

May 28, 2025

**MINUTES OF THE REGULAR CALLED MEETING OF
THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS
May 28, 2025**

A regular called meeting of the City Council of the City of Tyler, Texas, was held Wednesday, May 28, 2025 at 9:00 a.m. in the City Council Chambers, 2nd floor of City Hall, Tyler, Texas, with the following present:

Mayor: Don Warren
Mayor Pro Tem: Lloyd Nichols
Councilmembers: Stuart Hene
Petra Hawkins
Shonda Marsh
James Wynne
Brad Curtis

City Manager: Edward Broussard
Deputy City Manager: Stephanie Franklin
Asst. City Manager: Heather Nick
Asst. City Manager: Keidric Trimble
City Attorney: Deborah G. Pullum
Deputy City Attorney: Steve Kean
Senior Asst. City Attorney: Alesha Buckner
Airport Manager: Stephen Thompson
Planning Director: Kyle Kingma
Chief Information Officer: Benny Yazdanpanahi
City Librarian: Ashley Taylor
Chief Building Official: David Gibson
Police Chief: Jimmy Toler
City Engineer: Darin Jennings
Project Engineer: Jacob Yanker
Director of Parks & Recreation: Leanne Robinette
Senior Management Analyst: Blake Cathey
City Clerk: Cassandra Brager

INVOCATION

The Invocation was given by Councilmember Marsh.

MINUTES

Motion by Councilmember Curtis to approve the April 9, 2025 minutes; seconded by Councilmember Wynne; motion carried 7 - 0 & approved as presented.

AWARDS

A-1 Request that the City Council consider recognizing the following employees for their years of service and commitment to the City of Tyler. They represent 145 years of service with the City of Tyler.

Scott Starkey, Fire Driver Engineer, 25 years of service
Brian Bulman, Police Sergeant IV, 25 years of service
Chester Mayo, Treatment Plant Operator III, 25 years of service
Gary Smith, Building Services Supervisor, 35 years of service

Jose Parga, Parks Manager, 35 Years of service

ZONING

- Z-1** Z25-008 MD DIVINE HOMES LLC (2921 NORTH BORDER AVENUE)
Request that the City Council consider adoption of an Ordinance approving a zone change from R-2, Two- Family Residential Duplex District to R-1D, Single-Family Detached and Attached Residential District. **(O-2025-22)**

Motion by Councilmember Marsh; seconded by Councilmember Wynne; motion carried 7 - 0 & approved as presented.

RESOLUTION

- R-1** Request that the City Council consider adopting a Resolution nominating Tyler Regional Hospital, LLC - UT Health Tyler, for award of a State of Texas Enterprise Zone Project designation and the Job Retention Benefit under the Enterprise Zone Program. **(R-2025-32)** **Councilmember Marsh exits to recuse**

Motion by Councilmember Wynne; seconded by Councilmember Hawkins; motion carried 6 - 0 & approved as presented.

Councilmember Marsh enters.

ORDINANCE

- O-1** Request that the City Council consider adopting an Ordinance amending Tyler City Code Chapter 12 by establishing airport hazard area zoning regulations for Tyler Pounds Regional Airport, establishing and defining the authority of the Zoning Board of Adjustment and Appeals regarding such regulations, and providing definitions; and also amending Tyler City Code Chapter 10 by requiring a notation on Subdivision Plats located in Airport Height Hazard Zoning Districts. **(O-2025-23)**

Steve Thompson, Airport Manager – Stated that he was here to briefly cover the “why portion” and answer any questions as far as implications of what we're doing. “But basically, as you all know, the Airport is an economic engine for the City, and really, it's a resource for the entire region. It's just an asset, that we really have a duty and obligation to protect long into the future. And what this change in ordinance does is basically provide protection for aircraft pathways in and out of the Airport, which would be pretty much obvious, but also provides some protection for people, structures, and resources on the ground. So, it's a very all-encompassing effort to really try to make sure that the future development around the Airport does not infringe on the ability to operate the Airport safely. The goal is to prevent the creation of hazards to aircraft coming in and out of the Airport. And as mentioned, also to protect people and structures on the ground. We've done a great deal of investing, on an annual basis, just with the staff that's out there and maintaining the Airport, but also the infrastructure investment that, as you know, is greatly funded by the FAA.” It briefly states

right from the FAA website, "When Airport owners or sponsors, planning agencies, or other organizations accept funds from FAA-administered airport financial assistance programs, they must agree to certain obligations or assurances. These obligations require the recipients to maintain and operate the facilities safely and efficiently and in accordance with specified conditions." So, there are basically 40 different grant assurances. You can see the one that's most applicable to what we're talking about today. But this just outlines our obligation as a recipient of those federal funds. And as you know, all of our capital projects are funded sometimes at 90, sometimes at 95%, and even sometimes at 100 % in terms of our freight that was purchased two years ago. So, we're very reliant upon that funding for our future operations, and we don't want to jeopardize that by allowing some type of development that we could have altered, changed, or at least used this mechanism that we're proposing to make sure that it doesn't infringe upon, aircraft coming and going."

Kyle Kingma, Planning Director - Stated that within the Runway Protection Zones (RPZ), circled in red. Those are off the ends of the runways. So, actually, the Airport in relation to streets and high winds, on the west side of town. That blue line is the city limits, so that does go out to surround the Airport property. And this is essentially this kind of the same map here or the same areas. With that those black areas and hatches, those are in the RPZs. The areas are mostly affected by the land use restrictions that are being proposed. So, this kind of helps orient the location.

Mayor Warren – Asked if this ordinance affects the entirety of what's outlined in black or just the part in black that's in the city limits?

Kyle Kingma, Planning Director- Stated that everything that's in black, inside and outside the city limits.

Mayor Warren- Asked, so on all the black areas, are there existing structures now in the black?

Kyle Kingma, Planning Director- Stated that there are existing structures outside of the black areas, but this ordinance would apply to those areas, what's in there now, and what can be in them in the future.

