
**MINUTES
PLANNING AND ZONING COMMISSION
Meeting of December 5, 2017**

The Planning and Zoning Commission of the City of Cedar Hill, Texas met on TUESDAY, December 5, 2017 at 6:00 p.m. in the T. W. "Turk" Cannady/Cedar Hill Room, 285 Uptown Blvd, Bldg. 100, Cedar Hill, TX.

Planning & Zoning Commissioners present: Chairman Chad McCurdy, Vice-Chairman Theresa Brooks, and Commissioners: Bill Strother, Michael Lewis, Lisa Thierry, and Michael Deeds

Absent: Commissioner Timothy Hamilton

City Staff members present: LaShondra Stringfellow, Director of Planning; Dana Woods, Planner; Robert Woodberry, City Engineer, Sharon Davis, Executive Secretary of Planning and Assistant City Manager Melissa Valadez-Cummings

I. Call the Meeting to Order

Chairman McCurdy called the meeting to order at 6:01 p.m. declaring it an open meeting in which a quorum was present and the meeting notice was duly posted.

II. Approve the minutes of the November 7, 2017 regular meeting

A motion was made by Commissioner Deeds and seconded by Vice-Chairman Brooks to approve the minutes of the November 7, 2017 regular meeting. The vote was as follows:

Ayes: 6 – Chairman McCurdy, Vice-Chairman Brooks, Commissioners Strother, Deeds, Thierry and Lewis

Nays: 0

Chairman McCurdy declared the motion carried.

III. Citizens Forum

One person spoke: Linda Myers, 715 Sleepy Hollow

IV. Public Hearings:

Case No. 2017-25 was considered prior to Case No. CUP-24-2017 due to technical problems with the staff presentation for Case No. CUP-24-2017.

- 1. Case No. 2017-25 –** Conduct a public hearing and consider an application for a planned development site plan for a multiple-family use with alternative exterior building materials on property zoned Planned Development District No. 17-612 [Preston Trail], bounded by FM 1382 on the northeast, Gulf Coast and Santa Fe
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Railroad on the southeast, and Straus Road on the west. *Applicant: Ryan Johnson of Covenant Development, LLC; Property Owners: Lisa Kahn Betros, Isabel Kahn and ALK Realty, Ltd.*

LaShondra Stringfellow, Director of Planning presented the staff briefing. She said the applicant was withdrawing the request for the alternative building materials. The fiber cement lap siding was being replaced with stucco. Staff recommended approval subject to the following conditions:

1. Prior to issuance of construction permits, provide TxDOT permit(s) allowing roadway and sidewalk construction and trees to be removed in its right-of-way.
2. Prior to issuance of the first certificate of occupancy, plans for the gateway element shall be submitted to staff for review and approved by the Planning and Zoning Commission and City Council.

Chairman McCurdy asked staff about the location of the trail along FM 1382 in relation to the existing trees.

Ms. Stringfellow indicated it might be possible to move the trail closer to the FM 1382 roadway to keep some of the trees.

Chairman McCurdy asked the applicant if he would like to address the Commission.

Rob Daake, 1700 Redbud Ave., Ste. 300, McKinney, was present on behalf of the applicant. He stated the amenities the site would have including a 15,000-square-foot clubhouse with pool, dog park, covered parking, open space and landscaping. There is a surplus of tree mitigation credits that can be used when Phase II is developed.

Chairman McCurdy opened the public hearing for anyone wishing to speak in support of the request.

No one spoke.

Chairman McCurdy asked if there was anyone wishing to speak in opposition to this request.

Six people spoke in opposition: Tom and Linda Myers, 715 Sleepyhollow; Larry Sengbush, 904 Pebblestone Ct.; Wes Pool, 611 E. Belt Line; Alan Peters, 329 Bryant Ln.; and Christopher Halley, 910 Sleepyhollow Dr.

Chairman McCurdy closed the public hearing and opened the floor for discussion amongst the Commissioners.

Ms. Stringfellow addressed questions asked during the public hearing. She stated the development was always to be constructed in two phases. She indicated the Tree Preservation Ordinance indicates the measurement of the trees is 4-1/2 feet for existing trees and 6 inches for new trees.

Commissioner Deeds asked if the developer could choose not to build Phase II of the project.

Ms. Stringfellow indicated if the developer did not comply with the dates noted in the PD and the Planned Development Standards, the City could rezone the property.

Commissioner Deeds also asked the following: how the 65 percent pre-leasing or occupancy of the leasing area is determined; is there an economic reason why trees were not being saved along the property line along FM 1382; and is there a reason why the trails were designed to be straight vs. meandering.

Ms. Stringfellow indicated the best way to determine the 65 percent pre-leasing or occupancy of the leasing area would be based upon the number of units. The developer and the Parks Department has discussions about the construction of the trail.

Mr. Daake answered the question about the saving of the trees. He indicated there are parallel, large-scale utilities in the area, TxDOT does not want pedestrian-facilities next to high-speed vehicular traffic. He stated citizens prefer straight-line walkways for riding bikes, etc.

Commissioner Thierry asked about the payment structure of the trails.

Ms. Stringfellow indicated the cost is \$500 per unit for 300 apartments, which equals \$150,000. In lieu of paying this fee, the 12-foot trails would be constructed by the developer. She said the cost of the 12-foot trail was approximately \$209,000 with the city's portion costing \$21,000.

Vice-Chairman Brooks made a motion to recommend approval of Case No. 2017-25 subject to the following conditions:

1. Prior to issuance of construction permits, provide TxDOT permit(s) allowing roadway and sidewalk construction and trees to be removed in its right-of-way.
2. Prior to issuance of the first certificate of occupancy, plans for the gateway element shall be submitted to staff for review and consideration by the Planning and Zoning Commission and City Council.

The motion was seconded by Commissioner Strother. The vote was as follows:

Ayes: 5–Vice-Chairman Brooks, Commissioners Strother, Deeds, Thierry, and Lewis

Nays: 1 – Chairman McCurdy

Chairman McCurdy declared the motion carried.

- 2. Case No. CUP 24-2017** – Conduct a public hearing and consider an application for a Conditional Use Permit (CUP) for a restaurant with attendant accessory use of the sale of alcoholic beverages for on-premise consumption and commercial amusement (indoor and outdoor) uses on property zoned Old Town Corridor Sub-District within the Uptown Overlay, legally described as Lot

5, Block 2, of the E. D. Balcoms Addition, and located on the south side of Cooper Street, west of Highway 67 with the approximate address being 316 Cooper Street. *Applicant/Property Owner: Raymond Tyree Jr. [Trios Grill]*.

Dana Woods, Planner presented the staff briefing. Staff recommended approval subject to the following conditions:

1. The operation of the use is subject to the alcoholic beverage site plan and requirements in Section 4.1.4 of the Zoning Code.
2. This Conditional Use Permit does not permit the sale of alcoholic beverages for off-premise consumption.
3. The amount of food sales shall be a minimum of 60% of the gross sales pursuant to Zoning Code Section 4.1.4.B.2.).
4. On a quarterly basis, no later than on the 10th day of the month following each quarter, the operator shall file with the city secretary a copy of the filings supplied to the State of Texas for sales tax and alcoholic beverage tax purposes showing the allocation of sales from food and alcoholic beverages.
5. Amusement arcades are limited to less than four devices.
6. There shall be no dance floor.
7. Commercial amusement (indoor and outdoor) shall not exceed 63 dBA at the building lot line; there shall be no outdoor commercial amusement until sound wall is erected.
8. No amplified sound.
9. Prior to the expiration of this CUP, the applicant gain approval of plans and construct an exterior wall sufficient to attenuate noise generated from this property from negatively impacting area residents.
10. The approval of this CUP is valid for 1 year.

Commissioner Lewis asked why there was not a wall being built to the south of the property since there was a protest letter concerning the sound submitted from 329 S. Hwy 67, south of the property.

Ms. Stringfellow stated that the City Council's condition when the CUP was last considered was for Cooper.

Chairman McCurdy asked about the condition for no amplified sound.

Ms. Stringfellow indicated that any sound that is amplified whether it be speakers or televisions would not be permitted. She indicated that City Council added this condition when the CUP was last considered.

Mr. Raymond Tyree, 306 Cooper indicated that they do many events where there is sound, but no amplification. The wall is meant to mitigate any noise. In reference to the sound barrier material being used, the Main street Board had given a suggestion of material to use. The foam worked well when tested in keeping the sound to a minimum.

Chairman McCurdy opened the public hearing for anyone wishing to speak in support of this request.

No one spoke.

Chairman McCurdy asked if there was anyone wishing to speak in opposition of this request.

