



**TOWN OF WESTLAKE, TEXAS  
PLANNING AND ZONING COMMISSION  
MEETING AGENDA**

**January 4, 2016**

**WESTLAKE TOWN HALL  
3 VILLAGE CIRCLE, 2<sup>ND</sup> FLOOR  
COUNCIL CHAMBERS  
WESTLAKE, TEXAS 76262**

**Work Session 5:00 p.m.  
Regular Session 6:00 p.m.**

**Work Session**

- 1. CALL TO ORDER**
- 2. EXECUTIVE SESSION**

The Commission will conduct a closed session pursuant to Texas Government Code, annotated, Chapter 551, Subchapter D for the following:

  - a. Sec. 551.071. Consultation with Attorney (2) on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter: Ordinance 691
- 3. RECONVENE MEETING**
- 4. DISCUSSION REGARDING ITEMS LISTED ON THE REGULAR MEETING AGENDA.**
- 5. DISCUSSION OF ITEMS TO BE PLACED ON FUTURE AGENDAS AND UPDATES ON DEVELOPMENT TRENDS, PROGRESS AND TOWN COUNCIL ACTIONS ON PAST AGENDA ITEMS.**
- 6. ADJOURNMENT**

## **Regular Session**

1. **CALL TO ORDER**
2. **REVIEW AND APPROVE MINUTES FROM THE MEETINGS HELD ON DECEMBER 1, 2015.**
3. **CONDUCT A PUBLIC HEARING AND CONSIDER A RECOMMENDATION REGARDING, Z-11-23-15, ZONING CHANGE APPLICATION FROM NON-ZONED TO R-5 "ESTATE RESIDENTIAL" FOR TWO NEWLY ANNEXED TRACTS OF LAND COMMONLY KNOWN AS 2205 AND 2217 N. PEARSON LANE, WESTLAKE TEXAS.**
4. **CONDUCT A PUBLIC HEARING AND CONSIDER A RECOMMENDATION REGARDING AN, SUP-12-15-15, SPECIFIC USE PERMIT TO ALLOW THE SALE OF BEER, LIQUOR, AND WINE PACKAGE SALES AT THE CVS STORE TO BE LOCATED AT 35 ARTA DRIVE, BEING LOT 3, BLOCK N, OF THE WESTLAKE ENTRADA SUBDIVISION.**
5. **CONDUCT A PUBLIC HEARING AND CONSIDER A RECOMMENDATION REGARDING, Z-12-15-15, ZONING CHANGE APPLICATION, AMENDING ORDINANCE 691, THE ORDINANCE THAT AMENDED THE PD1 PLANNED DEVELOPMENT ZONING DISTRICT, CREATING AND REGULATING PD 1-1 PLANNING AREA. THE PROPERTY IS PARTIALLY DEVELOPED AND INCLUDES MULTIPLE PARCELS OF LAND INCLUDING THE PROPERTY COMMONLY KNOWN AS SOLANA. THE PROPERTY IS GENERALLY LOCATED SOUTH OF HWY 114 EXTENDING FROM DAVIS BLVD. EASTWARD TO THE TOWN BORDER, AND IS BOUNDED BY THE GRANADA SUBDIVISION TO THE WEST, AND GLENWYCK FARMS, CARLYLE, AND TERRA BELLA SUBDIVISIONS TO THE SOUTH. THIS IS A TOWN INITIATED AMENDMENT AND THE PROPOSED AMENDMENTS ARE LIMITED TO THE DEVELOPMENT REGULATIONS AND DO NOT CHANGE THE PERMITTED USES OR ALLOWED DENSITY WITHIN THE DEVELOPMENT.**
6. **ADJOURNMENT**

### **CERTIFICATION**

I certify that the above notice was posted at the Town Hall of the Town of Westlake, 3 Village Circle, Suite 202, Westlake, Texas, 76262, December 30, 2015, by 5:00 p.m. under the Open Meetings Act, Chapter 551 of the Texas Government Code.

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Kelly Edwards, TRMC, Town Secretary

If you plan to attend this public meeting and have a disability that requires special needs, please advise the Town Secretary 48 hours in advance at 817-490-5710 and reasonable accommodations will be made to assist you.

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# Planning and Zoning

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Item # 2 – Executive  
Session

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Back up material has not  
been provided for this item.

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## **EXECUTIVE SESSION**

The Commission will conduct a closed session pursuant to Texas Government Code, annotated, Chapter 551, Subchapter D for the following:

- a. Sec. 551.071. Consultation with Attorney (2) on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter: Ordinance 691

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# Planning and Zoning

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Item # 3 – Reconvene  
Meeting

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Back up material has not  
been provided for this item.

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# Planning and Zoning

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Item # 4 – Adjournment

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Back up material has not  
been provided for this  
item.

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**DISCUSSION REGARDING ITEMS LISTED ON THE REGULAR MEETING  
AGENDA.**

***NO ACTION WILL BE TAKEN DURING THE WORK SESSION.***

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# Planning and Zoning

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Item # 5

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Back up material has not  
been provided for this  
item.

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**DISCUSSION OF ITEMS TO BE PLACED ON FUTURE AGENDAS AND  
UPDATES ON DEVELOPMENT TRENDS, PROGRESS AND TOWN COUNCIL  
ACTIONS ON PAST AGENDA ITEMS.**

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# Planning and Zoning

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Item # 6 – Adjournment  
Work Session

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Back up material has not  
been provided for this  
item.

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**MINUTES OF THE  
TOWN OF WESTLAKE, TEXAS  
PLANNING AND ZONING COMMISSION MEETING**

**December 1, 2015**

**PRESENT:** Chairman Tim Brittan, Commissioners Liz Garvin, Greg Goble, Ryan Groce, and Michelle Lee. Others present Alternates Ken Kraska and Sharon Sanden.

**ABSENT:**

**OTHERS PRESENT:** Town Manager Tom Brymer, Planning and Development Director Eddie Edwards, Town Attorney Cathy Cunningham, Town Secretary Kelly Edwards, Assistant Town Manager Amanda DeGan, Director of Public Works Jarrod Greenwood, Fire Chief Richard Whitten, Communications & Community Affairs Director Ginger Awtry, Finance Director Debbie Piper, Susan McFarland, Communications Specialist.

**Work Session**

**1. CALL TO ORDER**

Chairman Brittan called the work session to order at 5:06 p.m.

**2. PRESENTATION AND DISCUSSION REGARDING THE STATUS OF DEVELOPING A PROPOSED TRANSFER OF DEVELOPMENT RIGHTS ORDINANCE.**

Town Manager Brymer provided an overview of the item.

Ms. Ashley Shook and Mr. Robin McCaffery, MESA Planning, provided a presentation and overview of the proposed ordinance and next steps.

Discussion ensued regarding Westlake being proactive with the proposed ordinance as development increases and discussions of this item during the Comprehensive Planning sessions.

**3. DISCUSSION REGARDING ITEMS LISTED ON THE REGULAR MEETING AGENDA.**

Town Manager Brymer stated that this would be an opportunity for discussion of the meeting items. He also stated that the applicant has requested Items 8 & 9 regarding Project Blizzard to be withdrawn from discussion.

**4. DISCUSSION OF ITEMS TO BE PLACED ON FUTURE AGENDAS AND UPDATES ON DEVELOPMENT TRENDS, PROGRESS AND TOWN COUNCIL ACTIONS ON PAST AGENDA ITEMS.**

Town Manager Brymer provided the Commission and members of the audience a copy of the proposed 2016 Planning Submittal Schedule. This new calendar provides additional time to meet with applicants and Staff additional time to review revisions.

**5. ADJOURNMENT**

Chairman Brittan adjourned the work session at 5:33 p.m.

**Regular Session**

**1. CALL TO ORDER**

Chairman Brittan called the regular session to order at 6:00 p.m.

**2. REVIEW AND APPROVE MINUTES FROM THE MEETINGS HELD ON NOVEMBER 9, 2015.**

**MOTION:** Commissioner Groce made a motion to approve the minutes. Commissioner Lee seconded the motion. The motion carried by a vote of 5-0.

Chairman Brittan announced that Items 8 & 9 of the agenda had been withdrawn by the applicant and that there would be no opening of the public hearings.

**3. CONSIDERATION OF A RECOMMENDATION FOR APPROVAL OF A MASTER LANDSCAPE PLAN, PAVING PLAN, AND LIGHTING PLAN FOR THE DEVELOPMENT KNOWN AS ENTRADA (PD1-2) LOCATED AT STATE HIGHWAY 114 AND FARM TO MARKET 1938.**

Town Manager Brymer provided an overview of the item and a presentation listing Staff recommendations.

Discussion ensued regarding the delineation of parking spaces, lighting of retail establishments, and lighting in common areas.

**MOTION:** Commissioner Goble made a motion to recommend approval with the following conditions: staff recommendations - **Master Landscape Plan** - **1.** the landscape configuration, both hardscape and plantings, at the corner of Solana Blvd. and Davis Blvd shall comport to the Town's consulting architect's landscape rendering for corner of Solana Boulevard and FM 1938/Davis Boulevard. **2.** an installation schedule for the Master Landscape Plan acceptable to the Staff shall be furnished by the Developer upon approval of construction plans. **Lighting Plan** - **1.** Street light intervals shall not be closer than 200 feet without Staff approval, with said approval to be considered at the time of construction plan submission. **2.** All lighting fixtures shall be approved by the Town Staff prior to installation, meet all town requirements and Dark Skies guidelines. The lighting fixture poles shown in the Lighting Plan are not yet approved by Staff and for informational purposes only. Staff requests authority to approve the lighting fixture pole not later than when construction drawings are submitted. **3.** All lighting fixtures must be dimmable  
Commissioner Garvin seconded the motion. The motion carried by a vote of 5-0.

**4. CONTINUE A PUBLIC HEARING AND CONSIDER A RECOMMENDATION REGARDING A ZONING CHANGE AMENDING THE PD 1-2 ZONING DISTRICT REGULATIONS CONTAINED IN ORDINANCE 720 TO INCLUDE DETAILED DESIGN GUIDELINES FOR THE DEVELOPMENT KNOWN AS ENTRADA LOCATED AT STATE HIGHWAY 114 AND FARM TO MARKET 1938/DAVIS BOULEVARD.**

Town Manager Brymer provided an overview of the item and a presentation listing Staff recommendations.

Mr. McCaffery, MESA Planning, acknowledged Mr. Milton Anderson, Merriman Associates, for working together to create the Design Guidelines.

Discussion ensued regarding the caliper and canopy size of trees.

Ms. Suzanne Ouren, Texas Tuff Landscape answered questions and provided details regarding the trees.

Chairman Brittan opened the public hearing.

No one addressed the commission.

Chairman Brittan closed the public hearing.

**MOTION:** Commissioner Groce made a motion to recommend approval with the following conditions: staff recommendations - **Page 52:** Wording to be added as first bullet point under "Articulation"..."it is the intent of this guideline to maintain the appearance of load bearing masonry construction by minimizing a traditional "masonry pocket" common to masonry veneer construction. The diagrammatic cornice/ eave detail on page 53 illustrates this intent. Traditional masonry pocket detail is prohibited and use of a detail consistent with the diagram in page 53 is encouraged. **Page 78:** the words "and wrought iron fence with living hedge" under #2 should be changed to "and wrought Iron fence with living hedge, if it does not (in combination with other gates) exceed 30% of the side yard wall." Transformer and compactor enclosures shall be addressed in the design guidelines as screening elements (i.e. the current design guidelines only address dumpster enclosures) utilizing the same design as dumpster screening enclosures (see page 69 of design guidelines). Design guidelines shall specify that interior and exterior sides of screening enclosures must be finished out with full stone, however, interior enclosure walls may use thin-set stone cladding. Commissioner Goble seconded the motion. The motion carried by a vote of 5-0.

**5. CONDUCT A PUBLIC HEARING AND CONSIDER A RECOMMENDATION REGARDING AN APPLICATION FOR APPROVAL OF A FINAL PLAT OF THE PD 1-2 PLANNING AREA, SHOWN AS BLOCK A, LOTS 1-3X, BLOCK B, LOT 1, BLOCK M, LOTS 1-3, BLOCK N, LOTS 1-6X, AND BLOCK O, LOTS 1-3X, BEING A TOTAL OF 85.910 ACRES IN THE C.M. THROOP SURVEY, ABSTRACT NO. 1510, W. MEDLIN SURVEY, ABSTRACT NO. 1958, JOSEPH HENRY SURVEY, ABSTRACT NO. 742, AND WILLIAM H. PEA SURVEY, ABSTRACT NO. 1246, TOWN OF WESTLAKE, TARRANT COUNTY, TEXAS.**

Town Manager Brymer provided an overview of the item and a presentation listing Staff recommendations.

Director Greenwood provided an overview regarding the installation of infrastructure.

Chairman Brittan opened the public hearing.

No one addressed the commission.

Chairman Brittan closed the public hearing.

Discussion ensued regarding risk of occupancy without a sanitary sewer, CVS Pharmacy building timeframe of approximately eight (8) months, and the developer believes that streets would be constructed during the Spring 2016.

**MOTION:** Commissioner Garvin made a motion to recommend approval with the following conditions: staff recommendations - **1.** A Development Agreement satisfactory to the Town must be negotiated and approved prior to consideration of this Final Plat by the Town Council. **2.** The Development Agreement shall include language that addresses a timeline with a date certain for the Developer to have made significant progress toward completing construction of the off-site utilities prior to issuance of a certificate of occupancy to CVS or any building in this final platted area. **3.** if the Town has to acquire those off-site utility easements by eminent domain, all costs related to the Town's acquisition of said easements shall be reimbursed by the Developer. **4.** all Developer payment obligations related to the amending the present Development Agreement (approved 10-28-13), including for example Solana Blvd expansion and related traffic signals and Town consultants). **5.** All other infrastructure, besides sanitary sewer, shall be installed, inspected, and accepted by the Town prior to the issuance of a certificate of occupancy for any building on any lot that is final platted by this particular final plat. **6.** All parcel descriptions included in this Final Plat must be reviewed in light of the Public Improvement District (PID) Service and Assessment Plan to verify that future PID assessments on these final platted lots are consistent with the PID obligations. **7.** An updated PID budget shall be timely submitted that illustrates actual and projected costs to be paid with PID funds versus those that will be Developer's obligation for the remainder of the Entrada project. **8.** A note shall be added to the Final Plat document stating the following: This final plat is approved subject to, but not limited to, the terms and conditions of the following documents related to this property, as well as any amendments to said documents, that may be approved in the future by the Westlake Town Council: • Zoning Approved: 4-22-13, Ordinance 703 for PD1-2 • Economic Development Agreement Approved: 4-22-13, Resolution 13-17 • Preliminary Plat Approved: 10-28-13, Resolution 13-32 • Development Plan Approved: 10-28-13, Ordinance 720 • Development Agreement Approved: 10-28-13, Resolution 13-34. Commissioner Goble seconded the motion. The motion carried by a vote of 5-0.

Chairman Brittan recessed the meeting at 6:44 p.m.

Chairman Brittan reconvened the meeting at 6:48 p.m.

**6. CONTINUE A PUBLIC HEARING AND CONSIDER A RECOMMENDATION REGARDING AN APPLICATION FOR A PD SITE PLAN, INCLUDING BUILDING ELEVATIONS FOR A CVS PHARMACY, FOR A PORTION OF THE PD 1-2**

**PLANNING AREA, SHOWN AS AREA N, LOT 3 OF BLOCK N, GENERALLY LOCATED ON THE SOUTHWEST CORNER OF THE ENTRADA DEVELOPMENT) ON THE FINAL PLAT.**

Town Manager Brymer provided an overview of the item and a presentation listing Staff recommendations.

Discussion ensued regarding the architecture of anchor stores, location of the bell tower and signage.

Director Edwards stated that staff had an additional recommendation that the wall signs would be red plastic letters, internally lit with dimmable lights that will be set at a brightness level that will be field approved by the Town Manager or his designee.

Chairman Brittan opened the public hearing.

Mr. Mehrdad Moayedi, Centurion American, 1800 Valley View Lane, Ste. 300, Farmers Branch, spoke in favor of the of the item acknowledging the amount of work that has gone into this project.

Chairman Brittan closed the public hearing.

**MOTION:** Commissioner Lee made a motion to recommend approval with the following conditions: staff recommendations - **1.** all the zoning requirements for this PD1-2 district set out in Ordinance 703 in addition to the conditions accepted by the Town Council set out in Section I of this report at the time of zoning approval (April 22, 2013). **2.** all the Development Plan conditions for approval referenced in Section II of this report established in Ordinance 720 (adopted October 28, 2013) apply to this PD site plan for CVS Pharmacy on Lot 3, Block N. **3.** the site plan building elevations for CVS, as submitted and attached to this report, include the requirement that this structure meet all aspects of the Entrada design guidelines proposed to be reviewed by the Commission and adopted on 12-14-15 by the Town Council. **4.** Town Staff will review and approve a materials sample palette that shall be presented at the time for building plans review for a building permit and said materials must comport to elevations as presented to the Staff and the Planning & Zoning Commission. **5.** landscaping and planters used around the CVS building per drawings submitted by the Developer's master architect, Merriman and Associates, be of substantial size, as shown on said drawings, including six (6) inch caliber Italian Cypress in the planters. **6.** the understanding that this approval applies only to the CVS building, and that the other smaller buildings shown on the PD site plan for this Block N will require their own PD site plan and building elevations to be approved at the time they are proposed for construction. **7.** Solid waste collection area will reflect a sheperd's

hut" type architecture and will be approved by Staff at the time of building permit application. **8.** wall signs would be red plastic letters, internally lit with dimmable lights that will be set at a brightness level that will be field approved by the Town Manager or his designee. Commissioner Groce seconded the motion. The motion carried by a vote of 5-0.

**7. CONDUCT A PUBLIC HEARING AND CONSIDER A RECOMMENDATION REGARDING AN APPLICATION FOR A PD SITE PLAN, INCLUDING BUILDING ELEVATIONS FOR A PRIMROSE SCHOOL, FOR A PORTION OF THE PD 1-2 PLANNING AREA, SHOWN AS BLOCK M, LOT 2 OF BLOCK M, GENERALLY LOCATED ON THE SOUTHWEST CORNER OF THE ENTRADA DEVELOPMENT ON THE FINAL PLAT.**

Town Manager Brymer provided an overview of the item and a presentation listing Staff recommendations.

Chairman Brittan opened the public hearing.

Mr. Mehrdad Moayedi, Centurion American, 1800 Valley View Lane, Ste. 300, Farmers Branch, spoke in favor of the item stating that the smaller surrounding buildings would be for profit.

Mr. McCaffery, MESA Planning, spoke in favor of the item and provided an overview of the adjoining buildings.

Chairman Brittan closed the public hearing.

Discussion ensued regarding the 5-6 month timeframe to build Primrose and the variance granted by this plan to the articulation requirements.

**MOTION:** Commissioner Goble made a motion to recommend approval with the following conditions: staff recommendations - **1.** all the zoning requirements for this PD1-2 district set out in ordinance 703 in addition to the conditions accepted by the Town Council set out in Section I of this report at the time of zoning approval (April 22, 2013). **2.** all the Development Plan conditions for approval referenced in Section II of this report established in Ordinance 720 (adopted October 28, 2013) apply to this PD site plan for Primrose School on Lot 2, Block M, Entrada. **3.** the site plan building elevations for Primrose School, as submitted and attached to this report as recommended by Staff, include the requirement that this structure meet all aspects of the Entrada design guidelines proposed to be reviewed by the Commission and adopted on 12-14-15 by the Town Council. **4.** Town Staff will review and approve a materials sample palette that shall be presented at the time for building plans review for a building permit and said materials must comport to elevations as

presented to the Staff and the Planning & Zoning Commission. **5.** landscaping and planters used around the Primrose building per drawings submitted by the Developer's master architect, Merriman and Associates, be of substantial size, as shown on said drawings. **6.** Fencing/wall around building and building site will be solid masonry, not wrought iron, although a wall that is combination half and half may be approved by Staff. **7.** the understanding that this approval applies only to the Primrose School building, and that the other smaller buildings that may shown or adjacent to the PD site plan for this Block M will require their own PD site plan and building elevations to be approved at the time they are proposed for construction. **8.** Solid waste collection area on this site plan will reflect a sheperd's hut" type architecture and will be approved by Staff at the time of building permit application. Commissioner Garvin seconded the motion. The motion carried by a vote of 5-0.

Chairman Brittan announced stated that since Items 8 & 9 of the agenda had been withdrawn by the applicant and that there would be no opening of the public hearings.

- 8. CONDUCT A PUBLIC HEARING AND CONSIDERATION OF A RECOMMENDATION REGARDING A ZONING CHANGE REQUEST TO AMEND THE PD 3-5 ZONING DISTRICT LOCATED AT STATE HIGHWAY 170 AND STATE HIGHWAY 114 ON A TRACT THAT IS A PORTION OF WHAT IS GENERALLY KNOWN AS THE CIRCLE T RANCH, BY DIVIDING SAID DISTRICT INTO TWO (2) SEPARATE PLANNING AREAS, TO BE IDENTIFIED AS PD3-5A AND PD3-5B, AND ADDING 186,000 SQUARE FEET OF OFFICE CAMPUS USE IN THE NEW PD3-5B PLANNING AREA.**

No action taken by the Commission.

- 9. CONDUCT A PUBLIC HEARING AND CONSIDERATION OF A RECOMMENDATION REGARDING A ZONING CHANGE REQUEST TO AMEND THE PD 3-3 ZONING DISTRICT LOCATED ALONG DOVE AND OTTINGER ROADS ON A TRACT THAT IS A PORTION OF WHAT IS GENERALLY KNOWN AS THE CIRCLE T RANCH, BY TRANSFERRING 186,000 SQUARE FEET OF OFFICE CAMPUS USE FROM PD3-3 TO THE NEW PD3-5B PLANNING AREA.**

No action taken by the Commission.

**10. ADJOURNMENT**

There being no further business to come before the Commissioners, Chairman Brittan asked for a motion to adjourn.

**MOTION:** Commissioner Groce made a motion to adjourn the meeting. Commissioner Goble seconded the motion. The motion carried by a vote of 5-0.

Chairman Brittan adjourned the meeting at 7:16 p.m.

**APPROVED BY THE PLANNING AND ZONING COMMISSION ON JANUARY 4, 2016.**

ATTEST:

\_\_\_\_\_  
Chairman, Tim Brittan

\_\_\_\_\_  
Kelly Edwards, Town Secretary



# Westlake Planning and Zoning Commission



## TYPE OF ACTION

Regular Meeting - Action Item

**Monday, January 04, 2016**

**TOPIC:** Conduct a Public Hearing and Consider a Recommendation Regarding a Zoning Change Request from Non-Zoned to R-5 “Country Residential District” for Two Newly Annexed Tracts of Land Commonly Known as 2205 and 2217 5.28 Acre Tract of Land.

**STAFF CONTACT:** Eddie Edwards, Director of Planning and Development

## Strategic Alignment

<u>Vision, Value, Mission</u>	<u>Perspective</u>	<u>Strategic Theme &amp; Results</u>	<u>Outcome Objective</u>
Mission: Westlake is a unique community blending preservation of our natural environment and viewsapes, while serving our residents and businesses with superior municipal and academic services that are accessible, efficient, cost-effective, & transparent.	Citizen, Student & Stakeholder	High Quality Planning, Design & Development - We are a desirable well planned, high-quality community that is distinguished by exemplary design standards.	Preserve Desirability & Quality of Life
<b><u>Strategic Initiative</u></b>			
Outside the Scope of Identified Strategic Initiatives			

**Time Line - Start Date:** January 4, 2016    **Completion Date:** January 25, 2016

**Funding Amount:** 00.00    **Status -**  **Not Funded**    **Source -** N/A

## EXECUTIVE SUMMARY (INCLUDING APPLICABLE ORGANIZATIONAL HISTORY)

This property, located along the east side of Pearson Road, was the infamous kennel site that generated frequent noise complaints over the past several years. The property’s unincorporated status (the former property owner successfully defeated Town attempts to annex the parcel) had limited the Town’s ability to regulate use and development. However, ownership of the property recently changed hands, and the new owner requested voluntary annexation. The Westlake Town Council subsequently voted to annex the property at their December 14, 2015 meeting. Per Chapter 102, Section 102-37 of the Westlake Code of Ordinances, the Town must zone the annexed property at the time of or directly following annexation (within 60 days).

The property is surrounded on three sides by Country Residential District (R-5) zoned property within the Town of Westlake and the applicant's zoning application requests that this property be zoned R-5 as well. Chapter 102 of the Code of Ordinances defines the R-5 district as "single-family dwellings on lots measuring a minimum of five acres (217,800 square feet) excluding all required public dedications, including but not limited to rights-of-way, parks, and open spaces. Country residential districts are intended to provide an opportunity for rural character residential development."

The applicant purchased this property with plans to ultimately construct an estate home. This intended use comports with the Land Use Plan element of the Comprehensive Plan, which defines the area surrounding this property as Pastoral Community, a use that stresses "compatibility with existing high-end residential development" and lots "generally an acre or larger." Annexation and rezoning of this property will also help mitigate home value encroachment, a major objective identified in the Housing Plan element of the Comprehensive Plan.

The applicant has removed the buildings used for kennel operations, leaving only two single-family dwellings on the property. These two homes will be used as rental properties until both parcels are platted into a single 5.28 acre lot. Note that per the Petition for Annexation (see attached) the owner certifies that "the land is used for single family use, and my plans are to continue that use." Further, minimum lot size requirements of the R-5 zoning district preclude the issuance of *any* building permits until the property is platted into a single lot (Westlake Code of Ordinances, Chapter 102, Article II, Sections 102-33 and 102-34). Language contained in the Petition for Annexation and the zoning type requested, along with the timely approval of the applicant's zoning request, will prevent the property from reverting to an undesirable use.

The property currently receives water service from the City of Keller, and may continue doing so until the property is platted. Per the Service Plan (see attached) approved as part of the voluntary annexation process, a determination as to how and when the property will be connected the Town of Westlake water system will be made at the time of platting. Sewer is provided by an on-site septic system, and per the adopted Service Plan may continue in use until a sanitary sewer main is extended to within the minimum distance from the property that would trigger a required connection.

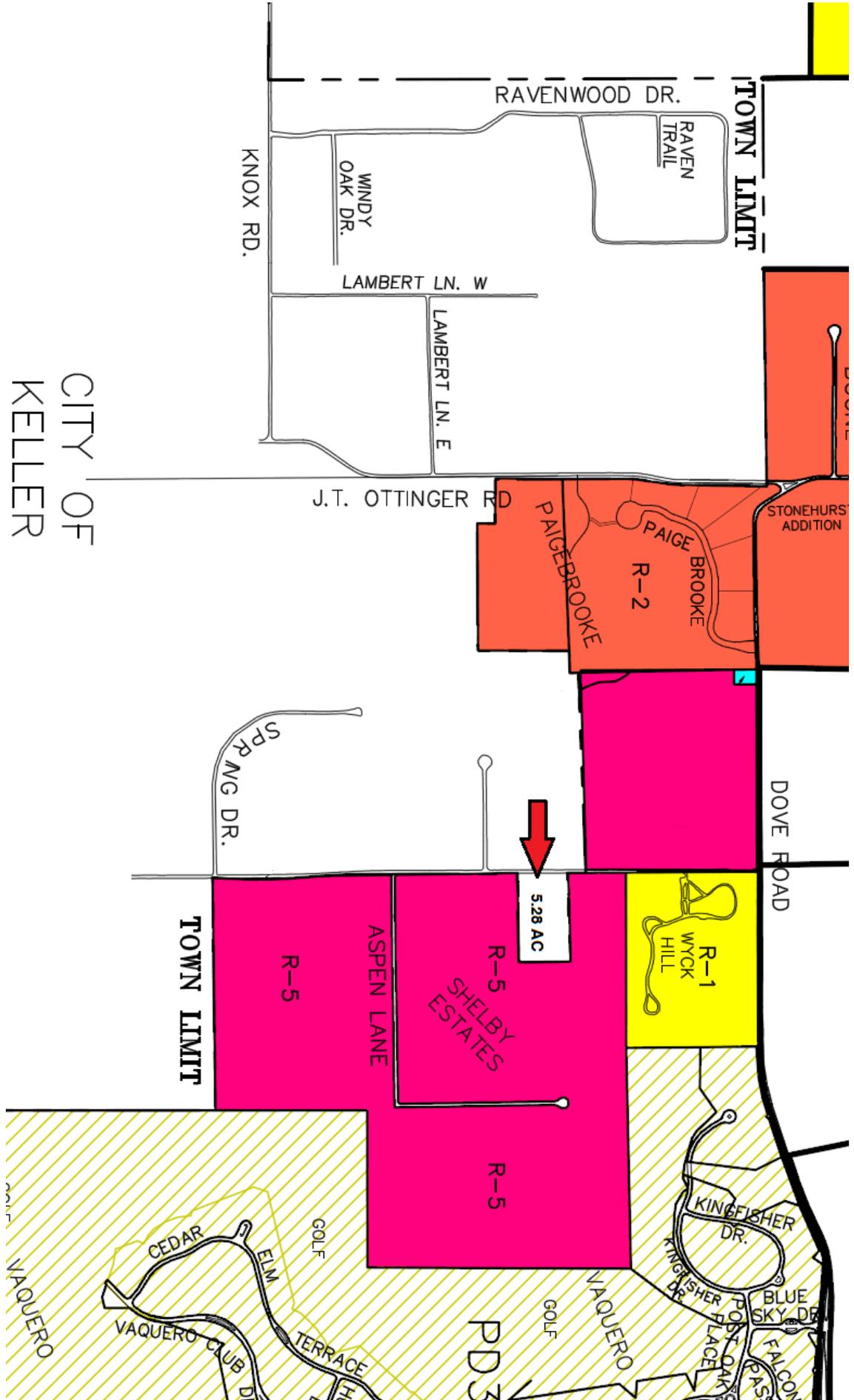
### **RECOMMENDATION**

Staff recommends approval of this zoning request.

### **ATTACHMENTS**

1. Site Map
2. Petition for Annexation
3. Service Plan (adopted by Council on 12/14/15 concurrent with annexation)

**ATTACHMENT 1: SITE MAP**



CITY OF  
KELLER

**ATTACHMENT 2**

**PETITION AND AFFIDAVIT OF BAHTIA SATENDAR FOR  
ANNEXATION PURSUANT TO SECTION 43.028 OF THE  
TEXAS LOCAL GOVERNMENT CODE**

**THE STATE OF TEXAS   §  
  §  
COUNTY OF TARRANT   §**

**TO THE MAYOR AND TOWN COUNCIL OF THE TOWN OF WESTLAKE, TEXAS,  
A GENERAL LAW TYPE-A MUNICIPALITY  
IN AND FOR THE STATE OF TEXAS:**

I, the undersigned, Satendar Bhatia / Neelu Bhatia, having been duly sworn depose as follows:

1. "My name is Satendar Bhatia / Neelu Bhatia. I am over the age of eighteen, have never been convicted of a felony, and am of sound mind, fully capable of making this affidavit and personally acquainted with the facts herein stated:

2. I am the owner of a parcel of land with the address of 2205 N. Pearson, and 2217 N. Pearson, adjoining unplatted lots, further described by metes and bounds in the attached Exhibit A (hereinafter the "Property"). The Property is located within the extraterritorial jurisdiction of the Town of Westlake, is contiguous to the Town Limits of the Town of Westlake, is one-half mile or less in width, and on which three or fewer qualified voters reside.

3. As the owner of the Property, I hereby petition the Town Council to extend the present Town municipal boundaries so as to include the Property as part of the Town for all purposes. By filing this Affidavit with the Mayor of the Town of Westlake, in care of the Town Manager of the Town of Westlake, I certify my desire that the Property be annexed by the Town



## **ATTACHMENT 3**

### **SERVICE PLAN SERVICES TO BE PROVIDED ON THE EFFECTIVE DATE OF ANNEXATION**

#### **1. POLICE PROTECTION**

The Town of Westlake, Texas will provide police protection to the newly annexed territory at the same or similar level of service now being provided to other areas of the Town of Westlake, Texas, with similar topography, land use and population within the newly annexed area.

#### **2. FIRE PROTECTION**

The Town of Westlake, Texas will provide fire protection and ambulance service to the newly annexed territory at the same or similar level of service now being provided to other areas of the Town of Westlake, Texas, with similar topography, land use and population within the newly annexed area.

#### **3. SOLID WASTE COLLECTION**

At the present time, the Town of Westlake, Texas is using a designated, specified contractor for collection of solid waste and refuse within the Town limits of the Town of Westlake, Texas. Upon payment of any required deposits and the agreement to pay lawful service fees and charges, solid waste collection will be provided to citizens in the newly annexed area to the extent that the Town's contractor has access to the area to be services. Residents of the annexed area with existing contracts with a solid waste removal provider may continue to use that provider for up to two (2) years from the effective date of the annexation ordinance, if they choose.

#### **4. MAINTAINENCE OF WATER AND WASTEWATER FACILITIES**

To the extent the Town has any water or waste water facilities owned or maintained by the Town of Westlake, Texas, at the time of the proposed annexation in the area to be annexed, said facilities shall be maintained by the Town of Westlake. Any and all subsequently acquired or built water or waste water facilities in the annexed area shall be maintained by the Town of Westlake, Texas, to the extent of the Town's ownership of said facilities.

#### **5. MAINTENANCE OF ROADS AND STREETS**

Any and all public roads, streets, or alleyways which have been dedicated to the Town of Westlake, Texas or the public or which are owned by the Town of Westlake, Texas shall be maintained to the same degree and extent that other roads, streets, and alleyways are

maintained in areas with similar topography, land use and population density, and in a manner no less than they are currently maintained. Any and all lighting of roads, streets, and alleyways which may be positioned in a right-of-way, roadway or utility easement shall be maintained by the applicable utility company servicing the Town of Westlake, Texas pursuant to the rules, regulations and fees of such utility.

6. MAINTENANCE OF PARKS, PLAYGROUNDS, AND SWIMMING POOLS

The Town Council of the Town of Westlake, Texas is not aware of the existence of any public parks, public playgrounds or public swimming pools now in the area proposed for annexation. In the event of any such public parks, public playgrounds, or public swimming pools do exist and are public facilities, the Town of Westlake, Texas will maintain such areas to the same extent and degree that it maintains public parks, public playgrounds, and public swimming pools in other similar areas of the Town now incorporated in the Town of Westlake, Texas.

7. MAINTAINENCE OF MUNICIPALLY OWNED FACILITIES, BUILDINGS OR MUNICIPAL SERVICE

The Town Council of the Town of Westlake, Texas is not aware of the existence of any municipally owned facilities, buildings or other municipal service now located in the area proposed for annexation. In the event of any such municipally owned facilities, buildings or other municipal service do exist and are public facilities, the Town of Westlake, Texas will maintain such areas to the same extent and degree that it maintains public owned facilities, buildings or municipal services of the Town in other similar areas of the Town now incorporated in the Town of Westlake, Texas.

CAPITAL IMPROVEMENTS

1. GENERAL

The Town policy for extending water and wastewater service is to extend service on an as required basis when development applications or subdivision plats are submitted to the Town in accordance with the Town's subdivision and development ordinances.

Landowners may be required to fund capital improvements necessary to provide service in a manner consistent with law. Nothing in this plan shall be interpreted to require a landowner within the newly annexed area to fund capital improvement's necessary to provide municipal services in a manner inconsistent with Chapter 395 of the Local Government Code, unless otherwise agreed to by the landowner.

2. POLICE PROTECTION, FIRE PROTECTION, AND EMERGENCY MEDICAL SERVICES

The Town Council of the Town of Westlake, Texas finds and determines it to be unnecessary to acquire or construct any capital improvement for the purposes of providing police protection, fire protection, or emergency medical services. The Town Council finds and determines that it has at the present time adequate facilities to provide the same type, kind and level of protection and service which is presently being administered to other areas already incorporated in the Town of Westlake, Texas, with the same or similar topography, land use, and population density, without reducing by more than a negligible amount the level of fire, police and emergency medical services provided within the corporate limits of the Town.

3. WATER FACILITIES

The Town Council of the Town of Westlake, Texas has determined that the area is currently being served by the City of Keller, and may remain so until the property is platted. At the time of platting a determination will be made as to how and when connection to the Town of Westlake water system will be made.

4. WASTE WATER FACILITIES

The Town Council of the Town of Westlake, Texas has determined that the area is currently being served by an on-site sanitary sewer system and may continue to be served by such until a sanitary sewer main is extended to within the minimum distance from the property that would trigger a required connection.

5. ROADS AND STREETS

Maintenance of properly dedicated roads and streets will be consistent with the maintenance provided by the Town to other roads and streets in areas of similar topography, land use, and sub-development of the annexed territory. Developers will be required pursuant to the ordinances of the Town of Westlake, Texas, to provide internal and peripheral streets and to construct those streets in accordance with the specifications required by the Town of Westlake, Texas for the properly dedicated street. Town participation in capital expenditures will be in accordance with Town policies.

SPECIFIC FINDINGS

The Town Council of the Town of Westlake, Texas finds and determines that this proposed Service Plan will not provide fewer services, and it will not provide a lower level of service in the area proposed to be annexed than were in existence in the proposed area at the time immediately preceding the annexation process.

Because of the differing characteristics of topography, land utilization and population density, the service levels which may ultimately be provided in the newly annexed area may differ somewhat from services provided other areas of the Town of Westlake, Texas. These differences are specifically dictated because of differing characteristics of the property and the Town of Westlake, Texas will undertake to perform consistent with this Service Plan so as to provide the newly annexed area with the same type, kind and quality of service presently enjoyed by the citizens of the Town of Westlake, Texas who reside in areas of similar topography, land utilization and population.

APPROVED THIS THE 14th DAY OF DECEMBER 2015.

TOWN OF WESTLAKE, TEXAS

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LAURA WHEAT, MAYOR

ATTEST:

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KELLY EDWARDS, TOWN SECRETARY



**TYPE OF ACTION**

Regular Meeting - Action Item

**Monday January 4, 2016**

**TOPIC:** Conduct a Public Hearing and Consider a Recommendation Regarding an Application for a Specific Use Permit (SUP) to Allow “Beer, Liquor and Wine Package Sales” at the CVS Pharmacy to be Built at 35 Arta Drive, Located in the Westlake Entrada Development, Near the Northeast Corner of Davis Blvd. and Solana Blvd.

**STAFF CONTACT:** Eddie Edwards, Director of Planning and Development

**Strategic Alignment**

<u>Vision, Value, Mission</u>	<u>Perspective</u>	<u>Strategic Theme &amp; Results</u>	<u>Outcome Objective</u>
Planned / Responsible Development	Citizen, Student & Stakeholder	High Quality Planning, Design & Development - We are a desirable well planned, high-quality community that is distinguished by exemplary design standards.	Preserve Desirability & Quality of Life
<b><u>Strategic Initiative</u></b>			
Outside the Scope of Identified Strategic Initiatives			

**Time Line - Start Date:** January 4, 2016    **Completion Date:** January 25, 2016

**Funding Amount: Status -**  **Not Funded**                      **Source - N/A**

**EXECUTIVE SUMMARY (INCLUDING APPLICABLE ORGANIZATIONAL HISTORY)**

Ordinance 703, the ordinance that regulates certain aspects of development, construction, and the use of properties within the Westlake Entrada development, requires that a Specific Use Permit (SUP) be approved prior to selling beer, liquor, and or wine, for off-premises consumption.

Zoning ordinances typically provide for two types of uses – uses by right and by special exception, i.e. special / conditional use permits. The uses that are permitted by right are those which are allowed without additional approvals being required. For the purpose of Westlake, we use the term Special Use Permit. SUP’s may be permitted within a zoning district; however, the

use is conditional and not granted automatically (or entitled) like a use by right. SUP's require additional public hearings and scrutiny – meaning the approval is discretionary. That being said, if certain stipulated conditions are met, the municipality may grant the permit after review by the Planning & Zoning Committee and the Town Council.

The Town Council may, in the interest of the public welfare, and to ensure compliance with this ordinance, establish conditions of operation, location, arrangement, and construction of any authorized Specific Use. In approving any Specific Use, the council may impose such development standards and safeguards as conditions warrant for the welfare and protection of adjacent properties and citizenry as a whole as it may be affected by this use.

The Council shall not grant an SUP for a particular use except upon a finding that the use will:

- a. Complement or be compatible with the surrounding uses and community facilities;
- b. Contribute to, enhance or promote the welfare of the area affected by the SUP and adjacent properties;
- c. Not be detrimental to the public health, safety or general welfare; and
- d. Conform in all other respects to all applicable zoning regulations and standards.

A Concept Plan, Development Plan, PD Site Plan and Final Plat relating to this project have all been previously approved by the Town Council. The approval of this Specific Use Permit does not conflict with any previous approvals.

### **RECOMMENDATION**

Staff recommends approval of the Specific Use Permit as requested by the applicant.

### **ATTACHMENTS**

Specific Use Permit application.



## APPLICATION FOR SPECIFIC USE PERMIT

Town of Westlake \* 3 Village Circle #202 \* Westlake, TX 76262

Tel: (817) 430-0941 \* Fax: (817) 430-1812

e-mail: slewis@westlake-tx.org \* e-mail: lillman@westlake-tx.org

### Office use Only

Case Number: \_\_\_\_\_ Submittal Date: \_\_\_\_\_  
Fee: \_\_\_\_\_ Received By: \_\_\_\_\_  
Site Grading Permit #: \_\_\_\_\_ Date Issued: \_\_\_\_\_

### Description of Property

Lot Number: 3 Block Number: N  
Subdivision: ENTRADA Acreage: \_\_\_\_\_  
Property Address: 35 ANITA OLIVE  
General Location: \_\_\_\_\_

Survey of Property: Attach a current survey plat delineating the subject property or a metes and bounds description and survey if land is currently unplatted.

### Applicant Information

Applicant's Name: NICOTRA BETTY  
Address: 1800 VALLEY VIEW  
City, State, Zip: FARMER'S BRANCH TX 75234  
Email Address: NBETTY@CENTRALAMERICAN.COM  
Phone #: 214-287-9009 Fax #: \_\_\_\_\_

### Owner Information

Owner's Name: MAGUIE PARTNER- SILANA LAND LP  
Address: 1800 VALLEY VIEW  
City, State, Zip: FARMER'S BRANCH TX 75234  
Email Address: LAVIA@CENTRALAMERICAN.COM  
Phone #: 465-992-000 Fax #: \_\_\_\_\_

### Special Use Permit Request

Present Zoning: P01-2 Requested SUP for: ALCOHOL SALES  
Reason for Request: CUS ALCOHOL SALES - OFF PREMISES CONSUMPTIONS



# APPLICATION FOR SPECIFIC USE PERMIT

Town of Westlake \* 3 Village Circle #202 \* Westlake, TX 76262

Tel: (817) 430-0941 \* Fax: (817) 430-1812

e-mail: slewis@westlake-tx.org \* e-mail: hillman@westlake-tx.org

### Office use Only

Case Number: \_\_\_\_\_ Submittal Date: \_\_\_\_\_

Fee: \_\_\_\_\_ Received By: \_\_\_\_\_

Site Grading Permit #: \_\_\_\_\_ Date Issued: \_\_\_\_\_

### Description of Property

Lot Number: 3 Block Number: N

Subdivision: ENTRADA Acreage: \_\_\_\_\_

Property Address: 35 ANITA DRIVE

General Location: \_\_\_\_\_

Survey of Property: Attach a current survey plat delineating the subject property or a metes and bounds description and survey if land is currently unplatted.

### Applicant Information

Applicant's Name: NICOLE BOITY

Address: 1800 VALLEY VIEW

City, State, Zip: FARMER'S BRANCH TX 75234

Email Address: NBOITY@CENTRALAMERICAN.COM

Phone #: 214-287-9009 Fax #: \_\_\_\_\_

### Owner Information

Owner's Name: MAGUIE PARNETT - SOLANA LAND LP

Address: 1800 VALLEY VIEW

City, State, Zip: FARMER'S BRANCH TX 75234

Email Address: LAVIA@CENTRALAMERICAN.COM

Phone #: 465-992-0000 Fax #: \_\_\_\_\_

### Special Use Permit Request

Present Zoning: P07-2 Requested SUP for: ALCOHOL SALES

Reason for Request: CUS ALCOHOL SALES - OFF PREMISES CONSUMPTIONS



# Westlake Planning and Zoning Commission



## TYPE OF ACTION

Regular Meeting - Action Item

**Monday, January 04, 2016**

**TOPIC:** Conduct a Public Hearing and Consider a Recommendation Regarding an Amendment of Ordinance 691, Amending the Development Regulations Applicable to the PD 1 Zoning District, Planning Area 1 (PD 1-1), Restoring a 500 foot, Previously Existing Setback in the Areas Adjacent to a Residential Neighborhood.

**STAFF CONTACT:** Eddie Edwards, Director of Planning and Development

## Strategic Alignment

<u>Vision, Value, Mission</u>	<u>Perspective</u>	<u>Strategic Theme &amp; Results</u>	<u>Outcome Objective</u>
Planned / Responsible Development	Citizen, Student & Stakeholder	Natural Oasis - Preserve & Maintain a Perfect Blend of the Community's Natural Beauty	Preserve Desirability & Quality of Life
<b><u>Strategic Initiative</u></b>			
Tree Preservation / Reforestation			

**Time Line - Start Date:** January 4, 2016    **Completion Date:** January 25, 2016

**Funding Amount:** 00.00    **Status -**  N/A    **Source -** N/A

## EXECUTIVE SUMMARY (INCLUDING APPLICABLE ORGANIZATIONAL HISTORY)

On January 7, 2013, Ordinance 691 created three Planning Areas within the PD 1 Zoning District: PD 1-1 (Solana), PD 1-2 (Entrada), and PD 1-3 (Granada). The ordinance was passed with a section stating that the building setback from any residentially zoned area shall be 500 feet for the areas described in exhibits "A-1" and "A-2" (Entrada and Granada). However, the section was intended to require the 500 foot setback from all residentially zoned areas **except** for the areas described in "A-1" and "A-2."

The intent was to preserve the 500 foot building setback, originally established by Ordinance 202, for the areas of PD 1-1 adjacent to residential neighborhoods including the Glenwyck

Farms, Terra Bella, and Carlyle subdivisions, but excluding the Entrada and Granada developments. Our rationale was that Entrada, being a mixed-use development, does not need a setback separating commercial uses from residential uses, and Granada would receive adequate separation via the 60 foot open space between the lots and the PD 1-1 area, combined with the setback resulting from the “Residential Slope” regulation that requires commercial buildings to be set back five-feet from residential property for every one-foot in building height, as measured from the ground height of the residential property. For example an 80 foot tall building would require a 400 foot setback (80X5=400) plus the 60 foot open space. Higher ground at the commercial building site results in either a shorter building or greater setback, and low ground allows for taller buildings or lesser setbacks.

Town staff has been working with PD1-1 owner representatives on an amendment to Ordinance 691 for many months to address issues related to multiple ownerships within the Planning Area, and has always taken the position that the aforementioned section would be corrected with the next amendment. What was not anticipated by Town staff was that so much time would pass before their amendment would be applied for. Now lots in Granada have been sold with the purchasers believing that the 500 foot building setback applies to their properties. Depending on building height, there may not be any difference in the setbacks, but concern over the unknown is only natural. Therefore, the proposed amendment to Ordinance 691 will restore the 500 foot building setback for all areas of PD 1-1 adjacent to residential property, except for PD 1-2 (Entrada).

Town staff is taking this opportunity to propose amendments to several sections of the ordinance that we feel should be modified (see attached staff report). The proposed amendments will not only correct the previous error but will clarify the Town’s position on several sections within the ordinance. This will provide more predictability to the current and future owners of all affected properties.

**Please note that this Town initiated amendment is limited to specific development regulations that the Town wishes to clarify and does not change the Permitted Uses or allowed density within PD 1-1.**

### **RECOMMENDATION**

Staff recommends approval of the restoration of the 500 ft. setback.

### **ATTACHMENTS**

1. Staff Report
2. Letter of Protest regarding Amendment of Ordinance 691
3. Letter of Support regarding Amendment of Ordinance 691



## TOWN OF WESTLAKE, TX

### **STAFF REPORT REGARDING AMENDMENT TO ORDINANCE 691, RELATING TO THE DEVELOPMENT REGULATIONS OF THE PD 1-1 PLANNING AREA.**

**Date: 12-22-2015**

**Request:** Review and Recommendation of Ordinance XXX, amending ordinance 691, regulating the PD 1-1 Planning Area.

**Agenda Item:** Conduct a Public Hearing and Consider a Recommendation Regarding approval of Ordinance XXX, an ordinance amending Ordinance 691, to correct and clarify development regulations related to the PD 1-1 Planning Area, commonly known as Solana.

#### CASE INFORMATION

**Development Name:** Solana.

**Location:** The property is generally located south of Highway 114, extending from Davis Blvd. eastward to the town border, bounded by the Granada subdivision to the west, and the Glenwyck Farms, Carlyle, and Terra Bella subdivisions to the south. **The PD 1 Zoning District (PD 1) is comprised of three sub-areas called Planning Areas, including PD 1-1 (Solana), PD 1-2 (Entrada Mixed-Use Development), and PD 1-3 (Granada Mixed-Use Development).**

**Summary:** This Town initiated amendment is limited to specific development regulations that the Town wishes to clarify and *does not change the Permitted Uses or allowed density within the development*. This amendment will include language to restore a previously existing 500 foot building setback from certain residential properties located adjacent to the PD1-1 Planning Area. In addition, the application of density regulations to specific Planning Areas is clarified. This amendment provides predictability for all affected stakeholders and further aligns existing ordinances with the recently adopted comprehensive plan.

**Owner:** The Planning Area includes multiple properties and owners.  
**Applicant:** This is a Town initiated amendment.  
**Developer:** N/A  
**Site Size:** 251.757 acres

## **I. Chronology of the PD 1 Zoning District and the PD 1-1 Planning Area**

**November 1992-** Ordinance 202 created PD 1, and included a 500 foot **building** setback from residential property. Note that a building setback is **not** an open space or landscape buffer; vertical structures are not permitted within this type of setback, but a parking lot would be permitted.

**March 2008** – Ord 588 amended PD 1 to adjust the PD1 boundary when land was acquired for the right-of-way needed for the realignment and widening of FM 1938 (Davis Blvd), and to address other PD Site Plan issues. The amendment also added an exhibit “A” to the 500 foot setback language.

**January 2013** – Ord 691 amended PD 1 to create three Planning Areas: PD1-1 (Solana), PD 1-2 (Entrada), and PD 1-3 (Granada). Exhibit “A” from Ord 588 was determined to have not appropriately described the property north of Glenwyck Farms, which was the target area of the 500 foot building setback, and the ordinance was reworded to require a 500 foot building setback from any residential properties except for properties in Planning Areas PD 1-2 (Entrada) and PD 1-3 (Granada). This language was intended to exclude the areas described in exhibits A-1 and A-2, (PD1-2 and PD 1-3 respectively) from the 500 foot building setback. However, the word “except” was unintentionally deleted from the final ordinance text, as highlighted below:

### ***Intended text of Part II, Section 4 of Ordinance 691:***

*Section 4. Dimensional standards and requirements. The following dimensional standards and requirements shall apply:*

*A. The minimum required lot area shall be five (5) acres, with the exception of Lot 1R2 of Block 2 of Westlake/Southlake Park Addition No. 1. which shall measure 1.722 acres (before right of way dedication).*

*Exception: Property containing existing buildings may be re-platted into lots of less than five acres*

*B. The maximum percent of PD1 to be occupied by (i) principal use buildings shall be ten percent (10%) of the land area (as defined below), excluding court yards, atria, etc. not enclosed within the buildings. Parking garages shall not be included in the calculation of density or site coverage. For these purposes PD1 shall be deemed to have 436.077 acres of land area which is its original acreage before donations for roadways except for right of way within PD1 donated for SH114. Planning Area 1 shall be deemed to be 251.757 acres. Planning Area 2 shall be deemed to be 92.08 acres. Planning Area 3 shall be deemed to be 92.24 acres.*

*C. The minimum size of any front, side or rear yard for principal and accessory use buildings, with the exception of Lot 1R2 of Block 2 of Westlake /Southlake Park Addition No.1. shall be:*

*1. One hundred (100) feet from any public road, street or highway, except for the building located immediately adjacent to the intersection of Sam School Road and Solana Boulevard, for which building the setback shall be eighty (80) feet;*

*2. The minimum setback from State Highway 114 shall be two hundred (200) feet;*

*3. Five hundred (500) feet from any residentially zoned area **except** for the areas described in exhibits "A -1" and "A -2";*

*4. In accordance with Section 102- 124(b)( 2)( b) of the Zoning Ordinance contained in the Code of Ordinances for the property described in Exhibits "A -1" and "A -2 "; or*

*5. Otherwise setbacks shall be one hundred (100) feet for side yards. Setbacks shall be one hundred (100) feet for rear yards.*

*Exception: Property containing existing buildings may be re- platted into lots with less than 100 feet of setbacks.*

**Q2 2015 to Q1 of 2016** – The omission of the word “except” was planned for correction along with other clarifications/corrections as they were identified or submitted.

The new owners of PD1-1 desire to create multiple Planning Areas within the current PD 1-1 Planning Area. There are multiple land owners within this area but some PD regulations pertain to a ratio of the entire Zoning District or Planning Area. This could allow one property owner to develop a greater percentage of his land, than would be allowed if calculated independently, and this would force the other property owners to compensate by developing less area.

**II. Proposed amendments to Ordinance 691, highlighted, and their effect on future development within the PD 1 Zoning District and the PD 1-1 Planning Area:**

**A. Text to be inserted in the Caption, Preamble, and Part II of Ordinance 691:**

**1. Text to be inserted in the Ordinance Caption (highlighted):**

AN ORDINANCE OF THE TOWN OF WESTLAKE, TEXAS, AMENDING ORDINANCE 691, BY AMENDING THE DEVELOPMENT REGULATIONS FOR THE PLANNED DEVELOPMENT DISTRICT NO. 1, **PLANNING AREA 1 (“PD1-1”)**; PROVIDING FOR INTERPRETATION, PURPOSE AND CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENAL CLAUSE; AND MAKING AN EFFECTIVE DATE.

**2. Text to be inserted in the Preamble (highlighted):**

**WHEREAS**, Ordinance No. 200, as amended, the Comprehensive Zoning Ordinance for the Town of Westlake, was amended by ordinance 691, and

**WHEREAS**, there were found to be provisions that needed clarification in the amending ordinance 691; and

**WHEREAS**, Planning Area 2 (PD 1-2) is now regulated by Ordinance 703; and

**WHEREAS**, Planning Area 3 (PD 1-3) is now regulated by Ordinance 693; and

**3. Text to be inserted in Part II of the body of the proposed Ordinance (highlighted):**

Section 1. Planning Areas. The PD1 Zoning District is hereby divided into three distinct planning areas. These planning areas are to be referred to as Planning Area 1 (PD1-1), Planning Area 2 (PD1-2), and Planning Area 3 (PD1-3). The planning areas are described in Exhibits “PD1-1”, “PD1-2”, and “PD1-3”.

**Section 2.** Planning Area 2 (PD1-2) shall be regulated by ordinance 703, as amended.

**Section 3.** Planning Area 3 (PD1-3) shall be regulated by ordinance 693, as amended.

**Section 4.** Planning Area 1 (PD1-1) shall be regulated by the following sections of this ordinance and the Town of Westlake Code of Ordinances.

**Note that Part II, Sections 2, 3, and 4 in the existing Ordinance become Sections 5, 6, and 7 in the proposed Ordinance.**

***Effect of changes:***

The inserted text limits the regulations specified in Ordinance 691 to the PD 1-1 Planning Area only, clarifying that the 10% limit for land area coverage by Principal Use Buildings contained in Section 4B of existing Ordinance 691 applies only to the PD 1-1 Planning Area. PD 1-2 (Entrada) and PD 1-3 (Granada) both received differing regulations when they were effectively rezoned by separate ordinances.

**B. Amendments to Part II, Section 7A (Section 4A in existing Ordinance 691):**

Section 7. Dimensional standards and requirements. The following dimensional standards and requirements shall apply:

- A. The minimum required lot area shall be five (5) acres, with the exception of Lot 1R2 of Block 2 of Westlake/Southlake Park Addition No. 1, which shall measure 1.722 Acres (before right-of-way dedication).

Exception: Property containing existing buildings may be re-platted into lots of less than five acres if approved as part of a PD Site Plan approval.

***Effect of changes:***

1. Clarifying that the minimum required lot area is five acres.
2. The intent of the exception, which was added with the passage of Ordinance 691, was to allow the property owner the ability to re-plat property containing an existing building that could not comply with the minimum lot size requirements due to the proximity of other buildings on the property. This would allow for a fee simple real estate transaction as opposed to forcing a condominium or other type transaction. Staff has subsequently determined that the selling of portions of a property, that is part of a property that was developed with an approved PD Site Plan, may need closer scrutiny and possible approval by the approving boards or commissions prior to breaking up the property. For example: Cross access easements, shared parking agreements, percentage of coverage by Principal Use Buildings, open space or parkland dedication and trail requirements, etc..

**C. Amendments to Part II, Section 7C (Section 4C in existing Ordinance 691):**

A. The minimum size of any front, side or rear yard for principal and accessory use buildings, with the exception of Lot 1R2 of Block 2 of Westlake/Southlake Park Addition No. 1, shall be:

1. One hundred (100) feet from any public road, street or highway, except for the building located immediately adjacent to the intersection of Sam School Road and Solana Boulevard, (southeast corner) for which building the setback shall be eighty (80) feet;

2. Two hundred (200) feet from ~~The minimum setback from~~ State Highway 114. ~~shall be two hundred (200) feet;~~

3. Five hundred (500) feet from any adjacent residentially zoned lot area ~~for the area described in exhibit "A-1" and "A-2" except for residential lots located in PD 1-2, which is a mixed-use development;~~ or

4. ~~In accordance with the Section 102-124(b)(2)(b) of the Zoning Ordinance contained in the Code of Ordinances for the property described in Exhibit "A-1" and "A-2";~~ or

4. Otherwise setbacks shall be one hundred (100) feet for side yards and rear yards. ~~Setbacks shall be one hundred (100) feet for rear yards.~~

***Effect of changes:***

- a. Paragraph 1. Clarifying that the exception is intended to apply only to the existing building located on the southeast corner and not to any other property adjacent to the intersection.
- b. Paragraph 3. Clarifying that a 500 foot setback is required from adjacent residential lots other than those lots within the PD 1-2 (Westlake Entrada development) Planning Area.
- c. Paragraph 4. Deleted. The referenced Code of Ordinance Section applies to all commercial districts located near a residential lot. This is referring to the "Residential Slope or 5:1 building setback to building height ratio." Citing code sections within an ordinance is not considered a good practice since there are no controls to assure that if the code section being referred to gets renumbered or relocated within the code, that the ordinances referencing the code section will also get amended.
- d. Paragraph 4. (new #4, previous #5) The intent of the exception, which was added with the passage of Ordinance 691, was to allow the property owner the ability to re-plat property containing an existing building that could not comply with the minimum

set back requirements due to the proximity of other buildings on the property. This would allow for a fee simple real estate transaction as opposed to forcing a condominium or other type transaction. Staff has subsequently determined that the selling of portions of a property, that is part of a property that was developed with an approved PD Site Plan, may need closer scrutiny and possible approval by the approving boards or commissions prior to breaking up the property. For example: Building wall fire rating requirements based on proximity to property lines, cross access easements, shared parking agreements, percentage of coverage by Principal Use Buildings, open space or parkland dedication and trail requirements, etc..

**D. Other changes are included to remove unnecessary references to the PD 1 Zoning District or Planning Areas PD 1-2 and PD 1-3.**

**III. What is not changing:**

**A. Permitted Uses:**

*The Permitted Uses for this property are not being changed* but are listed below for informational purposes:

Principal Uses Permitted. No building, structure or premises shall be used other than for the following purposes, together with the ancillary and accessory uses specified in Section 3:

- A. Office buildings for business and professional use, including, but not limited to, administrative, executive, engineering, accounting, scientific research and development, educational, marketing, information processing, computers, statistical and financial purposes, provided such use shall not involve any machinery or process which pollutes the environment, including without limitation those which emit dust, smoke, odor, fumes, noise, vibrations or the like;
- B. Educational facilities and temporary accommodations for employees, customers and visitors to such educational facilities;
- C. Hotel and conferencing facilities;
- D. Retail uses including but not limited to, medical and dental clinics, cafeterias, restaurants, travel agencies, banks and other financial institutions, hair salons, jewelry stores, child care centers, dry cleaners, and other uses permitted under the retail category of the Comprehensive Zoning Ordinance of 1992, as amended;
- E. Institutional and Governmental Uses; and
- F. Sports and health club.

## **B. Permitted Uses within the 500 foot building setback:**

No changes are proposed with this amending ordinance. Part II, Section 4C of the original text states that “The minimum size of any front, side or rear yard for principal and accessory use buildings...” Staff has interpreted this to apply to principal and accessory use buildings only. A parking lot is not considered a building. However, parking lots do have numerous regulations relative to screening and landscaping that greatly influence where they are placed.

## **IV. Alignment with the Comprehensive Plan**

Reinstalling the 500 foot building setback moves the Town closer to the intent of the recently adopted Comprehensive Plan, which shows the area covered by the 500' setback as open space (shown on page 167 of the Comprehensive Plan). Note that the property owner has the option to satisfy much of the open space requirements for PD 1-1 by dedicating the acreage within the building setback as open space, but has chosen not to exercise this option.

December 21, 2015

Town of Westlake Planning and Zoning Commission  
Town of Westlake – Town Council  
1301 Solana Blvd, Building 4, Suite 4202  
Westlake, TX 76262

Re: Z-12-15-15 Zoning Change, amending Ordinance 691

Dear Commissioners and Councilmembers:

As owners of the property affected by this proposed Zoning Change, we formally object/protest the amendment proposed under Z-12-15-15, **AND** request a continuance of the amendment discussion/vote until March so we can continue negotiating with the Town of Westlake and adjacent neighbors in good faith.

#### Background

BRE Solana LLC acquired this property in August 2014 with Ordinance 691 in place to govern the area known as PD 1-1. There are different setback provisions in Ordinance 691 consisting of generally 100 feet from most areas and 200 feet from State Highway 114 (Section 4. C. 1, 2, 5). Section 4. C. 3. states the setback is 500 feet from any residentially zoned areas ***for the area described in exhibit "A-1" and exhibit "A-2"***. Exhibit A-1 is the land on which Entrada is being developed and exhibit A-2 is the land on which Granada is being developed. BRE Solana LLC does not own any land referenced in these exhibits.

Ordinance 691 amended Ordinance 588 (which amended Ordinance 202). The applicable section in Ordinance 588 that references a 500 foot setback is Section 4. C. 2. where it is written exactly the same as Section 4. C. 3. of Ordinance 691 except that it references ***the area described in Exhibit "A"***. Exhibit A in this case references the entire Solana project pre-disposition of the Granada and Entrada tracts. Among other changes, it appears the intent of changing the reference to the exhibits was to reduce the land area that the 500-foot setback referred to. It is important to remember that Ordinance 691 went into effect in January 2013, ***19 months prior to our acquisition.***

#### Update

Our primary focus since the August 2014 acquisition has been executing the redevelopment plan to improve the Solana Business Park and subsequently lease office space. There are currently no plans whatsoever to develop the undeveloped Solana land in the near term. It is also unlikely that BRE Solana LLC will directly

participate in a development – it will most likely dispose of the land to a developer or end user.

We understand that the Town of Westlake staff believes that Section 4. C. 3. in Ordinance 691 was a mistake and has been approached by Westlake residents regarding such. In good faith, we have met with Town staff as well as with Colin Stevenson and Neil McNabnay of Glenwyck Farms to discuss a mutually beneficial solution that would compensate Solana for the negative impact to our land of having this extensive additional setback imposed while also providing adjacent property owners with the views they desire.

It is clear that the Glenwyck Farms residents enjoy the natural setting that our land provides and wish to retain that setting as viewed from their backyards. The 500 foot building setback, if it were to be imposed on us with this amendment, does not guarantee that setting, because a developer could build a parking lot within the setback area as long as a structure was not developed within 500 feet (as confirmed multiple times by Town staff and the Town attorney). We believe that a far superior solution exists that would preserve the views that Glenwyck residents desire, while also offsetting any of the significant and unanticipated loss in value to us that a new setback or buffer would create.

We attempted to schedule a site visit to discuss this greenbelt with Colin and Neil prior to the January 4 P&Z meeting but were unable to do so because of holiday schedules. Both sides are interested in exploring options to determine if there is a mutually satisfactory solution with respect to the property. We have agreed to meet in late January or early February to initiate that process.

We have also met with the Town of Westlake to discuss the most appropriate ways to compensate BRE Solana LLC for the severe loss in value on the land should new setbacks be instituted.

### Summary

We are proud of the Solana redevelopment effort to date and appreciate the Town of Westlake's support. We believe that the completed redevelopment will generate significant revenue for the Town of Westlake.

We acquired this property with specific zoning that was put in place prior to our ownership. Changing the setback will reduce the value of the undeveloped land, and as fiduciaries for numerous public pension plans and institutional investors, this is not something that we can agree to without mitigation that the Town of Westlake can provide. That being said, it is our sincere desire to work in good faith with the Town of Westlake and with our neighbors on a solution that we believe could be more favorable to our neighbors than what the requested change to Ordinance 691 contemplates.

Therefore, we respectfully object/protest to the amendment proposed under Z-12-15-15 **AND** request a continuance of the amendment discussion/vote until March so we can continue negotiating with the Town and with our neighbors in good faith towards a mutually beneficial solution for all parties.

Best regards,

A handwritten signature in black ink, appearing to be 'BD', with a long horizontal stroke extending to the right.

Brian Driesse  
Representative of BRE Solana LLC

Cc: Payton Mayes

December 23, 2015

Town of Westlake  
Planning and Zoning Commission  
3 Village Circle, Suite 202  
Westlake, TX 76262

RE: Z-12-15-15 Zoning Change, Amending Ordinance 691

Dear Planning and Zoning Commissioners:

I live at 1825 Broken Bend Drive in Glenwyck Farms (our property borders PD1-1 to the north and east) and I've recently purchased Lot 78 in Granada (2018 Valencia Cove which borders PD1-1 to the east) and intend to move there once our new home is built. I'm writing you because I will be out of the country on January 4<sup>th</sup> and unable to attend the January 4<sup>th</sup> P&Z meeting. As such, my wife, Erin, and I request that the following be read into public record.

We urge the P&Z to amend Ordinance 691 to provide a minimum 500 foot building setback within the PD1-1 Planning Area from **ALL** residential properties located within the Glenwyck Farms, Terra Bella, Carlyle developments **AND** from all residential properties located along the eastern border of the Granada developments.

As I understand it, when Ordinance 691 was drafted the 500 foot setback restriction was mistakenly removed from all areas adjacent to PD1-1 except the newly formed residential development known as Granada; whereas the intention was to maintain the setback restriction in all areas except Granada. It's unclear to me when the city became aware of this conflict but it appears to have been roughly 18 months ago. Nevertheless, what is clear is that the city actively chose to remain silent on its intent to modify the ordinance until very recently. In the meantime, the lots along the eastern border of Granada were developed, marketed, and sold with the express added value of the 500 foot setback restriction as evidenced in Ordinance 691. As you can imagine, eliminating the 500 foot setback restriction from PD1-1 now, as it relates to those lots within Granada, would be problematic for all parties, including the city of Westlake.

Take my situation as an example.

On 10/26/15 my wife and I entered into a contract with Simmons Estate Homes to purchase Lot 78 in Granada. We selected Lot 78 solely on the basis that it's eastern border was protected by the same 500 foot setback restriction that we've enjoyed for 12+ years in Glenwyck Farms. Then, on Friday, 11/13/15, four days before we were scheduled to close escrow on the lot, I heard a rumor that the 500 foot setback did not apply to Granada. I immediately contacted Simmons Estate Homes and advised Scott Simmons of that rumor and asked him to provide confirmation that the 500 foot setback was in fact in place and enforceable. Scott was unaware of any such rumor. He promptly contacted the city of Westlake and then forwarded me a copy of Ordinance 691 pointing to Part II, Section 4, C.3 as affirmative evidence that the 500 foot setback was in fact in place and enforceable. The city made no mention of any pending action or intention to change the setback protection. Based on that we proceeded with our escrow closing and purchased Lot 78.

Had the city acted on, or declared, its original intention to modify Ordinance 691 and remove the 500 foot setback protection from the Granada development we would never have considered purchasing Lot 78. At this point, I'm not certain what the legal ramifications are should the city now decide to remove the 500 foot setback protection from the Granada properties but it seems reasonable to me that the city's prolonged and continued silence creates a condition of liability on its part should it now choose to remove the 500 foot setback protection from the Granada properties.

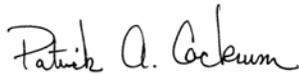
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To that point, at the 11/18/15 Westlake town hall meeting in Glenwyck Farms Westlake city officials initially proposed that the solution to this conflict was to simply remove the 500 setback protection from Granada and reinstate it for Glenwyck, Terra Bella, and Carlyle. I pointed out that, while I agree completely with the need to reinstate the 500 foot setback protection for Glenwyck, Terra Bella, and Carlyle, removing the 500 foot setback protection from Granada would be an untenable solution and a serious hardship for Granada property owners that would likely lead to legal action on their behalf. After further discussion, Eddie Edwards, Westlake Director of Planning & Development, indicated that the proper and preferable solution would be to extend the 500 foot setback requirement to include all residential properties located within the Glenwyck Farms, Terra Bella, Carlyle developments, **AND** all properties along the eastern border of the Granada development.

Mr. Edwards' solution is the right answer, and frankly it's the only reasonable solution for all parties given the circumstance outlined above.

I urge your support of this solution as the permanent path forward.

Sincerely,



Patrick A. Cockrum

cc: Eddie Edwards, Director of Planning & Development, Westlake  
Scott Simmons, Simmons Estate Homes

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# Planning and Zoning

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Item # 6 – Adjournment  
Regular Session

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Back up material has not  
been provided for this  
item.

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