

**MINUTES  
OF THE MEETING OF THE  
CITY OF BENBROOK  
PLANNING & ZONING COMMISSION  
THURSDAY, SEPTEMBER 13, 2007**

The regular monthly meeting of the Planning & Zoning Commission of the City of Benbrook was held on Thursday, September 13, 2007, at 7:30 p.m. in the Council Chambers at 911 Winscott Road with the following members present:

Joe Hughes  
Bret Early  
David Ramsey  
John Dawson  
Dian Price  
Sanjiv Shah  
Larry Marshall

Also Present:

Ed Gallagher, City Planner  
Sue Clark, Recording Secretary  
Bob Rowley, City Engineer  
Dan Tully, Councilmember  
Keith Bailey, Councilmember  
Ron Sauma, Councilmember  
Ron Rainey, Director EDC  
Tom Eudaly  
Thomas Johnson  
Pat Grey  
Dan McGinnis  
Katharine Bradshaw  
Melisa Shores  
John Larson  
James Webb  
Gail Milton  
John Martinez  
Ken McCormick  
Ann Slover  
Pat McSwain  
Rodney Baker  
Gale Hebert  
Larry Campbell  
Patrick Petitt  
Tony Cummings  
John Martinez  
M.B. Lee  
Gloria Cummings  
Helena Van Heiningen  
Clyde Taylor  
And approximately 40 others

## I. CALL TO ORDER

Chairman Bret Early called the meeting to order at 7:30 p.m.

## II. CONSIDERATION OF MINUTES

Regular Meeting – August 9, 2007

Motion by Dr. Marshall to approve the minutes of the August 9, 2007 regular meeting of the Planning and Zoning Commission as presented. Second by Mr. Shah. The Chair called the question.

Vote on the Motion:

Ayes: Ms. Price, Mr. Early, Mr. Hughes, Mr. Dawson, Dr. Marshall, and Mr. Shah

Noes: None

Abstain: Mr. Ramsey

Motion carried 6 – 0 - 1

## III. REPORTS OF CITY STAFF

### A. COMPREHENSIVE PLAN AMENDMENTS

**CP – 07 – 01      Consider Land Use Plan amendment of the Comprehensive Plan for Planning Area “C”, reducing Medium Density Multi-Family and increasing Commercial land uses (110, 112, 116, 118, and 120 Del Rio Avenue)**

The Chair introduced the item and asked for a presentation from the applicant.

Tom Eudaly, 2317 Perkins Place, Arlington, Texas, said that he is the applicant on this project and is also the developer on the project across Benbrook Boulevard at Benbrook Field Drive. They began to look at other areas along Benbrook Boulevard for other projects that would meet the criteria for some of these tenets since they will putting a traffic signal at Benbrook Field Drive, the increase in traffic resulting from the development, they have a limited number of pad sites in Benbrook, and to meet all of the current demand they are getting from interested national tenants.

Mr. Eudaly said that the old RaceTrac site, which has been vacant for a long time, has some development difficulties because of its triangular shape. They looked at the lots behind the site and have undertaken to put the lots on Del Rio Avenue under contract. Mr. Eudaly said they have talked at length with the owners of those properties about doing the project and that he would need to get a zoning change in order for them to complete the transaction.

Mr. Eudaly said they need this Land Use Plan amendment to request the zoning change. He said he thinks his request meets the Comprehensive Plan change such as greater depth along Benbrook Boulevard to bring quality tenants. At the expense of the land on Benbrook Boulevard, it is high quality, national tenants that would be drawn to this area, and would improve the properties dramatically both from a taxes standpoint as well as a quality development. They are looking to take two to possibly three access points with difficult

access onto Benbrook Boulevard and make those into one single access point for two pad sites on the Benbrook Boulevard frontage. He said they have also talked to the owners to the north of the site about taking a little strip of their property and also allowing them to have cross access to that one point. Mr. Eudaly said their ultimate goal would be to provide access to another user, which he thinks would help in the impact that some of these owners are going to encounter with the limited access resulting from a future median on Benbrook Boulevard.