One person spoke in opposition: Mr. Randy Moon, 313 Cooper Street. There was one letter of opposition from Sheila Reeves, 329 S. Hwy 67.

Chairman McCurdy closed the public hearing and opened the floor for discussion amongst the Commissioners.

Ms. Stringfellow addressed the questions asked during the public hearing. She stated that the police department has a new device to measure the sound. The ordinance only addresses the dBA for daytime hours.

Commissioner Thierry wanted clarification on the business hours.

Ms. Cheryl Wilson, 1729 Cattail Creek, DeSoto, indicated what the restaurant hours would be.

Commissioner Deeds made a motion to recommend approval of Case No. CUP-24-2017 subject to the following conditions:

1. The operation of the use is subject to the alcoholic beverage site plan and requirements in Section 4.1.4 of the Zoning Code;
2. This Conditional Use Permit does not permit the sale of alcoholic beverages for off-premise consumption;
3. The amount of food sales shall be a minimum of 60% of the gross sales pursuant to Zoning Code Section 4.1.4.B.2.);
4. On a quarterly basis, no later than on the 10th day of the month following each quarter, the operator shall file with the city secretary a copy of the filings supplied to the State of Texas for sales tax and alcoholic beverage tax purposes showing the allocation of sales from food and alcoholic beverages;
5. Amusement arcades are limited to less than four devices;
6. There shall be no dance floor;
7. Commercial amusement (indoor and outdoor) shall not exceed 63 dBA at the building lot line; there shall be no outdoor commercial amusement until sound wall is erected;

8. No amplified sound;
9. Prior to the expiration of this CUP, the applicant gain approval of plans and construct an exterior wall sufficient to attenuate noise generated from this property from negatively impacting area residents;
10. The approval of this CUP is valid for 1 year.

The motion was seconded by Vice-Chairman Brooks. The vote was as follows:

Ayes: 6 – Chairman McCurdy, Vice-Chairman Brooks, Commissioners Strother, Deeds, Thierry and Lewis

Nays: None

Chairman McCurdy declared the motion carried.

Ms. Stringfellow announced that Case No. FP-15-2017 had been withdrawn by the applicant due to the Zoning Board of Adjustments meeting being cancelled. She also stated that the zoning case on Windy Lane and Evergreen Trail were not on the agenda because they had been rescheduled due to concerns from the neighborhood.

V. Regular Agenda:

1. **Case No. 2017-24** – Consider an application for a final plat for the Preston Trail Center Addition, Lots 1 and 2 on property zoned Planned Development District No. 17-612 [Preston Trail], bounded by FM 1382 on the northeast, Gulf Coast and Santa Fe Railroad on the southeast, and Straus Road on the west. *Applicant: Ryan Johnson of Covenant Development, LLC; Property Owners: Lisa Kahn Betros, Isabel Kahn and ALK Realty, Ltd.*

LaShondra Stringfellow, Director of Planning presented the staff report. Staff recommended approval subject to the following conditions:

1. Add a drainage easement to Lot 2 consistent with where the drainage pipe is shown on the construction plans. Label the detention pond as a drainage easement on Lot 1.
2. Add any additional franchise utility easements as required by the provider.
3. Provide the TxDOT permit(s).

Chairman McCurdy asked the applicant to address the Commission.

Mr. Rod Dakey, 1700 Redbud Ave., Ste. 300, McKinney was present on behalf of the applicant. Mr. Dakey indicated he would answer any questions the Commission might have.

The Commission did not have any questions for the applicant.

Commissioner Deeds made a motion to recommend approval of Case No. 2017-24 subject to the following conditions:

1. Add a drainage easement to Lot 2 consistent with where the drainage pipe is shown on the construction plans. Label the detention pond as a drainage easement on Lot 1.
2. Add any additional franchise utility easements as required by the provider.
3. Provide the TxDOT permit(s).

The motion was seconded by Commissioner Strother. The vote was as follows:

Ayes: 6– Chairman McCurdy, Vice-Chairman Brooks, Commissioners Strother, Deeds, Thierry, and Lewis

Nays: None

Chairman McCurdy declared the motion carried.

VI. Staff Reports

Ms. Stringfellow informed the Commission of the current development applications and upcoming meeting dates.

VII. Adjourn

A motion was made by Commissioner Deeds, followed by a second for adjournment by Vice-Chairman Brooks. The meeting adjourned at 8:29 pm.



Chad McCurdy
Chairman

Sharon Davis
Executive Secretary