Mayor Warren- Stated that the ordinance is saying you cannot have a structure inside the black. Correct?

Kyle Kingma, Planning Director: Stated, no. So kind of come back to what's being proposed here. So, it doesn't prohibit a structure from being in the black areas. It does establish three land uses that are, that do not need any further review, in the ordinance to do. And those are, essentially things without structures, which are surface parks and agricultural activity. And then if there are any other uses, that those can be evaluated on a case-by-case basis, through essentially the variance process, and that will involve FAA, feedback from the FAA on whether that activity would, in their opinion, be detrimental to the two

essentially in the runway clearance. And so, the way to look at it is, you know, there are three that are as is by right, no further review. That does not preclude that's not an exhaustive list. There is a mechanism and ability to do other things. So, if you have a structure in there now, and want to continue that or build something new that's not already pre-cleared, if you will, then there is a mechanism to do that.

Councilmember Hawkins – Asked if there were already residential areas in some of these areas.

Kyle Kingma, Planning Director: Stated, “There are, I believe, a few homes, yes, in some of those Runway Protection Zones (RPZ). But this ordinance is not retroactive, it will not require anybody to remove their home or any structures that are not legally nonconforming for that. And again, if the time comes that something may happen, they wanna rebuild it or they need some kind of clearance for a bank or a lender or whatnot. They have that mechanism to get that cleared and to make that use allowable.”

Mayor Warren – Stated that he didn't quite understand the 75 foot.

Kyle Kingma, Planning Director – Stated, there's this ordinance that will establish a height hazard permit requirement, but it will not apply to anything that is 75 feet or lower, so like, in height.

Edward Broussard, City Manager: Stated, which is the equivalent of a five-story building.

Mayor Warren – Stated that it's pretty small. I mean, it's like five stories.

Kyle Kingma, Planning Director – Stated, yes a five-story building is, like, 50 feet or so. So, it's pretty small. But to say that there are many exemptions from this process.

Steve Thompson, Airport Director – Stated, basically, first, let me just stress that this document basically reinforces criteria that the FAA has today. And if the FAA has no objection to what is going to be developed, then this document is not further restrictive. And as Kyle mentioned, even has a mechanism for us to vet projects that the FAA may object to that we can take through a process and either try to get approval or make adjustments to the project, so it does go through. But, basically, as part of that grant assurance, well, for compatible land use in general, the FAA has three levels that they ask that you take to protect space like this. The first is to own the property outright. So, where we own many slices of our RPZs and other space around the Airport, that's ideal. If you can own that land and not have it, and it's protected for eternity, that's ideal. The second level is to have an easement over that property. So, if you don't own it, but you can purchase an easement over that property, that gives another level of protection. This is the third and less, least desired of those three methods, but they specifically state to have some type of zoning ordinance that then gives you if you can't own it, you can't or don't have an easement over it, but then at least you have a zoning mechanism in

place to try to manage that process, if you will. So, it basically is, I would just call it kinda like catching up with those grant assurances to make sure that we are protected. What we don't want is to have that funding in jeopardy. And if there were to be some development someday, and then, you know, frankly, this is probably way down the road, but it's good to get this in place now, for future owners. But if something were to be built that infringes safety at the Airport, two things can happen. We can have that funding that I mentioned jeopardized. That could be a primary concern. But if the development were to go through at a certain height or a certain location, that could also impair operation into the Airport. They could require us to shorten a runway. They could require us to increase some of the approach minimums coming into a runway. So, it really could impair operations, if not actually infringe upon that funding. It's not anything new the FAA has come up with, it's just us saying, hey, that we speak to this requirement. We need to have something on paper. And, frankly, I believe for years, it's just been a nice quiet space out there, not a lot of development. As we see the town growing in that direction and looking at other potential obstacles, the timing is good to put a process in place.

Councilmember Hawkins, Asked if she wanted to build a hotel, would she have to go outside of the pink area, or where are the boundaries? Because looking at all these colors how far out would she have to go from the Airport. Well, I see the runways are closer to the airport, and then the parameter is pretty far out.

Kyle Kingma, Planning Director - Stated- Right. These are Airport zones, and they are used for different terms for different things. Not all these colors affect or are in play with this ordinance here. To build a hotel, if it's outside of that black area, that large black asterisk-looking thing, then no, it can go anywhere in there. It can also go within the black boundary as well but it would need that airspace study. Hotel usually, 50 feet or less. But if it's more than that, then yes. It wouldn't need that airspace study, and that would clear it. So, it's also allowed inside that black area, as well. They were to be off the ends of the runways and those RPZ's, those crosshatch areas, that's ordinance. But as is, it would restrict, or would prevent that hotel. There is a process that if that may not be the case if, on-site specific case, it would just need further evaluation between the City and the FAA.

Councilmember Nichols -Asked, we got two black areas. We got the smaller ones and the larger ones. The smaller ones right at the end of the runway does the 75-foot rule applies to those also within that smaller black area? So, as it is right now, if someone owns that property there are four things they can do: the agriculture, surface parking. Without any zoning request or anything. But within that same smaller black area, they have an appeal process that would go to the FAA for the appeal process. A process for them to present their plans to the FAA. That's where that 75-foot rule comes in. Anything 75 feet or less, if they're building it, they can show their plans to FAA, and the FAA then has to approve it.

Kyle Kingma, Planning Director - Stated that if it's in the RPZ, it would need both it would need the height permit, with that airspace study. Usually, that's not ...probably not gonna be an issue. If it does not fit within those categories, the as-is by right, no further review categories, then the process would go before the City's Zoning Board of Adjustment for a use variance. But as part of that process, the applicant would be required to provide something from the FAA, to essentially either they will, or we will have that discussion because that's critical information for the Board of Adjustment to know whether if they're gonna grant a variance for an activity that's gonna be detrimental to what the Airport's trying to achieve. So, there would be two things. If you develop in that crosshatch off the end of the runway, that's not consistent with that. It wouldn't require a height permit at an administrative level. If it's a 20-foot building, probably not going to be an issue with the height. And then the use would also go through a review process.

