

**MINUTES
PLANNING AND ZONING COMMISSION
Meeting of July 21, 2008**

The Planning and Zoning Commission of the City of Cedar Hill, Texas met on MONDAY, July 21, 2008 at 6:00 p.m. in the Turk Cannady/Cedar Hill Room, 285 Uptown Blvd. Building 100, Cedar Hill, Texas.

Present: Chairman Bill Strother and Commissioners Stephen Mason, Tim Hamilton, Theresa Brooks, Todd Hinton and Gehrig Saldaña.

Absent: Vice-Chairman David Rush

I. Call the meeting to order

Chairman Strother called the meeting to order at 6:02 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 July 7, 2008 regular meeting

A motion was made by Commissioner Hamilton to approve the minutes July 7, 2008 regular meeting, as presented. The motion was seconded by Commissioner Hinton. The vote was as follows:

Ayes: 5 – Chairman Strother and Commissioners Mason, Saldana, Hamilton and Hinton

Nays: 0

Abstention: 1 – Commissioner Brooks

Chairman Strother declared the motion carried.

III. Citizens Forum

No one spoke.

IV. Case Number 08-26 - CONDUCT A PUBLIC HEARING and consider a request for a **Conditional Use Permit** to serve Alcoholic Beverages in conjunction with a restaurant. The restaurant is zoned Old Town Corridor and is located at 213 West Beltline Road. *Requested by Pamela Kincaid on behalf of Campuzano's.*

Pamela Kincaid, 120 Hummingbird Lane, Ovilla, TX 75154, stepped forth to present this request and answer any questions from the Commission.

Ms. Kincaid stated that they were requesting a variance to the 300 ft minimum separate distance between a restaurant that serves alcoholic beverages and a church. She stated that there would not be a bar area, either in the restaurant or in the patio area. Additionally, she stated that all of the restaurant's staff would be TABC certified and trained.

Chairman Strother opened the floor for anyone wishing to speak in favor of this request.

No one spoke.

Chairman Strother closed that portion of the public hearing and opened the floor for anyone wishing to speak in opposition to this request.

1. Nita Terry, 217 West Beltline Road, Cedar Hill, TX 75104

Ms. Terry, speaking as a representative of Southwest Church, said that they opposed the granting of a variance to allow a restaurant to sell alcoholic beverages next door to a church. She further stated that they have had an ongoing problem with beer bottles on their property.

2. June Allen, 217 West Beltline Road, Cedar Hill, TX 75104

Ms. Allen, also speaking as a representative of Southwest Church, stated that they felt it would not be in the best interest of the community to grant a variance which will allow a restaurant to serve alcoholic beverages so close to a church. She also reiterated the problem with beer bottles on their property.

Chairman Strother closed the public hearing for this item and opened the floor to the Commission for discussion.

In response to the testimony by Ms. Terry and Ms. Allen, Ms. Kincaid stated that she was unaware of a problem with beer bottles being left on the church's property. She stated that the beer they give to their customers when they purchase a meal is served in a plastic cup, not in bottles. However, she stated that they do allow customers to bring in their own alcoholic beverages, including bottled beer.

Commissioner Brooks asked the applicant if the church was in place when she purchased the restaurant.

Ms. Kincaid stated yes, the church was in operation when she purchased the restaurant.

Commissioner Brooks also asked the applicant if they allow their customers to bring in alcoholic beverages.

Ms. Kincaid stated yes, it would be against the law to stop a patron from bringing in their own alcoholic beverages.

Chairman Strother asked the applicant how long they have been giving away alcoholic beverages.

Ms. Kincaid stated they have given away alcoholic beverages for about 5 years.

Joel Rich, attorney for Ms. Kincaid, P.O. Box 225884, Dallas, TX 75222, arrived at 6:25.

Commissioner Saldana asked either Ms. Terry or Ms. Allen if the church has filed a complaint with the police department.

Ms. Allen stated no, they have not notified the police, they thought this was something they could just work out between the church and the restaurant.

Commissioner Hamilton asked Ms. Terry or Ms. Allen if they had experienced any other problems.

Ms. Allen stated that sometimes restaurant customers would park on the church's lot.

Commissioner Mason asked Ms. Allen how many beer bottles were typically left on their property.

Ms. Allen stated on a weekly basis, approximately 10-15 bottles were left on their property.

