



KENNEDALE
Planning and Zoning Commission
www.cityofkennedale.com

KENNEDALE PLANNING & ZONING COMMISSION
AGENDA
COMMISSIONERS - REGULAR MEETING
February 16, 2017
CITY HALL COUNCIL CHAMBERS, 405 MUNICIPAL DRIVE

WORK SESSION - 6:00 PM
REGULAR SESSION - 7:00 PM

I. CALL TO ORDER

II. ROLL CALL

III. WORK SESSION

- A. Discuss any item on the regular session agenda
- B. Discuss regulations for food trucks and other mobile food vendors
- C. Discuss the city's tree protection and tree removal regulations

IV. REGULAR SESSION

V. CALL TO ORDER

VI. ROLL CALL

VII. MINUTES APPROVAL

- A. Consider approval of minutes from the January 19, 2017 Planning & Zoning Commission regular meeting

VIII. VISITOR/CITIZENS FORUM

At this time, any person with business before the Planning and Zoning Commission not scheduled on the Agenda may speak to the Commission, provided that an official 'Speaker's Request Form' has been completed and submitted to the Commission Secretary prior to the start of the meeting. All comments must be directed towards the Chair, rather than individual commissioners or staff. All speakers must limit their comments to the subject matter as listed on the 'Speaker's Request Form.' No formal action can be taken on these items.

IX. REGULAR ITEMS

A. **CASE # PZ 17-04** to hold a public hearing and consider approval of Ordinance 622 regarding an amendment to the Unified Development Code, as adopted by Ordinance 605, to amend Article 10 *General Provisions for All Districts*, Section 10.17 "Walls and Fences" and Article 13 *Landscaping, Screening, and Lighting*, Sections 13.6 "Buffering" and 13.8 "Screening."

1. Staff presentation
2. Public hearing
3. Staff response and summary
4. Action by the Planning & Zoning Commission

X. REPORTS/ANNOUNCEMENTS

- A. Update on Planning & Zoning Commission cases

XI. ADJOURNMENT

In compliance with the Americans with Disabilities Act, the City of Kennedale will provide for reasonable accommodations for persons attending City Council meetings. This building is wheelchair accessible, and parking spaces for disabled citizens are available. Requests for sign interpreter services must be made forty-eight (48) hours prior to the meetings. Please contact the City Secretary at 817.985.2104 or (TDD) 1.800.735.2989

CERTIFICATION

I certify that a copy of the February 16, 2017, Planning and Zoning Commission agenda was posted on the City Hall bulletin board next to the main entrance of the City Hall building, 405 Municipal Drive, of the City of Kennedale, Texas, in a place convenient and readily accessible to the general public at all times and said agenda was posted at least 72 hours preceding the schedule time of said meeting, in accordance with Chapter 551 of the Texas Government Code.



Rachel Roberts, Board Secretary



STAFF REPORT TO THE BOARD OF DIRECTORS

Date: February 16, 2017

Agenda Item No: WORK SESSION - A.

I. Subject:

Discuss any item on the regular session agenda

II. Originated by:

III. Summary:

Under this agenda item, the Commission members may discuss any item on the regular session agenda, but no action may be taken on those items.

IV. Notification:

V. Fiscal Impact Summary:

VI. Legal Impact:

VII. Recommendation:

VIII. Alternative Actions:

IX. Attachments:

Date: February 16, 2017

Agenda Item No: WORK SESSION ITEMS (B)

I. SUBJECT

Discuss regulations for food trucks and other mobile food vendors.

II. SUMMARY

BACKGROUND AND OVERVIEW

Permits and planning staff field inquiries several times a year from vendors interested in operating food trucks or other temporary food establishments (such as mobile snow cone stands or barbecue stands), and we also hear of community members interested in having food trucks come to Kennedale. At this time, though, food trucks are only allowed at special civic events, such as the Brickworks Festival and the food truck events hosted by the Youth Advisory Council. But with the growing popularity of food trucks, many cities have adopted regulations allowing them.