COUNCILMEMBER NICHOLS: Stated, when you say RPZ, that is the smaller black area?

Kyle Kingma, Planning Director: Stated, yes sir.

Councilmember Nichols – Asked if a guy wants to put up some mini storage across 64 there on the north side, and it's within that height requirement. He's got a shot to put that out to the City and to the FAA, and he has an opportunity to lay those plans out for approval.

Kyle Kingma, Planning Director -Stated, that's correct.

Councilmember Hawkins –Stated, let's clarify again. The residential also because you said that the homes there is not gonna affect them. But what if I have ten acres and I wanna build some spec houses? I'd have to get that approved through the City.

Kyle Kingma, Planning Director – Asked, if it's in the crosshatch black area?

Councilmember Hawkins-Stated, or wherever you said that there's already residential.

Kyle Kingma, Planning Director – Stated, well, within the RPZs, within the smaller black areas that there are a few homes. They're not subdivisions. But yes. If, in those areas somebody wanted to build 10 homes, a subdivision, which there's not much space, but in theory, if that was the case, it would need to go through the variance process to allow the residential activity within there. And then that will be in conjunction with the FAA. If it's outside of that area within the larger black area there's no use restriction, and there's likely not a height issue, but there would be a height permit process, just to confirm that. Those homes are usually twenty-five feet tall. I will also say so in the research of other cities, and many other cities in Texas do have these requirements, the restrictions

within the RPZs mirror a lot of those other cities as well. And then, beyond that, those other cities do have use restrictions outside of the RPZs. So, in those blue areas there, which are the approach zones, you know, off the runways, that's where the planes are gonna go. They do further segment those into smaller areas and say one unit per acre, three units per acre max, things like that. This ordinance does not have that. Its only focus is on the RPZs in terms of the land use restrictions. So, it is a more friendly approach, I guess, in terms of other cities may have further restrictions outside of what we're trying to do.

Mayor Warren – Stated that he was confused. The small hatched black area. That is the focus of this whole ordinance. The larger black yes. The larger black area is not the focus of this ordinance. So, if, like, the Councilmember Hawkins says, if she wants to build 10 houses outside of these four black boxes, they can do it without any appeal, they can go out, they're out in the County. They can just build it.

Kyle Kingma, Planning Director -Stated outside of these black areas, there's no land use restriction. No.

Edward Broussard, City Manager -Stated, remember, you're out in the County for quite a bit of this. So, you don't have zoning that's applying to properties outside the City. Now, outside you have the hatched areas of which you have height restrictions there. You still go to the greater black area. So, when you have kind of the greater black area than that goes off of your runway protections on us to protect your Airport, you then have where there will be, I assume, platting that still is required. We will have to review in the platting different pieces of information in relationship with this. Beyond this, we talk a lot about land use, but there's also different uses that are specified in here in relationship to safety components, such as nothing can be used in relation to create electrical interference with radio communications between the Airport and aircraft, making difficult to distinguish from airport lights and other lights, resulting glare to the eyes of flyers using the Airport to compare visibility in the vicinity of the Airport, including but not limited to the creating excessive smoke, fog, mist, dust, and other matter endangering the landing, taking off, or maneuvering our aircraft, or in any manner situating an airport hazard. And so, there are other pieces that are components of this that are part of your large ordinance here, that go with those different land uses, and in reviewing the platting for the properties that fall into this black territory here.

Councilmember Curtis Asked, so just to be clear, Kyle, these rules are already in effect. The FAA already requires this today. Is that correct?

Kyle Kingma, Planning Director, Stated that the FAA requires the airspace study around the Airport today. And they also expect us to ensure that incompatible development does not occur at the end of the run.

Councilmember Curtis- Asked, so what we're talking about today is just codified in our ordinances reflecting that FAA saying we want you to be part of this and helping enforcement. That's all. This isn't new. Like, if we said no, well, this isn't required anymore. This is still required. It's just we're not helping.

Edward Broussard, City Manager – Stated this piece is a great way of looking at this because you know, there is an appeals process that this creates. Currently, the appeals process is relatively nonexistent. So, they have to submit an FAA permit, which says that they can go on it. We cannot say yes. We grant your appeal on this if the FAA says no. But there isn't this ordinance then where the Airport Manager has the first dibs on it to be able to say that we are approving are we giving consideration to the appeal for construction, of anything that might be below the height limitations, or above the height limitations, pardon me, in this area, that is being considered. If the Airport Manager is to say, I deny the appeal, they can then go to the Planning and Zoning Commission to appeal that denial, for the height restriction component, or other uses. Again, we keep talking about height. There are other uses that can also be given consideration. Beyond that, if the Planning and Zoning Commission says no to it, then they actually have the right to go to court, and to appeal the Planning and Zoning Commission, as far as the denial of that.

Councilmember Curtis -Stated, this ordinance would create that structure.

Edward Broussard, City Manager – Stated, yes. The Ordinance provides structure to that in order for that to be reviewed.

Justin Carney, 473 Wellington Place Blvd-(Attachment A) – Stated that he brought a letter with him, but he was going to deviate off of that a little bit and then maybe just give it to the City Clerk. Mr. Carney made the following statement, “A little bit of context about myself. I was born here in Tyler. I'm a real estate developer, residential. I'm currently working on a neighborhood called Wellington Place. It's directly north of the airport. And this map is zoomed out pretty far, but, yes, yes. I'm in the Northeast Corner there. And you can kinda see that word Duke Place, and then all those homes that go off towards the north there. That's my project. I've been working on this project for ten years. We invested into it. We work with the City of Tyler because we're in the ETJ, but that's not to say that we're in the city limits. So, we have city water, and we have city sewer. So anytime we go to do anything, like put more houses and stuff like that, we do get a plat, and we get approval from the City of Tyler. I'm opposed to some of the things that are trying to be put in place today. It greatly puts a burden on our investment that we put together. It has nothing to do with the residential homes, and it actually has nothing to do with the 75-foot rule. I have no grievance with the 75-foot rule. One of my biggest grievances is that in 2018 and 2019, we were asked, if not required, to put in a thousand-foot city spec road through this area, which is called Duke Place. And you recoup your investment on roads by putting structures on both sides of the road. If this was to go into effect, I wouldn't be able to put anything on the east side of that

road. And today's information, I've actually learned a lot from the Planning and Zoning meeting, which I attended. And, during the Planning and Zoning meeting, several people asked several questions about if they would be allowed to do this or allowed to do that. And my interpretation of what the answers to those questions were was that there would be no structures. Your options were compatible land uses only, livestock, surface parking. One example was given that, you know if you were to park RVs, could you put a cover over the top of those RVs? And the answer was no. So, I'm encouraged today from some of the things that I've heard, yet it's still scary because I put a lot of time and a lot of money into developing this neighborhood, and I feel like it's you know, I'm gonna get my legs cut out from under me by giving up the opportunity to do anything on this eastern track. Another thing that I'll say is, in the Planning and Zoning meeting, there was a map that was on the board that was not made available to the public, and it showed different black lines. So, you had your RPZ, which everyone's pretty clear on where those lines go, and that's kinda what I just spoke about was that area. Today, there was another black line that goes around, and that's not the one that I'm talking about, but it was a zoomed-in photo that had a black line going right through my western tracks. So, I have three tracks of land, and they are all considered commercial use. They're not considered commercial use by City standards, whereas it would be like C-1 or C-2 they're just Highway 64 frontage. I mean, you're right there. I'm sure most of you have driven by it. It has not been made clear what those restrictions would be on that side of Duke Place. And so, it encompasses about three different tracts of land, which amount to about eight acres of commercial use right along Highway 64, which services a neighborhood directly to the north that is 250 houses. And, so it's just scary because it'll impact me, in a devastating way, on this project that I've put ten years into. Though I understand that the Airport and the growth is good for the City of Tyler, I feel like I'm bearing the burden by losing this property rather than this property just being eminent domain. I'm being handed restrictions that is a lost opportunity, and, you know, there it is. I have to pay taxes on it and keep it, but I can only run cows on it next to a very expensive road. And I think that there's a lot more information that could be found out. Some of the information has been vague, and some of the information from the Planning and Zoning meeting does not match up with what was said here today. And I'm very encouraged by what was said here today, but I mean, you all asked some very good questions. I stand behind all your questions, but there are more questions, and we don't have answers to some of them. And I would like more time to investigate this. I would like more time to see what the detrimental value of my property is gonna be. I've ordered an appraisal. We're waiting for that to come back. And so, I ask you guys to table this for thirty days to give us some more time to look into what our options are."

Councilmember Hawkins- Stated, that's the reason why I had asked the question that I asked. When I went to pick my husband up at the Airport, he wasn't there yet. The flight was delayed, and I drove down. I didn't realize they were adding on the extra going further back into Wellington back there. So that's

why I was wondering about those restrictions. Was he going be able to finish out that part of the subdivision?

Councilmember Wynne – Asked Mr. Carney, how much land do you have left on the East Side of Duke that you would build out?

Justin Carney – Stated 4.49 acres.

Councilmember Nichols – Stated and that's pretty much in the RPZ, correct?

Justin Carney, 473 Wellington Place Blvd, Tyler, Texas - Stated, yes, sir. Over 80% of that is in the RPZ. I also would note that, that the don't quote me on the exact number, but the Airport elevation Steve, what's the Airport elevation? Five forty-four. I'm in the 400 hundred. I'm like four ninety, elevation. So, I really have no issue with the height. I'm not here today to talk about heights. It's just, you know, everything that's there already is retroactively able to stay. It kind of sets a precedent. I've been sitting on this land, with the hopes of doing something once the neighborhood is completed. It's a two-fifty-house development. I mean, the opportunity is unknown. I don't know what we were gonna do with that land, but I don't know what we'll do. And the I don't know factor is why I'm asking for this to be tabled.

Nancy Wright, 3100 New Copeland Rd, Tyler, Tx – Stated that she has helped Doctor Carney and Justin Carney since 2007, sell houses in that neighborhood. Very successful building in the neighborhood on the West Side of town. They have a great HOA, and the part of the land that's going to be there is some confusion about what Justin showed me that he got and what was said today, is that the only thing he can use that land for is to run cattle, or to make it a parking lot. And then today, there was some suggestion that maybe he could build on it. So, just those two different meetings, there's some confusion. The biggest thing is that when Doctor Carney bought this land, the front land on 64 was designed to be commercial, whether it's a vet or an eye doctor or a strip center that would compliment, you know, the subdivision. And that's been their goal. And as a real estate broker who has probably sold over 50 houses in that neighborhood. I think that the last thing they were gonna do when the development were gonna do, when the development was so far, is to actually build a strip center for a hairdresser, a barber shop, hopefully not a smoke center, but anyway. But I just think that for them to have to give up that five acres that they have right on 64, without it being some kind of compensation for the fact that they've been waiting, you know, to build that out and to make money off of it, would be sad. And I would like to I don't know if that's the right, but I would like to ask if y'all would just table it for thirty days so we could get some more facts and information and figure out which part of the planning and zoning and what part was said today is factual and actual. And that's all I'd like to say.

Edward Broussard, City Manager – Stated that he thinks part of the confusion lies upon in, in the ordinance on page 14 of how perhaps it was read. So, the

height permit required states that except as specifically provided in a, b, or c and c below, no material change should be made in the use of the land, no structure shall be erected or otherwise established, and no tree should be planted in any zone hereby created unless a height permit, therefore shall have been applied for and granted. So, when they say, well, we can't build anything in here unless you apply for the height permit, that is correct. But the height permit, as far as application, the application for height permit within a height hazard zone shall be presented to the Airport Manager or designee and may include, but not limited to, a site plan drawn to scale showing the proposed GPS coordinates of higher highest point above ground, site elevation, final structure or object height and dimensions, total structure elevation, and all existing structures. Additional information to assist in determining compliance within this division with this division may be required. So that's ultimately, with the plat and the application will have to go to the FAA and to the Airport Manager, is what is being required. So, in the statement of, as Mrs. Wright was kind of saying, well, we were told that you couldn't build anything. You can't build anything unless you get an application for, for the variance.

