

Richardson City Council Meeting September 23rd, 2024

OPENING – BUSINESS AS USUAL

All councilmembers are present as well as City Manager Don Wagner and City Secretary Aimee Nemer.

Councilman Barrios leads a prayer and the pledges.

Minutes of the previous meeting are approved unanimously.

At this time, City Manager Don Wagner acknowledges public comment cards sent in for this meeting. One card is submitted regarding the Richardson ecosystem. 19 public comment cards are submitted opposing ZF 24-16 (Clay Cooley). (And that's just counting those who aren't speaking this evening.) Eight public comment cards are submitted supporting ZF 24-16. (I also know firsthand that more comments were sent in opposing this zoning case, but they were not publicly acknowledged since they were emailed and not filed using the official form.)

One speaker is present for the visitors forum. She declares that Council does not have the authority to appoint a Charter Review Commission. She also requests information on sustainable development certifications. She encourages clarification on Richardson's home-rule city status. She also asks for Council's written oaths of office. She wants the city to maintain a straight, equitable, honorable, and balanced path. City Manager Don Wagner actually responds immediately to this speaker. He states that he would be happy to meet with her later to have that conversation.

The first presentation of the evening is from the Texas State Fire Marshal's office in recognition of Richardson receiving a Class 1 rating from the Insurance Services Office. This is a rating that establishes the insurability of an organization. This is the highest rating that can be given. Richardson Fire Chief Curtis Poovey introduces his team and recognizes their contributions to achieve this rating. State Fire Marshal Debra Knight from the Texas Dept. of Insurance presents the award and explains the criteria. She explains that the Dept. of Insurance is funded through maintenance taxes that insurance companies pay. She also states that there are only 500 Class 1-rated entities across the country. 103 of those are in Texas. Council takes a picture to recognize the achievement.

Next is a presentation on FY25 Arts Grant recommendations. Cultural Arts Commission Vice-chair Elizabeth Gonzalez presents. The commission received 24 applications for grants. 23 of those were interviewed. \$375K are available for funding. 22 organizations are recommended for grant funds. Four of those recommendations are for 100% of their respective requests. The rest are an amount less than requested. The highest award is \$82K to the Richardson Symphony Orchestra. Council thanks Vice-chair Gonzalez for the commission's work in providing these recommendations.

PUBLIC HEARING – CLAY COOLEY VW (MAIN FEATURE)

Next is a series of three public hearings. The first is a continuation of the public hearing on ZF 24-16. This is Clay Cooley VW's special permit request to expand their facilities even more to include an automotive storage lot, body shop, and repair shop within the block surrounded by Bishop Ave, N. Interurban St, Jackson St, and Davis St. This is within the Interurban Sub-district of the Main St./Central Expy planned development district. At the August 12th meeting, Council voted unanimously to continue this public hearing to allow the applicant to present a landscaping plan. At the August 12th hearing, no speakers were present. We made sure that wasn't the case for tonight's hearing.

The item begins with a background provided by staff. City Manager Don Wagner introduces Planner Amber Pollan. He notes that this is her first Council meeting. Amber presents the background. She explains that only permitted uses have by-right allowance. Uses that require a special permit application are not suitable for the zoning of the area. When Council approves special permits, they attach additional conditions to try and protect neighboring properties from issues concerning public health, safety, morals, and general welfare. Special Development Plans are used when applicants are seeking noncompliant uses and conditions. In other words, when zoning cases are "special", they have the potential to harm the community around them. It is our City Plan Commission and City Council's job to ensure that the surrounding community is not harmed. All of the uses in this request require special permits.

