

# Planning & Zoning Commission

## Regular Meeting Minutes June 25, 2019 at 6:30 p.m.

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A Regular Meeting of the Planning & Zoning Commission was held Tuesday, June 25, 2019 beginning at 6:30 p.m. in the City Hall Council Chambers located at 511 Mercer Street, Dripping Springs, Texas.

### I. CALL TO ORDER AND ROLL CALL

Commission Members present were:

Mim James, Chair  
James Martin, Vice Chair  
Kim Hubbard  
Martin Garza  
Evelyn Strong

Commission Members absent were:

Michael Lavengco  
John McIntosh

City Staff/Appointed Officials present were:

Jason Lutz, Planning Director  
Amanda Padilla, City Planner II  
Chad Gilpin, City Engineer  
Laura Mueller, Assistant City Attorney

With a quorum of the Commission present, Chair James called the meeting to order at 6:30 p.m.

The Planning and Zoning Commission took a couple minutes to honor the six years of service that Commissioner Kim Hubbard gave to the Commission.

### II. PLEDGE OF ALLEGIANCE

Chair James led the Pledge of Allegiance to the Flag.

### III. PRESENTATION OF CITIZENS

*Floor open to discussion on any subject. No action may be taken by law. Citizens wishing to speak shall do so after being recognized by the Chair. The Chair may establish a time limit as necessary.*

Jeanine Christensen, Secretary of the Friendship Alliance, spoke regarding the Mark Black Wedding Venue Site Development Amendment Permit. The Friendship Alliance wishes to express its concern regarding the most recent submittal to the city, with an engineering stamp dated 6-7-2019. They have had meetings with the Hays County Commissioner Walt Smith Precinct 4. Hays County has indicated that it will be treating Mark Blacks OSSF designs as a new application. The Friendship Alliance has also learned that TCEQ, who has water permitting jurisdiction, is requiring a major permit amendment with public participation and a public comment process. They are very concerned that the City of Dripping Springs will not be hearing their public comments. They have been invited to send in written

comments. They are worried that this will end up an administrative approval item with minimal public input. This is a dramatically different design. They would like this on the City's radar.

Bill Brock is wanting the Commission to take a strong look at the plans that are going to be passing by them. He is surprised they have not seen them yet because he knows they have been processed. All the changes to the wedding venue proposed by the Blacks in his opinion are very drastic and have drastically changed. His understanding is that Dripping Springs can stamp an administrative approval to the changes or the Commission can request that they go back through the process. He is hoping that the Commission will do that. The reason is, for example, the building structure and the grading on the site has drastically changed and needs to be reexamined. The only thing that hasn't changed from the original plans, it's been over a year, is the driveway entrance. The water quality plans will have to be re-engineered to meet the water quality ordinance because now the plans, the site, roots the runoff very differently and the volumes and the controls are going to be much greater. His understanding is that they are planning on using at least five times as much water then they were planning on using. The original site plan did not show a 12-20-foot hole that has now been dug on the site. It is a mystery to him how the construction crew that is on the site could have started and dug a big hole if they didn't have plans. Yet apparently that is what happened because there are no plans that have ever been submitted for that. Which means that some body, he assumes the Blacks, made these plans or instructed their construction crews to take action and start digging the hole and make the changes. Yet those plans have never been approved by the City. He would appreciate if the City would take a good strong look at this and determine at what point is it okay to modify plans and say, "ok good that's a small modification" and give them permission to move forward. He hopes that the Commission ask them to reinitiate the process and get a whole new set of plans approved by the City.

Chair James stated that by law the Commission cannot take action on the comments that they had just heard. But he believes that they can ask staff to take in to account the comments that have been read to the Commission tonight and he would like for the Planning Director, the City Engineer, and the City Attorney to take note of these comments as the city moves forward with those revisions. He also stated that even though plans and applications are sometimes done through the administrative review process that does not mean that Citizens cannot offer their comments or make an appointment with City Staff to register their thoughts, inputs, and concerns, they are welcome to do that.

#### **IV. BUSINESS**

##### **A. Discuss and consider approval of the May 28, 2019 Planning & Zoning Commission Regular Meeting Minutes.**

A motion was made by Commissioner Garza to approve the minutes from the May 28, 2019 Regular Planning and Zoning Commission Meeting as corrected. Vice Chair Martin seconded the motion which carried unanimously, 5 to 0.

Chair James noted that Jason Lutz, Planning Director, made a suggestion on rearranging a few items on the Agenda.

Jason Lutz requested that the first item that the Commission would see would be Item K, then Item M, then Item L, then Item N.

A motion was made by Vice Chair Martin to agree with the changes requested by staff. Commissioner Hubbard seconded the motion which carried unanimously, 5 to 0.

**K. Discuss and consider approval of a Resolution of Support regarding the proposed Rob Shelton Boulevard Gap Elimination and Connectivity Pedestrian Improvements TASA Set Aside Program Project funding application.**

*1. Staff Report*

Jason Lutz presented the item. He stated that this is a resolution of support regarding the proposed improvements to Rob Shelton Boulevard. The proposed improvements are for connectivity and pedestrian improvements, which are part of an application that we will be submitting to TxDOT. The staff report is on file.

*2. Public Hearing*

No one spoke during public hearing.

*3. Resolution*

Vice Chair Martin stated that he wanted to let Citizens know what this item is for. The City of Dripping Springs is using our Grant Writers to apply for a grant to make improvements for pedestrian mobility on the Rob Shelton Boulevard. They have been pursuing this since the fall of last year. The City staff and the consultants have been working on this. This is to improve the mobility and the safety along Rob Shelton which is the road that runs along HEB, Sports Park and Founders Park.

A motion was made by Vice Chair Martin to approve a Resolution of Support regarding the proposed Rob Shelton Boulevard Gap Elimination and Connectivity Pedestrian Improvements TASA Set Aside Program Project funding application. Commissioner Garza seconded the motion which carried unanimously, 5 to 0.

**M. Discuss and consider approval of a Resolution of Support regarding the proposed TxDOT Safe Routes to School/Transportation Alternatives Program Dripping Springs Middle School SRTS/TASA Safety and Connectivity Improvements Project funding application.**

*1. Staff Report*

Jason Lutz stated that this route is hoping to improve connectivity from the Middle School to the High School and the surrounding neighborhood areas. His staff report is on file.