I looked at regulations from around the country, as well as reports concerning these kinds of regulations. A summary of the information studied is below, along with a list of recommended regulations, in case the Commission is interested in moving forward with considering an ordinance to food trucks.

SUMMARY OF REGULATIONS FROM OTHER LOCAL GOVERNMENTS

Regulations for food trucks across the country tend to focus on four topics: economic competition; public health; safety; and the use of public space. Staff recommends adopting regulations that fall under each of these four topics.

Economic competition. Existing restaurants tend to be anxious about the competition from mobile food vendors. The most common approach cities seem to take to address this concern is to require food trucks to maintain a minimum distance from existing restaurants unless they have written permission from the restaurant.

Public health. Food trucks are generally required to have a license from the local food safety/public health office. Many cities also require food truck operators to show documentation that they are using a commissary for food preparation daily, and they usually have a variety of sanitation and food handling requirements.

Public safety. Some cities require a spacing distance from schools during the schools' open hours, which helps with pedestrian and child safety. Some also have regulations based on traffic safety and visibility, just as you might see for standard commercial development.

Use of public space. Cities seem to be fairly divided on whether to allow food trucks to use public space. Typically, the public space most used by food trucks is space on public streets and at public parking meters, but these are typically in areas with a dense, highly-used downtown and a lot of foot traffic. In Kennedale, where we don't have a dense downtown or a lot of pedestrian traffic in commercial areas, a food truck parked on the street would simply block traffic flows, rather than providing a service.

PROPOSED REGULATIONS

SUGGESTED REGULATIONS FOR MOBILE FOOD VENDORS

If the Commission would like to formally consider regulations for food trucks, staff would bring forward an ordinance incorporating the regulations below. We would like to get feedback from the Commission before creating an ordinance based on these suggestions.

PERMIT REQUIREMENTS.

Staff recommends requiring a mobile food vendor permit based on the type of operations. This approach is used by a number of cities, and it makes sense to have different permits for different types of food businesses. For example, a vendor selling only pre-packaged food is unlikely to need the same level of regulation as a vendor selling food prepared in the truck. The mobile food vendor (MFV) permit would be required in place of a business license, which the city requires for each business based in (with permanent operations in) Kennedale.

Staff anticipates the following types of mobile food vendors may want to operate in Kennedale.

- Lunch truck – sells pre-packaged food prepared elsewhere (e.g., sandwiches packaged in individual plastic sleeves), either by a wholesale manufacturer or in a licensed commercial kitchen;
- Ice cream truck – sells pre-packaged food prepared elsewhere by a manufacturer; no food is prepared in the truck; ice cream trucks selling food prepared by the vendor would be classified as a food trucks (see below);
- Catering truck –brings food prepared off-site to a private property for a specific catered event; would not be permitted to (and typically does not) sell the food from the truck; the truck is only used to transport the food to the event;
- Produce truck – sells only whole produce; no prepared food or pre-cut fruit would be permitted to be sold
- Food preparation truck – sells food prepared by the vendor, either in a commissary or in the truck; food is not pre-packaged; this would include mobile snow cone stands and barbecue stands.

We recommend not permitting push carts.

ZONING REQUIREMENTS.

At this time, staff recommends that ice cream trucks and catering trucks be allowed in any zoning district, with catering trucks not requiring a permit (but required to meet certain operational requirements related to where they park, noise levels, etc.). Lunch trucks, produce trucks, and food preparation trucks should be

restricted to commercial-type and industrial zoning districts.

PERMISSIONS FROM PROPERTY OWNERS AND SUITABILITY OF SITES. Staff recommends that mobile food vendors who want to stop and sell in one location for a period of time (in contrast to ice cream trucks that would stay moving until flagged down by a customer) should be required to submit a signed, notarized agreement from property owners that are allowing the vendor to use their property. The sites will be required to have an existing building with an existing business and a valid certificate of occupancy. The site will need to have enough parking for the existing use plus the food vendor. If the food vendor will be on site for more than two hours, the property owner will also need to agree (in writing) to allow the food vendor and his or her employees to use the business's restroom facilities. Finally, we recommend a restriction on the number of food trucks that can be located on one property (staff recommends no more than two at this time).