Mr. Rich, attorney for Ms. Kincaid, stated that currently they allow customers to bring in their own alcoholic beverages, which included bottled beer. He further stated that they cannot control what their patrons do in the parking lot; however, once their alcoholic beverage permit was issued, they would not allow customers to bring in their own alcoholic beverages, thereby lessening the chance of the beer bottles being left on the church's property.

Commissioner Mason commented that he felt like the church's primary concern was with the beer bottles being left on their property. He stated that regardless if the City granted a variance to allow Campuzano's to sell alcohol or not, it would still be given away, so in either case, alcohol would be consumed on site. Furthermore, he stated that at least with the granting of an alcoholic beverage permit, the restaurant would be regulated by the TABC, and perhaps then with these regulations in place, the restaurant's staff could monitor the consumption of alcoholic beverages on site.

Commissioner Hamilton also stated that alcohol would be consumed at Campuzano's regardless of whether or not the City grants this variance.

Ms. Allen wanting to clarify herself by stating that the beer bottles being left on their property was a concern, but not the real issue. The real issue is that the church does not feel that it is in the best interest of the community for the City to grant this variance.

Commissioner Saldana asked City staff if they were aware of any code complaints against Campuzano's related to littering or perhaps parking violations.

Mr. Tyler, Director of Planning, stated that he was not aware of any complaints against Campuzano's.

Commissioner Saldana also asked Mr. Tyler, if the City approved this request, would this set precedence for future cases.

Mr. Tyler stated no, each request is considered on a case-by-case basis.

A motion was made by Commissioner Mason to approve Case number 08-26 subject to the City Council granting a variance to the 300 ft. minimum separation distance from a church. The motion was seconded by Commissioner Hinton. The vote was as follows:

Ayes: 3 – Chairman Strother and Commissioners Mason and Hinton.

Nays: 2-Commissioners Brooks and Saldana.

Commissioner Hamilton stated that this was a very difficult issue and that he did not have enough information in order to make a decision, therefore he abstained from the vote.

Abstention: 1-Commissioner Hamilton.

Chairman Strother declared the motion carried.

V. Case Number 08-02 – Review and consider the Site Plan of Lot 1-R, Block 1, Vought Heritage Addition showing a 8,930 sq. ft. non-residential building on 1.067-acres of land out of Abstract 306, generally located at the northeast corner of Uptown Blvd. and F.M. 1382. *Requested by Dave Carter of Northpoint Properties, LLC.*

Brian Delatte, of Civil Design Group, LLC, 660 North Central Expressway, Suite 475, Plano, TX 75074, representing Northpoint Properties, stepped forth to present this request and answer any questions from the Commission.

Mr. Delatte stated that they have worked extensively with Uptown Village Shopping Center and with Texas Trust Credit Union on design, traffic circulation, and parking issues. He stated that they currently have a shared parking agreement with Uptown Village Shopping Center.

Chairman Strother asked the applicant if they plan to have multiple tenants in this development.

Mr. Delatte stated that they currently have 3 tenants ready to sign leases; they are just waiting upon final City approval of the site plan.

Commissioner Mason asked the applicant if he was aware of City staff's comments.

Mr. Delatte stated he was aware of the comments and would address them accordingly.

A motion was made by Commissioner Mason to approve Case number 08-02, subject to the following conditions: 1) the southern-most vehicle maneuvering area should connect through to the adjacent parking lot on Uptown Village Addition, 2) provide a filed separate access easement across the lot lines, shown and recorded on final plan sheets, 3) provide the separate instrument

easement for the driveway access shown on the eastern driveway connection, recorded on the site plan, 4) fire lane should show as 24-feet throughout entire length, 5) CMU specifications should be integrated color split faced blocks for the bottom of the building or changed to another approved material and 6) dumpster pad material should be labeled correctly. The motion was seconded by Commissioner Saldana. The vote was as follows:

Ayes: 6 – Chairman Strother and Commissioners Mason, Brooks, Saldana, Hamilton, and Hinton.

Nays: 0

Chairman Strother declared the motion carried.

VI. Staff Report

Rod Tyler, Director of Planning, reviewed with the Commission recent submittals and upcoming agenda items.

VII. Adjourn

A motion was made, followed by a second for adjournment. The meeting adjourned at 6:50 p.m.

Bill Strother
Chairman

Belinda L. Huff
Planning Secretary
