

Agenda No. 99-025
Agenda Item 1155
Date 6/22/99

AGENDA INFORMATION SHEET

AGENDA DATE: June 22, 1999

DEPARTMENT: Parks and Recreation

ACM: Rick Svehla *RS*

SUBJECT:

Receive a report, hold a discussion and give staff direction regarding a proposed revenue philosophy for parks and recreation services.

BACKGROUND:

The FY 1998-1999 budget included funds to conduct a Revenue Enhancement Study for the Parks and Recreation Department. The objectives of the study were to assess the policies that guide the financing of parks and recreation services, to review existing fee structures for possible adjustments, to measure the department's capacity for revenue production, and to suggest new sources of revenue. Once completed, this report will guide future pricing decisions and corresponding budget recommendations.

Leon Younger, Leon Younger & PROS, has been hired to conduct the study. While the study is not yet finished, staff would like to brief the City Council on the preliminary findings of Mr. Younger's work. A number of these findings would suggest a significant departure from current pricing policies and revenue management practices. Of particular importance is the need for City Council's concurrence with recommended General Fund subsidy levels for various categories of recreation services. Council direction is needed at this time, so that staff may complete the preparation of the FY 1999-2000 budget by the end of July.

OPTIONS:

1. Concurrence with the proposed revenue philosophy, as presented; or
2. Any modifications desired by the Council.

RECOMMENDATIONS:

Staff will present a revenue philosophy for Council's consideration. We recommend the Council's concurrence with the philosophy, as presented.

PRIOR ACTION/REVIEW:

The Parks and Recreation Board reviewed rough drafts of Mr. Younger's report during its April and May meetings. No action has been taken, to date. Members of the board have been invited to attend the June 22nd work session.

FISCAL INFORMATION:

The cost of the Revenue Enhancement Study is \$14,900, including \$5,000 from the General Fund and \$9,900 from the Recreation Fund.

Respectfully submitted:



Ed Hodney, Director
Parks and Recreation Department

**PRICING PARKS
AND RECREATION
SERVICES**

A Philosophical Framework

PREFACE

The FY1998-99 budget included funds for a Revenue Enhancement Study. The objectives of the study were to assess the City's policies that guide the financing of parks and recreation services, to review existing fee structures for needed adjustments, to determine the department's "capacity" for revenue production, and to suggest new revenue sources. The preparation of the FY 1999-2000 and future budget will rely, in part, on the recommendations of this report.

Leon Younger, a nationally recognized expert in revenue management and a former parks and recreation director, has been hired to conduct the study. While the report is not yet finished, Mr. Younger has issued some preliminary findings and suggested a new philosophical approach to pricing our parks and recreation services. We would like your concurrence in the strategies outlined in this presentation...

OUTLINE

- The Parks and Recreation Business: What We Do and How We pay for It
- Taxes vs. Fees: Why charge?
- Current Revenue Philosophy
- A New Framework: Linking Benefits to Price
- Revenue Enhancement Study: Preliminary Findings

THE PARKS & REC BUSINESS

What we do...

- **MISSION:** To enrich the lives of all Denton citizens through environmental enhancements and a diverse offering of recreational, educational and cultural services
- **DESIRED, EFFECTIVE, AFFORDABLE**

THE PARKS AND REC BUSINESS How We Pay...

- Taxes
- Gifts/Donations
- Sponsorships
- Partnerships
- Fees

Question: What is the appropriate balance?

TAXES vs. FEES

Why charge?

- Reluctance to increase taxes
- Need to direct tax dollars to services other than Parks and Recreation
- Link "burden to pay" with distribution of benefits
- Growing willingness to pay for "value-added" services

- The alternatives are:
 - Do less / serve less
 - Pass costs (all/part) to the user
 - Build partnerships/share the cost
 - Building program capacity allows us to improve facilities, maintain, and purchase new equipment

Other Incentives to Use Fees...

- Increasing demand for more, better, newer services
- Rapid, constant change in marketplace
- Service "on-demand"
- Escalating costs of service provision

CURRENT REVENUE PHILOSOPHY

Established by City Council 1989:

General Fund

- Use of parks and facilities offered at 100% subsidy
- Programs offered at low (cost of supplies, materials) or no cost
- Rentals (exclusive use) assessed "going rate", not necessarily market

CURRENT REVENUE PHILOSOPHY (cont.)

Recreation fund (established 1983)

Programs and activities to be 100% self-supporting

- Must reimburse General Fund for indirect expenses
- Generates "profit" to fund new ventures

CURRENT REVENUE PHILOSOPHY (cont.)

Special Interest Facilities

- Examples: swimming pool, tennis center, golf driving range
- Expected to recover 50% of direct annual operating costs

WEAKNESSES with CURRENT POLICY

- Arbitrary, irregular review and adjustment of prices
- Tax subsidy levels may not reflect community preferences
- Cost to participant may not reflect benefits received
- Currently subsidizing services, regardless of ability to pay

A NEW FRAMEWORK: Linking Price to Benefits

Establish prices (aka "fees") based on:

- Type of service (Public, Merit, Private)
- True cost of service
- Desired subsidy levels
- Revenue goals
- Market position
- Price elasticity

TYPE OF SERVICE

- Public Service - *Most or all of the benefits are realized by the citizens at large.*
Taxpayer Pays. Examples: park maintenance, special events, open gym, open swim, youth-at-risk
- Merit Service - *Much but not all benefits accrue to individuals. Taxpayer and individual participant share costs.*
Examples: recreation classes, admission to pool, sporting events, youth sports, seniors

TYPE OF SERVICE (cont.)

- Private Service- *User only benefits. Price intended to recover all fixed and variable*

Examples: golf lessons, adult sports individual specialty classes, rentals, reservations

TRUE COST OF SERVICE

- Direct staff/instructor costs
- Supplies and materials
- Program equipment
- Facility operation and maintenance
- Debt service
- Marketing/promotions
- Administrative overhead

SUBSIDY LEVELS

<u>Program Areas</u>	<u>National Standard</u>
Adults sports	0%
Youth Sports	10-50%
Rentals	0%
Day camps, before/after school	10-20%
Arts classes	10%
Special events	25%
Senior programs	30%
Disadvantaged youth/family	80%
Aquatic programs	20%

HOW TO SET PRICES

- First, establish “true cost” of service
- Determine appropriate subsidy, based on community needs and values
- Develop pricing to reach subsidized cost of service, considering market position and “willingness to pay”
- Periodic review of costs and adjustment of prices

REVENUE GOALS

- Increase cost recovery rate through new pricing strategies
- Generate excess revenue that can be used to maintain/upgrade existing facilities or launch new services and facilities
- 95% of recreation users say they would pay higher fees to maintain or increase services (source: Leon Younger & PROS, a composite of survey results from 28 U.S. cities)

REVENUE ENHANCEMENT STUDY: Findings

- Services may be under-priced by 10- 60%, including Civic Center rentals, Senior programs, youth sports, adult sports, swimming, recreation center rentals, shelter reservations, vendor fees
- Classes and Rec Fund activities are generally within range

STUDY FINDINGS (cont.)

- Civic Center Building and the swimming pool should receive substantial reinvestment in order to improve revenue capacity
- Seek more private investment in buildings and programs through sponsorships, in exchange for advertising/promotional opportunities
- Look at emerging activities for possible investment: aquatic park, skate park

Agenda No. 99-025
Agenda Item 1136
Date 6/22/99

AGENDA INFORMATION SHEET

AGENDA DATE: June 22, 1999
DEPARTMENT: Engineering & Transportation
CM/DCM/ACM: Rick Svehla, Deputy City Manager

SUBJECT: Receive a report, hold a discussion, and give direction on sidewalk projects in southwest Denton.

BACKGROUND: Council Member Young asked staff to look at the possibility of building a sidewalk along Kerley Street several council meetings ago. Funding is available from the old Scott Street project. Staff would ask for direction as to which projects to build.

OPTIONS: Option one would be to build approximately 1600 feet of sidewalk along Kerley Street from Duncan to the new Kerley Street bridge. Option two would be to build other additional sidewalks as requested by the neighborhood in April of 1997.

FISCAL INFORMATION: Approximately \$22,000 remains from the Scott Street sidewalk project. That money is available to build sidewalks at the direction of Council.

Respectfully submitted:



Rick Svehla
Deputy City Manager



CITY OF DENTON, TEXAS

OFFICE OF THE CITY MANAGER • 216 E. McKinney Street • Denton, Texas 76201
Telephone (940) 349-8307 • Fax (940) 349-8598

MEMORANDUM

DATE: June 22, 1999
TO: Mayor and Members of the City Council
FROM: Rick Svehla, Deputy City Manager
SUBJECT: SIDEWALK IMPROVEMENTS

Several council meetings ago, Council Member Young asked for us to look at the possibility of building a new sidewalk on the east side of Kerley from Duncan Street to Willow Springs Road. Twenty-two thousand dollars of sidewalk funding still remains from the Scott Street sidewalk project that the Council directed us not to build. Originally we suggested that that money be used for other sidewalks that were requested by a neighborhood group back in 1997. I've enclosed a report from Mr. Clark dated August of that year that indicated neighborhood preferences.

The \$22,000 would build approximately 1600 feet of sidewalk from Duncan Street along the east side Kerley down to the new bridge that has been installed on Kerley near the Scott Street neighborhood or any other neighborhood suggestions. Staff feels that any of these projects meet the original criteria for southeast sidewalks as listed in the bond issue.

Staff would ask for Council's direction as to which sidewalk project to build.

Rick Svehla
Deputy City Manager

RS:af

Engineering and Transportation Department- City Hall West

Date: 8/13/97

To: Rick Svehla, Deputy City Manager

JAC From: Jerry Clark, Director of Engineering and Transportation

RE: Southeast Denton Sidewalks

A public meeting on the Southeast Denton Sidewalk Project was scheduled on July 31, 1997. There were seven people in attendance including one Parks and Recreation Department representative. Those in attendance were primarily from Lakey Street between Morse and Wilson. The purpose of the meeting was to gain the direct involvement of the neighborhood. A map showing the overall sidewalk network was presented and then the preliminary construction plans were reviewed.

Five residents from the East Side of Lakey between Morse and Wilson were very descriptive in how the proposed sidewalk would essentially take up their entire yard. Visual inspection and the construction survey confirm this assessment. They were also very strong in that moving the sidewalk across the street would have the same adverse effect on those neighbors. It was determined that even though this sidewalk would link up the system, the loss of their front yards was the controlling factor and the sidewalk should be eliminated in this block.

The other two residents were from Smith Street at Duncan. They stated that their neighborhood did not want sidewalks on Smith for basically the same reason as the Lakey residents. They were satisfied that the Duncan Street sidewalk was needed except that it should be on the east side of Duncan instead of the west between Smith and Kerley. Staff agreed to move these sidewalks to the East Side between Smith and Morse as shown on the attachment with the squares. They won't provide direct access for residents but they will provide area wide network benefits.

Sidewalks were recommended by the neighborhood in four other areas as shown with the long rectangular symbol on the attachment. Those proposed sidewalks are listed below in order of priority by the neighborhood.

1. Bradshaw along the East Side from Prairie to Sycamore.
2. Sycamore along the south side from the Railroad Tracks to Bradshaw
3. Morse Street on the north side from Lakey to Hill
4. Wilson on the north side from the middle of the park to Bradshaw

Staff has taken measurements to determine the equivalents to the sections of sidewalk that have been deleted along Lakey and Smith Streets as shown with the circular symbol on the attachment. We would

8/13/97

recommend the three projects below be constructed. The Sycamore project is too large to complete with this program so it will be placed on the miscellaneous sidewalk list and into the CIP process. That project is shown with the triangular symbol on the attachment.

1. Bradshaw along the East Side from Prairie to Sycamore
2. Morse Street along the north side between Lakey and Hill
3. A portion or possibly all of the Wilson Street sidewalk in Fred Moore Park extending east from the existing portion towards Bradshaw as far as possible.

Finally, the neighborhood recommended that the sidewalk proposed along Kerley between Scott and Duncan be moved over to the railroad side and possibly incorporated into the Rails to Trails. Mr. Tickner, who was in attendance from Parks, was in favor of this recommendation. This should be solved by working with their design consultants to locate a smaller parallel trail or to just designate a set amount of funds from this project and include that into the Rails to Trails. A primary issue there is that the design and standards have to be approved by TXDOT, NTCOG, etc. Staff would recommend giving them \$18 per square yard which would be $1500' \times 4/9 = 670 \text{ sy}$ at \$18 per sy for a total of \$12,000.

Jac

Attachment

FUND 458
 ONE TIME OPERATING NEEDS 1997
 REVENUES

ACCOUNT NAME	ACCOUNT NUMBER	AMOUNT 09/30/96	AMOUNT 09/30/97	AMOUNT 09/30/98	AMOUNT 04/30/99	TOTAL REVENUES
AID - IN CONSTRUCTION	458 000 6809	0	347,000			347,000
INTEREST REVENUE	458 000 6711		5,284			5,284
INTEREST REVENUE	458 000 671A			12,956		12,956
		0	352,284	12,956	0	365,240

FUND 458
 ONE TIME OPERATING NEEDS 1997
 EXPENDITURES

PROJECT NAME	ACCOUNT NUMBER	BUDGET	ADJUSTMENTS	ADJUSTED BUDGET	ENCUMBRANCES 04/30/99	EXPENDITURES 04/30/99	TOTAL OBLIGATIONS	AVAILABLE BUDGET	C L O S E D
ROBERTSON DR DRAINAGE	458 020 DRAN 9757-9108		110,000	110,000		110,000	110,000	0	Y
SCOTT STREET RIGHT OF WAY	458 020 STRT 9731-9105	133,000	(110,000)	23,000		1,044	1,044	21,956	
JIM CRYSTAL BRIDGES	458 020 STR 9731-9105	40,000		40,000	2,176	41,937	44,113	4,887	
CIVIC CENTER BRIDGE	458 031 PARK 9721-9105	100,000		100,000		100,000	100,000	0	Y
PHOENIX PARK EXPANSION	458 031 PARK 9721-9157	25,000		25,000		10,168	10,168	14,832	
CIVIC CENTER PARK MASTER PLAN	458 031 PARK 9733-9151	40,000		40,000		40,000	40,000	0	Y
		347,000	0	347,000	2,176	303,148	305,325	41,675	

*Jennifer,
 Rich wants this
 to go in fall but
 not in agenda
 books -
 item #6*

13.35

82,000

1650

1600 to new bridge

LIST FROM SE DENON S.W. MEETING
7-31-97

① Bradshaw Prairie to Sycamore
Constructed on West side

② Sycamore RR to Bradshaw
Not Built yet

③ More St Lakey to Hill
Constructed

④ Bradshaw Along Park
Not Built yet.

Kelley - from Scott to Duncan was
asked to be removed.

SE Ontario MRG 7/31/97

- | | | |
|---|------------------------------------|----------------|
| 1 | Brookston east
next to cemetery | Prairie to ... |
| 2 | Sycamore
RR to Brookston | |
| 3 | Dunn St
Lakely to Hill | |
| 4 | Brookston - along Paul | |

Summary

- 1) Delete - Lakely to Wilson to raise
- 2) Delete - Smith Duncan to Hill
- 3) Move Dunn St between Smith & Kerby ^{to} east side
- 4) Move Kerby from north side to route to Davis or source
- 5) Consider adding ~~ways~~ listed in order of priority

SE Denton Sidewalk Mtg

Greg Clark - staff

7/31/97

	Name	Address	Plans OK	yes or no
1	Ira Williams	700 Smith St		
2	Bob Trchner	City of Denton Parks		
3	Birder Johnson	City of Denton / 200 Lane St		
4	Ruby Cole	P.O. Box 1743 Denton, Texas 76202		
5	Betty Kimple	809 Lakely St. Denton TX 76205		
6	Dr. Lisa L. Layborne	721 Lakely St. Denton, TX 76205		
7	Ed. A. Sheffield	803 Lakely St. Denton TX 76205		
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Engineering and Transportation Department- City Hall West

Date: 8/13/97

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Jac

Attachment

Agenda No. 99-025
Agenda Item W32
Date 6/22/99

AGENDA INFORMATION SHEET

AGENDA DATE: June 22, 1999
DEPARTMENT: Legal
CITY ATTORNEY: Herbert L. Prouty, 349-8333

SUBJECT

Consider adoption of an ordinance amending Article IV "Planned Development Districts" of Chapter 35 "Zoning" of the Code of Ordinances of the City of Denton to provide for time limits on all steps and processes in the planned development districts; providing for certain action by the Planning & Zoning Commission and the City Council in the event that steps in the process are not timely completed; providing for consideration of the conformance of a particular planned development district to the comprehensive plan and other Denton land use policies and regulations; providing for a penalty not to exceed \$2,000 for violations of this ordinance; providing a severability clause; and providing a savings clause.

BACKGROUND

Attached is a rough draft of the revised planned development ("PD") sunseting ordinance, which you considered at your June 8, 1999 work session. A memo from Terry Morgan suggesting several changes in the ordinance to address concerns expressed at that work session is attached to our status report. The ordinance has been redrafted to remove those portions of Section 35-179 which are redundant of Section 35-178. Also attached is a document from Dave Hill showing the number and status of all PDs based on estimates from the concept plans. I believe Dave Hill will provide additional information on the status of these PDs in a separate document the first of next week. The ordinance includes the following concepts:

1. Time limits have been established for each step of the PD process, including the filing and approval of the development plan and detailed plan. A development plan must be submitted within two years of the establishment of the planned development district. A detailed plan must be submitted for approval within one year of the development plan. A detailed plan can also expire under §35-156 of the City Code.
2. Notification to the property owner sixty days before the time limits expire will be required. The property owner will be notified in the event that the expiration of the time limits triggers the staying of additional steps in the process and possible rezoning in accordance with the Zoning Enabling Act and Chapter 35 of the City Code.
3. Following the expiration of the right to submit a development or detailed plan, the Planning & Zoning Commission and the City Council will consider the expired PD ordinance. The Commission will conduct a public hearing and follow all notice and hearing procedures for a zoning amendment. The Commission will make a recommendation to the Council whether

the PD should be allowed to proceed or should be rezoned. The Council will ultimately make a determination as to whether the existing PD can continue with the current land uses to proceed in the process, whether additional conditions will be placed on the PD to allow it to continue to proceed through the process, or whether the property will be rezoned. In making this decision, the Council will consider the current PD's compatibility with the comprehensive plan, the growth management strategy, surrounding land uses, whether the failure to submit in a timely manner is justified, or whether the property owner would be deprived of the economic viable use or a vested right. The Council may agree to allow the applicant to continue in the process. It may place any conditions it deems necessary on the planned development, including placing additional time limits on the next steps in the process.

4. The ordinance applies to any development plan or detailed plan for which a recommendation has not been made to the City Council by the Planning and Zoning Commission and to any other development or detailed plan filed after the effective date of the ordinance.

Rather than redraft the ordinance, we have presented some potential amendments in Terry's memo to address some of the concerns expressed at your June 8th workshop. Some of the concerns include the sheer number of PDs that might be affected and the impact of processing appeals from these stays on you and the staff, the determination of a cutoff date, like 1988 when the current Denton Plan was adopted, as a reasonable date to determine which PDs would be affected, the possibility of requiring a property owner to take some affirmative action before an exception from the staying of the PD after time limits have expired has been heard by the Council, and the possibility that you could be forced into a super majority vote on many of these PDs when the property owner protests the rezoning. I will be discussing the ordinance in some detail with Terry Morgan and Dave Hill. This will include discussing how the ordinance may be affected by the recently passed House Bill 1704, the new vested rights statute. Terry and I are researching this and other matters and hope to have answers to these questions by your June 22nd work session. Additional changes may be made to the ordinance prior to the work session. Additional material regarding this item is in the City Attorney status report. These will be discussed with you.

OPTIONS


1. Pass the ordinance as written.
2. Pass the ordinance with changes as recommended by Council.
3. Reject the ordinance.

RECOMMENDATION

If a majority of the Council is concerned about future or pending planned development districts which do not conform with surrounding land uses and current land use regulations and policies, this ordinance provides a way to make sure these planned development ordinances do not conflict with the current comprehensive plan and other land use regulations. I would recommend

this approach of staying steps in the process and resubmitting the matter to the Council for a determination upon expiration of time limits as an acceptable method of addressing this matter.

Respectfully submitted:



Herbert L. Prouty
City Attorney

DRAFT JUNE 18, 1999

ORDINANCE NO. _____

AN ORDINANCE AMENDING ARTICLE IV "PLANNED DEVELOPMENT DISTRICTS" OF CHAPTER 35 "ZONING" OF THE CODE OF ORDINANCES OF THE CITY OF DENTON TO PROVIDE FOR TIME LIMITS ON ALL STEPS AND PROCESSES IN THE PLANNED DEVELOPMENT DISTRICTS; PROVIDING FOR CERTAIN ACTION BY THE PLANNING & ZONING COMMISSION AND THE CITY COUNCIL IN THE EVENT THAT STEPS IN THE PROCESS ARE NOT TIMELY COMPLETED; PROVIDING FOR CONSIDERATION OF THE CONFORMANCE OF A PARTICULAR PLANNED DEVELOPMENT DISTRICT TO THE COMPREHENSIVE PLAN AND OTHER DENTON LAND USE POLICIES AND REGULATIONS; PROVIDING FOR APPLICABILITY TO CERTAIN PLANNED DEVELOPMENT DISTRICTS; PROVIDING FOR A PENALTY NOT TO EXCEED \$2,000 FOR VIOLATIONS OF THIS ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, there are a number of planned development districts that are in excess of ten years old and whose concept plans, development plans, or detailed plans are inconsistent with the current land use regulations and policies of the City of Denton; and

WHEREAS, the City Council deems it in the public interest to place time limits on actions required under all planned development districts in order to require conformance with current land use regulations; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. That Division 3 "Applications and Submissions" of Article IV of Chapter 35 of the Code of Ordinances of the City of Denton is hereby amended by adding new Sections 35-177 through 35-178, which shall read as follows:

Sec. 35-177. Time Limits on Submission of Development Plans and Detailed Plans.

In a planned development district, progress toward development of a project shall occur within the following time periods:

(a) **Failure to Submit Development Plan.** A development plan or a detailed plan in lieu of a development plan shall be submitted for approval within two (2) years from establishment of the Planned Development District, unless otherwise provided by agreement. If a development plan or detailed plan in lieu of a development plan for all or a portion of the project is not submitted within such period, the authority to submit such development plan shall expire.

(b) **Failure to Submit Subsequent Development Plan.** If the project is to be developed in phases, a subsequent development plan shall be submitted within two (2) years from the approval of a detailed plan for the preceding phase. If a subsequent development plan is not submitted within such period, authorization to submit such development plan for that portion of the property or other subsequent development plans for the property shall expire.

(c) Failure to Submit Detailed Plan. A detailed development plan shall be submitted for approval within one (1) year from approval of the applicable development plan. If a detailed plan is not submitted within such period, or in the event a detailed plan has expired pursuant to section 35-156 of this Chapter and following any extensions granted under such provision, authorization to submit a detailed plan shall expire.

(d) Duties of Director. The City, through its Director of Planning, shall keep track of all of the time limits set forth above and shall notify the owner of the land of the approaching expiration of the time limit to a particular zoned planned development through a notice to the last known address of the land owner sent by certified mail, return receipt requested, at least sixty days prior to the expiration of any time limit set forth above.

(e) Stay of Process. Upon expiration of any of the time limits for any step in the planned development process set forth in this section, an application for the development plan or detailed plan, as the case may be, shall not be accepted for filing or further processed, pending the outcome of the procedures set forth in section 35-178.

Sec. 35-178. Staying of Steps In Process.

(a) Following the expiration of the right to submit a development plan or detailed plan, as set forth in section 35-177, the Director of Planning will place the planned development ordinance for the property on the agenda of the Planning and Zoning Commission for its consideration. Notice of the Commission's action shall state that the regulations governing the planned development district may be modified. The Commission shall conduct a public hearing and shall apply procedures for a zoning amendment pursuant to section 35-7 of this Chapter. The Commission thereafter shall recommend to the City Council whether the right to submit a development plan or detailed plan should be reinstated, or whether the property should be zoned to another classification.

(b) The Commission's recommendation shall be referred to the City Council for consideration in accordance with the procedures applicable to zoning amendments. The Council shall determine whether the right to submit the development plan or detailed plan should be reinstated, or whether the property should be rezoned to another classification. In making such determination, the Council shall consider the following factors among others:

- (1) whether the planned development district is consistent with the adopted comprehensive plan and growth management strategy;
- (2) whether the uses authorized in the planned development district are compatible with existing and planned land uses adjacent to the site;
- (3) whether there are extenuating circumstances justifying the failure to submit a development plan or detailed plan during the applicable time period; and

- (4) whether rezoning the property to another classification constitutes confiscation of a vested property right or deprives the owner of the economically viable use of the land.

(c) The Council may take the following actions:

- (1) reinstate the right to submit the applicable development plan or detailed plan within a time certain, subject to any conditions that may be appropriate to ensure that significant progress will be made toward development of the project;
- (2) modify the planned development district regulations applicable to the property; or
- (3) direct that proceedings be instituted to change the zoning classification of the property in accordance with applicable procedures.

(d) In granting exceptions to the time limits phase as set forth herein, the City Council may require any conditions as will, in its judgment, be consistent with the purposes set forth in this chapter and its other land use policies and regulations. The conditions which the City Council may place on the planned development may include placing additional time limits on the next step in the process.

SECTION II. Applicability. This ordinance shall apply to applications for approval of a development plan or detailed plan as follows:

1. To any development plan or detailed plan in lieu of a development plan, for which a recommendation has not been made to the City Council by the Planning and Zoning Commission by the effective date of this ordinance;
2. To any other detailed plan that is filed after the effective date of this ordinance.

SECTION III. That any person violating any provision of this ordinance shall, upon conviction, be fined a sum not exceeding \$2,000.00. Each day that a provision of this ordinance is violated shall constitute a separate and distinct offense.

SECTION IV. That if any section, subsection, paragraph, sentence, clause, phrase, or word in this ordinance, or application thereof to any person or circumstance is held invalid by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance, and the City Council of the City of Denton, Texas hereby declares it would have enacted such remaining portions despite any such validity.

SECTION V. That save and except as amended hereby, all the sections, subsections, paragraphs, sentences, clauses, and phrases of Chapter 35 of the Code of Ordinances of the City of Denton shall remain in full force and effect.

SECTION VI. That this ordinance shall become effective fourteen (14) days from the date of its passage, and the City Secretary is hereby directed to cause the caption of this ordi-

nance to be published twice in the *Denton Record-Chronicle*, the official newspaper of the City of Denton, Texas, within ten (10) days of the date of its passage.

PASSED AND APPROVED this the _____ day of _____, 1999.

JACK MILLER, MAYOR

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
HERBERT L. PROUTY, CITY ATTORNEY

BY: Herbert Prouty