The applicant now steps forward to present their plans. He states that VW corporate has given approval for these buildings to be painted. Each building will be a different solid color. Ready to hear the exciting edgy, eclectic colors? (Drumroll please) Light Gray! Navy Blue! Another Light Gray! Light Blue! And....Rust! (Break out the champagne folks. We've done it! /s) The applicant also states that they have finally gotten approval for a mural at the intersection of Davis & Interurban. The applicant also states that they will completely rehaul the landscaping by keeping the existing crepe myrtles. The applicant also brags that the starting pay will be a whopping \$45K annual salary. And, that's it. That's the big update. (This is also a good time to remind you that the state took away cities' rights to regulate things like paint color and murals a few years ago, so none of these "promises" are enforceable. None of these will be added to the ordinance.)

Councilman Barrios asks why this use would require a special permit. Staff answers that these uses require "special" consideration. (Remember that word?)

Now, the public hearing opens. Eleven speakers are present for this hearing. The first speaker is the commercial lender for this proposal. He supports the request. He claims that this is not a new use for the property. (It is. The prior use was abandoned over a year ago.) He also claims that body shops will benefit future retail uses and bring people to the area. (I am wracking my brain trying to picture any scenario where Clay Cooley bringing their own cars in for detailing brings any consumers to the area.) He then tactfully threatens the city that if this were to be declined, future investors may question the city's willingness to work with them.

The second speaker is me. This was my first time ever speaking before Council if you can believe it. Nearly a dozen or so dedicated residents and I volunteered our time and efforts over several weeks to create maps and other handouts to show this Council exactly what the highest and best uses for this area are. If you'd like to view our remarks and provide feedback, they begin at 1 hr. and 4 mins.

I oppose this request. I remind Council of our plans for a \$5.2M park across the street. I remind Council of the Future Land Use Plan Vision for Interurban to be more pedestrian-friendly. I remind Council that this community met over 58 times from 2012-2016 and spent money on three consultants to form our plan for this area. I also remind Councilman Hutchenrider of his vote against the similar 2022 Clay Cooley request. Finally, I remind Council that not all of the comments submitted regarding this case online were acknowledged. This community puts so much work into participating in our government. We all deserve to be heard and acknowledged.

The third speaker also opposes the request. She is a long-time urban planner and regular contributor to these Council meetings. She reminds Council to make decisions that achieve the city's goal of making areas pedestrian-friendly, not pedestrian-hostile. This car lot would be an obstacle to pedestrians. She reminds Council that these are not uses that the city sees as appropriate for the area since they require a special permit. (And what does "special" mean again? All together now...) These uses are not meant to continue forever. She plays an audio recording of the beautiful sounds of an auto repair shop. She points out several code compliance issues with the current Clay Cooley-occupied property. She concludes with a famous quote from Margaret Mead, "Never underestimate the power of a small group of committed people to change the world. In fact, it is the only thing that ever has."

Mayor Dubey now replies to my remarks about double-checking that all public comments are acknowledged. He states that I claimed I did not receive an email reply from him. Mayor Dubey and I have since clarified our understanding of my remarks and are on the same page. All public comments will be part of the public record.

The fourth speaker also opposes the request. He has been a Richardson resident for 44 years. He is also part of this year's CARES class along with me and one other speaker you will hear from shortly, a co-owner of Four Bullets Brewery. He states that denying this request is The Richardson Way. That is, to plan our work (which we've done) and work our plan. Businesses have invested in this plan and it seems like we are changing the plan, which affects their investments. Do we want to see them pack up and go to a town that is supportive of their investment?

The fifth speaker also opposes the request. She is co-owner of nearby Interurban business Four Bullets Brewery. (Though, not nearby enough to be included in the notification zone. Hopefully, we can increase this zone someday.) She is also in this year's CARES class. She asks Council not to change their vision for the area as it would affect her business. Four Bullets Brewery understood this community's plan and has been working that plan since its inception. She responds to Councilman Hutchenrider's comments about Four Bullets "not doing anything". (The same councilmember that disrespectfully accused his fellow councilmembers of not being "pro-business" mind you.) She remarks that Four Bullets presented a plan with awnings, updated potted plants, and a landscaping plan. At that time, a councilmember (Scott Dunn. Imagine that.) said these updates were not part of their vision for the area. That councilmember wanted things to be grungy. He specifically told them not to make those changes, not to change anything.

