

**NORMAN PLANNING COMMISSION
REGULAR SESSION MINUTES**

MAY 10, 2018

The Planning Commission of the City of Norman, Cleveland County, State of Oklahoma, met in Regular Session in the Council Chambers of the Norman Municipal Building, 201 West Gray Street, on the 10th day of May, 2018. Notice and agenda of the meeting were posted at the Norman Municipal Building and online at <http://www.normanok.gov/content/boards-commissions> at least twenty-four hours prior to the beginning of the meeting.

Vice Chair Tom Knotts called the meeting to order at 6:30 p.m.

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Item No. 1, being:

ROLL CALL

MEMBERS PRESENT

Sandy Bahan
Nouman Jan
Chris Lewis
Tom Knotts
Lark Zink
Dave Boeck
Andy Sherrer

MEMBERS ABSENT

Neil Robinson
Erin Williford

A quorum was present.

STAFF MEMBERS PRESENT

Susan Connors, Director, Planning &
Community Development
Jane Hudson, Principal Planner
Janay Greenlee, Planner II
Anais Starr, Planner II
Roné Tromble, Recording Secretary
David Riesland, Traffic Engineer
Ken Danner, Subdivision Development
Manager
Terry Floyd, Development Coordinator
Elisabeth Muckala, Assistant City Attorney
Bryce Holland, Multimedia Specialist

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Item No. 7a, being:

R-1718-109 – TECUMSEH ROAD BUSINESS PARK, L.L.C. AND G&G DEVELOPMENT, L.L.C. REQUEST AMENDMENT OF THE NORMAN 2025 LAND USE AND TRANSPORTATION PLAN FROM INDUSTRIAL DESIGNATION TO MIXED USE DESIGNATION FOR PROPERTY LOCATED AT 2200, 2231, 2251 AND 2271 TECUMSEH DRIVE.

ITEMS SUBMITTED FOR THE RECORD:

1. 2025 Map
2. Staff Report
3. Pre-Development Summary
4. Greenbelt Commission Comments

and

Item No. 7b, being:

O-1718-50 – TECUMSEH ROAD BUSINESS PARK, L.L.C. AND G&G DEVELOPMENT, L.L.C. REQUEST AMENDMENT OF THE PUD, PLANNED UNIT DEVELOPMENT, ESTABLISHED BY O-9899-35, TO ALLOW MIXED USES OF COMMERCIAL AND LIGHT INDUSTRIAL FOR PROPERTY LOCATED AT 2200, 2231, 2251 AND 2271 TECUMSEH DRIVE.

ITEMS SUBMITTED FOR THE RECORD:

1. Location Map
2. Staff Report
3. Tecumseh Point II Addition PUD Narrative with Exhibit A
4. Site Plan (Aerial Photo) for Lot 3, Block 1

PRESENTATION BY STAFF:

1. Janay Greenlee reviewed the staff report, a copy of which is filed with the minutes. Staff supports and recommends approval of Resolution No. R-1718-109. Staff supports and recommends approval of Ordinance No. O-1718-50.

2. Mr. Jan – This PUD that we are talking about is in the runway protection zone. Have we contacted the University of Oklahoma Westheimer Airport?

Ms. Greenlee – We have not contacted. The applicant will do that at the time of the building permit – when a building permit is submitted, that's when the review of that goes in.

Mr. Jan – Because my understanding is that, if an area is in runway protection zone, there are certain things that you simply cannot – or it's recommended that you cannot actually propose to build. So anything that you have mentioned, majority of – like, for example, schools, public places – so many things – hospital, warehouses should not be built. Sorry. I exclude warehouses. But vocational training center and whatnot. So, again, 60 foot – I mean, I have the – what would you call this map? But this is basically the landing map in which the glide path is specified, which completely goes against what is proposed over here. And I must say that last June what we approved – I'm afraid to say that we did not have the full picture of the glide path for the airplanes which are coming to Westheimer. So I would like to see an FAA, or somebody from the Westheimer Airport, comment on this thing before we proceed. I don't want to make a wrong decision on this thing.

