



# Fort Worth Avenue Development Group

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July 16, 2008

## **Via Email - Confirmation & Exhibits by Hand Delivery**

Dallas City Plan Commission  
C/O Olga Torres-Holyoak, Senior Planner  
Dallas City Hall  
1500 Marilla Street  
Dallas, Texas 75201

Re: **Agenda of July 24, 2008**  
**Your File No.: Z078-194(OTH)**

**OPPOSITION** to Application of Theodore R. Craver to Amend to PD 714 to Create a New Subdistrict within PD 714 to Allow by Right Industrial Inside (Potentially Incompatible) Uses at 2317 Beaver Street & Yuma Court

Dear Commissioners:

As you are aware, the Fort Worth Avenue Development Group supports Staff's recommendation and **OPPOSES** the proposed amendment to PD 714. We respectfully request that the application for amendment be **DENIED**. We reiterate the reasons previously presented for our opposition; namely, the proposed amendment (1) creates an incompatible use with respect to the adjacent MU zoned (retail/commercial/residential) properties; (2) is spot zoning; and (3) will have a negative impact on the broader West Dallas/North Oak Cliff redevelopment market. Our previous letter of June 12, 2008 details each one of these objections.

In response to the questions and concerns raised at the hearing of June 19, 2008, we would like to present the following points for consideration before discussing the MU adjacency and threats posed by Applicant's proposed incompatible use:

- The issue before the CPC is rezoning 1/1,000 of PD 714 to permit **ALL** industrial inside (potentially incompatible) uses, not only Applicant's proposed powder coating business, on a piece of property. **This is an arbitrary and unreasonable treatment of a single land parcel that undermines the community's shared vision and integrity of the entire PD 714.**

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An all-volunteer non-profit organization redeveloping the West Commerce/Fort Worth Avenue Corridor

- There are many alternative IM zoned properties available in the City of Dallas with the proper IM zoning for Applicant's proposed powder coating operation.
- Applicant's proposed powder coating operation, even in IM zoning, requires an SUP due to the hazardous nature of the powder coating process.
- Even if the rezoning application is restricted to only Applicant's proposed powder coating operation by SUP, the proposed use is still unacceptable as powder coating is fundamentally incompatible with adjacent retail/commercial/residential properties. *Please see Appendix A for full discussion.*
- Powder coating was developed in the late 1960's and is properly classified as a potentially incompatible use. *Please see Appendix A for full discussion.* The question of reclassifying powder coating or more generally the organic coating of metal parts from an industrial inside (potentially incompatible) use to a light industrial compatible use would be properly considered by the established Zoning Ordinance Advisory Committee/CPC/Council process where the public interest and safety issues would have the benefit of the appropriate investigation and analysis.

#### **MIXED USE ADJACENCY OF THE PROPOSED INCOMPATIBLE USE**

Applicant's proposed incompatible use will be located in the heart of the West Commerce/Fort Worth Avenue corridor and most adjacent to the following 12 existing and soon to open retail, commercial, and residential uses:

- Starting at 200 feet from the proposed use, isolated single family homes continuing into the Frederick Douglass Addition at approximately 1,000 feet.
- 300 feet from the soon to open restaurant Jack's Backyard at 510 West Commerce.
- 350 feet from the existing residential West Dallas Mobile Home Park at 400 West Commerce.
- 1,000 feet from the existing Neighborhood Credit Union at 641 Yorktown.
- 1,500 feet from the existing restaurant Carnita's El Barranco at 710 Fort Worth Avenue.

- 1,700 feet from the occupied Alamo Plaza Courts Hotel at 712 Fort Worth Avenue.
- 2,000 feet from the occupied Belmont Hotel at 901 Fort Worth Avenue.
- 2,100 feet from the existing Chase Bank at 1881 Sylvan Avenue.
- 2,250 feet from the existing restaurant Cliff Café at 901 Fort Worth Avenue.
- 2,500 feet from the soon to be occupied Villas at Dilbeck Court at 901 Fort Worth Avenue.
- 3,000 feet from the established neighborhood of Western Heights.
- 3,000 feet from the existing Family Dollar Store at 904 Fort Worth Avenue.

#### **THREAT TO OUR COMMUNITY BY THE PROPOSED INCOMPATIBLE USE**

Powder coating is properly classified in the Dallas Development Code as a potentially incompatible use since the components of powder coating materials particulate to create air pollution, contaminate water to form wastewater, and contact other materials to generate solid and hazardous waste. *Please see Appendix A for full discussion.*

Industrial inside (potentially incompatible) uses, such as Applicant's proposed powder coating business, threaten the existing and soon to open adjacent retail, commercial, and residential uses because they generate and manage hazardous waste and materials. During the operation of every business, including Applicant's proposed powder coating business, there is a finite (greater than 0) risk of an accident occurring.

With light industrial and other uses, if an accident occurs the harm is contained to the personnel and property involved in the accident at the business. On the other hand, with industrial inside (potentially incompatible) uses, when an accident occurs, the entire community is at risk as accidents involving hazardous waste and materials pose a substantial potential hazard to human health and the environment.

This substantial potential hazard is rightly recognized by PD 714 which makes industrial inside (potentially incompatible) uses illegal due to the adjacent concentrations of existing and proposed retail, commercial, and residential uses.

For the foregoing reasons, we respectfully submit that the proposed amendment is inconsistent with the welfare and interests of our community and Dallas. Accordingly, we respectfully request that the application proposed amendment be **DENIED**.

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On behalf of the FWADG, thank you for your time and consideration of our position. Should you have any questions, please do not hesitate to contact the undersigned at 214.653.2400 or [scott@griggslaw.com](mailto:scott@griggslaw.com).

We will be speaking at the hearing and available to answer any questions.

Very truly yours,

Scott Griggs

Scott T. Griggs  
President, FWADG

Enclosures

cc: Theodore R. Craver, Applicant  
Cienda Partners  
Jack's Backyard  
Options Real Estate  
PSL Management  
FWADG Board

# **APPENDIX A**

## THE CLASSIFICATION AND REGULATION OF POWDER COATING

Powder coating is properly classified in the Dallas Development Code as a potentially incompatible use since the components of powder coating materials particulate to create air pollution, contaminate water to form wastewater, and contact other materials to generate solid and hazardous waste.

In fact, the risks and hazards associated with powder coating are so serious as to require regulation by the Clean Air Act, Clean Water Act, Resource Conservation and Recovery Act, and state laws. An introduction to these risks, hazards, and the associated federal regulations is provided in the United States Environmental Protection Agency publication "Self-Audit and Inspection Guide for Facilities Conducting Cleaning, Preparation, and Organic Coating of Metal Parts" (EPA Guide), relevant parts of which are enclosed as Exhibit A.

A summary of the EPA regulations is provided by the Paint and Coatings Resource Center (PCRC), which is maintained by the National Center for Manufacturing Sciences (NCMS). The PCRC is one of the Compliance Assistance Centers developed by industry-government partnerships, with support from EPA's Office of Compliance. The PCRC summary entitled "Powder Coatings: Regulatory Requirements" (PCRC Requirements) is enclosed as Exhibit B and is available on the internet at [www.paintcenter.org/ctc/toc.cfm](http://www.paintcenter.org/ctc/toc.cfm).

The Clean Air Act regulates the emission of particulate matter of various sizes during powder coating. "Small dry particles can be suspended in exhaust air streams [during powder coating] in amounts that would subject an operator to Title V permitting requirements." *EPA Guide*, 2-10. Further, "powder spray methods suspend coating materials in the coating area. Some particles may be small enough to qualify as respirable particles capable of penetrating lung tissue." *PCRC Requirements*, 5.

The Clean Water Act regulates effluent guidelines and standards for metal finishing in order to limit the concentrations of heavy metals, toxic organics, and conventional pollutants, such as suspended solids in water streams, created during powder coating. "Liquid waste can be created [during powder coating] from the water and solvents used for cleaning equipment such as coating receptacles, pumps, valves, and hoses." *PCRC Requirements*, 5. The limits of these liquid wastes are established through a facility's National Pollutant Discharge Elimination System (NPDES) permit. *PCRC Requirements*, 1.

The Resource Conservation and Recovery Act regulates hazardous waste management during powder coating. "Powder coating application systems create solid waste in the form of filters, masking materials, clothing, personnel protective equipment, and other materials." *PCRC Requirements*, 5.