The sixth speaker also opposes the request. She has been a Richardson resident for 30 years. She compliments the city's prioritization of parks, neighborhoods, and cultural diversity. The Core District has

been marketed by Richardson as a place that prioritizes adaptive reuse and bringing neighbors together. The Core District makes Richardson a destination, not a drive-thru city. The community's plan for this area is clear. So much of our community has invested in working that plan. The plan is working as long as this Council doesn't get in the way. She concludes eloquently by pointing out that these light gray and rust-colored buildings do not put this request in compliance with the community's vision. "You can't put lipstick on a pig. It's still a pig."

The seventh speaker also opposes the request. She has been a Richardson resident for 24 years. She compliments the city's response to citizens' personal needs and requests. However, she is disappointed at the recent approval of a 40 ft. sign for Clay Cooley VW. This car lot is already plenty visible from the freeway. And no one will be driving down the freeway to see the sign and impulsively buy a car or seek auto repair services. This will be an eyesore and set a precedent for any surrounding auto businesses to seek their own 40 ft. sign. (This was also a "special" request.) Suggesting that this use would bring consumers to the area is disingenuous. The city asks for public participation in updating land use plans. We expect this feedback to be weighted and considered.

The eighth speaker also opposes the request. He reminds Council that the stated vision for this area is clear. This request is not in line with this vision. Studio Lema, the architect for the recently approved Nest Center, is in an office right next door to the buildings in this request. He is the Head of Production for a local television production company. This company is in the process of trying to relocate. He advocates for a space in Richardson, specifically the Core District, for creative businesses like this production company. If this request is approved, he questions if the Core District will be a viable place for his business.

The ninth speaker also opposes the request. He is an expert on urban planning and zoning and also a frequent contributor to these meetings. He provides handouts that show data backing the statement that auto lots and auto repair shops are not efficient for tax production. He shows that the community created the vision for this area and existing businesses are following it. He presents data that compares the productivity of auto uses compared to other uses. His data shows that auto uses come out to be the lowest tax producers per sq. ft. when compared to restaurant/retail, hotel, office, mixed-use, and multifamily uses. In fact, 85% of the auto uses on the U.S. 75 corridor are in the bottom 50% of tax productivity per sq. ft.

The tenth speaker also opposes the request. She has been a Richardson resident for 26 years. She states there are too many auto dealerships in this area already and that the city should prioritize better uses for the land. She wants to be able to visit the new \$5.2M Interurban Common without having to look at the back of Cooley's repair shops. She also reminds Council that Richardson is filled out. Every sq. ft. of land in the city must be prioritized for the highest and best use.

The eleventh and final speaker also opposes the request. She is co-owner of Beyond the Bar, another Core District business. She states that approving this would be detrimental to the Core District and counter to the city's Comprehensive Plan. Her own business, the type of business that should be prioritized, won a Best of Dallas award this year from the Dallas Observer. She calls Council's attention to a brand-new shuttle service provided by the Core District Merchant's Association from UTD to each of the sub-districts within the Core District. She asks Council not to stunt the growth of this Core District.

With the public hearing now closed, Council begins their deliberations. Councilman Corcoran expressed opposition to the request at the Aug. 12th meeting. He states that he went back, researched, and re-evaluated his stance, and his opposition to the request remains. He sees this request as incompatible with the original intention for the area. Traditional auto uses were meant to decrease over time. He doesn't think this request clears the hurdle for approval of a special permit. He still thinks the vision for this sub-district needs to be evaluated to make sure it is what this Council desires.

Mayor Pro Tem Shamsul calls this decision challenging in one way but very clear in other ways. He acknowledges that visions are important. Richardson achieves our goals by planning our work and working our plan. He's not aiming for a Deep Ellum. He's aiming for something even better. Now, he doesn't see any way to support this case. He agrees with being business-friendly. That is a goal implemented by city staff to give businesses the most efficient and best experience possible. He is here to support Richardson residents. We need to attract businesses that will follow the vision. He suggests advertising Interurban more aggressively to these types of businesses. Since the last hearing, he has changed his mind and opposes the request.