*2. Public Hearing*

No one spoke during public hearing.

*3. Resolution*

Vice Chair Martin wanted it noted that this is also something that City Staff and the Consultants have been working on. In this case it is for connectivity for the school and if we get this grant there is no matching that the City has to do. It is 100% funded by TxDOT.

A motion was made by Vice Chair Martin to approve a Resolution of Support regarding the proposed TxDOT Safe Routes to School/Transportation Alternatives Program Dripping Springs Middle School SRTS/TASA Safety and Connectivity Improvements Project funding application. Commissioner Garza seconded the motion which carried unanimously, 5 to 0.

**L. Public hearing, consideration, and recommendation regarding proposed amendments to the City's adopted City-Wide Trails Plan Map.**

*1. Staff Report*

Jason Lutz stated that the two maps that the Commission sees are two existing maps. In conjunction with the grants, as part of the application process we have to show those two trails on the City-Wide trails plan. The staff report is available which is on file.

*2. Public Hearing*

No one spoke during public hearing.

*3. Trails Plan Map Amendments*

A motion was made by Vice Chair Martin to recommend proposed amendments to the City's adopted City-Wide Trails Plan Map. Commissioner Garza seconded the motion which carried unanimously, 5 to 0.

**N. Public hearing, consideration, and recommendation regarding proposed amendments to the City's adopted Master Transportation Plan Map.**

*1. Staff Report*

Jason Lutz stated the only difference on this one is generally the transportation map has only thoroughfares, so we are looking at adding pedestrian trails to this map. This is the first time that the City will add trails to the transportation map. The reason for adding them is for the grant application but the City thinks that it is important to show trails because it helps show multi-modal transportation.

*2. Public Hearing*

No one spoke during public hearing.

*3. Transportation Plan Map Amendments*

A motion was made by Vice Chair Martin to recommend proposed amendments to the City's adopted Master Transportation Plan Map. Commissioner Garza seconded the motion which carried unanimously, 5 to 0.

**B. Discussion, consideration, and recommendation of an Ordinance of the City of Dripping Springs Enacting Appendix XXX of the City of Dripping Springs Code of Ordinances; Establishing Regulations for a Master Sign Plan for the Dripping Springs Medical Village; Providing for the Following: Rules; Standards; Procedures; and Findings of Fact; Codification; Repealer; Severability; proper Notice and Meeting; Enforcement Including Criminal Penalties Including Criminal Fines Not to Exceed \$500.00 and Civil Fines of Up to \$100.00.**

Applicant: Matt Park, Building Image Group, Inc.

*1. Presentation*

Scott McCullough with a company called Equity, Equity is the manager of the building. They acquired the building shortly after construction. The prior owner made no prior provision for signage for any tenants. They have presented a Master Sign to be considered that includes a large monument to be used by the tenants in the building. That will provide the tenants with the recognition that they need to continue their businesses. Currently right now we have about 75% of the businesses represented at the meeting, they are medical professionals and would like to talk to the commission. He was asked by Donna McBride, one of the practice managers, to read a letter. There is an address marker that is for 170 Benny Lane, but the address marker is on Mighty Tiger, many people are confused and he has seen many people drive around the building because they are unsure if they arrived at the right place. Many of the Patrons are older and have difficulty finding where they need to go.

The Letter says “it would be a great benefit for the City of Dripping Springs to allow for a monument sign for our multitenant building and our patients to find our medical offices located off 170 Benny Lane. It is baffling to our patients when they call us looking for the building while wondering up and down the road while driving without obvious signage. I’ve taken many calls from very upset patients that cannot find our space even when I have told them that there is no obvious sign to look for and they become very agitated when they are driving around Dripping Springs trying to look for their medical office. I am in Suite 202 quite often and every day that I work there I receive complaints, sometimes multiple complaints that have had similar comments of “I cannot find your building and I know it is right across from the High School but there is no sign.””

He stated this letter addresses the issue at hand and that is why they have made a request for a monument sign.

Mark Whitesides, Owner of Southwest Austin Foot and Ankle Clinic, they are in suite 100 of the building in question. He just wants to support what Scott McCulloch had said about multiple patients talking about not being able to find their building, they can’t find them within the building. He had a patient that said yesterday that he had been looking around for them for about 14 months and he just finally found them, and can’t they just get a sign out

there. He just wanted to say that this would be very helpful for his business and helpful for the City of Dripping Springs.

Aaron Collins is a Medical Professional in the Building who is representing one of the suites there, Smiles of Dripping Springs. They have been in Dripping Springs since 1996 and is very committed to serving the community but they have noticed the lack of ability of his patience to find their building due to the lack of signage. We are involved in the community and do a lot around the community. They are there for all of the events and give to local charities. They are here to serve the people of Dripping Springs, so their voice on this item is not only for them to increase what they've invested in Dripping Springs but to aide those that have expressed their concerns and frustration in being able to find their suite as well. They have plenty of people on a weekly basis that say, "I know you have given me an address, but I still have a hard time finding it." He hopes that the Commission considers the request.

Alf Sharmon has been practicing in Dripping Springs since 1999. I think a sign would improve their visibility but also by people knowing the Practices that are there. Improve the access to care for everyone in town. They would appreciate the Commission's vote.

## *2. Staff Report*

Laura Mueller presented the Staff report. She and Michelle Fisher, City Administrator, reviewed the Master Sign Plan. The developer worked with City Staff on this. There is a variance based on the size of the sign and that's why they could not administratively approve the master sign plan. In lieu of having a sign on the building, they are having one large monument Sign and Michelle Fischer recommends approval of the Master Sign Plan.

## *3. Public Hearing*

No one spoke during the public hearing.

## *3. Recommendation Regarding Ordinance*

A motion was made by Vice Chair Martin to recommend Approval of an Ordinance of the City of Dripping Springs Enacting Appendix XXX of the City of Dripping Springs Code of Ordinances; Establishing Regulations for a Master Sign Plan for the Dripping Springs Medical Village; Providing for the Following: Rules; Standards; Procedures; and Findings of Fact; Codification; Repealer; Severability; proper Notice and Meeting; Enforcement Including Criminal Penalties Including Criminal Fines Not to Exceed \$500.00 and Civil Fines of Up to \$100.00. Commissioner Strong seconded the motion which carried unanimously, 5 to 0.