Councilmember Hawkins- Stated, but as of right now, they could?

Edward Broussard, City Manager – Stated as of right now, the FAA could shut them down.

Councilmember Hawkins -Stated, no. I mean, we...okay. Well, I'm thinking about the, the commercial side.

Mayor Warren -Asked, so, if they tried to build a vet office building right now in that right hash mark by Duke Street on 64. Could the FAA shut them down now?

Edward Broussard, City Manager -Stated that the FAA could shut them down. FAA could shut down anything, including our own Airport.

Councilmember Hawkins: Stated, but that's if they don't meet the requirements and if they didn't get permission, correct? They didn't go through the process.

Edward Broussard, City Manager – Stated, yes, if they go through the process for the FAA submitting for the FAA's 7461 application determination and getting the determination through that, then that gives Steve the right to be able to give consideration for their review of these. And if it meets the requirements as posted in the ordinance, then he can move forward with approval.

Nanci Wright, 3100 New Copeland Rd – Stated there is a document out there that states that the only thing that can be built there or how that land can be used is to raise cows or put a parking lot in, nothing about building one-story, two-story, any story, a bed, a strip center, anything. It does say that.

Mayor Warren – Stated and with that said, I think you don't have to get approval for that. Right. That's what you can do without the approval, but if you get the other approval for the vet or whatever.

Edward Broussard, City Manager -Stated, and then also the big concern is, Kyle just reminds me of the liability that we as a City have in relationship to the Airport because the FAA would probably first shut down the Airport, or limit operations before doing anything to shut down their further construction.

Charles Reed, 11911 CR 1168, Tyler, Tx. – Stated that his property is just Northeast, of Carney's property there off of 22, and we have a RV park there. The front part of it is about five acres that is in this RPZ zone that we're talking about. And, Mister Mayor, just like you, I'm very confused exactly about what we can and cannot do in that property. And therefore, I'm agreeing with Carney that we'd like to have this tabled for thirty days so that we can further investigate and understand. I understand we would be required to get an approval from the FAA, but what's the chance that exactly what would be approved if they say, we need to know what we can and cannot do. Otherwise, we would greatly appreciate it if the City would be willing to buy an easement or pay us for what the investment we've had in the property and then paying taxes on for years and years maintaining for many years. We feel like we should get some compensation for this if it's in to benefit the City in the ability to be able to have FAA continue to pay for the Airport maintenance and operation.

Hilario Perez, 13374 CR 4134, Tyler, Tx – Stated that he feels a bit more confident today than he did last time. Just because of the clarification, you know, we always want more answers than all the questions that we probably have. For us, most of my land, my four acres is covered, you know, within the RPZ. My home, about 90% of my acreage, like I said, four acres. I think for the most part, I know everybody said that it's retroactive, it's non-retroactive, so I don't have to worry about how I live now and anything else, and probably further development, I guess I wouldn't be able to build a home there since the restrictions are either non-residential, it's all agricultural. For me, at this, my biggest concern is in the future, if the event of my home burning down or being destroyed by a storm, would I be allowed to rebuild on those four acres? Would I have to ask for permission from the City or the Airport, the FAA? I guess that would be the biggest clarification I would want. Because I would hope to stay there for many years to come. Or, you know, it'd be better for just me to vacate at some point in the future and not have to worry about any of that, but that's my biggest question.

Councilmember Nichols -Asked where's your acreage in relationship to the RPZ?

Elario Perez, 13374 CR 4134, Tyler, Tx - Stated, so, within the RPZ, we're on County Road 4134 at the end, right next to that RV park. And like I said, 90% of our four acres is covered within that RPZ. So, my biggest concern, like if my

home were to be destroyed, would I have to ask for permission? I imagine I would. And would I be allowed to even rebuild? Because that's our residential, it's our home. So, for now, I guess it's okay. But in the event of something were to be catastrophic and destroy my home, would I be allowed to rebuild? Or would I have to jump through hoops in order to do so?

Edward Broussard, City Manager -Stated so, in relation to that question, yes, the Ordinance states in regards to nonconforming uses, abandoned or destroyed, that if more than 60% of the property was damaged or destroyed, you would have to go through the variance process, for a reconstruction.

Mayor Warren -Stated, which is the Airport Manager and the FAA?

Edward Broussard, City Manager -Stated, correct. Okay.

Mayor Warren -Stated if you table this for thirty days, you're in essence kicking the can down the road. And I understand all the concerns. If we don't do something, whether it's now or in thirty days, we could lose our grant funding for future airport improvements. And we're talking hundreds of millions of dollars over the course of the next ten years or whatever. So, if we want more jet service, if we want more use out of our Airport, if we want a hotel, it doesn't matter if we kick it down the road thirty days or sixty days or ninety days. We gotta do something. And I totally agree with the homeowners, the landowners being knowledgeable about what else is going on. And I think what's occurred has helped, but there's still that unknown of if my house burns down, can I rebuild? If I've got four and a half acres east of Duke Street can I build? And from what I'm hearing is, yes, if you go through the Airport Manager and the FAA. But if you build on that now, the FAA could shut you down no matter if we pass this ordinance or not. So, if you try to build on that four acres now, you're already from the FAA standpoint, you're already putting a structure in the line of a runway. So, you know, we can kick it down the road or we can take action.

Councilmember Hawkins- Stated that she would like to make a motion to table O-1 just because of the opacity. There's discrepancies in what this said, what that said, just so myself can review it.

Mayor Warren- Stated, alright. I got a motion to table it for thirty days. Do I have a second?

Councilmember Marsh – Stated, I second.

Mayor Warren – Stated, alright. We've got a second. Any further discussion?

Councilmember Nichols -Stated that if it were approved today, you'd actually have a codified path to put your construction in place. The Mayor made a great point that if you do something now without that code in place and the structure

in place, this legal structure in place, it could be overruled by the Fed. So, I think the codification of this, just like the Mayor said, is gonna happen. It'd be a good thing. It would provide you peace of mind that you had a process to do it. That's it.

Motion by Councilmember Hawkins to table the item for 30 days; seconded by Councilmember Marsh; motion carried 2 - 5 & motion failed.

Motion by Councilmember Curtis to approve item O-1; seconded by Mayor Pro Tem Nichols; motion carried 5 - 2 & approved as presented.

- O-2** Request that the City Council consider adopting an Ordinance amending Tyler City Code Chapter 2 to re-adopt current guidelines and criteria for tax abatement. **(O-2025-24)**

Kyle Kingma, Planning Director -Stated that this is a request that the city council consider adopting an ordinance to readopt the current guidelines and criteria for tax abatement. This is something that the State requires that cities do every two years. And so, the proposal here today is to readopt the current guidelines for any criteria for tax abatement, with no changes.

Motion by Councilmember Curtis; seconded by Councilmember Wynne; motion carried 7 - 0 & approved as presented.

- O-3** Request that the City Council consider adopting an Ordinance amending Tyler City Code Chapter 6 by amending the 2021 Editions of the International Building Code, International Mechanical Code, International Fire Code and International Residential Code by updating and amending the provisions related to refrigerants and heating and cooling equipment, including flammable gas, occupancy and storage requirements, household and electrical appliances and boilers and water heaters. **(O-2025-25)**

Motion by Councilmember Curtis; seconded by Councilmember Wynne; motion carried 7 - 0 & approved as presented.

MISCELLANEOUS

- M-1** Request that the City Council consider authorizing the City Manager to execute a Capital Improvements Project contract in the amount of \$12,624,779 with Taknek, LLC for the Lake Tyler Raw Water Pump Station Improvements Bid No. 25-020, and adopt a Resolution reserving the right to reimburse expenditures with proceeds of future debt. **(R-2025-33)**

Motion by Councilmember Curtis; seconded by Mayor Pro Tem Nichols; motion carried 7 - 0 & approved as presented.

- M-2** Request that the City Council consider authorizing the City Manager to execute a Capital Improvements Project contract in the amount of \$2,127,942.50 with A.E

Shull and Company for the Hwy 271 to FM 14 & N. Broadway 12" Water Line Extension Bid No. 25-031, and adopt a Resolution reserving the right to reimburse expenditures with proceeds of future debt. **(R-2025-34)**

Motion by Councilmember Wynne; seconded by Mayor Pro Tem Nichols; motion carried 7 - 0 & approved as presented.

- M-3** Request that the City Council consider authorizing the City Manager to execute a construction contract for the Police Department Training Center Renovation project to Watson Commercial Construction, Ltd., in the amount of \$1,793,000.00.

Motion by Councilmember Curtis; seconded by Mayor Pro Tem Nichols; motion carried 7 - 0 & approved as presented.

- M-4** Request that the City Council consider reviewing and accepting the Revenue and Expenditure Report for the period ending March 31, 2025.

Motion by Councilmember Curtis; seconded by Mayor Pro Tem Nichols; motion carried 7 - 0 & approved as presented.

CONSENT

(These items are considered to be routine or have been previously discussed, and can be approved in one motion, unless a Council Member asks for separate consideration of an item.)

- C-A-1** Request that the City Council consider adoption of a Resolution authorizing the City Manager to execute the application for and acceptance of Federal Transit Administration (FTA) Grant Funds under the Section 5307 Fiscal Year 2021 in the amount of \$1,887,323, to assist with the Transit Department's operating cost. This Resolution also accepts any grant amendments and funds to increase the grant funding levels and reduce the local match requirements. **(R-2025-35)**

- C-A-2** Request that the City Council consider authorizing the City Manager to sign a "Letter of Engagement for Professional Audit Services" with Gollob Morgan Peddy, PC to perform the Fiscal Year 2024-2025 Annual Audit for a total combined maximum fee, including all out-of-pocket expenses, not to exceed \$119,000.

- C-A-3** Request that the City Council consider reviewing and accepting the Investment Report for the quarter ending March 31, 2025.

- C-A-4** Request that the City Council consider authorizing the City Manager to execute a letter of agreement for professional advisory services with Valley View Consulting for a two year period, expiring June 30, 2027, effective July 1, 2025 with an option to extend this agreement in additional one or two year increments upon satisfactory completion of the next two years of service.

- C-A-5** Request that the City Council consider authorizing the City Manager to approve the accident repair of Transit unit 21967, a 2021 Gillig Bus in the amount of \$136,395.62.

- C-A-6** Request that the City Council consider authorizing the City Manager to sign an agreement allowing Tyler Junior College to partner with Tyler Public Library, which would allow work-study students to complete working hours at the Tyler Public Library.
- C-A-7** Request that the City Council consider authorizing the City Manager to execute a Capital Improvement Project (CIP) construction contract with Hartbeat Construction for the 2025 Stormwater Repair project in the amount of \$711,200.00, Bid No. 25-022.
- C-A-8** Request that the City Council consider authorizing the City Manager to execute a contract with Crown Civil Construction Corp. for the construction of the 2025 Brick Streets Repair Project in the amount of \$1,315,800.00.
- C-A-9** Request that the City Council consider authorizing the City Manager to execute Amendment #1, an increase to the existing Work Order #3 with HDR Engineering, Inc., for the design of the 2024 Railroad Crossing Improvements for downstream stormwater drainage design totaling \$55,174.00.
- C-A-10** Request that the City Council consider authorizing the City Manager to execute Work Order No. 2 for Engineering Services for the TWU Consent Decree Brick Removal project with Halff Associates, Inc., in the amount of \$60,000.00.
- C-A-11** Request that the City Council consider authorizing the City Manager to execute an Agreement for Access across City-owned property at Lake Tyler to Ricky Fulps.

Motion by Councilmember Hene to approve the consent items as presented; seconded by Mayor Pro Tem Nichols; motion carried 7 - 0 & approved as presented.

CITY MANAGER'S REPORT

1. The Engineering Department and Halff held the open house for the Shiloh Road improvement projects on Thursday, May 15, at the UT Tyler Alumni Center. It was a great setting and the total of 25 citizens showed up to learn more about the project and provide feedback. The comments and feedback will be summarized, including the final report of this project, along with recommendations on how to move forward.
2. The Parks Department was notified that the Texas Parks and Wildlife Commission will fund the recreational trails grant for the Trail at Windsor Grove Nature Park in the amount of \$300,000, so more details about this project will be provided in the near future.
3. We had a great, as far as ribbon cutting for, as we named one of our baseball fields after Reverend Ralph Caraway Sr, noted Councilmember, current County Commissioner, and just incredible icon of Tyler. Had a great showing for that, especially once the Council was able to join, in honoring, Reverend Caraway.
4. Summer has officially started, Fun Forest Pool had its opening day this past Saturday. And so it is, seeing a great number of people coming out and we're enjoying that.
5. And our gratitude towards Mayor Warren for the State of the City addresses last week, he did an incredible job of presenting all the different improvements, the things that we've been able to do, the things that we're working on, and the things to come, for the community. And so, we appreciate the Mayor, as well as our Communications team, for the incredible work that they do in putting that on, and making sure that it is the showcase that it is.

May 28, 2025

Councilmember Hawkins, - Stated that both Ed and the Mayor did a great job at the State of the City.

ADJOURNMENT

Motion by Mayor Pro Tem Nichols to adjourn the meeting at 10:48 a.m; seconded by Councilmember Marsh; motion carried 7 - 0 & meeting adjourned.

DONALD P. WARREN, MAYOR OF
THE CITY OF TYLER, TEXAS

ATTEST:

CASSANDRA BRAGER, CITY CLERK



Justin Carney, Manager
Carney Land Investment & Resource Management,
LLC
PO Box ~~138849~~ ⁶¹⁵⁷
Tyler, TX ~~75743~~ ⁷⁵⁷¹¹

May 28, 2025

Re: Via hand delivery
H. Stanton McDonald

Re: Notice of objection to proposed Runway Protection Zoning on north end of Tyler Airport impacting among others, 4.449 acre tract, 3.914 acre tract and 2.753 acre tract, each address TBD Duke Place, Tyler, Smith County, Texas ("Property")

Dear City Council Members:

I represent Carney Land Investment & Resource Management, LLC ("Company"). I appreciate the opportunity to be voice my concerns about the injuries to my Company's property that would be caused by the proposed Runway Protection Zone of which notice I only recently received and is attached.

My Company has developed the residential neighborhood on the northwest end of this proposed Runway Protection Zone. In so doing, the City required my Company to add additional streets, namely Duke Place. As you surely understand, streets, water utilities, and sanitary sewer infrastructure is extraordinarily expensive. These are costs that are recouped through the sale of the land. But your proposed Runway Protection Zone ("RPZ") destroys the value of my Company's Property on the east side of Duke Place as it will not allow the previously permitted and designed use for commercial and residential development. Zoning in such instance is not fair and for such reason is not the preferred and recommended process.

In fact, Housing and Urban Development ("HUD") has published guidelines stating just this point. As you can read on the attached, HUD recommends that the City acquire this Property rather than negatively impact its value with zoning. Certainly the City of Tyler is well versed in acquiring property for public use. If in fact, the City were to follow the HUD guidelines, it would acquire my Company's property for its fair value and pay just compensation.

Instead, the City's zoning, which falls outside its own city limits, allows the City to sidestep paying fair compensation to the impacted landowners and instead restricting the development of the Property, thereby destroying the value of the Property without fair compensation. This is not right in any case, but especially so when the City itself required my Company to incur the costs of street and utility improvements along Duke Place.

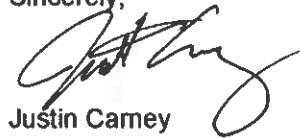
My Company has ordered an appraisal to determine damages, but given the very short notice period, we have not yet received the impact of this proposed RPZ to our Property. We anticipate that the zoning injury is likely to amount to hundreds of thousands of dollars immediately and quite likely more than a million dollars if the suggested future expansion of the RPZ actually occurs. When compounded amongst the many property owners impacted, it is clear that the City has not fully grasped the impact of this proposed RPZ to the impacted property owners. Such damages cannot be ignored by either the City or the impacted property owners.

Though I understand that the airport is for the public good of the citizens of Tyler, such cost should be fairly allocated amongst the citizens of Tyler and the community. However, it is not fair and just to ask my Company and a handful of others to bear the cost through the City's zoning rather than City's acquiring the Property for fair compensation. Therefore, the City should follow the HUD recommended approach of acquiring the land needed for the RPZ rather than zoning to destroy its value.

I respectfully ask that this council table this vote until such time that the impact of the proposed RPZ to me and the others within the proposed RPZ can be properly studied, quantified and fully understood. And furthermore that the City utilize such time to follow the prescribed method of land acquisition rather than zoning where such unfairly destroys the value of a few landowner's property rather than providing just compensation to what is essentially a taking of land for public purpose of the RPZ.

I am glad to answer questions or discuss further as needed. You may contact me at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Justin Carney", written over the printed name.

Justin Carney

Enclosures

FAA Airport Division – Runway Protection Zones

550 - Runway Protection Zones

Overview

Runway protection zones are a trapezoidal area “off the end of the runway end that serves to enhance the protection of people and property on the ground” in the event an aircraft lands or crashes beyond the runway end. Runway Protection Zones underlie a portion of the approach closest to the airport.

Many people have confused the RPZ with the need for Object Free Areas (OFA), Obstacle Free Zones (OFZ), Object clearing criteria, and Part 77 requirements. Each of these serves distinct purposes and are not all coincident.

While the RPZ also has limitations on obstructions (because it lies below the approach surface and because it includes safety areas and obstacle free areas), the primary purpose of the RPZ is the protection of people and property on the ground.

Airport Property and the RPZ

Under FAA design criteria (which applies to all obligated airports), the airport must own the landing area.

Secondly the airport owner must have sufficient interest in the Runway Protection Zones to protect the Runway Protection Zones from **both** obstructions and incompatible land use.

Finally the airport owner must strive to attain compatible zoning around the airport in order to prevent incompatible land uses that:

- Could cause sufficient conflict that endangers the airport
- Cause it to be closed or
- Require substantial remedial investment to purchase conflicting developed property.

Sponsor may attain sufficient interest in the Runway Protection Zones in three primary ways.

- (1) The first and the preferred method is for the airport to purchase the approach areas in fee. Ownership in fee is preferred because it provides maximum control for the airport.
- (2) The second is through purchase of an easement (or a combination of easement and zoning).
- (3) The third alternative is to rely upon adequate zoning which should be enacted even if fee or easement ownership is in place.

FAA Advisory Circular 150/5300-13 states this ownership policy as follows:

“All ... existing and planned airport elements including the following should be on airport property. (A) Object Free areas, (B) **Runway Protection Zones** (C) Areas under ...Part 77 ... imaginary surfaces out where the surfaces obtain a height of at least 35 feet above the primary surface; and (d) Areas, other than those which can be adequately controlled by zoning, easements, or other means to mitigate potential incompatible uses...Such control includes clearing RPZ areas (and maintaining them clear) of incompatible uses and activities.”

Through experience we have learned that it is usually less expensive in the long run to acquire the RPZ in fee rather than acquiring an easement. This is because an easement must be very restrictive in order to provide adequate control unless zoning is also very restrictive.

Compatible Land Use

Compatible land use within the RPZ is generally restricted to such land uses as agricultural, golf course, and similar uses that do not involve congregations of people or construction of buildings or other improvements that may be obstructions.

"The following land use criteria apply within the RPZ: (a) While it is desirable to clear all objects from the RPZ, some uses are permitted, provided they do not attract wildlife, are outside the Runway OFA, and do not interfere with navigational aids. Automobile parking facilities, although discouraged, may be permitted, provided the parking facilities and any associated appurtenances, in addition to meeting all of the preceding conditions, are located outside of the object free area extension. (B) **Land uses prohibited from the RPZ are: residences and places of public assembly. (Churches, schools, hospitals, office buildings, shopping centers, and other uses with similar concentrations of persons typify places of public assembly.)**"

In cases where the land is already developed and it would be too expensive to acquire the existing development, this policy is a recommendation to the landowner i.e. it is a notice to the landowner that the FAA considers such uses incompatible.

"Where it is determined to be impractical for the airport owner to acquire and plan the land uses within the entire RPZ, the RPZ land use standards have recommendation status for that portion of the RPZ not controlled by the airport owner."

Where such land is vacant, it is rarely impractical to acquire the land in the RPZ. Even if the cost of the land seems to be prohibitive the airport owner is expected to exercise sufficient control through zoning or easements to prevent prohibited land uses.

It is FAA policy to object to incompatible land uses that are proposed for property within the RPZ whether or not the airport owns the land and such objection should be anticipated. In particular when we receive a proposal for an airspace study under Part 157 for the RPZ **we will object when that proposal conflicts with an airport planning or design standard or recommendation.**

FAA Recommendation

We recommend that Airport owners and managers review the Airport Layout Plan for conformity with the above statement. Airports that do not own the entire RPZ should consider the need to acquire such land if there is any possibility that incompatible land uses could occur within the RPZ. In particular easements should be reviewed to ensure that land uses are restricted not just obstructions. Where necessary, requests should be made to the appropriate zoning authority to rezone such land to prevent future incompatible use. Where neither zoning nor easements are adequate the RPZ should be acquired in fee. Airport layout plans should be revised if necessary to show such future land acquisition so that it is eligible under the Airport Improvement Program. An airport can acquire such land and be reimbursed at a later date from a future AIP grant, if funds become available, such land acquisition is shown on an approved ALP, and the FAA determines that such land is eligible.

RESOURCES Advisory Circulars

- **AC 150/5300-13 Airport Design**

Please visit www.tylerpz.org for more details concerning this application.
**Si usted necesita ayuda con la interpretación o traducción de cualquier material en este sitio o en una reunión pública de la Ciudad de Tyler por favor llame al (903) 531-1175.*

NOTICE OF PUBLIC HEARINGS

DATE MAILED: April 22, 2025

CASE NAME: AIRPORT ZONING REGULATIONS

PLANNING & ZONING COMMISSION HEARING DATE: Tuesday, May 6, 2025

TIME: 1:30 P.M.

CITY COUNCIL HEARING DATE: Wednesday, May 28, 2025

TIME: 9:00 A.M.

LOCATION: City Council Chambers, City Hall, 212 N. Bonner

The City of Tyler will conduct public hearings to consider adopting Airport Compatible Land Use Zoning Regulations in accordance with state and federal guidelines. These regulations are intended to promote land uses compatible with the operation of Tyler Pounds Regional Airport and ensure public safety, economic development, and environmental quality.

Why This Matters to You: The proposed airport compatibility zoning regulations may affect how property within certain areas around the airport can be used or developed. As your property is located within one of the airport's Runway Protection Zones (RPZs), the new regulations **may impact permitted uses, building height limits, or other land use considerations**. Please review the attached maps to see where your property is located in relation to the RPZs.

The proposed compatible land use regulations will establish the following land uses as being permissible in the RPZs: undeveloped, agricultural, or surface parking. Other land use types are considered incompatible within an RPZ. **Please note that these land use restrictions are not retroactive.**

All property owners and interested parties are encouraged to attend these hearings, ask questions, and provide feedback.

If you need additional information, please contact the Planning Department, 423 W. Ferguson, Tyler, Texas, or call 903-531-1175. Please reference the above case number when requesting information.

Any individual with special needs or who may need some accommodation should contact the Planning Department in advance at the number above.