HOURS OF OPERATION.

To prevent food trucks from creating a noise nuisance while operating near residential areas, staff recommends limiting hours of operation for properties within 300 feet of a property in residential use. In addition, because we recommend requiring food trucks to have permission to use an existing business's restroom if they'll be parking in one site for at least two hours, then we recommend also requiring these same businesses to close operations no later than two hours after the existing business closes.

DISTANCE FROM EXISTING RESTAURANTS.

Staff recommends mobile food vendors be required to be located at least 100 feet from an existing brick-and-mortar restaurant unless the restaurant agrees in writing to a shorter distance. The distance would be measured from property line to property line.

TRUCK/STAND TO BE MOVED.

Food trucks can be a way for entrepreneurs to get started in the food industry, and staff wants to help business owners get started, but we want to discourage use of food trucks as a way of avoiding buying or building a permanent structure. In other words, mobile food businesses should be *mobile*, and businesses should not use a structure intended to be mobile in a permanent location. We therefore recommend that food trucks be prohibited from locating in one place for more than eight hours at a time (for trucks with a private property owner agreement; all others would not be allowed to remain in one location).

PERMIT REQUIREMENTS.

Due to the review process and oversight needed for these kinds of permits, staff recommends setting a mobile food vendor permit fee of \$200 annually for any food preparation trucks, produce trucks, and lunch trucks. Catering trucks and ice cream trucks would not require a mobile food vendor permit, but they would be required to abide by regulations the city would adopt and obtain any other required permits.

As part of the permit application, the city should require proof of insurance and current registration for the vehicle(s) and copies of drivers' licenses for anyone who would be operating the vehicle(s). The vendor will also need to submit a site plan showing proposed location, proposed customer parking, proposed number days/hours at a location, etc.

ADDITIONAL REQUIREMENTS.

Staff recommends the following additional regulations.

- Mobile food vendors should be located at least 300 feet from schools during school hours (for pedestrian and traffic safety).
- They should be required collect and dispose of all trash generated by their operations or their customers.
- Outdoor seating should be prohibited.
- No signs should be permitted except those attached to the vehicle at all times.
- No sound amplification should be permitted.
- The city should establish a time limit for seasonal mobile food vendors such as snow cone stands, e.g., may be at the same location each day for up to 8 hours per day for a period of up to 4 months.
- Non-seasonal mobile food vendors may be located on the same private property for up to 8 hours per day for up to 8 days per month.
- Mobile food vendors:
 - Must not be located within 50 feet of another mobile food vendor not on the same property;
 - Must be located at least 15 feet from any fire hydrant;
 - Must not be located within any area of the lot that impedes, endangers, or interferes with pedestrian or vehicular traffic;
 - Must be at least 5 feet from the edge of any driveway or sidewalk;
 - Must park on improved surface (asphalt or concrete).
- If the business will be located within 300 feet of a residential property, any exterior lighting should be shielded so as not to be directly visible from the residential use.
- Drive-through service should be prohibited.
- For any food truck that will be parked in one location (except for catering trucks), the vehicles should be allowed only on private, commercially-zoned property. Mobile food vendors should not be permitted to operate on public property except at city-sponsored special events (note: this should not be used to prohibit ice cream trucks from using city streets).

NEXT STEPS BY THE PLANNING & ZONING COMMISSION

Based on input from the Planning & Zoning Commission, staff should be able to bring an ordinance for your consideration in March or April.



STAFF REPORT TO THE BOARD OF DIRECTORS

Date: February 16, 2017

Agenda Item No: WORK SESSION - C.

I. Subject:

Discuss the city's tree protection and tree removal regulations

II. Originated by:

III. Summary:

During the Commission's meeting in January, Chairman Harvey requested this item be placed on a future work session agenda.

IV. Notification:

V. Fiscal Impact Summary:

VI. Legal Impact:

VII. Recommendation:

VIII. Alternative Actions:

IX. Attachments:



STAFF REPORT TO THE BOARD OF DIRECTORS

Date: February 16, 2017

Agenda Item No: MINUTES APPROVAL - A.

I. Subject:

Consider approval of minutes from the January 19, 2017 Planning & Zoning Commission regular meeting

II. Originated by:

Rachel Roberts, City Planner

III. Summary:

The minutes from January's meeting are enclosed for your consideration.

IV. Notification:

V. Fiscal Impact Summary:

VI. Legal Impact:

VII. Recommendation:

Approve

VIII. Alternative Actions:

IX. Attachments:

1.	01.19.2017 PZ Minutes	01.19.2017 PZ Minutes.pdf
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**KENNEDALE PLANNING & ZONING COMMISSION
MINUTES
COMMISSIONERS - REGULAR MEETING
January 19, 2017
CITY HALL COUNCIL CHAMBERS, 405 MUNICIPAL DRIVE**

I. CALL TO ORDER

Chairman Harvey called the work session to order at 6:04 P.M.

II. ROLL CALL

PLACE	COMMISSIONER	PRESENT	ABSENT
1	Carolyn Williamson	x	
2	Chris Pugh	x	
3	Stephen Brim	x	
4	Thomas Pirtle, Vice-chair		x
5	Harry Browne		x
6	Ernest Harvey, Chair	x	
7	Patrick Filson	x	
8	Horace Young, Alternate	x	
9	Greg Adams, Alternate	x	

A quorum was present. Mr. Young and Mr. Adams served as regular members for the work session.

Staff present: Rachel Roberts

III. WORK SESSION

A. Discuss any item on the regular session agenda

Mr. Harvey asked for clarification on the proposed changes to tree protection regulations. Ms. Roberts described the proposed changes.

B. Presentation from OM Housing on possible project in Kennedale

Ms. Roberts introduced the speaker. Jason Lain, 409 Yacht Club Dr, Rockwall, gave a presentation on behalf of OM Housing. They are looking to build a mixed-use development on sixteen acres at 137 Kennedale Pkwy, at Kennedale Parkway and Kennedale Sublett Rd. He said they would not be asking for any fee waivers or any waivers from the city's regulations and would build a LEED-certified project. He said they would develop build-ready retail pads, which would lower the cost for retail development, and the project would bring 150+ construction jobs and 50+ permanent jobs. The property would be zoned Urban Village. He said it is a challenging site with steep slopes and floodplain, and there's a retail void in the area. He said it would have four acres of retail/commercial, 3.3 acres of townhomes or office, and 8.6 acres to accommodate 152 apartment homes. Mr. Laid said they had revised the site plan substantially after last year, which now includes a proposed public boulevard running through the site.

The Commission asked a number of questions about the concept plan, asking about the number and price range of townhomes, parking, proposed zoning, height of apartment buildings and minimum square footage of the units, amount of green space, and number of access points on Sublett Rd.

Mr. Adams said he'd seen OM Housing's presentation to City Council and that he thought one point of confusion is that people think it's going to be Section 8 Housing. Mr. Lain said that the project is not Section 8 housing, and it's not government-subsidized housing. He said the tax credit program is a financing tool originally set up under Ronald Reagan, and it gives developers housing credits that are then used by large banks. The banks invest in the housing credits in order to lower their tax burden, and it provides developers with a base of equity so they can build to a higher standard. He said it's simply a financing tool.

Mr. Young asked if there were any plans specifically for the elderly or retired population. Mr. Lain said this development would be open for the general population, but they typically market to the city service population, veterans for example, and they do market to seniors. Deepak Sulakhe of OM Housing said that they have a lot of one-bedroom units, which tend to be more popular with seniors. He added that residents have to have a credit check, and they have to meet a certain income level in order to live there.

Mr. Pugh asked the developers if they have anything in place so we don't have empty storefronts. Mr. Lain said they are partnering with a retail developer and are trying to figure out what to target for the area. Mr. Sulakhe said what they're committing to doing now is to build the main spine road and to having all that developed with utilities in place. He said that would make the land base [cost] for the retail substantially reduced.

Mr. Sulakhe asked if they could have a separate work session with the Commission to talk through some of the Commission's ideas, and Mr. Harvey said yes. He added that they like the improvements seen to the concept plan so far.

C. Discuss items for future consideration, including regulations for food trucks

Ms. Roberts told the Commission that they had been getting inquiries from vendors about the possibility of allowing food trucks in Kennedale. She said with the growing popularity of food trucks, she wanted to know if the Commission would be interested in adopting regulations that would allow them. The Commission was interested in seeing some ideas on the topic, and Ms. Roberts said she would bring them some recommendations.

Chairman Harvey closed the work session at 7:01 P.M.

IV. REGULAR SESSION

V. CALL TO ORDER

Chairman Harvey called the regular session to order at 7:01 P.M.

VI. ROLL CALL

PLACE	COMMISSIONER	PRESENT	ABSENT
1	Carolyn Williamson	x	
2	Chris Pugh	x	
3	Stephen Brim	x	
4	Thomas Pirtle, Vice-chair		x
5	Harry Browne		x
6	Ernest Harvey, Chair	x	
7	Patrick Filson	x	
8	Horace Young, Alternate	x	
9	Greg Adams, Alternate	x	

A quorum was present. Mr. Young and Mr. Adams served as regular members for the regular session.

VII. MINUTES APPROVAL

A. Consider approval of minutes from the December 15, 2016 regular meeting of the Planning & Zoning Commission

Mr. Adams made a motion to approve the minutes, seconded by Mr. Young. The motion passed with all in favor except Mr. Brim and Mr. Harvey, who both abstained.

VIII. VISITOR/CITIZENS FORUM

A. Presentation and discussion with governmental delegation from Cambodia

Mr. Hong Muyheng, who visited Kennedale a year and a half ago as part of a city management fellowship program, introduced the delegates from Cambodia. The delegates included a provincial governor and a district governor.

IX. REGULAR ITEMS

A. Case # PZ 17-01 to hold a public hearing and consider approval of Ordinance 620 regarding a zoning change from "C-1" Restricted commercial district and "R-3" Single family residential district to "EC-2" Employment District Office and Service district for an approximately 2.54 acre tract located at 5400-5424 High Ridge Rd and 5401-5417 Kennedale St, legal description of Lot 1R, Block 5, Oak Crest, Kennedale, Tarrant County, Texas.

Staff presentation

Ms. Roberts described the site, which is surrounded by the I-20 frontage road to the north and by commercial uses to the west and east. She said the rezoning conformed to the comprehensive land use plan, the strategic plan, and the City Council's goals. She recommended approval.

Mr. Pugh asked where the main entry would be if a hotel were to be built here, adding that the frontage road traffic already backs up. Ms. Roberts said they don't have any plans for it yet, but she would prefer the main entrance be located off Link or High Ridge. She said she didn't think they would want to see the main entry off of I-20. Mr. Harvey added that TxDOT has plans for I-20 that might prevent an entry there.

Public hearing

Jan Joplin, 204 Hlltop Dr, asked if there is any single family there now. Ms. Roberts said the property is vacant.

Staff response and summary

Ms. Roberts recommended approval.

Action by the Planning & Zoning Commission

Ms. Williamson said she found the request meets city requirements and the comprehensive land use plan and made a motion to approve. Mr. Filson seconded the motion. The motion passed with all in favor except Mr. Harvey, who abstained.

B. Case # PZ 17-02 to hold a public hearing and consider approval of Ordinance 621 regarding an amendment to the Unified Development Code, as adopted by Ordinance 605, to amend Article 5 Village Districts Section 5.3 Form and Character to add building materials standards; to amend Article 20 Natural Resource Management Sections 20.4.B and 20.4.C to amend tree protection requirements; and to amend Article 13 Landscaping, Screening, and Lighting Section 13.6.C.3 Privacy Fence to amend regulations on buffering.

Staff presentation

Ms. Roberts said that as city staff have been working with the new Unified Development Code, they have discovered some errors and some sections that are not as clear as they should be in order to have an

easy-to-use document like they wanted. She said they may be bringing additional recommendations for amendments in the future and then described the changes in the proposed ordinance.

Mr. Harvey said it needs to be clear that you need to get a permit to remove trees even if you can grade after approval of a preliminary plat, and Mr. Brim suggested they just add a tree survey requirement to the preliminary plat application, which Ms. Roberts said they could do. Mr. Harvey said he was concerned about the tree protection exemption for roadways and asked that tree protection be added to a future work session for discussion.

The Commission discussed the proposed amendments and also asked that the UDC specify that wooden privacy fences must have metal framing and metal fences. The Commission also wanted a specific permitted materials list of wood, exposed aggregate tilt wall, fired masonry, or other approved masonry material, and wanted to add a requirement that a privacy fence be a minimum of six feet in height and a maximum of eight feet in height.

Public hearing

No one registered for the public hearing.

Staff response and summary

Staff recommended approval.

Action by the Planning & Zoning Commission

Mr. Filson made a motion to approve to include amendments as written by Ms. Roberts for Section 1 of the ordinance. Ms. Williamson seconded the motion.

Mr. Young asked if Mr. Filson had included the case number, and Mr. Harvey restated Mr. Filson's motion with the case number. The motion passed with Mr. Harvey abstaining, Mr. Pugh opposed, and the other Commission members in favor.

X. REPORTS/ANNOUNCEMENTS

Ms. Roberts gave an update on the progress of the new buildings at TownCenter and on the Planning & Zoning Commission cases that had recently gone before City Council. She also said there would be a birding workshop on January 21.

Mr. Harvey said that Kennedale Mountain is on the fisheries list for Texas Parks & Wildlife, so it does get stocked just like Sonora Park.

XI. ADJOURNMENT

Mr. Brim made a motion to adjourn, seconded by Mr. Adams. The motion passed with all in favor except Mr. Harvey, who abstained, and the meeting adjourned at 7:51 P.M.

ATTEST:

Ernest Harvey, Chair

Rachel Roberts, Board Secretary

Date

Date

STAFF REPORT TO THE PLANNING & ZONING COMMISSION

Date: February 16, 2017

Agenda Item No: REGULAR ITEMS (A)

I. SUBJECT

CASE # PZ 17-04 to hold a public hearing and consider approval of Ordinance 622 regarding an amendment to the Unified Development Code, as adopted by Ordinance 605, to amend Article 10 General Provisions for All Districts Section 10.17 "Walls and Fences" and Article 13 Landscaping, Screening, and Lighting Sections 13.6 "Buffering" and 13.8 "Screening."

II. SUMMARY

BACKGROUND AND OVERVIEW

Request	Amend UDC
Applicant	City of Kennedale
Staff Recommendation	Approve

BACKGROUND & OVERVIEW

Last month, the Planning & Zoning Commission approved changes to the screening regulations in the Unified Development Code. At that time, you also discussed possible future changes to those regulations. And when the ordinance was considered by City Council later that month, one of the Council members requested the Planning & Zoning Commission consider regulations for when a site isn't screened as intended because changes in a property's topography. The ordinance you are considering addresses the Commission's and Council's requests for changes to the UDC and also improves some organization to the changes approved last month.

STAFF REVIEW

Description of recommended changes

Fencing materials

The proposed ordinance would require metal posts and metal framing for wooden privacy fences. It would also require the fences used for buffering between incompatible zoning districts to be extend downward to within three (3) inches of the ground and to test plumb at all times. And finally, it would amend Section 13 to reference (require) the fence materials required under Article 10 of the UDC (it was implied before that these materials were required, but the proposed amendment would make that requirement explicit).

Height of screening fence

Section 6 of the ordinance would require a berm or retaining wall to be used in addition to a screening fence when changes in a property's topography would result in materials or property being seen from the right-of-way despite the use of a screening fence.

STAFF RECOMMENDATION

Staff recommends approval.

ACTION BY THE PLANNING & ZONING COMMISSION

Approval: Based on the information presented, I find that the request meets city requirements for amending the UDC and make a motion to approve Ordinance 622.

Approval with Conditions: Based on the information presented, I find that the request meets city requirements for amending the UDC and make a motion to approve Ordinance 622.

Deny: Based on the information presented, I find that the request does not meet city requirements and make a motion to deny the request.

ORDINANCE NO. 622

AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT CODE OF THE CITY OF KENNEDALE, TEXAS BY AMENDING ARTICLE 13, LANDSCAPING, SCREENING, AND LIGHTING, SECTION 13.6 BUFFERING AND SECTION 13.8 SCREENING; BY AMENDING ARTICLE 32 GENERAL DEFINITIONS, SECTION 32.2 GENERAL DEFINITIONS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Kennedale is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5, of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council has adopted a Unified Development Code that regulates the location and use of buildings, other structures and land for business, industrial, residential or other purposes, for the purpose of promoting the public health, safety, morals and general welfare, all in accordance with a comprehensive plan and that otherwise regulates the development and use of properties within the city limits of the City of Kennedale; and

WHEREAS, in order to promote the public health, safety and general welfare the City Council desires to amend the Unified Development Code as provided in this ordinance; and

WHEREAS, the Planning and Zoning Commission of the City of Kennedale, Texas held a public hearing on February 16, 2017, and the City Council of the City of Kennedale, Texas held a public hearing on February 27, 2017, with respect to the amendments described herein; and

WHEREAS, the City has complied with all requirements of Chapter 211 of the Local Government Code, Section 22 of the Unified Development Code, and all other laws dealing with notice, publication, and procedural requirements for amending the Unified Development Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KENNEDALE, THAT:

SECTION 1.

Sub-section 10.17.G.1.a of Section 10.17 "Materials" of Article 10, "General Provisions for All Districts" of the Unified Development Code of the City of Kennedale, Texas, as

amended, is hereby amended to read as follows:

- a. Wood fences must have metal posts and metal framing.

SECTION 2.

Sub-section 10.17.G.1.d of Section 10.17 “Materials” of Article 10, “General Provisions for All Districts” of the Unified Development Code of the City of Kennedale, Texas, as amended, is hereby amended to read as follows:

- d. Walls and fences, including gates, shall be constructed of new, durable, weather-resistant, rustproof, and easily maintainable materials customarily used in the construction of walls and fences, such as wood, wrought iron, exposed aggregate tilt wall, fired masonry, or wood rail construction. This shall not preclude the use of decorative metal materials when consistent with the intent of this section, the character of the area in which the fence is to be placed, and as approved by the Administrator.

SECTION 3.

Sub-section 13.6.A “Buffering” of Article 13, “Landscaping, Screening, and Lighting” of the Unified Development Code of the City of Kennedale, Texas, as amended, is hereby amended by adding sub-section 7 to read as follows:

- 7. For development within an “I” Industrial zoning district or within a “C-2” general commercial zoning district adjacent to a Type 1 zoning district (as shown in Table 13.6), a solid screening fence is required, and the minimum landscaping requirement shall be reduced by in accordance with Section 13.6.C.3.
 - a. The fence shall have a minimum height of six (6) feet and a maximum height of eight (8) feet.
 - b. The fence shall be of the following materials: wood, exposed aggregate tilt wall, fired masonry, or other approved masonry material. Wood screening fences must have metal framing.
 - c. A person erecting a wood screening fence shall ensure that the smooth side faces adjoining streets and the posts and rails face the interior of the lot.
 - d. Compliance with the buffering and screening requirements shall be the responsibility of the owner or property owner of the development within the “I” Industrial or “C-2” general commercial district.
 - e. The fence shall extend downward to within three (3) inches of the ground and shall test plumb and square at all times.

SECTION 4.

Sub-section 13.6.C.3 “Privacy Fence” of Article 13, “Landscaping, Screening,

and Lighting” of the Unified Development Code of the City of Kennedale, Texas, as amended, is hereby amended to read as follows:

3. Privacy Fence.

A. A privacy fence may be used to supplement landscaping. For the linear footage a privacy fence is used, the minimum landscaping requirement shall be reduced by 75 percent for “C-1” Restricted commercial zoning districts and by 50 percent for “C-2” General commercial and “I” Industrial zoning districts. Minimum buffer width must be maintained.

B. To qualify for the reduction in minimum landscaping requirement, privacy fences must meet the following requirements:

1. Six (6) foot minimum height.
2. Placed at least five (5) feet from the property line.
3. Gaps between pickets must be no greater than one-half ($\frac{1}{2}$) of an inch.
4. Materials shall be as required under 13.6.A.7.b regardless of zoning district.
5. A person erecting a wood screening fence shall ensure that the smooth side faces adjoining streets and the posts and rails face the interior of the lot. Wood fences shall have metal posts and framing.
6. The privacy fence shall extend downward to within three (3) inches of the ground and shall test plumb and square at all times.

SECTION 5.

Sub-section 13.8.F.3 “Fences” of Article 13, “Landscaping, Screening, and Lighting” of the Unified Development Code of the City of Kennedale, Texas, as amended, is hereby amended as follows:

Fences. Fences shall be constructed of materials as described in Section 10.17.G.1.

SECTION 6.

Section 13.8 “Screening” of Article 13, “Landscaping, Screening, and Lighting,” of the Unified Development Code of the City of Kennedale, Texas, as amended, is amended to add sub-section H and sub-section I, to read as follows:

H. Materials. Unless otherwise required by this code, fences or walls shall be constructed of materials as described in Section 10.17.G.1 of this code.

I. Height of screening materials. Height of materials used for screening shall not exceed eight feet; however, when changes in grade or topography allow materials or property that are required to be screened to be visible from the public right-of-way even after installation of the required

screening fence, then the fence shall be placed on a berm or retaining wall meeting city regulations to ensure the materials or property are not visible from the right-of-way. The berm or retaining wall and fence shall be installed so that the top and bottom fence lines are even and consistent at all times. In spite of the requirement that a berm or retaining wall shall be used, in no case shall the berm or retaining wall exceed a height determined by the building official to be safe.

SECTION 7.

This Ordinance shall be cumulative of all provisions of ordinances and of the Unified Development Code of the City of Kennedale, Texas (2016), except when the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such code, in which event the conflicting provisions of such ordinances and such code are hereby repealed.

SECTION 8.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clause, or phrase of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clause, and phrases of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional section, paragraph, sentence, clause, or phrase.

SECTION 9.

Any person, firm, or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00). Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 10.

All rights and remedies of the City of Kennedale are expressly saved as to any and all violations of the provisions of any ordinances governing zoning that have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 11.

The City Secretary of the City of Kennedale is hereby directed to publish in the official newspaper of the City of Kennedale the caption, the penalty clause, the

publication clause, and the effective date clause of this ordinance as provided by Section 3.10 of the Charter of the City of Kennedale.

SECTION 12.

This Ordinance shall be in full force and effect from and after the date of its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED ON THIS 27TH DAY OF FEBRUARY, 2017.

MAYOR, BRIAN JOHNSON

ATTEST:

CITY SECRETARY, LESLIE GALLOWAY

EFFECTIVE: _____

APPROVED AS TO FORM AND LEGALITY:

CITY ATTORNEY



STAFF REPORT TO THE BOARD OF DIRECTORS

Date: February 16, 2017

Agenda Item No: REPORTS/ANNOUNCEMENTS - A.

I. Subject:

Update on Planning & Zoning Commission cases

II. Originated by:

Rachel Roberts, City Planner

III. Summary:

At its meeting in January, the City Council voted to approve both Planning & Zoning cases as recommended by the Commission.

IV. Notification:

V. Fiscal Impact Summary:

VI. Legal Impact:

VII. Recommendation:

VIII. Alternative Actions:

IX. Attachments: