

**MEETING OF THE PLANNING AND ZONING COMMISSION  
HICKORY CREEK TOWN HALL  
1075 RONALD REAGAN, HICKORY CREEK, TEXAS  
WEDNESDAY, FEBRUARY 06, 2019**

**MINUTES**

**Call to Order**

Commissioner Hawkes called the meeting to order at 7:00 p.m.

**Roll Call**

**PRESENT**

Commissioner Rodney Barton  
Commissioner Jaycee Holston  
Commissioner Bryant Hawkes  
Commissioner Don Rowell  
Commissioner Jan Stefaniak  
Commissioner David Gilmore

**ABSENT**

Commissioner Mike Thames

**ALSO PRESENT**

Lance Vanzant, Town Attorney  
Paul Kenney, Council Liaison  
Chris Chaudoir, Administrative Assistant

**Pledge of Allegiance to the U.S. Flag**

**Invocation**

Commissioner Hawkes gave the invocation.

**Public Comment**

Ron Furtick, 1500 Turbeville Road, passed out copies of the final mark-up of the Mixed-Use Zoning proposal he had previously worked on with town staff for 15 years. He stated he has meetings scheduled with the goal of attracting a developer to build a new downtown. Things cannot move forward because the Master Plan has not been implemented. Fifteen years have been spent developing the plan. A town planning firm worked with the Visioning Committee and Stake Holders Committee to produce a town planning Charrette at a cost of over \$150,000, resulting in the Hickory Creek Master Plan in which everyone got what they wanted. Mesa Planning was contracted, and their architects led by Robert McCaffery, created the Mixed-Use Zoning Ordinance he handed out at a cost of over \$100,000 to the town. The ordinance on the agenda is absolutely terrible. It is not like any Mixed Use he has seen before: it is more like residential code with commercial patched in. It would not create a walkable environment and would only encourage sprawl: the exact opposite of what the Master Plan calls for. This ordinance is absolutely hideous. He could not take it into meetings with developers and it will completely

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destroy the town's future. He cannot sell it to the market and will never attempt it. No meetings, no development, no downtown. He said it will be easy to implement the Master Plan: first get rid of this monstrosity, second pass the ordinance written by the architects for the town. The citizens have already paid a quarter of a million dollars for the ordinance. The Mayor and town manager sat down with him and hashed out the final details which are hand written on the document he had. It is noted on the city that it was between John Smith and himself somewhere in 2014. They have been working on it for 15 years. John and Lynn agreed with him and shook hands to seal the deal. He requested that it be read, and they pass the zoning ordinance that has been completely negotiated. With that Mixed-Use Ordinance, he can find the developers to build the economic future. He would like to see that shining downtown on the hilltop not a trailer park. He asked that they vote no on the misguided attempt to destroy the downtown and the economic future of the town. He wants to work with the town and build the downtown, but he needs something to take to the market that the market wants and it is certainly not the current zoning which only allows a 1950s style strip center.

Public Comment closed at 7:08.

### **Public Hearing**

1. Consider testimony and take action regarding text amendments to the Town's Code of Ordinances, Chapter 14 "Zoning", which includes but is not limited to, amending Article 14.02, Exhibit A, Article IV--Classification of Districts to add a new zoning district to be entitled Mixed-Use and to add regulations and restrictions regarding such new district.

Public Hearing opened at 7:10.

Ron Furtick, 1500 Turbeville, stated they began talking about what the city wanted to be about 10 years before the Charrette. First the city hired architects, everything in the document was created by the city's architects. Everyone sat down and had Stakeholders meetings. He and 13 to 15 others were part of the Visioning Committee, meeting 4 to 5 times over a couple of years and ended with the Master Plan, available on the website. It states the conclusion everyone came to. They wanted dense and walkable environment where they could live, work and play in the same area. There was a need for housing, businesses, shopping, restaurants and it should all be a tight environment, so you don't have to walk four miles to find something or go through a sea of parking. There are parking decks in the back. Retail down and residential over. That was what everybody wanted and said we should do. That was why the architects created the ordinance. Mesa world class architects and Robin McCaffery is a gifted architect who has designed three cities including Hickory Creek. Mr Furtick would like to execute something similar. There has been a lot of interest from people in the concept: it is the hottest concept out there right now, where urban environments are brought into a park like setting.

Public Hearing closed at 7:13.

### **Consent Agenda**

2. January 9, 2019 Meeting Minutes

Motion made by Commissioner Barton to accept the minutes as presented, Seconded by Commissioner Holston.

Voting Yea: Commissioner Barton, Commissioner Holston, Commissioner Hawkes, Commissioner Rowell, Commissioner Stefaniak, Commissioner Gilmore. Motion passed unanimously

**Regular Agenda**

3. Discuss, consider and act on a recommendation for a Final Plat of Lots 1 and 2, Block A, the Beciri Addition; being 1.97 acres in the H.H. Swisher Survey, Abstract Number 1220 in the extraterritorial jurisdiction of the town of Hickory Creek, Denton County, Texas. The property is located in the 3700 block of FM 2181.

Motion made by Commissioner Gilmore to recommend approval of the plat as presented, Seconded by Commissioner Barton.

Voting Yea: Commissioner Barton, Commissioner Holston, Commissioner Hawkes, Commissioner Rowell, Commissioner Stefaniak, Commissioner Gilmore. Motion passed unanimously

4. Discuss, consider and act on a recommendation to the town council regarding the creation of the new zoning classifications to be titled MU-1 Mixed Use Suburban District and MU-2 Mixed Use Regional District.

Commissioner Hawkes asked, in view of Mr. Furtick's statements, did everyone have a clear view of what they are considering. He did not, and Commissioner Holston concurred. Commissioner Barton felt it was a lot to look at and too important to rush into. He pointed out the typo in the title of Section 3.03 where MU-2 Mixed-Use Regional District was listed as MU-1.

Mr Vanzant stated he had been working on the new ordinance and was familiar with it. He understands Mr. Furtick's objections. The previous ordinance was drafted some years ago based on the Master Plan for a specific portion of town, envisioning a town square. A Mixed-Use district is not intended to apply to one specific portion of property in the town but to create a district where any land owner or the town itself can designate a zoning classification in that area. The ordinance is tailored more as a general zoning classification allowing a mixture of uses that would not be allowed in any other zoning classification. There is an opportunity with the concept and site plans to tailor to a specific dream or project a land owner has for a property. Mr. Furtick has a specific vision for his property. Mr. Vanzant asked what in the proposed ordinance would prohibit him from presenting a concept or site plan for that vision. This is a general template. Mr. Furtick responded he came before Council the prior month and told them they needed a Mixed Zoning, so he could move forward. There is a short period of time and probably a recession imminent. When they come out of the recession, that is when building needs to start. If we do not have all of our ducks in a row, we will miss the next push. We missed the last one because the zoning was not in place. There was plenty of discussion and he understands that this may be viewed as an entirely different zoning having something to do with another land owner on the other side of

town, but he is the only one who has ever asked for a Mixed-Use Zoning that he knows of. When politicians come forward to say here is a Mixed-Use Zoning, he fears it will be able to be used by people to say “Hey, here is the Mixed-Use Zoning. He doesn’t like it. He’s not going to use it” but it is not him: it is the market that does not like it. There is not market for that zoning, so he will never use it. Somebody else might but he suggests we not use zonings that are not usable, because the market is not interested in them. Mr. Vanzant asked what about the ordinance would wholly prevent him from presenting a concept and site plan for his property that would not work. Mr. Furtick responded the densities. The entire point was to create a walkable urban environment where you could get on an elevator, come down to the ground floor, get out, walk and wander around a little bit, shop, sit down at the café, enjoy yourself, maybe go jogging down to the lake and back on parks and trails that would be developed. It was trying to integrate the entire urban concept into the suburbs, which is actually brilliant. Fifteen years ago, when it was first discussed, there were very few examples of it around the world and right now it is the hottest thing in development. It is what everybody wants and exactly what was designed ten years ago. It was great, but it is completely nonfunctional if there is no way of signing up for it and he can’t go into meetings saying, “Here is what we want, look at the Master Plan” and, when they ask what the zoning is, he has to say he doesn’t have it and then they don’t do deals. That’s crazy, you should want to have zoning that will allow what the Master Plan requires. It is implementing your planning, that is all that is required to go have a future. And if you choose to neglect the future and not do it now, the future will roll over us. We have got sprawl coming. There are a lot of buildings that have been built in the last 5 years coming down from the south. Everyone is filling up and we are the last niche, the last holdout, and we are not going to hold out forever. Sprawl will win if we are not actively trying to build the future.

Commissioner Holston asked about a parking area Mr. Furtick had mentioned where people could park and walk to his area. She wished to know who would furnish the parking area on their land that was connected to his, where would it be and how would it exist. Mr. Furtick responded he owns 22 acres which was large enough for 3 different parking structures, all on his land. The concept is to keep the cars in the background. There would be “token parking” on the street, which you would occasionally get, but most of the time you would have to park on the deck. That will be nice for the residents who could park on level five and walk straight into their apartment. Commissioner Holston asked where the 22 acres were, and Mr. Furtick replied right across the street and included the trailer court.

Commissioner Hawkes said he recognized the document presented by Mr. Furtick and asked Mr. Vanzant how it compared to the ordinance for consideration. Mr. Vanzant replied it was probably significantly different, but it had been some time since he had reviewed the other document. Mr. Furtick stated it was very different. Commissioner Hawkes suggested a Saturday session with the original architects and Mr. Vanzant to refamiliarize them with the project, although he does not have the authority to authorize getting everyone together. Mr. Furtick stated that the architect believes enough in the project that he may be able to get him to volunteer to come since he lives in Plano but could not promise. Mr. Vanzant said he would be willing. Mr. Furtick will make himself available and will try to get some of the original people involved, if available. Commissioner Hawkes stated he was not comfortable to vote on either document at this time. Mr. Furtick stated he felt the new document was a red herring and he would never use it because it was not really a Mixed-Use Zoning

Ordinance. Commissioner Hawkes felt the final document should be a combination of the two. Mr. Furtick said he was fine with making it better and he was all for improvements, but they shook hands and he was made promises when he bought his half million-dollar property that the original version would be passed. If the proposed zoning went on it, it would be a complete waste of his money. He feels he has bent over as far as he can for the town and feels he should get the zoning and be able to move forward because that is only fair. If he goes forward with the plan, it would allow a central park all the way through the product with double loaded streets, and the property value increase would be astronomical. We would be the downtown for the entire Lake Cities.

Commissioner Hawkes confirmed that only he and Commissioner Barton were involved with any town boards when the Charette was created and suggested a special meeting to familiarize the other members with it.

Commissioner Gilmore commented that the document presented by Mr. Furtick was much more detailed and represented more of a concept of what wants to be built than a Zoning Standard. Mr. Furtick stated it is called form-based zoning and is kind of the state of the art. Commissioner Hawkes suggested the two should be combined for a better document but that a refresher on the concepts was needed. Commissioner Gilmore would like to know what in the proposed ordinance prevents or restricts Mr. Furtick's from being implemented. Mr. Furtick said they were completely different and there was no way to build what was on one document with the other. One is form-based zoning and the other code-based zoning.

Councilman Kenney asked Mr. Vanzant about the actions that could be taken based on the agenda, approve, deny or no action. He was not involved when the Master Plan was created but was aware that the portion Mr. Furtick was talking about was for the land by Walmart and Point Vista Road and that is what the 2010 document was created for. The Mixed-Use Ordinance is not for Mr. Furtick or any specific place but for the town to have a Mixed-Use Zoning in place to work with. Developers come to the town with a concept or idea and that is used to create a plan for a Mixed-Use Zoning or a Planned Development. Mr. Furtick wants to fit developers into his plan. Mr. Furtick was also talking about a five-story parking garage, which he did not see in his plan and would probably not be wanted in Hickory Creek. The agenda item has nothing to do with Mr. Furtick or his plan. He also stated Mr. Furtick was saying he had been promised zoning but the people he said made the promises were not present to defend themselves in front of the commission. Mr. Furtick stated again that he shook hands with them and would be happy to say it in front of them. The original purpose of the Charette was for the property mentioned but was not limited to it, although most of the property in the design was his at the time. Councilman Kenney stated the commission needed to remember what the agenda item was and what actions they could take.

Commissioner Gilmore asked Mr. Vanzant about the definitions of the permitted and conditional uses. Commissioner Holston asked where she can compare the different Mixed-Use Ordinances, proposed and in place elsewhere: Addison was suggested.

Commissioner Barton asked if the Charette was on the website. Ms. Chaudoir responded that the 2008 Comprehensive Plan was but was not aware of the Charette being included. She was also unaware of the existence of any meeting minutes or documents from the Charette.

Commissioner Stefaniak wanted to know if single family, attached or detached, were permitted because he didn't want to see nice houses in the middle of everything. In his opinion, those uses may need to be conditional so as not to create a mishmash of uses. Commissioner Gilmore was reminded of the small subdivision in Denton by the mall surrounded by businesses and felt it was very odd. Commissioner Barton stated the current zoning allowed single family to be next to commercial, but the Mixed-Use ordinance would allowed to co-mingle although he was not sure about the exact definition of each use. Commissioners Barton, Gilmore, Stefaniak and Councilman Kenney discussed that properties currently developed would not be rezoned: it would be developers wishing to rezone to Mixed-Use, which would need to be in place, and the effects on existing residential structures in the area. The concepts would be presented to Planning and Zoning and the Council, so they could see how they worked with the surrounding existing uses

Mr. Furtick expressed that it takes a lot of money, possibly millions, to create a plan and he can't talk a developer into spending millions of dollars on the off chance the town might like it. That is the reason he needs the original plan passed so it will say exactly what is allowed. If the developer comes in with what is allowed, it can be accepted or not. He can hand the developer a structured document they can work within. Then they can spend millions of dollars creating a plan to present. But they will never do that if he does not have a foundation to drop on their desk.

Commissioner Gilmore asked what criteria was used to determine what was a permitted use versus conditional. Mr. Vanzant said it was a typical list of permitted uses that could be changed. He had looked at several different places. Commissioner Hawkes asked if the Addison Ordinance could be looked at as an example. Councilman Kenney asked if there was something specific they saw or did not see they wanted looked at. Commissioner Hawkes stated he felt that some of the newer members possibly did not have enough information on the Master Plan to vote immediately. Councilman Kenney agreed and wondered if the Master Plan was still what was wanted by the town since there were a lot of new citizens. Mr. Furtick stated it was wanted because it was the "hottest thing in real estate". Councilman Kenney said Mr. Furtick had not stated what the good and bad uses were in the Mixed-Use Ordinance and what was missing. Commissioner Hawkes wanted to see a marked-up copy of the ordinance from Mr. Furtick. Mr. Furtick said he had read and reviewed it and realized it would not work for his property at all and that was why he was opposed to it. Commissioner Hawkes asked him to show why it was so diametrically incompatible with his document. Commissioner Hawkes again proposed a workshop, possibly with the council.

Councilman Kenney and Mr. Furtick agreed that a Mixed-Use Ordinance was needed. Mr. Furtick asserted that the proposed ordinance was not a real Mixed-Use Zoning, although it could possibly work someplace else but not here. He thought Mixed-Use was being discussed to get ready for the next economic boom coming in about a year and a half. If everything is not in place, we will get "creamed". He does not believe there is a demand for the product presented in the market but there is for what he wants passed. Commissioner Stefaniak stated Mr. Furtick had a development plan for a piece of land but a Mixed-Use, such as what was being proposed and was needed. He asked Mr. Furtick exactly what it was he did not like in the proposal. Commissioner Gilmore said he saw a framework and a development plan and

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has not heard why they will not work together yet. Mr. Furtick said they had extremely different density allowances but will mark it up and show why it will fail over there.

Commissioner Gilmore said he sees a much more restrictive development plan while the ordinance needs to be less restrictive, so it can be used on other pieces of property it will affect. An ordinance cannot be built for one piece of property. Mr. Furtick will be happy to tinker but is all for making it better.

Motion by Commissioner Stefaniak to postpone a vote on the Mixed-Use Ordinance pending further discussion of the matter at a Special Session, Seconded by Commissioner Holston.

Voting Yea: Commissioner Barton, Commissioner Holston, Commissioner Hawkes, Commissioner Rowell, Commissioner Stefaniak, Commissioner Gilmore. Motion passed unanimously

**Adjournment**

Motion made by Commissioner Holston to adjourn, Seconded by Commissioner Stefaniak.

Voting Yea: Commissioner Barton, Commissioner Holston, Commissioner Hawkes, Commissioner Rowell, Commissioner Stefaniak, Commissioner Gilmore. Motion passed unanimously

Meeting adjourned at 8:08 p.m.

Approved:

Attest:

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Bryant Hawkes, Chairman  
Planning and Zoning Commission

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Chris Chaudoir, Administration  
Town of Hickory Creek