Ms. Greenlee – I do understand and I did a little bit of research and did go back and look at the public hearing of the City Council meeting on that PUD, because this is the same exact except it doesn't have a residential component in it – it's more C-2 uses – permitted C-2 uses. And during that City Council meeting it was explained by the applicant that they did contact Walt Strong with Max Westheimer and that they will go forward, and he explained that at that time when a building permit comes in – this is just for the zoning – but when an actual building permit comes in for any type of use in this area that it has to be reviewed by the FAA.

Mr. Boeck – That seems kind of bass-akwards. Why would you wait until you have a building permit where you paid for a full set of drawings and engineering before you – it seems like reviewing should have to be done before you even submit anything – I mean before it comes before us.

Mr. Jan – Exactly.

Mr. Knotts – You don't know if it's going to intersect the flight path – the glide path.

Mr. Sherrer – Since we're talking about our zoning category, there are some limitations on what the zoning category might be, but outside of that we don't know what the structure is until a point at which point there's actually those plans have been completed. That's the only way that we could really do this. Right?

Ms. Greenlee – That's the point. Because you don't know if – up to 60 feet. We don't know if it's going to be a 2-story, a 3-story. We don't know.

Mr. Boeck – You know that long before you do construction documents. There's preliminary design that's done.

Ms. Greenlee – Right. I'm talking – this is the zoning aspect. But actually getting the building permit – it could be any one of those. I'm just saying that in the PUD they're allowing up to 60 feet. It doesn't mean that every building that's going to be on each one of those parcels, like the office building that's already there is probably 2-½, 3 stories. We don't know what the size of those buildings are going to be, so we can't really submit anything until we get a building permit. This is strictly for the allowed uses. So during that time when the building permit does come in, that's when they have to get that approval, and that's what was explained to City Council as I understood from watching the Council meeting from last June.

Mr. Jan – I did the math just to explain it to the Commissioners over here that if we – just on the edge where they are proposing – if there's a building of just 25 foot – so according to the glide path, then airplane, which can be a G5 with 60,000 pound weight, 95 foot wingspan is going to be buzzing over with just like a clearance of 20 foot. Do we really want that? It's a hazard. And this is – I can't stress more – this is a landing zone. Planes are coming with a critical speed. Twenty, thirty foot drop is – it happens in a heartbeat. I'm a pilot. I land over there all the time. I opposed last June and I'm opposing it again. This is the wrong decision. We should not be going that route. And I agree with David, that we should stop this before it goes through the approval process and then we are having the second or third or fourth debate whether this structure is approved or not. So I would really like to hear somebody from FAA or the airport staff making their comment, because, again, Westheimer is an asset to Norman. We have seen what happened with Goldsby airport. Something was approved and, I mean, the airport is literally – less and less people are using that airport, and I don't want to have this thing happen to our asset which is Westheimer Airport, so I have a serious concern with this proposal.

Ms. Greenlee – Is the Goldsby airport the same size as Westheimer?

Mr. Jan – No, but they approved a housing addition within – almost within the landing protection zone and it has become so dangerous – there are houses so literally every time people are flying or landing, they are at the most 15 foot above the rooftops. It's dangerous.

Ms. Greenlee – I understand your concern.

3. Ms. Connors – We have in the zoning code an airport height ordinance overlay district, which has many requirements for what can and cannot be built within this area. It has definitions of terminology. It also has the specific requirements for permits. It allows for variances and requires that the FAA be involved in the decision whether a permit should be issued. It's really not – so it's up to the applicant. If this Commission feels that the permit – that's too late – I mean, that's what the ordinance calls for, but you have the right, then, to look at this application and vote against it. But we do have the regulations in place that City Council felt – and I don't know who they consulted at the time, because I wasn't here – but we do have these regulations in place that the applicants must follow in order to develop within the influence area of the airport. I just wanted to add that.

PRESENTATION BY THE APPLICANT:

1. Sean Rieger, representing the applicant – Let me go through it, and then I will talk at some length about the airport requirements that Commissioner Jan has talked about. Let me just first orient you to the site a little more. There's the location. You see it. Flood Avenue and Tecumseh. What I really want you to see is the purple right there is what was approved unanimously at City Council last year in, I believe, June 2017, and that was a mixed use PUD that

allowed for hotels and residential and lots of different uses that went through the process – went through this Commission, City Council – unanimous. And that was next to us. What we are proposing tonight is similar to that PUD, although none of the hotel or residential uses in this one. That one is only on the right side, not on this one. This one is already zoned a PUD. Actually, let me go back – it's already 2025 planned Industrial, and already zoned a PUD. The PUD, just like the one to the right – let me go back one more time. So the one on the right was a PUD previously. This whole area was. In both that previous PUD from way back – late 90s – and the one that was approved in 2017, both of them had a height limit of 60 feet in those PUDs. Tonight, we simply copied, literally, the same paragraph and put it in this PUD. So we are just simply asking you, for a third time, to adopt a height restriction that is the same as all the other ones that have been in there. So we haven't changed that. Again, we've really used the same PUD document that was on the right and put it over here without any of the residential uses. So that's really the only distinction. There is already a building there. It's basically an I-1 or light industrial warehouse building. And, again, we have three vacant lots right here. Primarily the one on 77 is the one that we already have, I think, a current plan for a retail and commercial use on that very busy corridor. The On-Cue, of course, was built not long ago and is a very active facility at that site. So we're merely really wanting to align the uses here with the uses that were unanimously approved over here, without the residential, but we want that entryway right here to really start to take on the character of what we envision on the right, which instead of just pure industrial on the left, we want to start bringing in some commercial uses that would better be fitting to what could happen on the right over here. So there's the aerial of the land. There's basically one improved lot right there and then one, two, three lots right here, and there's a little kind of office building right there. All of this is what was approved previously for the mixed use with hotel, residential, and so forth. On Cue right here. And this is the large OU warehouse building – pretty big, sizeable structure there. This is what was approved previously last year – 6/27 – it was June 27, 2017 unanimous approval at the City Council – live, work, play – this was the concept. Commercial, restaurants, residential, hotels – all of this approved previously, all of it with 60 foot height and unanimous approval. No floodplain; no WQPZ zone. These are all already platted lots; they already have the public infrastructure there so there was no need to replat. That's the preliminary site development plan. You've seen that previously as well.

So let's talk about the airport and let's talk about – I understand that Commissioner Jan sent around a state statute on it, and let's talk about that. I believe Janay is dead on and that even the state statute that you, Sir, sent around to everybody, talks about the appropriate time for all of this is the building permit. What it says is, under Section 120.3 – the category of this section that was sent to you, is Construction Permits, and it goes on to say that "A person shall obtain a permit from the Commission" – and that is basically the government – "prior to the construction, installation, or use of any of the" particular near an airport. It goes on in other segments of this and it talks about construction being the appropriate time, and you can see it throughout this whole statute. So we certainly understand and completely agree that we have to accommodate this statute and the airport overlay district that Ms. Connors talked about as well. We have no dispute there. We have to accommodate it. But that's at construction permit stage. Further, it says it really is only applicable to what's called by statute, again – your document – incompatible purpose, and I'll read it. Means the use of a building, structure or area as a residence – we're not doing residence – educational center – I believe that's already allowed under I-1 which is already approved under this site. This is already basically an I-1 site. Let me go on – place of worship – again I think I-1 already approves that, so even if you deny that you already have those approvals on this site. Place of public assembly, hospital, medical, nursing, retirement home, transportation, storage and utility facility. So of all those uses, basically residential, and if they're not residential they already are allowed under I-1, which it already is approved for. What we're asking in this PUD is to add commercial uses. Again, there are no commercial C-2 uses on that list. So what we're asking to add, beyond what is already approved on this site from 1997 PUD, is things that aren't on that list of incompatible uses. Even if they were, the appropriate time is building permit by statute. And, further, as Ms. Connors said, by the City of Norman ordinance it is applicable to permitting. This is not a permitting body. This

is a land use body. Permitting is when we do this and I think the comments are going to show or correct in that we don't know what we're going to build when you're in front of a zoning body. Zoning is land use and it's broad parameters; it is not specific. For instance, C-2 allows many different things. I-1 allows many different things. We have no idea whatever particular building would be built here would be on this list, restricted, et cetera. So it is completely premature to do that. And certainly, again, the uses we're asking to add – commercial/retail – is not on the list of incompatible uses. So even if it applied, we don't fit within that list with what we're asking for tonight. This is the side that was in front of you last time, and that paragraph at the bottom on the right – the height – that paragraph is what was copied, basically, through all of the PUDs that have come through this site, to say that we have 60 feet as a maximum. And what I wrote on the right was – this slide is from last time – so last time we did meet with Walt Strong, and he described to us in detail the same thing – and I hadn't even seen that statute last time, but he described that statute. Now that I saw it today, it's exactly what he described. Because he said to us in that meeting, he said it's not a zoning thing; it's a construction permit thing and he even told us it's FAA form 7460 and you – he said FAA will not even look at it until you have a building permit application to look at – construction drawings. He described to us they will not even review it unless you send them construction drawings. So it is not the time now to decide whether you fit within that parameter. Absolutely will be when we get to construction permit and we'll have to do that if we're not an incompatible use – I mean, if we are incompatible use in those parameters. But now is not the time, and that was told to us by Walt Strong back then, and certainly that's what the statute verifies as well today. So we believe this is an appropriate use. It's an appropriate time and it should be approved. Staff supports it. There were no protests. We have no protests. Nobody even came to the Pre-Development hearing. Greenbelt Commission unanimous. And, with that, I would leave it to your discretion. I thank you very much, and am happy to answer any questions you have.

Mr. Jan – Mr. Rieger, of course the protest is going to come from the airport. Was the airport contacted? Was airport staff contacted?

Mr. Rieger – I apologize. For this application?

Mr. Jan – Yes.

Mr. Rieger – No, sir. There was no need. There's no requirement.

Mr. Jan – Okay. And secondly, I must say that the reality on the ground is very much different than when we sit inside the meetings and boards, so what I'm stating is a reality that this place – this PUD and what was previously, in June, approved is in the landing protection zone. And the clearance is so little that whatever you build, whether it's a 15-story building, the airplanes are going to be buzzing over just 20 foot above. Now, it's very hard for me to understand that how can you build a school over there? It's very hard for me to understand you are going to build hotels over there. And this is the same discussion that happened last year. And I'm seriously opposing to this thing because I have serious safety concerns for the pilots, for the students, for everybody who comes to Norman to attend the games, to the aviators just like myself. And I would like to hear somebody from FAA. I would like to get the aeronautical survey done before we proceed. That is what I'm saying. We should hold off and I really need to receive the facts. I'm afraid to say we did not have full facts last year when we were sitting over here and we were discussing this thing. Now we have a little more facts.

Mr. Rieger – And what facts are you relying on to require an FAA approval at this time? Can you cite it to me?

Mr. Jan – The survey.

Mr. Rieger – Cite me a book and page of an ordinance or law that said this is the time we have to stop and get that approval.

Mr. Jan – I don't know.

Mr. Rieger – I don't, either, because it doesn't exist.

Mr. Jan – But at least – let me ask this question. Is this place in the runway protection zone?

Mr. Rieger – I believe it is, yeah.

Mr. Jan – So there must be some restrictions even for the land use.

Mr. Rieger – And I've read them to you. Yes. At the time of construction permit, we have to go through those processes. I know of no other process. If you can show it to me, I'm happy to look at it. We agree that whatever obligations, regulations, ordinances, laws that are on the books we have to meet them. I don't disagree with you at that at all. But show me something that says that applies right now, because I'm not aware of it. So I totally agree we've got to meet the laws. If you want me to show you something different, show me that law. I have no dispute with ...

Mr. Sherrer – Mr. Rieger, to just make sure I'm understanding exactly. So the plan would be, if this is approved tonight and – not tonight – recommended then approved by the Council, then your next step would be, you said you had a project in the works, I believe, that is adjacent to at least the highway there, I believe. You would then – I'm just kind of walking through this to make sure I understand – is to then you would then pursue some sort of planning process, whatever that is, for building plan and then you would go and ask for a building permit at that point. Along with that, you are agreeing – everything that you've said tonight, if I understood it correctly – pardon me, I'm not a lawyer – is that then at that point there would have to be an FAA conversation that would either say yes or no, based on the plan that you have at that particular point in time, depending upon the fees, depending on the situation – whatever it is – to meet the Commissioner's concerns, at that particular point in time with the review also of the City staff – that would be determined at that time – not anything to do with the zoning that we've talking about tonight, but at that particular point in time you would have to meet that requirement. Is that correct?

Mr. Rieger – Correct. I'll read further in the statute. This is statute section 120.3 Oklahoma statutes. Commissioner Jan provided this to you. It says Section 120.3 – Construction Permits – dash – if you have this, you can look at it – Request for Further Aeronautical Study – Communication with FAA. This is the Oklahoma statute. It says: "A person shall obtain a permit from the Commission prior to the construction, installation, or use of any of the following near a public-use airport:" and there's three categories. One is: "Any proposed structure or area for an incompatible purpose" – none of the commercial uses are an incompatible purpose. So you have to be "an incompatible purpose in the primary surface or the runway protection zone". Two: "Any structure, alteration or addition to a structure within three statute miles from the airport reference point of a public-use airport, that would result in a total structure height in excess of one hundred fifty feet above the established airport elevation" – 150 feet – we're not that.

Mr. Sherrer – 60 feet or less, right?

Mr. Rieger – Correct. Number three: "Any structure, alteration or addition to a structure that would result in a total structure height greater than the horizontal, conical or approach surfaces, as defined" elsewhere in this statute. So we would have to first determine that height. And that's the three. So if we fit within one of those three ...

Mr. Sherrer – But you're going to confirm that. You're going to verify that. The City staff is going to review that.

Mr. Rieger – We have to.

Mr. Sherrer – You have to.

Mr. Rieger – By law.

Mr. Sherrer – So there's going to be a review process.

Mr. Rieger – Yes.

Mr. Sherrer – It's not as though someone starts building without having that sort of review process.

Mr. Rieger – Absolutely. When I'm in front of you with zoning ...

Mr. Sherrer – Because I think the Commissioner's concerns are valid, but I also want to make sure we're following within the law.

Mr. Rieger – I don't think they're not valid.

Mr. Sherrer – I didn't say you were.

Mr. Rieger – Just not timely. This is the not the time to shut down somebody who doesn't even have construction drawings or permits ready to assemble. When we have all that, if we fit one

of those three categories, we have to do that. No question. Zoning is never that time. Zoning is a category of uses. It's a category of uses and it's a parameter of land use – heights, setbacks, things like that. It is not definitional as to what you're going to build yet. It never is – unless you're doing a very defined SPUD or something that actually has drawings that show it. We've done those, but that's not what this one is.

Mr. Sherrer – And just to confirm, it's going to be 60 feet – and I think it's in there – 60 feet or less. Sixty feet is the maximum that it could be at this particular point in time. I know that was only one of the three categories. I just want to make sure I'm understanding the facts.

Mr. Rieger – Correct. Yeah.

Mr. Knotts – Mr. Rieger, let's just assume that someone wants to do something. Don't you think it would be incumbent on the design team to research the compatible uses, the height restrictions, the possibility of being approved before you even had to move forward to building permit and construction drawings?

Mr. Rieger – Certainly.

Mr. Knotts – So the chicken and egg conversation that we're having really talks about a little bit of scramble before, because there's – you're going to look at those even though you're not asking the FAA or the FFA to look after – to approve it. Right?

Mr. Rieger – I'm not sure I understood the second question, but ...

Mr. Knotts – Say yes. Okay. The runway protection zone is a contour drawing that lifts off and has a side slope.

Mr. Rieger – It's a conical.

Mr. Knotts – I mean, it's very easy. They've already been done. I know this for a fact. So it really is not a question of needing something to be done; it's a question of having the design team be cognizant of the restrictions.

Mr. Rieger – Correct. And we are. And, you know, a similar thing happens on UNP and the University North Park area. There are deed restrictions and things like that.

Mr. Knotts – Yeah. It's a side slope over there.

Mr. Rieger – Right. It is. But Embassy Suites and other things deal with it. I've done the covenants – seen the covenants and the deeds. They have the same thing, where you have to know your parameters within the property. We know that. We understand we have to meet that. It's in front of us. We understand.

Mr. Lewis – I would like to make a statement. Mr. Rieger, it will be short. I appreciate what we have put you through. It does seem that the Commission is somewhat fact-finding, and so I appreciate that guidance. I certainly am no attorney; my father was and he was a damn good one. But in doing a little bit of research, that is the one thing he did teach me. Regardless of what we do tonight, under 14 CFR 77.5, anything that you do as an applicant in construction, has to be submitted to FAA for approval in 45 days prior to, so really the vote that we have here tonight is irrelevant in regards to the building. It's only relevant to the property. So thank you.

Mr. Boeck – He's been trying to tell us that.

AUDIENCE PARTICIPATION:

1. Lance Lamkin, 485 Elm – I have a written statement and also papers prepared for your knowledge afterwards. Unfortunately, I only have four because I only had a 48-hour notice of this event and I got back from Virginia four hours ago. So I apologize for my lack of readiness on the amount of copies but, believe it or not, I am ready to answer any questions you have.

I'd like to start with "we've always done it that way." That's never a good answer. We've always done it that way is never good. We have new knowledge. We have knowledge being presented that's from the Oklahoma Aeronautics Commission or the FAA. It's important to look at that before we move forward. So, if you wouldn't mind, I have about a four-minute speech, or I would like to present that.

Max Westheimer Airport is vital to Norman's economy. Recently the Oklahoma Aeronautics Commission completed an economic impact study for the entire State of

Oklahoma. Max Westheimer Airport contributed \$37.4 million to the Norman economy, the University of Oklahoma, Cleveland County and surrounding areas. Cooperation between the University and the City of Norman is essential for the airport to continue to grow and support the City of Norman in the future. There are several regulations, both federal and state, that discourage incompatible land use around airports. As airport administrator of Max Westheimer Airport it is my duty to protect the airport and the critical airspace around it. Safe airspace is crucial for landing and taking off. FAA requires that the airport operator shall take appropriate action to restrict incompatible land use that will interfere and restrict aeronautical use at the airport. Failure to achieve this goal may cause the airport to be found in noncompliance for federal grants, which could lead to reduced or no more federal funds in the future for the airport. Allowing a relaxed height restriction and large gatherings of people will only create a potential for disaster. Buildings such as hospitals, hotels, and restaurants are all examples of incompatible land use. If we allow taller buildings or larger gathering locations to be built under or near these critical phases of flight, then we will significantly reduce the safety for the general aviation pilots and business jets that operate out of our airport daily. As stated earlier, how land is developed directly under the final approach runway is critical for safe operation of the airport. Adding any additional structures under the final approach will require approval and reviewal by the FAA, as we've already discussed. The FAA requires structures within a certain distance of the airport to file a 7460-1 or the Obstruction Evaluation Form. Structures are then studied by the FAA to ensure they meet federal safety guidelines and can cause no additional harm to pilots. Recently a permit was filed for a temporary crane off the approach end of Runway 18, very close to where this is being built – or this area of land, excuse me. The crane was to be 85 feet for only a couple of hours. According to the FAA study, this temporary crane penetrated the airspace by 40 feet. Allowing structures to be built within this area can cause our approach minimums to go up, which in turn decrease our traffic efficiencies and reduce our aircraft operations in certain weather conditions. This reduction will decrease the overall economic impact the airport has to the University, the City, and the surrounding areas. Some of the land in this discussion is even located within the runway protection zone for Runway 18, also known as an RPZ. The RPZ is a trapezoidal area, just in case you didn't know, off the end of the runway end that serves as an enhanced protection for people, both in the air and on the ground. The State of Oklahoma has a law known as the Aircraft Pilots and Passenger Protection Act, also known as APPPA. We discussed it very briefly earlier. According to Section 120.3, a person shall obtain a permit from the Oklahoma Aeronautics Commission within a Runway Protection Zone or primary surface prior to the construction, installation or use of a facility. This law also states that any proposed structure for an incompatible purpose within a Runway Protection Zone is presumed to be incompatible with normal airport operations. With several areas falling within the RPZ, a builder would be required to submit the 7460 to the FAA, as well as submit a permit to the Oklahoma Aeronautics Commission. In some cases, the OAC has denied issuance of permits to build within RPZ ...

Mr. Knotts – Excuse me. Do you have a point?

Mr. Lamkin – Yes, I'm against this.

Mr. Knotts – And you are?

Mr. Lewis – Mr. Chairman, point of order.

Mr. Lamkin – I am the airport administrator for Max Westheimer Airport. I took over for Walt Strong. I actually remember the conversation in 2017. I've been his airport operations officer for three years prior.

Mr. Knotts – You have a point?

Mr. Lewis – I do. This is the director of the airport. I would like to hear what he has to say.
Mr. Jan – I agree.
Mr. Knotts – Continue.

Mr. Lamkin – Adoption of this ordinance would greatly reduce the safety for students at the University, general aviation pilots, and business jet operators alike. This ordinance would also greatly reduce the economic impact the airport has on the community around it. I strongly urge you to reject this proposal or, at a minimum, take action to table the matter in order to properly address and become educated on the situation.

Mr. Sherrer – Can I ask a question? Is that okay? Is that appropriate, Mr. Chairman?
Mr. Knotts – You may.

Mr. Sherrer – Just to understand completely, you are acknowledging that this is part of the building permit timeframe, though, in your acknowledgement of the process. Right?

Mr. Lamkin – Yes.

Mr. Sherrer – So today we're talking about zoning. You're making your statement about the safety, and I understand that. But you, yourself, in your comments acknowledge it's during the building permitting process.

Mr. Lamkin – In my statement, we have taken federal funds, which we follow grant assurances when we take those federal funds. Grant assurance 21 requires that we go out in advance to the City Council or the City around us to prevent items like this – schools, hospitals, anything of large gathering or people that could cause harm to – not only the people on the ground ...

Mr. Sherrer – That's stated within the law, right? What you're saying. Or are you talking about other items?

Mr. Lamkin – It is my responsibility as airport director under grant assurance 21 to try to stop this.

Mr. Sherrer – So you would say it's your opinion, not law? Am I understanding correctly?

Mr. Lamkin – I'd be happy to answer any more questions.

Mr. Jan – I have just one – thank you so much for giving us this presentation and talk. I just have one question for you. Currently, if I'm not mistaken, this industrial zoned that we currently have, this PUD? So if we today agree that this has to be – if we all vote in favor of going commercial, according to what you have said, commercial designation would allow all of those things which you are against, but for industrial, it's not.

Mr. Lamkin – Correct.

Mr. Sherrer – Can I ask a point of clarification, and I'm going to ask that to Planning Director Connors, because I misunderstood that. That sounds opposite of what I understood, so I want to make sure that I clarify what commercial zoning allows and what it doesn't allow. That's not a question for you, I apologize. Just want to make sure I'm clear on that. What I understood Commissioner Jan to say was that the proposed commercial rezoning – through the PUD process ...

Ms. Connors – The addition of commercial uses.

Mr. Sherrer – Thank you for articulating it better. Go ahead. I think the question was the items that were mentioned – and I apologize, I missed your name – Mr. Lamkin – were such that he – so these are things of public interest: schools, education, I think is what you said. I'm not sure those words. Do those fall within the commercial designation found within this? I just want to make sure I'm clear on that.

Ms. Connors – Well, the general commercial uses in C-2 do allow schools, but so does the industrial, so they're already ...

Mr. Sherrer – So it's already there. It's already existing. Okay. Thank you.

Mr. Lamkin – Large gatherings of people: schools, hotels, restaurants. We trying to minimize ...

Mr. Sherrer – We're not making it worse.

Ms. Zink – May I make a comment? May I ask a question, I guess? I guess I'm sort of wanting to table the discussion of whether this should happen right now or at permitting and engage more of the fact-finding function of the Commission, and make reference to the comment that you made about more relaxed height allowances. So if 60 feet isn't satisfactory, is there a height clearance that you would recommend – just for knowledge?

Mr. Lamkin – There is. It's a – not a formula – you go out 50 feet from the runway. You can be 1' tall. You keep that going for 5.96 miles of our protection. That's what we protect. So for every 50 feet you go up a foot. I'd have to do the calculations really quick for these locations to get you the exact height that a building could be. I wouldn't recommend it. But under the law a building could be there. So relaxing this – allowing 60 feet – again, this goes back to my "we've always done it this way" is never a good answer. It's important to me that we look into this to make sure of the safety, not only for the pilots, but also for the people and civilians within those buildings.

Ms. Zink – So, if I understand correctly, your preference would be for no construction at all – to have the property owner not ...

Mr. Lamkin – Or keep it as minimal as possible. What's in there right now is mainly industrial sites – warehouses that have a minimal amount of people. I'm not against construction at all, it just has to remain under a certain height, and the less people the better. The most critical phases of flight are landing and taking off. It's where the majority of the accidents happen. Not saying there will be, but I have to prepare for the worst. It's why I always do.

Mr. Sherrer – May I ask a question of the Planning Director? I'm sorry, I'm jumping in tonight fast, I know, I apologize. Do we have a number of people restriction on industrial or commercial?

Ms. Connors – No, we do not.

Mr. Sherrer – Number of people – you could be 1,000 people in industrial and two people in a commercial. Correct?

Ms. Connors – Yes.

Mr. Sherrer – Conceivably. Okay. So there's not a ...

Ms. Connors – And I would just indicate – this height limitation is maximum, so it would seem to me that if this goes through the process of being reviewed by the FAA at some point and that height cannot be achieved because of their regulations, then it wouldn't be achieved. It will be at the height level that is approved by the FAA through the building permit process.

Mr. Sherrer – Whether it be industrial or commercial?

Ms. Connors – That is correct.

Mr. Boeck – And one of the things I'm hearing, and remembering back to an NPR story about wind turbines around Air Force bases. And, of course, this gets into the whole conversation, because, like I said before, having to wait 'til you get a building permit application before you review this with FAA is bass-akwards. I don't care what the code says. There is some concern about Vance Air Force Base, Altus Air Force Base losing some of the operations that they have there because they've allowed wind turbines to be built in sensitive areas. And so, to me, this is a question of, you know, how appropriate is this? I mean, we're talking about only approving zoning, but still if you all of a sudden cause some kind of – not policy – buildings that we allow to be built – I mean, FAA has to approve them, but they can approve them and still say – and you can still have the problem with the funding sources and all the stuff that goes into Westheimer field because the funding sources don't like where the building process is going and creating more dangerous situations is basically what's happening. We can approve stuff. We can approve zoning, but if we're doing something that causes problems with Westheimer field, then we're shooting ourselves in the foot.

Mr. Rieger – Mr. Chairman, can I make a comment? I'll be brief. This applicant, I'm understanding, did go through the FAA permitting process on the building that is there. This building right here – that was done. So it happened. That's how it is supposed to happen. And it got built. So, again, we totally complied with that. Quickly, I think we have a miscommunication on what incompatible purposes, because I thought I just heard the gentleman say commercial is an incompatible purpose, and I would ask the City Attorney to confirm for me, if you would like, but the statute does not include commercial structures under that parlance – retail is not in there, I don't see office in there, I don't see restaurant in there. Those are the commercial uses that are being added tonight – the uses in here are already allowed under industrial. So we're not adding anything different that is an incompatible use at all. Thank you, Mr. Chairman.

DISCUSSION AND ACTION BY THE PLANNING COMMISSION:

Andy Sherrer moved to recommend adoption of Resolution No. R-1718-109 and Ordinance No. O-1718-50 to the City Council. Dave Boeck seconded the motion.

There being no further discussion, a vote on the motion was taken with the following result:

YEAS	Tom Knotts, Lark Zink, Andy Sherrer
NAYES	Sandy Bahan, Nouman Jan, Dave Boeck
ABSTAIN	Chris Lewis
MEMBERS ABSENT	Neil Robinson, Erin Williford

Ms. Tromble announced that the motion, to recommend adoption of Resolution No. R-1718-108 and Ordinance No. O-1718-49 to the City Council, failed by a vote of 3-3-1.

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