- C. Public hearing, consideration, and recommendation regarding CUP2019-0006: Application for Conditional Use Permit to allow for the onsite sale and consumption of alcohol at the property located at 330 Mercer Street, Dripping Springs, TX 78620 (Legal Description: W T CHAPMAN #1, BLOCK 1, LOT 1-2 & 10, ACRES 0.3644 and W T CHAPMAN #1 LOTS 6-7-8-9 BLK 1 GEO#90403754).**

Applicant: Jerome Bollom

### *1. Presentation*

Fabienne Bollom, she is representing her son Jerome who cannot be here, read a text from her son. "What he would like to open is an upscale cocktail lounge with small bite and craft drinks. All meals prepared in prep kitchen and plates in a restaurant. Must be 21 years of age to enter premises." She is the owner of Rolling in Thyme and Dough and that is where he will prep some food. He is only going to bring bite size food. They only want to ask for a liquor license from TABC. They want to create a similar and upscale atmosphere to Thyme and Dough. They want to open from lunch to late. They want to provide a place for people to relax after working all day.

### *2. Staff Report*

Jason Lutz presented the staff report, which is on file. He stated that the applicant is seeking a conditional use permit to allow alcohol sales.

Vice Chair Martin would like to correct that the address is actually 333 Mercer St and not 330 Mercer St.

### *3. Public Hearing*

Pam Owens, President of Visitors Bureau, spoke in support of the business. She thinks that it is a great idea. She thinks it fits in with what they would like to see in that area. She was glad to see food because they need food on that street.

### *4. Conditional Use Permit*

Chair James wanted to make sure he had a clear understanding that they were talking about a CUP that is required to sell alcohol at this location. What he also saw in the staff report was that if there were any modifications to the building it would require a COA because it is in the historic district. He wanted to make sure that the applicant understood that.

Fabienne Bollom asked if that would be something the Landlord would have to do.

Chair James just wanted the applicant to know that those things will not get started without the Certificate Of Appropriateness being applied for.

Vice Chair asked a citizen in the audience that knew the property, Scott Daves, He stated that this is a multitenant building and they are just one of the tenants. He believes that what they have done outside has already been approved. They are already in the process of fixing up the building. He isn't sure that they will need to do anything to the outside and come back for a COA.

Chair James asked Jason Lutz if those modifications have been reviewed by staff

Jason Lutz stated they were. His comment was more if they get started with any work than they will need to come back for a COA.

Chair James asked Laura Mueller, City Attorney, that we typically put a CUP in effect for two years. They tend to be evergreen provided as there are no violations. He asked if that is still the City's approach.

Laura Mueller stated that's the practice, two years is usually how long the City allows them. As long as nothing's wrong with them.

Commissioner Garza asked if it was outside the 300 foot area from a school.

Jason Lutz stated it was, but we have not seen the official application to review but we did a preliminary review of it.

A motion was made by Vice Chair Martin to recommend approval of the CUP2019-0006: Application for Conditional Use Permit to allow for the onsite sale and consumption of alcohol at the property located at 333 Mercer Street, Dripping Springs, TX 78620. Commissioner Strong seconded the motion which carried unanimously, 5 to 0.

**D. Public hearing, consideration, and recommendation regarding CUP2019-0007: Application for Conditional Use Permit to allow for the onsite sale and consumption of alcohol at the property located at 101 Creek Road, Dripping Springs, TX 78620 (Legal Description: ABS 415 PHILIP A SMITH SURVEY 1.741 AC GEO#9041322).**

Applicant: Jon Thompson

*1. Presentation*

Jon Thompson presented the item to the Commission. He stated that this property is at 101 creek road. It is the first house on the left. It was built in the 1950s. They sold it to the people that had the trio fitness in there for a number of years. When that closed Bettina Mathis, Present Owner, bought it with the intention to preserve the dripping springs branch, creek. The ravine has been cleaned up recently and is pretty spectacular. It is in the Historic District, the hays district, it has a few historic structures, one being the house, one being the garage probably a horse carriage. Bettina's intention on this property is to open a wine bar and a tasting room. Along with gifts, and a gift shop. The COA was approved a several months ago and they went to the Historic Commission for that approval. Now they are doing the follow up steps for the Conditional Use Permit. Then the site development permit will be coming in for what small modifications they will have to make to the property. There was a site plan approved with trio fitness for the parking lot and a few other things. Of course, the building permits for the interior fixes and modifications will be coming in. Tonight, they have come to ask for the Conditional Use Permit consideration and hopeful approval.

*2. Staff Report*

Jason Lutz presented the staff report, which is on file. There are some staff conditions on the application.

*3. Public Hearing*

Pam Owens, Visitors Bureau, this is something they like to see as far as tourism goes. A lot of our tourists that come through want to know where the wine tasting places are. It would be nice if we had some that weren't so far out. She likes the idea of it being very close. She thinks it is great for tourism.

Bettina Mathis, Owner and Applicant, stated when they first looked at the property you couldn't even see the ravine, but she knew it was back there because when they first moved out here in 2000 they had leased property at the spring bluff center. Whit had built a beautiful walkway to the creek and it was gorgeous, while that goes all the way to Mercer St to the back of her property. When she saw the springs come out she thought she wanted to be able to preserve it someday. Not quite yet but to be able to have people that are wine tasting to be able to walk under Highway 290 to Mercer St and be able to access the things on Mercer. That is later down the road but that is something she is hoping to do in the future.

#### *4. Conditional Use Permit*

Vice Chair Martin stated that the staff report says wine tasting and sales. He asked staff if they are going to sell Wine bottles to go.

Jason Lutz said yes, they will be asking for tasting and sales.

Vice Chair Martin stated that not just on-site consumption but off-site consumption.

Jason Lutz stated yes. We have not seen an application so we are not quite sure what their TABC permit is for but that is the request they made for the sale and consumption.

Jon Thompson stated that Ms. Mathis will not be the actual operator. There will be a separate operator. At the time the CUP is approved there will be another application for the sale and consumption of alcohol.

A motion was made by Vice Chair Martin to recommend approval of the CUP2019-0007: Application for Conditional Use Permit to allow for the onsite sale and consumption of alcohol at the property located at 101 Creek Road, Dripping Springs, TX 78620. Commissioner Garza seconded the motion.

Chair James wanted the applicant to know that the CUP requires compliance with all the City Codes. A COA has been approved for the property and if they submit any changes to the plan the City will have to review them. The other conditions he saw was no outdoor music because of adjacent residential area. He asked if the applicant was ok with that.

They stated they were.

Vice Chair Martin Withdrew his motion to recommend approval of the CUP2019-0007: Application for Conditional Use Permit to allow for the onsite sale and consumption of alcohol at the property located at 101 Creek Road, Dripping Springs, TX 78620. Commissioner Garza Seconded.

A motion was made by Vice Chair Martin to recommend approval of the CUP2019-0007: Application for Conditional Use Permit to allow for the onsite sale and consumption of alcohol at the property located at 101 Creek Road, Dripping Springs, TX 78620 with Staff recommendation. Commissioner Garza seconded the motion which carried unanimously, 5 to 0.

**E. Public hearing, consideration, and recommendation regarding VAR2019-0004: to consider a variance application for property located at 490 Gatlin Creek Road, Dripping Springs, TX 78620 and described as ABS 519 & 745 W BUTLER & J M MADING SURVEY 7.36 AC GEO#90401493 allowing a subdivision of the property resulting in a 1.90 acre tract, which is smaller than the minimum lot size requirements of Chapter 28, Exhibit A, Section 14.6 of the City of Dripping Springs Code of Ordinances.**

Applicant: Gerald Willis

*1. Presentation*

Gerald Willis, applicant, gave a presentation. He stated he had a neighbor come to him and ask if he wanted to get rid of his upper property. He stated they don't use it so let's look into it. It actually came out to 1.92 acres, so they are .08 acres off of two acres. He has the survey and photos of the area if they need it. The reason for doing that is because they have a waterfall that is only activated when they have 5-10 inches of rain which washes out that area. So, putting the fence on that property line is going to be difficult to do and that is why they moved it just a little bit above the area. His neighbor would like to purchase it so that is why they are looking at it.

*2. Staff Report*

Jason Lutz presented the staff report, which is on file. They are asking for reduction in the minimum lot size. This reduction is not only a complication of the subdivision regulations, but this is also a variance to septic system requirements. The minimum lot size that the state requires for a private septic system and private well is a minimum of two acres. That is a function of water quality and contamination. Any variance they grant will also require the same variance request from the county. The applicant has not submitted to the county at this time. We have had some conversations with them and they said that they would not support that variance but ultimately the county commissioners make that call.

*3. Public Hearing*

No one spoke during public hearing.

*4. Variance*

Vice Chair Martin asked if the applicant owns the surrounding land.

Jason Lutz stated this was true.

Vice Chair Martin said that they could place the property line over the waterfall to qualify for the 2 acres.

Jason Lutz stated that this was correct, and he believes that he had a conversation with staff prior and from his understanding that he did not meet the applicant. From his understanding is that fences do not need to be on the property line and they can adjust. He did look at this and he looked at septic and water and we cannot support this at the moment.

A motion was made by Vice Chair Martin to recommend denial of the VAR2019-0004: to consider a variance application for property located at 490 Gatlin Creek Road, Dripping Springs, TX 78620 and described as ABS 519 & 745 W BUTLER & J M MADING SURVEY 7.36 AC GEO#90401493 allowing a subdivision of the property resulting in a 1.90 acre tract, which is smaller than the minimum lot size requirements of Chapter 28, Exhibit A, Section 14.6 of the City of Dripping Springs Code of Ordinances. Commissioner Hubbard seconded the motion which carried unanimously, 5 to 0.

Chair James wanted to make sure that this is a decision that is regarding the City's requirements as well as Hays County, that involves septic and water wells.

Jason Lutz stated yes.

Gerald Willis asked Jason Lutz if the County said they would deny it.

Jason Lutz stated no he talked with Staff and they said they would not support the variance but ultimately it would go to commissioner's court and they would make the final decisions.

Chair James stated as the Planning and Zoning Commission are recommending to City Council that it be denied. They do not have the final approval that request will move to City Council. It will be at the next City Council meeting on July 9<sup>th</sup>. P&Z will report their decision to recommend denial for the reason stated today to City Council. But by the end of the day it is up to City Council to make a determination on the item.

**F. Public hearing, consideration, and recommendation regarding VAR2019-0005: to consider a variance request application for property located at 14155 W Hwy 290 Dripping Springs, TX 78620 and described as A0240 E B HARGRAVES SURVEY, ACRES 28.993 allowing for cut/fill areas on the site plan to exceed the standard 6-foot maximum allowed by Section 28.04.019 of the City of Dripping Springs Code of Ordinances.**

Applicant: Connor Overby, P.E.

*1. Presentation*

Connor Overby presented the item to the commission. He stated that it is for 29 acres most of which is covered in steep terrain and they have established some water way buffers. So they are forcing development to the Northeastern section of the property. Furthermore there is a TxDOT guard rail that is covering roughly 90% of the frontage. So they only have one existing ingress point for the property. They have already received the TxDOT permit to use that existing driveway. They have a plan that takes access from that point. They initially

filled an application for the site plan and they modified the plan to reduce the amount of cut and fill.

## *2. Staff Report*

Chad Gilpin presented the staff report, which is on file. Signal Hill Commercial is a proposed 28.89-acre commercial development located on the south frontage of U.S. 290 between Whirlaway Drive and Canonade Drive in the City of Dripping Springs ETJ. Currently, the site is undeveloped. An existing driveway will be improved during construction to provide access from US Highway 290. The project consists of four (4) commercial buildings, parking and infrastructure improvements. 25% Impervious cover is proposed for the project. An application for a Site Development Permit has been submitted to the City for review and approval. The Applicant is currently addressing City Staff review comments. A variance is being requested to allow up to 10 ft of cut and 12 foot of fill. An Exhibit is attached showing the locations of the cut/fill exceeding 6ft. The excess cut is for the entry driveway to provide reasonable grade for access from US 290 to the buildable portion of the property. The excess fill is needed to create a site plan that will properly accommodate emergency services, ADA, parking and drainage requirements. The existing topography for the proposed site slopes downward from the east to west toward an existing ravine. The elevation difference is approximately 25 feet requiring approximately 12 feet of fill to establish a buildable area. City Staff typically uses four criteria to aid in determining whether or not to grant a VARIANCE to the cut/fill limitation of 6 feet. These are: 1) drainage, 2) erosion control, 3) structural integrity and 4) aesthetics. In my opinion, the first three criteria are being satisfactorily engineered into the proposed cuts/fills on the site plan.

He has a minor change in his recommendations about exterior design and modified it to say the retaining wall should be reviewed by the City Architect for aesthetic, mostly likely requiring a limestone veneer on the retaining wall. Based on the Staff considerations presented in this report as well as the Applicant's justification above Staff recommends approval of the Variance with the following additional requirements:

1. Project shall comply with City's Lighting ordinance
2. Project shall comply with City's Exterior Design & Architecture ordinance

## *3. Public Hearing*

No one spoke during the public hearing.

## *4. Variance*

Vice Chair Martin asked if their site was going to be up against the ravine.

Chad Gilpin said that was right. They only have one driveway they can get access from so the cut and fill is to get access for that.

Chair James asked if the properties to the south are residential. They are going to have the detention pond behind the buildings. He asked the applicant if they are buffered from the residential area and by what distance.

Connor Overby stated that between the buildings it's roughly half the property. There will be an area there that is detention and water quality and then beyond that is there septic.

Chair James asked if there were plans for further development to the west or the south.

Connor Overby said there is no available space to expand on. He also stated that the applicant would be obliged to those conditions. He signed the consent agreement for the lighting ordinance and the retaining wall is not an issue at all.

A motion was made by Commissioner Garza to recommend approval of the VAR2019-0005: to consider a variance request application for property located at 14155 W Hwy 290 Dripping Springs, TX 78620 and described as A0240 E B HARGRAVES SURVEY, ACRES 28.993 allow up to 10 ft of cut and 12 foot of fill with the following to apply:

1. Project shall comply with City's Lighting ordinance
2. The retaining wall be reviewed and approved by the City Architect.

Vice Chair Martin seconded the motion which carried unanimously, 5 to 0.

**G. Public hearing, consideration, and recommendation regarding VAR2019-0006: to consider a variance request for Landscaping requirements for the property located at 249 Sportsplex Dr., Dripping Springs, TX 78620 (Legal Description: 1.293 Acres in the JWLP FAMILY Survey, Lot 6, Hays County).**

Applicant: Britt Alexius

*1. Presentation*

Britt Alexius is developing the small office building located at 249 Sportsplex Dr. He provided a small presentation, which is on file. They are asking for a minor adjustment on the landscape requirements along the road. They are located across from the Middle School. What exist there is a very nice parklike setting and manicured with nice trees. In order to fulfill the landscaping requirements, they would have to dig that up and dig across a creek. That is a big issue to them. They would rather not disturb the creek to get across the easement. They think it would be best to leave it nice and not disturb the creek and potentially cause silk to run through the creek. They would have to trench three or four feet down under the rock bed and creek to get to the other side. What is there now matches the surrounding properties. They are going to continue the sidewalk across the front of their property. They are asking to leave the landscaping like it is.

*2. Staff Report*

Jason Lutz presented the staff report, which is on file. He wanted to add that the creek is a difficult issue for them to trench across. So, the City worked with the Landscape review consultant and he said that he could support the variance request based on the existing vegetation that's there. However, he said he could only support that variance if the required landscaping to be placed in that area, trees, shrubs, irrigation, get moved to the site and be dispersed around the building.

*3. Public Hearing*

No one spoke during public hearing.

#### *4. Variance*

A motion was made by Vice Chair Martin to recommend approval of the VAR2019-0006: to consider a variance request for Landscaping requirements for the property located at 249 Sportsplex Dr., Dripping Springs, TX 78620 with staff recommendations. Commissioner Garza seconded the motion which carried unanimously, 5 to 0.

Chair James stated that he wanted the applicant to understand what they did there. They are basically agreeing with him, but they are asking him to take what was originally proposed in the landscape review and distribute that.

The applicant stated he was okay with that.

- H. Public hearing, consideration, and recommendation regarding VAR2019-0007: to consider a variance request to allow a HUD-Code Manufactured Home on the property for a limited time of 210 days allowed by Dripping Springs Code of Ordinances Manufactured Housing, Mobile Homes and Recreational Vehicles: Article 24.04; Variances: Sec. 24.04.006 for the property known as Headwaters and for the property located along Headwaters Boulevard Dripping Springs, TX 78620 and described as: Lot 4, Block B of the Final Plat of Headwaters Commercial Phase 1B, Document #19005560, 166.801 acres, Hays County.**

Applicant: Blake Rue

#### *1. Presentation*

Jessi Malone, Civil Engineer for Headwaters MUD, stated the request is to support a temporary resident for the creation of a defined area within the municipal utility district. When the matters of the district are done the resident will move out and the temporary building will be removed.

#### *2. Staff Report*

Jason Lutz presented the staff report, which is on file. He stated the original request was for 180 days which is the state requirement, or legal requirement, for setting up this voting district. This district is being created so that they can bond and get there improvements built. This is part of the Development agreement, which requires that the city receive a certain amount of those bonds so the only way to meet those requirements would be to have this manufactured building. Staff did extend the days from 180 to 210 to make sure there was no issue with delays and the applicant would have to remove that after 210 days and there is no mechanism to allow for an extension at that point.

#### *3. Public Hearing*

No one spoke during public hearing.

#### *4. Variance*

A motion was made by Vice Chair Martin to recommend approval of the VAR2019-0007: to consider a variance request to allow a HUD-Code Manufactured Home on the property for a limited time of 210 days allowed by Dripping Springs Code of Ordinances Manufactured Housing, Mobile Homes and Recreational Vehicles: Article 24.04; Variances: Sec. 24.04.006 for the property known as Headwaters and for the property located along Headwaters Boulevard Dripping Springs, TX 78620 and described as: Lot 4, Block B of the Final Plat of Headwaters Commercial Phase 1B, Document #19005560, 166.801 acres, Hays County. Commissioner Garza seconded the motion which carried unanimously, 5 to 0.

Chair James asked Laura Mueller that this sort of thing seems to be a routine thing, is this something that can lend itself to administrative review.

Laura Mueller stated that she would have to look into that.

**I. Public hearing, consideration, and recommendation regarding VAR2019-0008: to consider a variance request to allow for the sale of alcohol that is within the 300' required buffer from the school district boundary line (see Dripping Springs Code of Ordinances: Article 6.04: Alcoholic Beverages; Sec. 6.04.002: Proximity to schools, churches, and hospitals) for the property located at 660 W US Highway 290, Dripping Springs TX 78620 (Legal Description: Lot 1, Hamburger Hill Subdivision Vol. 6, Pg. 206, 1.14 acres Hays County).**

Applicant: Penny Henderson

*1. Presentation*

No presentation was given.

*2. Staff Report*

Jason Lutz presented the staff report, which is on file. This is a variance from the TABC requirement prohibiting alcohol sales within 300 feet of a school. It was brought to the attention of staff that the Oak Creek Café was selling alcohol at the restaurant. Staff looked into the issue and found that the property is directly adjacent to the school and did not receive a variance to the 300-foot requirement. Staff reached out to the owner to discuss the situation and the applicant subsequently requested the variance.

The applicant received a TABC alcohol permit on 6/28/18 and also received a permit from the City for alcohol sales on 9/13/18. When staff reviewed the alcohol application, the applicant stated that they were beyond the 300-foot requirement even though the rear property line is adjacent to the school property line. The street behind the Café is a private street owned by the school.

Staff has reviewed the requested variance and has found that while the applicant is within the 300-foot buffer, staff could support the request based on a combination of the land use and location, if certain conditions were enacted.

Staff looked at the variance request in its totality and Staff could support a variance with additional conditions. This location is not a Bar, but a restaurant, and would not require a

CUP for the sales. Additionally, the business has been selling alcohol for almost 1 year and there have been no reports, issues, or complaints generated from the business. It is zoned Commercial services and we don't expect additional traffic on Sportsplex. The property does not have direct access to Parade Way.

Staff Recommendations if the variance is granted:

1. No advertising of alcohol sales on site.
2. Hours of operation be limited so as not to allow late night drinking beyond dinner.
3. No public display or storage of alcohol outside of the building.

### *3. Public Hearing*

Joseph Right, concerned parent, He wants to know what the spirit of the regulation is, what's behind the 300 feet, what are we trying to prevent. It is a state regulation he understands.

Laura Mueller stated that under State Law the State of Texas allows a City to adopt a regulation to prohibit the sale of Alcohol within 300 feet of a Church, or school. The City of Dripping Springs has chosen to adopt that regulation with a chance for a variance.

Joseph Right asked what the spirit of the law was meant to do.

Chair James stated that he wasn't sure he could answer that question.

Joseph Right said presumably it's got to do with safety, whether that is drunk driving or the impression upon children, or etc. He agrees with what staff mentioned in the variance, but he also thinks in light of the business side of the equation and supporting the business as well he thinks the variance should focus more on the hours of operation of the school and when traffic for school would be. Not so much during the evening or when children will not be present.

### *4. Variance*

Vice Chair Martin stated he had a question on the first recommendation, no advertising of alcohol sales on site, he has been eating there for years and never even knew they served alcohol. He asked staff what they are trying to restrict.

Jason Lutz stated that Staff recommendation was purely external.

Vice Chair Martin stated so it is just for outside the building and he can't even remember if there is signage in the building that says anything. He has been eating there for several years and has never seen anyone consume a beer. And hours of operation be limited so as not to allow late night drinking beyond dinner is saying that even if they wanted to change their hours of operation, alcohol sales would not occur in any hours outside of hours that they are serving as a restaurant.

Jason Lutz stated that this was correct. The goal is that it is in conjunction with food and dinner not just a place to go and have drinks.

Vice Chair Martin stated the third one No public display or storage of alcohol outside of the building, he isn't even sure if they have outside storage there. He would be concerned there because it is very common for businesses to store supplies in an external building.

Jason Lutz stated that when he made that comment it was for visibly external storage. Staff's recommendation are based on not promoting it.

Commissioner Garza was curious if in conversations with the applicant if the district reviewed there TABC application. Because he believes they have to be notified if it's within 300 feet, just like the place right across the dance hall. When that one came up at a school board meeting he remembered they had to review those applications. He hadn't found the minutes showing that they reviewed it.

Jason Lutz stated that he isn't sure if the school reviewed it and that the City does not process those applications. The applicant did not discuss if the school had commented. City Staff has not received a response regarding this CUP request.

Commissioner Hubbard stated that they have been doing it for a year and there hadn't been a problem with it before now. Why are we kicking the cat after a year? If they received their license from TABC, wouldn't that have been brought up then?

Jason Lutz stated that they knew that the application came in to the city and the part of the application where they fill out the location from school and day cares the applicant did fill out that they were 300 feet away from the school. That was done June of last year and the City has now changed our process on how we review those. He isn't sure if that was just an over sight or if they were going off the application but that did get approved and issued. So when violations of city code come to city staff we don't consider whether it has been going on or it hasn't been going on we just look to correct the issue. We immediately reached out to the applicant and told her she was in violation. She asked what her options were moving forward. Basically, the two options were to stop serving alcohol or request a variance through this board.

Commissioner Strong stated that she is not a TABC official, so she doesn't know what the process is, but she seems to recall that there is an issue if you are in proximity to a school or church, preschool or etc alcohol sales were not permitted. Now she doesn't know if that has anything to do with percentage of alcohol content, beer, and wine, from her understanding it is any alcohol but that is TABC.

Commissioner Garza stated the reason why it wasn't brought up was because the application didn't indicate that they were within 300 feet. Which is probably why the district didn't get notified.

Commissioner Strong is surprised that TABC doesn't measure or look into any more. She recalls a property not too far, behind Sportsplex Drive on Baird Lane, that was one of the issues was the proximity to the school and the library, but they were reporting to be a bar.

Not a restaurant but to be a bar full time. Thinking about that and how the public that did come forward with comments and how the commission weighted in on that she does not think it would be fair to say that it is okay at this location but not at that one. She finds it troubling that it does share the property line with the school. She does know that the business has been there for a long time and she doesn't recall any issues with them. She knows it is tough for the business owner to want to include beer and wine as an offering with their business, but this location is sharing a property line with the school. She has a hard time being ok with that. What she would propose to mitigate this is to see how the school board weighs in on this. Before we approve this variance, she would like to know how they feel about it. Ultimately the parents in our school district should weigh in. In Europe it may not be a big deal to drink beer and wine in front of your children and in some families in the US as well, but she thinks she wants to know how the school and parents in the district feel about it.

Vice Chair Martin stated that this was noticed.

Jason Lutz stated that it went to the newspaper and property owners within 300 feet. The school did receive a letter, but we did not get anything back from the school.

Vice Chair Martin stated the school was notified and they opted to not make a comment. The notice says what day we would consider it and the school routinely gives us feedback on things that they are interested in. He personally would interpret that if the school did not follow up after they were noticed and if they were upset they would have commented.

Commissioner Strong asked if there is a copy of the TABC Permit stating that it is beer and wine sales or if its alcohol. She asked staff if TABC differentiates between those.

Jason Lutz stated that is was a beer and Wine permit. The applicant was wanting to get a for or against for this variance before she renewed her TABC Permit.

Commissioner Strong asked how we were made aware of this.

Jason Lutz stated that this came up at another case and the discussion of alcohol sales around a school. We found out that they were selling alcohol.

Commissioner Garza stated it was for the business that was storing alcohol and having online sales.

Chair James stated that he had a number of questions and concerns. As he understands it our Ordinance embraces the TABC requirements of 300 feet. It is his further understanding that most communities that Laura Mueller is involved in also embrace that same 300 feet buffer. He asked Laura if that was correct.

She stated yes but TABC allows us to adopt it.

Chair James stated that the city of Dripping Springs has adopted that requirement. So the first problem that he has is that the Ordinance says 300 feet and that Laura Muller had advised us in the past that it didn't make a distinction between beer and liquor, even though

he knows those are different TABC licenses. It didn't make a difference if it was a restaurant, a bar, or a packaged arrangement, the issue was alcohol within 300 feet. They have had a couple of these situations in front of the commission in the past. He knows that City Staff has gone back to make sure that the measurements are done correctly. He asked Laura Mueller if this was correct.

Laura Mueller stated that this was correct.

Chair James stated that the second issue is they had the location for Truly Texas Wine off of Sportsplex about their location to the school even though no alcohol was to be consumed on the site, but the commission decided that it was just alcohol being within 300 feet, so we ruled against that. Most communities that Laura is involved in have the same regulations and they adhere to it. He thinks the City needs to be careful on what they do here. On the other hand, He does feel like you can make a distinction based on the business model. The bar that was on Baird Lane was strictly a sports bar and its prime business was alcohol it was a bar. When we take a look at the wine business proposed on Sportsplex it was an alcohol business regardless of how the alcohol was handled it was an alcohol related business. This is a restaurant and it appears though that the alcohol is apparently a small element of their business but none the less it is alcohol within the 300-foot buffer. It is a family-oriented business. He also thinks that there is something to be said that is on Highway 290 and it is commercial services zoned. You have an ordinance that says clearly that alcohol can't be served within 300 feet and on the other hand this is a different kind of business than what we have looked at in the past. But he does think that we need to be careful about how we go about this. From the standpoint of what is our code, what do we need to be doing in the way of consistency, and the conversation that he had with the City Attorney on this matter is there is a provision to grant variances but there has to be a valid reason for granting that sort of variance. None the less in his mind it's alcohol within 300 feet. He wants to make sure we are looking at this as objectively as we can, paying attention to why and how we grant variances, and paying attention to what we have done in the past.

Commissioner Hubbard asked what about the restaurant Creek Road which is within 300 feet of the Baptist church. They sell Beer and Wine.

Chair James stated that they also have that same situation with the miniature golf course which is catty cornered to the Church of the Springs over on Sports Park. Laura Mueller told him that the rules are different for churches versus schools. The measurements for school is 300 feet from property line to property line where as a church you measure from the front door to the front door of the alcohol related business and that's a different measurement. We need to honor the code unless there is an obvious or valid reason for objectively granting the variance.

Laura Mueller stated that there is a specific section of the code that applies to these types of variances in the code that is under the same section regarding proximity to a school. It is a little different than our standard variance language. For this type of variance the city can grant it if they determine that the enforcement of this regulation in a particular instance is not in the best interest of the public, constitutes waste or inefficient use of land or other resources, creates an undue hardship on an applicant for a license or permit, does not serve its intended purpose, is not effective or necessary, or for any other reason the city council

determines that, and of course the commission does its recommendation. It is a little different than our very strict variance standard but in order to grant this variance you would have to find one of those things to be a reason to grant it in this case. But it's not as strict as our normal variance that we look at.

Vice Chair Martin stated for him she said a reasonable hardship and he believes a hardship would be that a restaurant would not be able to sell Beer and wine when everyone else around is able to do that. He doesn't believe it is fair to the applicant's business model. Some of the mitigation points out in the staff report is that the business does face Highway 290 and he thinks that if we write the restrictions and he has notes on how we should want the restrictions to say versus the way they were recommended. He thinks that this is a valid place that we would make an exception and grant the variance with conditions because it is a business model that they are a restaurant primarily and they are not a bar and their hours are not that long. They close at 8:30 and they are only serving alcohol in conjunction with a meal. He thinks it's a reasonable request for a variance and he thinks it falls under some of the guidelines that were just mentioned.

Commissioner Strong stated that the business next door Crepe Crazy, they don't sell alcohol and they have been very successful. They have even expanded to a location down Lamar. Oak Creek has been a restaurant. It pre-dates her history with Dripping Springs, in fact goes back to the time when dripping springs was a dry county and she had to have it explained to her that that doesn't mean that it doesn't rain much, they don't have alcohol. As far as hurting the business that is there location, yes it fronts 290 but it backs up to a school. As far as a hardship for many years they have operated, and it has been a restaurant that's been a functioning restaurant for 20 years. They haven't had an alcohol license before that that she was aware of. She doesn't see the undue hardship on the business, but they have to be mindful of their location and their location butts up to the school property. She has a hard time contemplating this and granting a variance for this as compared to the Baird Lane property.

Commissioner Garza stated especially with the applicant not being here to address if there is a hardship or not.

Chair James stated that they obviously cannot go back in time, but he would ask Vice Chair Martin to think about if they were coming to us today with an application that said they were within the 300 foot instead of saying they were not how would we take a look at that. He stated that he didn't have to answer that. One could argue that they did it to themselves for not putting that they were in the 300-foot buffer. It is what it is. That's a part of what makes it sticky.

Commissioner strong stated that being within 300ft is a lot different than being property line to property line.

Chair James stated that his question boils down to, we have an ordinance, we have a rule, sort of speak, and we have a procedure for granting a variance. The question before us is when we examine a rule and the facts, and you take a look at the procedure for granting the variance. He asked Is a variance appropriate for this situation and instance.

A motion was made by Vice Chair Martin to recommend approval of the VAR2019-0008: to consider a variance request to allow for the sale of alcohol that is within the 300' required buffer from the school district boundary line (see Dripping Springs Code of Ordinances: Article 6.04: Alcoholic Beverages; Sec. 6.04.002: Proximity to schools, churches, and hospitals) for the property located at 660 W US Highway 290, Dripping Springs TX 78620 with the following three conditions.

1. No outside Advertising of alcohol sales on site
2. No alcohol sales not related to the function of the restaurant
3. No public display or storage of alcohol outside the main building or any storage facility.

Commissioner Hubbard Seconded the motion which failed 2-3, With Chair James, Commissioner Strong and Garza against.

A second motion was made by Commissioner Garza to recommend denial of the VAR2019-0008: to consider a variance request to allow for the sale of alcohol that is within the 300' required buffer from the school district boundary line (see Dripping Springs Code of Ordinances: Article 6.04: Alcoholic Beverages; Sec. 6.04.002: Proximity to schools, churches, and hospitals) for the property located at 660 W US Highway 290, Dripping Springs TX 78620. Commissioner Strong seconded the motion which carried 3-2, with Vice Chair Martin and Commissioner Hubbard against.

**J. Public hearing, consideration, and recommendation regarding a Zoning Ordinance Amendment related to ZA2019-0004: to consider a requested zoning change from Two-Family Residential - Duplex (SF-4) to the Local Retail District (LR) for the property located at 28707 Ranch Rd 12, Dripping Springs, Texas 78620 (Legal Description: A0415 PHILIP A SMITH SURVEY, ACRES 1.50, Hays County, TX).**

Applicant: Jon Thompson

*1. Presentation*

Jon Thompson presented the item to the commission. The applicant is south west of the Methodist Church and northwest of Glosson. Currently the property is zoned Sf-4 and is currently a duplex and has always been a single-family house. The current owner's intention is to make it commercial. The Architect visited with staff to request Local Retail. The plan is to create a commissary style kitchen to serve caterers and food trucks. There will be a site plan that follows this because the house in its current state is designed as a house. There would be some remodeling to the inside and at the same time some additional structures built on to this like an exterior cooler to the back of the house. They will still need to go through exterior design and building permits and all of those sorts of things. This is not in the historic district but the City limits.

*2. Staff Report*

Staff looked at this he is SF-4 and is requesting local retail, this is are more restrictive commercial district. When you look at this and the adjacent zoning and land uses you have some SF-4 to the north and LR to the South and SF-4 to the east. Staff looked at this and based on the frontage on RR 12 and being adjacent to the LR zoning staff can support the recommended zoning change.

### *3. Public Hearing*

No one spoke during public hearing.

### *4. Zoning Ordinance Amendment*

A motion was made by Vice Chair Martin to recommend approval of a Zoning Ordinance Amendment related to ZA2019-0004: to consider a requested zoning change from Two-Family Residential - Duplex (SF-4) to the Local Retail District (LR) for the property located at 28707 Ranch Rd 12, Dripping Springs, Texas 78620 per staff recommendations. Commissioner Garza seconded the motion which carried unanimously, 5 to 0.

Chair James stated that zoning is one of the most important things that the Planning and Zoning can do. When he looks at surrounding areas, the first thing that strikes him is we have a Hodge podge of zones in this area. This would be an expansion of LR on Ranch Road 12.

Jason stated that this would be an expansion on the existing zoning district.

Chair James asked if we received any comment from adjacent neighbors.

Jason Lutz stated that we have not received any comments at the time of package distribution or today.

Chair James stated it is another single lot zoning and he isn't fond of those but it is adjacent to a lot zoned LR to the south. It is a little consistent with the property to the south so he doesn't think we are getting to far away with a single lot zoning.

**K. Discuss and consider approval of a Resolution of Support regarding the proposed Rob Shelton Boulevard Gap Elimination and Connectivity Pedestrian Improvements TASA Set Aside Program Project funding application.**

This item was previously discussed and acted on.

**L. Public hearing, consideration, and recommendation regarding proposed amendments to the City's adopted City-Wide Trails Plan Map.**

This item was previously discussed and acted on.

**M. Discuss and consider approval of a Resolution of Support regarding the proposed TxDOT Safe Routes to School/Transportation Alternatives Program Dripping Springs Middle School SRTS/TASA Safety and Connectivity Improvements Project funding application.**

This item was previously discussed and acted on.

**N. Public hearing, consideration, and recommendation regarding proposed amendments to the City's adopted Master Transportation Plan Map.**

This item was previously discussed and acted on.

**O. Public hearing, consideration, and recommendation regarding proposed amendments to Chapter 28, Article 28.03 Parkland Dedication.**

- 1. Staff Report*
- 2. Public Hearing*
- 3. Parkland Dedication Amendments*

A motion was made by Vice Chair Martin to table the proposed amendments to Chapter 28, Article 28.03 Parkland Dedication. Commissioner Garza seconded the motion which carried unanimously, 5 to 0.

**V. REPORTS OF STAFF AND AGENCIES**

*No action to be taken.*

**A. Planning Projects**

**VI. EXECUTIVE SESSION**

*The Planning and Zoning Commission for the City of Dripping Springs has the right to adjourn into executive session at any time during the course of this meeting to discuss any matter as authorized by Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), and 551.086 (Economic Development). The Planning and Zoning Commission for the City of Dripping Springs may act on any item listed in Executive Session in Open Session or move any item from Executive Session to Open Session for action.*

The Commission did not meet in Executive Session.

**VII. UPCOMING MEETINGS**

**A. Planning & Zoning Commission Meetings**

July 23, 2019 - 6:30 p.m.  
August 27, 2019 - 6:30 p.m.  
September 24, 2019 - 6:30 p.m.

**B. City Council Meetings**

July 9, 2019 - Workshop at 6:00 p.m. / Regular Meeting at 6:30 p.m.  
July 16, 2019 - 6:00 p.m. (Tentative)  
August 13, 2019 - Workshop at 6:00 p.m. / Regular Meeting at 6:30 p.m.

**VIII. ADJOURN**

A motion was made by Commissioner Hubbard to adjourn the meeting. Vice Chair Martin seconded the motion which carried unanimously, 5 to 0.

This regular meeting adjourned at 8:36 P.M.