Mr. Eudaly said there are some topography issues on the site and the property will have to be raised up to the level of Benbrook Boulevard, which is expensive. They are looking to see if they can make those numbers work and work with the market and provide something that would be beneficial to the City.

Mr. Early asked Mr. Eudaly about the types of businesses that might come to Benbrook with and without the requested changes to the land use plan and rezoning. Mr. Eudaly said without the change, the property has been under contract three times in the last two years and nobody has been able to get the project that would work on the site. He said the projects either did not fit or there are residential adjacency issues and they are not able to get the projects to work. They have been talking to national restaurant chains and the Benbrook Economic Development Corporation has been trying to get restaurant chains on their site up the street and it is difficult because the sit-down restaurants and national chains require a lot of parking. Mr. Eudaly said the restaurants have very specific site requirements and if you do not meet them, they do not come. He said the restaurants that can pay the money to pay the land values that are currently on Benbrook Boulevard would have to be high quality national tenants with a strong credit rating; otherwise they are just available to afford this kind of price point and those would be commercial uses, retail uses, and restaurant type uses that would be of a high quality and basically what they call in the industry, "high payers". Mr. Eudaly said, at these prices it is not going to be a little insurance agent that is going to be able to afford to buy a building as the prices are quite exorbitant.

Mr. Ramsey asked Mr. Eudaly how much of an elevation change there is from Del Rio Avenue to raise it up to Benbrook Boulevard. Mr. Eudaly said at varying points, between ten and twelve feet would be required and they would like to do a tiered retaining wall instead of a straight up and down wall. Mr. Eudaly said they have plenty of dirt for the project from some of the anticipated bigger projects on Benbrook Field Drive and from some other developments in town that they know about. It will cost about \$350,000 for the dirt alone, not including the wall.

Mr. Hughes asked how the traffic signal mentioned earlier would connect with this project. Mr. Eudaly said the light would be about two-thirds of the way from the south to the north on the current RaceTrac site.

Ms. Price asked if piers would be required for the buildings since fill is to be brought in for the site. Mr. Eudaly said the fill is "walked in" which is an engineering way to bring the dirt in a foot at a time and do testing at each level so that you assure that the foundation is solid.

The Chair asked for any further questions from the Commission. There being none, the Chair asked for a report from the Staff.

Mr. Gallagher said Planning Area "C" is the 1,717-acre area between Benbrook Boulevard and the Trinity River, and extending south from Loop 820 to the Corps of Engineers lake property. Tom Eudaly and Trinity Partners are requesting a change from Medium Density

Multifamily to Commercial for a 1.38-acre area along the west side of Del Rio Avenue by extending the Commercial area fronting on Benbrook Boulevard to Del Rio Avenue.

The 1.38-acres involved represent a relatively small change in the 1,717-acre planning area and a reduction of ten potential medium density dwelling units. The change would cause only a very slight reduction of the current 21.41 land percentage for multifamily uses throughout the City.

Mr. Gallagher said the amount of land designated to change in each of the two use categories not significant. More significantly, however, is the proposed encroachment of a potentially incompatible land use into an existing residential neighborhood.

Principle 3.2.1 in Section 5, Goals, Objectives and Strategies of the Comprehensive Plan states, "Site design techniques, such as buffers or screens, access and building orientation, should be employed to mitigate negative intrusions on residential areas." Principle 3.2.1 also appears in Section 6, Land Use of the Comprehensive Plan in 6.3.1, Protection of Existing Neighborhoods.

Mr. Gallagher said the existing and planned land use to the north and west of the proposed change is commercial, but the existing land use to the east and south is low density residential and the planned land use is medium density residential. With the proposed amendment, homes that now face or side to residential uses will face or side to commercial use. Considering the topography to the west, the most incompatible structure impacting the remaining residential neighborhood will be a rather tall retaining wall.

Mr. Gallagher said it is the Staff's opinion that following the guidance of Principal 3.2.1, the proposed Land Use Plan change can be accommodated provided adequate care is maintained on the design of the buffer, including retaining wall location and setback, retaining wall appearance, and landscaping. The buffering design techniques are appropriate considerations in the subsequent zoning approval.

Staff recommends that after a public hearing, the Planning & Zoning Commission recommend that the City Council adopt the proposed amendment to the Land Use Element of the Comprehensive Plan.

The Chair asked for any comments or questions from the Commission. There being none, the Chair opened the public hearing at 7:50 p.m. and asked if anyone wished to speak for or against the item.

Kathryn Bradshaw, 122 Del Rio, said she is not against the project but would like to know if it would flood the remaining houses. Ms. Bradshaw said, when the RaceTrac was built on the site, it put a lot of water on hers and other properties on Del Rio Avenue.

Mr. Eudaly said he is aware of the flooding issues when RaceTrac was built. RaceTrac had a set of building plans that they chose not to follow when they built the building and they actually took water off the roof of their building and directed on to the property behind the site. Mr. Eudaly said when their two sites are built, as part of the platting process, they will have to do a drainage study to show how the water will be handled and it will have to be approved by the City.

Pat Gray, 136 River Ranch Road, Aledo, Texas, said she would like to thank all the five families that were at the meeting. She said none of the families were looking to sell their

properties when they started this project and a lot of them are planning to relocate in Benbrook. She said she is excited that we have people that have vision to come in and do what they had been hoping would happen in Benbrook for the last 30 years. Ms. Gray said the developments will be like a door for people coming off of IH 20/Loop 820 onto Benbrook Boulevard and they will want to stop and shop instead of just getting gas and running through a fast food drive through.

Ms. Gray said one of the problems has been the lack of depth on the properties on Benbrook Boulevard. When Mr. Eudaly and his group came up with the idea of buying the adjacent lots on Del Rio Avenue, it seemed like an ideal situation. She said she hopes that the City will get some neat things that will be of great benefit to the City.

Ron Rainey, Executive Director of Benbrook Economic Development Corporation, said the EDC is not involved in this project but they are partnered with RichPenn on the projects across Benbrook Boulevard. Mr. Rainey said when they started the process with RichPenn three-and-one-half or four years ago, the EDC Board liked the way Rich Penn was looking into how they could enhance the entire corridor on Benbrook Boulevard/U.S. Highway 377. This particular property has been a challenge to develop because the price was high for property on Benbrook Boulevard. He said ten years ago the land prices were \$2 to \$10 per square-foot and today they are \$18 to \$35 per square-foot. Mr. Rainey said the creativity of this will allow development of this tract that may otherwise sit vacant for another several years.

Mr. Rainey said the cost of not only the subject property, the additional lots behind it, developing it, and putting in the retaining walls, will probably be slightly better than breaking even for the developers. He said it enhances the whole project and he thinks that is what the developers are trying to do and from that stand point, he supports the project and it will be a real attraction between KFC and Motel 6 and will fill that hole.

There being no further speakers, the Chair closed the public hearing at 7:56 p.m. and asked for any comments, questions, or a motion from the Commission.

Motion by Dr. Marshall that the Planning and Zoning Commission recommend that the City Council adopt the proposed Land Use Plan amendment of the Comprehensive Plan for Planning Area "C", reducing Medium Density Multi-Family and increasing Commercial land uses. Second by Ms. Price. The Chair called the question.

Vote on the Motion:

Ayes: Mr. Ramsey, Ms. Price, Mr. Hughes, Mr. Dawson, Dr. Marshall, Mr. Shah, and Mr. Early

Noes: None

Motion carried 7 – 0

The Chair said the item will be considered by City Council on October 18, 2007.

## **B. ZONING**

### **Z – 07 – 05      Consider rezoning of Lots 7, 8, 9, 10, and 11, Block 7, Benbrook Estates from “B” One Family District to “HC” Highway Corridor District (110, 112, 116, 118, and 120 Del Rio Avenue)**

The Chair introduced the item and asked for a presentation from the applicant.

Tom Eudaly, the applicant on the preceding item, said he did not have anything to add but would have some comments following the City Staff report.

The Chair asked for any questions from the Commission. There being none, the Chair asked for a report from the Staff.

Ed Gallagher said that Tom Eudaly is the applicant in Zoning Case Z-07-05, to rezone Lots 7 through 11, Block 7, Benbrook Estates from “B” One Family District to “HC” Highway Corridor District. Staff understands that the applicant has contracts to purchase each lot from the five current owners subject to rezoning. The rezoning application for the overall 1.38 acres on the west side of Del Rio Avenue is submitted in conjunction with Land Use Plan Amendment to change the Land Use Plan designation of the property to Commercial. With the Land Use Plan amendment, the rezoning would conform with the Plan and meet the requirements of Section 211.004 of the Local Government Code.

Mr. Gallagher said that with the rezoning, the five lots will be combined with the vacant adjacent Lot 17 fronting on Benbrook Boulevard to increase the depth of the highway frontage property. Collectively the five single-family zoned lots back and side to commercial zoned property with highway frontage to the west and north. The five lots adjoin residential property to the south and are across Del Rio Avenue from residential property.

The most significant consideration in the rezoning is the arrangement presented with the introduction of new commercial zoning along Del Rio Avenue and the neighboring residential property. Mr. Gallagher said that the anticipated commercial development will be oriented to Benbrook Boulevard. However, as presented, the commercial activity could be oriented to both the highway and Del Rio Avenue or just to Del Rio Avenue. Rezoning to extend the depth of the commercial zoning in a through pattern to Del Rio Avenue should include a prohibition of vehicular access to the residential street.

Mr. Gallagher said the extension of the commercial zoning pattern also introduces a visual impact on the remaining residential uses on Del Rio Avenue. With the topography of the new development it is expected to include a rather tall retaining wall facing the residential street. The retaining wall should observe a ten-foot setback on the south adjacent to the residential property and include an F1 bufferyard with the deletion of the fence. Approval should also include a requirement that the retaining wall observe the 25-foot front building line along the front of the five lots to maintain street symmetry and reduce the impact on residential property to the south. Mr. Gallagher said consideration should also be given to the appearance of the retaining wall and bufferyard landscaping to mitigate the negative impact on neighboring residential properties.

The appearance of the rear of a future building on the future commercial combined site presents a potential negative impact on the residential neighborhood. The negative impact can be mitigated with a screening wall along the top of the retaining wall in a manner to shield the building from the front yards of residential properties across Del Rio Avenue.

Mr. Gallagher said that, with favorable consideration of the CP-07-01 Land Use Plan amendment, the proposed rezoning will conform with the Plan and meet requirements of Section 211.004 of the Texas Local Government Code. Any recommendation to the City Council that the rezoning be approved should be conditioned on favorable action on the Land Use Plan amendment by both the Commission and City Council.

Staff recommends that after a public hearing, the Planning and Zoning Commission recommend that the City Council approve the zoning case Z-07-05, for the rezoning of Lots 7, 8, 9, 10, and 11, Block 7, Benbrook Estates from "B" One Family District to "HC" Highway Corridor District, subject to Planning and Zoning Commission recommendation and City Council approval of Land Use Plan amendment consideration CP-07-01, and the following additional conditions:

1. That no commercial business shall face Del Rio Avenue and no commercial driveways be allowed onto Del Rio Avenue, and
2. That the retaining wall observe a 25-foot setback from Del Rio Avenue and a 10-foot setback from the south line,
3. That the proposed retaining wall be constructed using textured concrete or modular block construction (or other suitable appearing wall materials),
4. That an E-bufferyard be installed along the Del Rio Avenue front with the exception that no berm is required, and that there be two canopy trees per 100 feet and an F1 bufferyard be installed along the south side with the exception that no fence is required, and
5. That the rear of the building must be screened by a screening fence along the top of the retaining wall sufficient to hide the rear of the building from any point in the front yard of the lots on the east side of Del Rio Avenue.

Mr. Early asked for a clarification on the Staff recommendation. Discussion followed on the recommended and required setbacks for the retaining wall, bufferyards, screening fences, and landscaping.

Mr. Shah asked Mr. Eudaly if he would be able to use a tiered-retaining wall with a 25-foot setback as required by the Ordinance. Mr. Eudaly said a 25-foot setback is a deal killer for them. He said they would lose the depth that they need and \$155,000 on the land costs and they just do not have room to retain that and they do not have the flexibility to do the kind of layouts they need for all the customers that would like to have on the site.

Mr. Eudaly said the City of Benbrook has dealt with parking issues on the site that the Benbrook EDC has, where a sign was put on a corner that took away eight parking spaces. That has caused major headaches for the developer that acquired the site to get a layout for a restaurant. They were eight parking spaces short for the major tenants with a sit-down restaurant to work. It has required a whole lot of other acquisitions and whole lot of other considerations that Ron Rainey has been working hard to achieve but the developer could not wait so the EDC is in the process of reacquiring the site.

Mr. Eudaly said they would like to build a six-foot tall wall setback three feet, go over three feet, then up six feet,. They do not have a problem with any of Staff's recommendations except the 25-foot setback requirement on Del Rio Avenue. It ham-strings the project and

he does not think it is a terrible encroachment. Mr. Eudaly said it is not just the money, but they do not have enough land to place the projects on the site.

Mr. Eudaly gave the Commission a layout of the type of tiered retaining wall they have in mind to use on the site. Discussion followed between the Commission, Staff, and the applicant on the retaining wall, setback, and sidewalks.

The Chair asked for any further comments or questions from the Commission. There being none, the Chair opened the public hearing at 8:33 p.m. and asked if anyone wished to speak for or against the item.

Thomas Johnson, Melisa Shores, 116 Del Rio Avenue, and John Larson, 110 Del Rio Avenue, all spoke in favor of the rezoning request.

There being no further speakers, the Chair closed the public hearing at 8:43 p.m. and asked for any comments, questions, or a motion from the Commission. Discussion followed between the Commission and Staff.

Motion by Mr. Shah that the Planning and Zoning Commission recommend that the City Council approve consideration Z-07-05, for the rezoning of Lots 7, 8, 9, 10, and 11, Block 7, Benbrook Estates from "B" One Family District to "HC" Highway Corridor District, subject to Planning and Zoning Commission recommendation and City Council approval of Land Use Plan amendment consideration CP-07-01, and the following additional conditions:

1. That no commercial business shall face Del Rio Avenue and no commercial driveways be allowed onto Del Rio Avenue,
2. That a tiered retaining wall observe a 3-foot setback from Del Rio Avenue and the south side for the first tier, with each tier having a minimum depth of five feet (5'), and the southeast corner have a minimum 8-foot (8') radius,
3. That the proposed retaining wall be constructed on textured concrete or modular block construction (or other suitable appearing wall materials),
4. That an E-bufferyard be installed with the exception that no berm is required, but that there be two canopy trees per 100 feet, and
5. That the rear of the building be screened by a screening fence along the top of the retaining wall sufficient to hide the rear of the building from any point in the front yard of the lots on the east side of Del Rio Avenue and the south side of the subject lots.

Second by Dr. Marshall. The Chair asked for any comments or questions from the Commission. There being none, the Chair called the question.

Vote on the Motion:

Ayes: Mr. Early, Mr. Ramsey, Ms. Price, Mr. Hughes, Mr. Dawson, Dr. Marshall, and Mr. Shah

Noes: None

Motion carried 7 – 0

**Z – 07 – 06      Consider rezoning of Lots 23 and 24, Block 6, Benbrook Estates from “B” One Family District to “CR” Multiple Family Restricted District (109 Del Rio Avenue)**

The Chair introduced the item and asked for a presentation from the applicant.

Thomas Johnson, 9029 Sirocka Drive, said he is requesting the rezoning of Lots 23 and 24, Block 6, Benbrook Estates from “B” One Family District to “CR Multiple Family Restricted District. Mr. Johnson said he would build a duplex on each lot if the rezoning request is approved by the City Council.

The Chair asked for any comments or questions from the Commission. There being none, the Chair asked for a report from Staff.

Ed Gallagher said John Larson is the owner of Lots 23 and 24 of Block 6, in the Benbrook Estates subdivision. Thomas Johnson is the Z-07-06 rezoning applicant and prospective buyer requesting the change from “B” One Family District to “CR” Multiple Family Restricted District for the two lots at 109 Del Rio Avenue. The proposed zoning conforms with the Land Use Plan meeting the requirements of Section 211.004 of the Texas Local Government Code and will permit a duplex residential structure on each of the vacant lots.

Mr. Gallagher said Benbrook Estates was platted in 1946 and is the oldest subdivision in the City. For the past 50 plus years, the neighborhood has had a mix of one-family and two-family dwellings. Recent construction has also been mixed but predominately two-family dwellings.

Staff recommends that after conducting a public hearing, the Planning & Zoning Commission recommend that the City Council approve the Z-07-06 rezoning of Lots 23 and 24, Block 6, Benbrook Estates from “B” One Family District to “CR” Multiple Family Restricted District.

The Chair asked for any comments or questions from the Commission. There being none, the Chair opened the public hearing at 9:10 p.m. and asked if anyone wished to speak for or against the item. There being none, the Chair closed the public hearing at 9:11 p.m. and asked for any comments, questions, or a motion from the Commission.

Motion by Dr. Marshall that the Planning & Zoning Commission recommend that the City Council approve the Z-07-06 rezoning of Lots 23 and 24, Block 6, Benbrook Estates from “B” One Family District to “CR” Multiple Family Restricted District. Second by Mr. Ramsey. The Chair called the question.

Vote on the Motion:

Ayes:      Mr. Hughes, Mr. Dawson, Dr. Marshall, Mr. Shah, Mr. Early, Mr. Ramsey, and Ms. Price,

Noes:      None

Motion carried 7 – 0

**Z – 07 – 07 Consider Conditional Use Application for light fabrication and assembly process (chocolate/candy manufacturing) in an existing 66,000-square-foot building as provided for in Section 16-B-b-7 and Section 22 of Ordinance Number 808, as amended, on a 6.28-acre portion of Tract C, Boston Heights (7917 and 7921 West Camp Bowie Boulevard)**

The Chair introduced the item and asked for a presentation from the applicant.

James H. Webb, 2433 Lofftan Terrace, Fort Worth, Texas, said he is presenting the conditional use application for the shopping center at 7917 and 7921 Camp Bowie West, which contains 66,000 square feet, and is currently vacant and in disrepair. Mr. Webb said he would like to relocate his chocolate factory, Sweet Shop USA, from Fort Worth on White Settlement Road to this location. To do that, he needs a conditional use permit for a portion of the building for light manufacturing and assembly of their chocolate products.

Mr. Webb said the business is currently located at 2000 White Settlement Road and is being displaced by Fort Worth's Trinity River Vision project. Fort Worth bought his property and they have to be in a new location by April 2008. He said the approximate space they need the conditional use for is 30,000 square feet and the balance will be used for office, retail, and inventory storage. Their manufacturing process is very safe, very clean, and very user friendly. Every thing they do will be inside the building and there will be no outside storage. There will be truck deliveries to the building with an average of six trucks per day and will require docks. Outbound products are picked up by FedEx and UPS with the last pick-up at 7:00 p.m.

Mr. Webb said he sees no incompatibility between his business and the neighbors. On the east is Sutherlands Lumber, the south are Western Hills High School athletic fields, on the northwest corner is a small commercial strip center, and on the northeast are two small restaurants. He said they do not feel their process will be much different from a restaurant that is allowed in "F" Commercial District.

The Chair asked for any comments or questions from the Commission.

Mr. Ramsey asked Mr. Webb how many employees work at the chocolate factory. Mr. Webb said they have an average of 70 employees year round and seasonal, about 125. Mr. Webb said there is ample parking and they have a cross parking arrangement with their neighbor as well as the office building on the south side of the property.

Mr. Shah asked Mr. Webb if the factory is a 24-hour, 7-day week operation. Mr. Webb said the manufacturing facility works Monday through Friday and sometimes on Saturday, 6:00 a.m. to 3:00 p.m. He said they will have a welcome center and retail store that would be open Monday through Friday and one half day on Saturday.

Mr. Early asked Mr. Webb to describe the welcome center. Mr. Webb said they have approximately 30,000 visitors a year to their current location on White Settlement Road. In Benbrook they plan to have factory tours of the facilities for visitors and groups.

The Chair asked for any comments or questions from the Commission. There being none, the Chair asked for a report from Staff.

Mr. Gallagher said the conditional use application is presented by Sweet Shop USA for a chocolate manufacturing facility in the "F" Commercial District portion of Boston Heights at 7917 and 7921 Camp Bowie West Boulevard. He said the chocolate manufacturing would be a permitted use in "G" Commerce District in a light manufacturing and assembly category and requires approval as a conditional use if located in "F" District. Parts of Sweet Shop USA's operation including retail sales and office areas are permitted uses in "F" District in the 66,000 square-foot building area. The portion of the overall activity that requires conditional use approval is the chocolate production, and distribution and shipping areas that total approximately 40,000 square feet.

Mr. Gallagher said a conditional use is an activity that would not routinely be permitted in a particular district, but upon specific evaluation by the Commission can be approved if determined to be compatible with other permitted uses.

The Staff has reviewed the application in accordance with the review and evaluation criteria in the Zoning Ordinance for compatibility with existing and permitted uses in the area and found no conflicts with the proposed activity. Mr. Gallagher said, except for the chocolate manufacturing activity, all elements of the operation should conform with all applicable codes and ordinances that affect the "F" District.

Staff recommends that the Planning and Zoning Commission approve Conditional Use Application Z-07-07 of Sweet Shop USA to authorize the proposed light fabrication and assembly process (chocolate manufacturing) in accordance with the application in the buildings located at 7917 and 7921 Camp Bowie West Boulevard on the 6.28-acre portion of Tract C, Boston Heights, subject to:

1. conformance with all elements of the Conditional Use Application, and
2. conformance with all "F" District regulations with the exception of the Conditional Use and conformance with all other applicable codes, regulations, and ordinances.

Mr. Gallagher said the Commission may want to consider additional conditions to approval, as it may deem appropriate.

The Chair asked for any comments or questions from the Commission. Discussion followed between the Commission, Staff, and the applicant on the conditional use square footage and truck traffic.

The Chair opened the public hearing at 9:35 p.m. and asked if anyone wished to speak for or against the item.

Addline Ream, 8101 Rush Street, said she is concerned with the additional traffic from the chocolate factory and would the Commission please take that into consideration.

Gail Smith, 8128 Rush Street, said she thinks the factory would be an excellent retail addition to the community.

Ron Rainey, Executive Director, Benbrook EDC, said the City Planning department worked with Mr. Webb to get this consideration on this agenda. He said this is an opportunity that a community like Benbrook only gets once in many years. Not only does create jobs, it also increases retail sales taxes and lowers unemployment. This is an area that has gone

neglected for a long time and it is very difficult to find users for this type of space. Mr. Rainey said for those that are concerned about traffic, this is the only area in Benbrook served by mass transit.

John Martinez, 4600 Ricky Ranch, said he owns the Mexican restaurant next to the subject site and he is very happy someone is taking the initiative to invest in this part of the City.

Ken McCormick, 8005 Northbrook, said he is in favor of the request because someone needs to move into the space and take of it.

Ann Slover, 8001 Chapin Road, said he has been to Mr. Webb's Sweet Shop in Fort Worth many times and she would be very proud to have him move to Benbrook.

Pat McSwain, 3821 Brookdale, said she would love something to come into this area, but employees need to be aware of baseballs coming over the fence on the south side of the building. She said traffic is another concern.

The Chair asked for any further speakers. There being none, the Chair closed the public hearing at 9:45 p.m. and asked for any comments, questions, or a motion from the Commission.

Motion by Dr. Marshall that the Planning and Zoning Commission approve Conditional Use Application, Z-07-07, of Sweet Shop USA to authorize the proposed light fabrication and assembly process (chocolate manufacturing) in accordance with the application in the buildings located at 7917 and 7921 Camp Bowie West Boulevard on the 6.28-acre portion of Tract C, Boston Heights, subject to:

1. conformance with all elements of the Conditional Use Application, and
2. conformance with all "F" District regulations with the exception of the Conditional Use and conformance with all other applicable codes, regulations, and ordinances.

Second by Mr. Shah. The Chair called the question.

Vote on the Motion:

Ayes: Mr. Dawson, Dr. Marshall, Mr. