replat application submitted for paint and body shop on adjacent property to the east at 545 East Main Street (Zoned LI)
- March 25, 2013 – Applicant purchased property at 541 East Main Street (Zoned OTMU2)
- April 1, 2013 – Ordinance enacting an SUP process for automotive and other uses approved by City Council
- May 28, 2013 – Old Town Development Plan for paint and body shop approved by staff
- June 11, 2013 – Replat for 545 East Main Street approved by P&Z (Zoned LI)
- July 22, 2013 – Old Town Design Review Committee approves building design for paint and body shop at 545 East Main Street





Conceptual Elevation Option 1



Conceptual Elevation Option 2



Pre-development Site Photos



Pre-development Site Photos



Current Site Photos



Municipal Settings Designation (MSD) Application for



Office/Warehouse/Storage Facility
1000 Lake Ridge Road
Lewisville, Denton County, Texas

Who?

- Applicant – Windy Ridge, LLC
- Representatives of Windy Ridge, LLC
 - Windy Ridge, LLC
 - Howard Nycum
 - Terracon Consultants, Inc.
 - Jack A. McCranie, P.G.

What is an MSD?

- An MSD is:
 - A legal restriction;
 - Placed on specific property;
 - Through a combination of city ordinance and state law (THSC, Ch. 361, Subchapter W – HB 3152);
 - That prohibits the use of shallow groundwater beneath the MSD property boundary for drinking water and other potable uses; Allows certain levels of contamination to remain in shallow groundwater that is not utilized; and
 - Approximately 150+ MSDs have been approved in the DFW Area.

Does an MSD Affect Drinking Water?

- The City of Lewisville Water Department supplies drinking water to the properties within the MSD property boundary and all existing properties within one-half mile of the MSD property boundary.
- The City of Lewisville Water Department obtains water from surface reservoirs, primarily Lake Lewisville.
- Shallow groundwater in the City of Lewisville area is not used as a public drinking water resource.
- Confining layers protect deeper aquifers from shallow groundwater contamination.

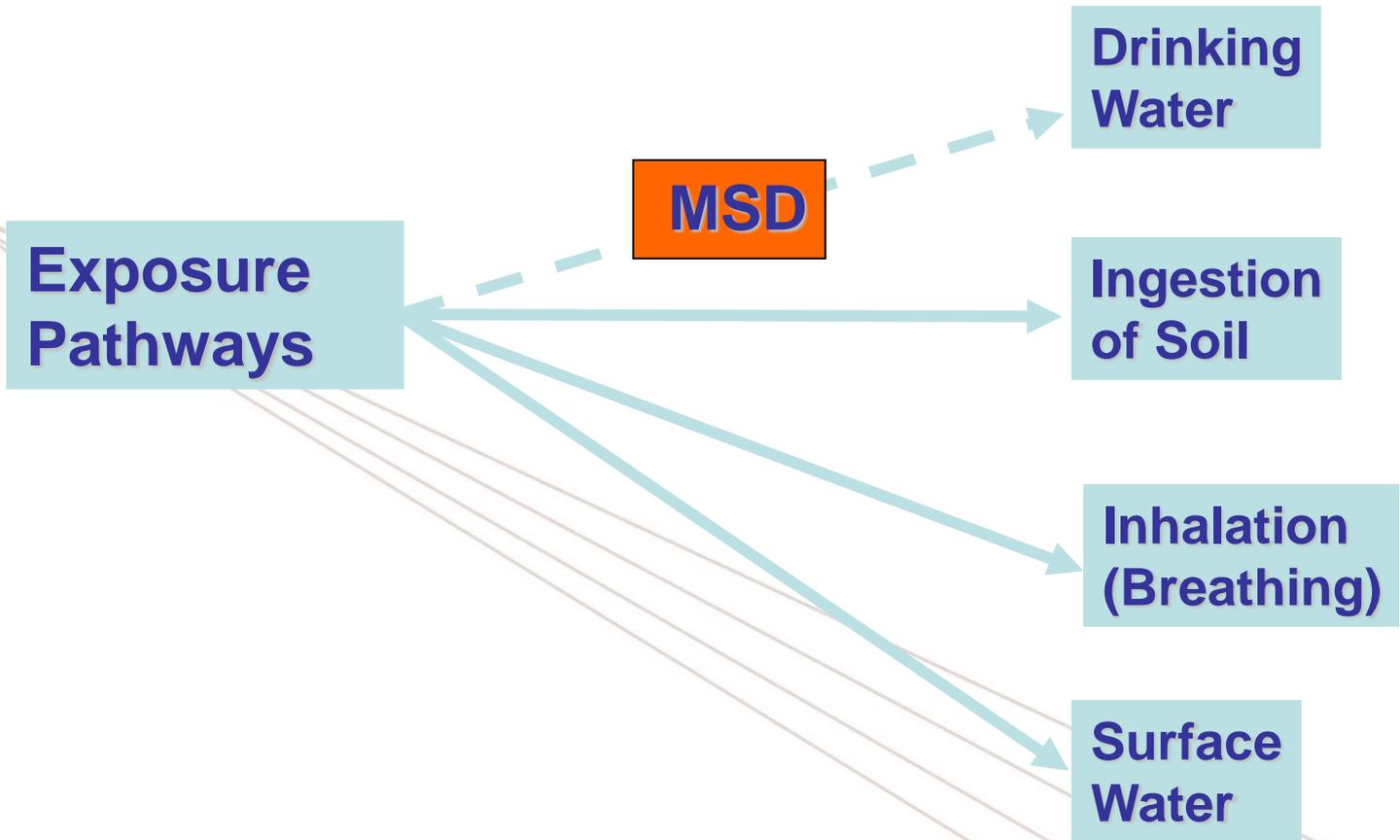
Why does Windy Ridge, LLC want an MSD?

- Historical use of the site by a previous site owner as an explosive manufacturer (1975-1988) that utilized ammonium nitrate (a common ingredient in fertilizers).
- Historical use resulted in a release of nitrates to the groundwater at the site.
- Windy Ridge is in the process of selling the property for redevelopment into an apartment complex, of which 12 acres is already under development.

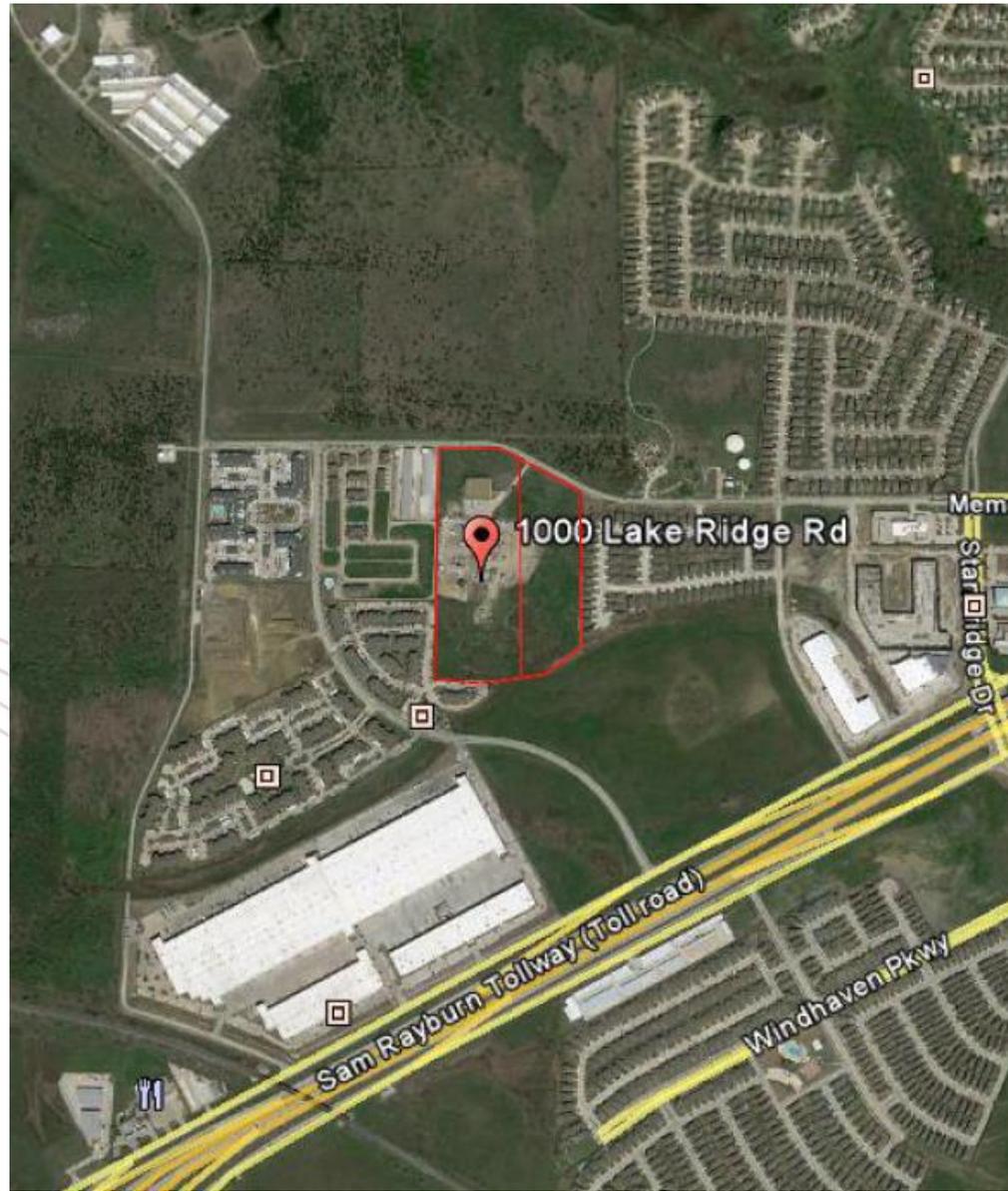
Why? (cont.)

- Residual nitrate contamination remains in the on-site groundwater from the historical ammonium nitrate use.
- Windy Ridge has entered the property into the State Voluntary Cleanup Program (VCP No. 2582) so that the property can be redeveloped with state oversight.

TCEQ Residential Closure Standards with an MSD



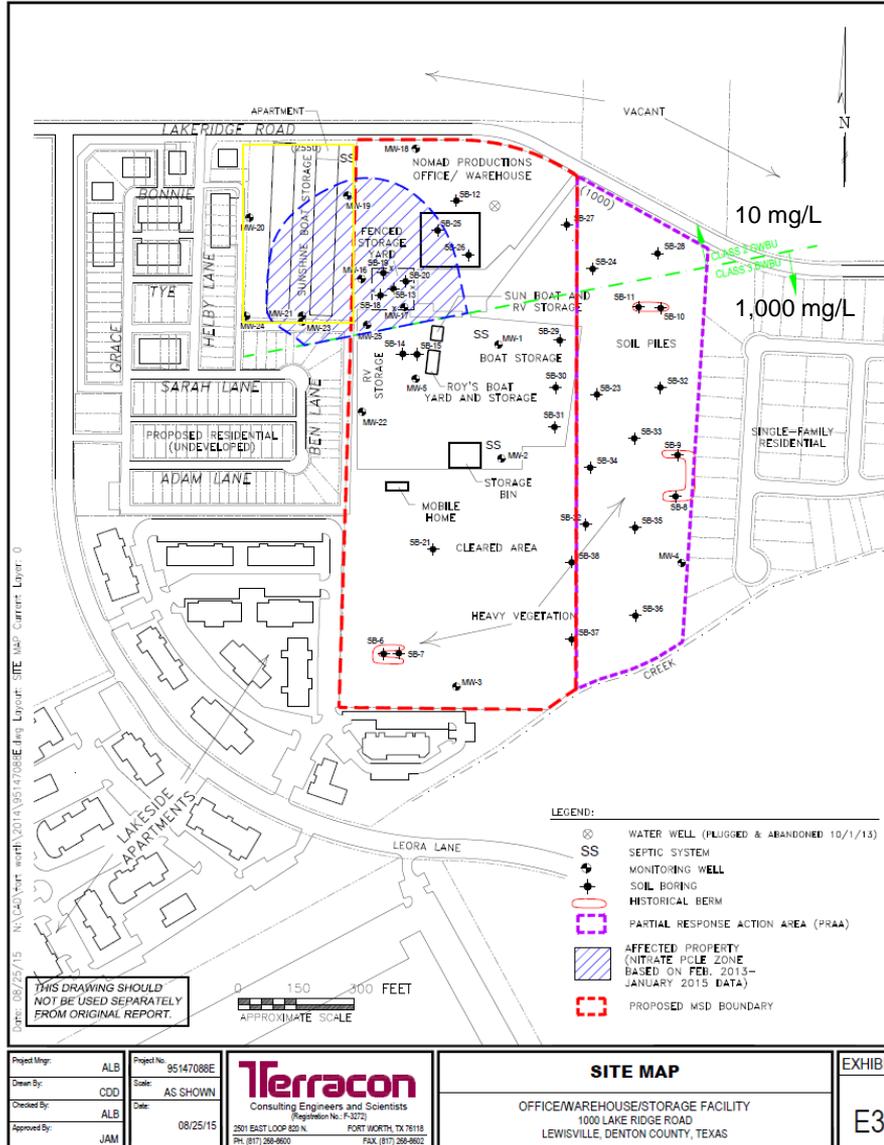
Where?



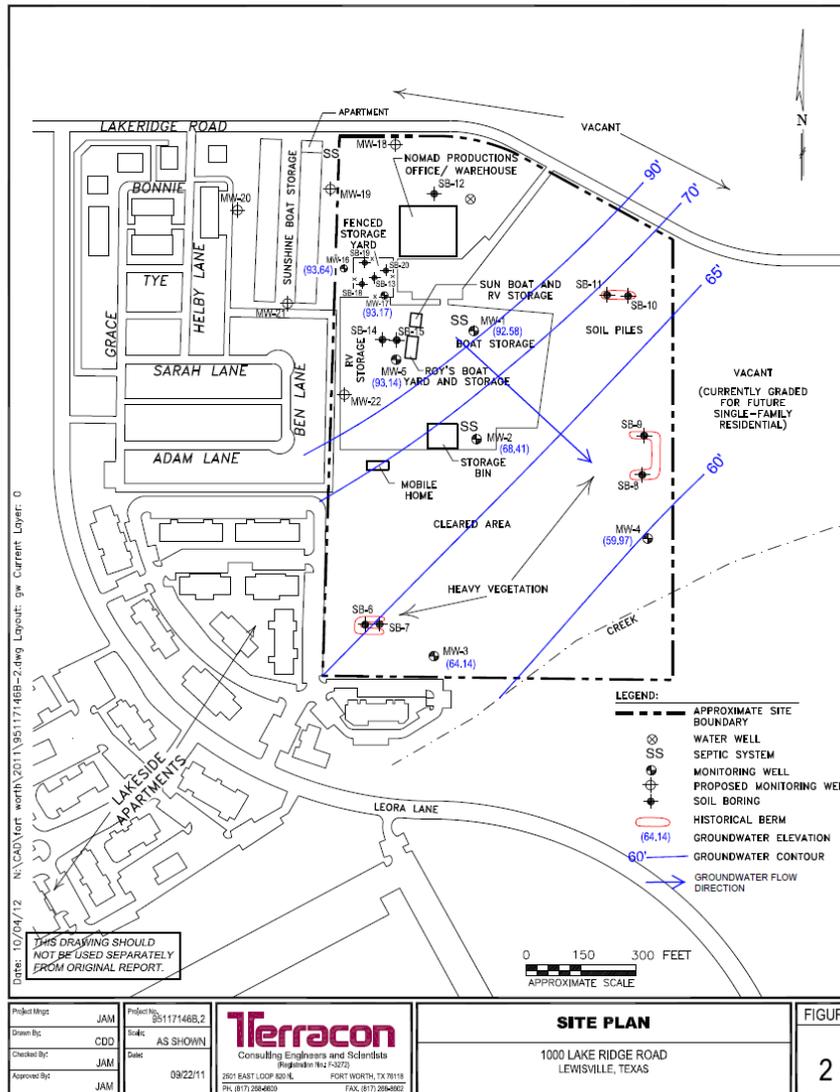
Activities to Date

- Environmental Assessment started in 2011
- 42 Soil Borings Advanced
- 14 Groundwater Monitoring Wells Installed
- Groundwater Bearing Unit approximately 12 to 30 feet bgs.
- Entered into the TCEQ Voluntary Cleanup Program (2013)
- State has reviewed the data and has issued a Partial Response Action Area VCP Closure for the Western 12.624 acres.
- Need to address the potential exposure to nitrates in the groundwater prior to VCP closure.

Site Plan



Shallow Groundwater Flow Direction



Remediation Pilot Test

- Property owner conducted a groundwater injection pilot test to evaluate potential remediation options.
 - First pilot test utilizing sodium lactate reduced nitrate concentrations in the vicinity of Monitoring Well MW-25 by about 30%.
 - Since the first pilot test was not as successful as planned, a second remediation pilot test is currently in progress utilizing EOS Pro.
 - Why an MSD and not Remediation
 - Very Expensive
 - Time consuming (years)
 - Cleaning up groundwater to drinking water standards for groundwater that is not and will not be used for drinking water or other purposes.

Groundwater Contamination

- Primarily located on property owned by Applicant
 - Shallow groundwater is not utilized and 250 feet of Shale protect deeper aquifers
 - MSD will restrict potable use of groundwater on the site and notify future owners of the contamination
 - Off-site property owner has been notified.
 - Attempted to investigate the extent of off-site contamination, but adjacent property owner denied access.
 - Asked about purchasing portions of the adjacent property which may be impacted, but adjacent property owner declined.
 - Adjacent property owner would be eligible for an Innocent Owner/Operator (IOP) Certificate

What is the process?

- The City of Lewisville must approve an MSD for a property within its City limits.
- If approved, the City of Lewisville issues an ordinance restricting the use of potable groundwater beneath the MSD property.
- Must obtain resolutions of support from all neighboring cities within ½ mile of the site and Retail Public Utilities with 5 miles of the site.
- Next, the TCEQ will:
 - Review MSD application;
 - Evaluate exposure routes and whether closure is appropriate for the property, or if more investigation/remediation is necessary; and
 - If appropriate, issue a VCP Certificate of Completion.

Questions?