Councilman Barrios says that his opposition to this request has only strengthened. Auto uses are not meant to continue forever in this district. The applicant should be aware of the zoning when they purchase a property. It is not the responsibility of the city to cater to their lack of understanding. He quotes an Aaron Tippin song and says, "We've got to stand for something or we'll fall for anything." (I'd also like to quote that song and say, "Whatever we do today we'll have to sleep with tonight." Richardson residents will have to sleep with whatever decision is made today for a very long time.) The \$45K starting pay that this applicant brags about won't allow any of his employees to move to Richardson. He went by Clay Cooley's property this last weekend. While he and his mom were passing by, his mom exclaimed that the property was rundown. The property has a broken window in the rear and three-foot-tall grass. This applicant is not the neighbor we want in this district. He is opposed to this request.

Councilwoman Justice states that she read the 297-page plan for this area. She calls it the speakers' vision that the area should be edgy and eclectic and emphasize adaptive reuse. She states that the plan defines adaptive reuse clearly. She states that the vision includes a wide range of uses. She states that a Food Truck Park would require a special permit. She states that this area has a big star on it for public parking. She states that this request will add to the area. She states this request fits with the spirit of what the actual form-based code says. (It doesn't.) She cites The Richardson Way and claims that she read all of this directly from the plan and that this works within that plan. She states that she is confused because she did read the plan and thinks this fits within it. (Now that, we can both agree on. I'm also confused why she would read the plan and think this fits.) She compares the area to Downtown Plano. She describes the multifamily, retail, and nearby transit. She also describes some existing nonconforming uses. She says that Interurban could be like Downtown Plano. She thinks approving this request would make the area even better than Downtown Plano.

(I disagree with nearly everything Councilwoman Justice stated. Instead of rebutting her arguments here, I will take it up with her directly. I encourage you to read the public documents that are referenced. You only

need to reference the 38-page section of Ordinance No. 4191 to understand clearly what the plan for this area is.)

Councilman Hutchenrider agrees that the vision for this area needs to be reconsidered. He thinks this swath of land is trying to do too many different things in one place. He thinks that the applicant's plans meet the vision. He thinks there are permitted uses that would be much more harmful, but he doesn't name any. He states that we need private developers to come in and develop, the city doesn't develop. (As a reminder, the city has an economic development department now headed by a former development services staff member. This economic development department uses dollars to assist private developers with implementing the city's plan.) He states that the speakers tonight are well-intentioned but they are not coming in to develop. He then immediately corrects himself and states that the owners of Four Bullets Brewery and Beyond the Bar represent business owners who are doing exactly that, developing. He now acknowledges that Four Bullets has indeed done something.

Mayor Dubey thinks that since Clay Cooley bought the site, that should be considered. He states there are three categories, allowed by right, allowed by special permit, and not allowed. He says this was already a body shop and asks why they would think anything different. (Because, Mr. Mayor, this area focuses on adaptive reuse, not continued uses that are not permitted. The three categories according to the plan that I hope we've all read by now are permitted, "special" permit uses that require review, and prohibited uses.) He also thinks that no one supports vacant buildings. (A period of vacancy will naturally occur when you are transforming and adaptively reusing areas and buildings. No one is asking for the buildings to remain vacant forever. We are asking, the plan is asking, for permitted uses.) He also states that the city can't do anything with property that the city doesn't own. (We can enforce compliance with our code and plan. We can certainly do that.) He doesn't want vacant buildings. He thinks we owe it to Clay Cooley to follow the vision as intended. (I agree. We should inform them of the zoning and deny this request.)

Councilman Corcoran watched a 2014 presentation that stated that the intent was to see fewer special permits approved for auto uses moving forward. Councilman Barrios agrees with Councilman Corcoran. He states that this decision speaks volumes to those watching. There are specific reasons that these are not permitted uses. If this was what we wanted for this area, these would be permitted uses. He acknowledges that there will be a period of vacancy as the area achieves the vision. Approving the first special permit request for this land is not the right answer.

Mayor Pro Tem Shamsul states that, as leaders, they should make decisions for the future, not for fear of vacancies or lack of a better option.

Council approves the request 4-3. Mayor Dubey, Councilman Hutchenrider, Councilwoman Justice, and Councilman Dorian are in favor. Mayor Pro Tem Shamsul, Councilman Corcoran, and Councilman Barrios are opposed. (I sincerely believe the four councilmembers who approved this request are mistaken in their understanding of the plan. I at least appreciate the six councilmembers who explained their reason for voting the way they did. One councilmember remained silent for the entire period of deliberation on this request, Councilman Dorian. I wish we understood why he voted the way he did.)

REMAINING PUBLIC HEARINGS & CLOSING

All of that was the first hearing. The second hearing of the evening is on ZF 24-19. This is a special permit request for Banyan Hypnosis to relocate to a smaller suite in the same building. Their last request was tied to that suite necessitating a new special permit to move. This request is tied to the building, not a suite, so they won't need another special permit unless they move elsewhere in the city. This request was also covered at the Sep. 3rd CPC meeting.

Staff presents a background of the request. No correspondence has been received regarding this request. The applicant steps forward to present their request. No speakers are present for this request. Council has no questions or comments. Council unanimously approves the request.

The final hearing is on ZF 24-20. This is a special permit request for Clawzania arcade at 1362 E. Belt Line Rd. This request was also covered at the Sep. 3rd CPC meeting. Staff presents a background. No correspondence has been received regarding this request. Mayor Pro Tem Shamsul asks why this business requires a special permit. Staff answers that "it has been that way for a long time". The applicant steps forward to present their plans. The applicant explains that this is only a claw machine arcade. Mayor Dubey asks how much it costs to play. The applicant answers that it will be \$1.00 per play. Councilman Dorian asks about operating hours. The applicant answers that they are requesting 12 – 9 but will likely operate from 2 – 9. Councilman Barrios asks if there will be any virtual playing. The applicant answers that there will only be in-person play. Mayor Pro Tem Shamsul asks about the difficulty of play. The applicant explains that machines will be set on easy. These machines will award small toys that can collectively be exchanged for a bigger prize. Councilman Hutchenrider asks what else will be in the facility. The applicant answers that they will have a drinks vending machine and maybe an Asian snacks vending machine.

One speaker is present for this hearing. I believe he is the property owner. He supports the request. Council unanimously approves the request.

The consent agenda is passed unanimously. It includes approval of the FY25 arts grant awards. It also includes an ordinance codifying amendments to the Code of Ethics presented at the Aug. 26th meeting. It also includes a resolution approving a negotiated settlement with Atmos for rate increases. This settlement results in rates that are 16% lower than Atmos originally requested. The impact to the average resident will be a roughly \$6 increase monthly. The Public Utility Commission is still considering the proposed rates from Oncor. Negotiations are ongoing. Three bid awards are also included: \$3.6M to Reliable Paving Inc. for asphalt overlays, a \$125K annual requirements contract to Pollock Paper Distributors and Eagle Brush and Chemical for custodial supplies, and \$160K to Altec for a traffic department bucket truck.

Council discusses an NCTCOG award for the Community Inclusion & Engagement Commission, a Transit Coalition's State of Transit presentation, a Texas Municipal League meeting, the opening of two parks, the Public Safety Expo, an Eisemann Center performance, and a Network of Community Ministries fundraiser.

Mayor Dubey, for the third time in his tenure as mayor if I recall correctly, calls for a motion to close the meeting. Richardson does not and has never required a motion to close a city council meeting. I don't know

why he calls for such a motion. No one on Council entertains the request. In fact, councilmembers have to tell Mayor Dubey that we are adjourned. Meeting adjourned.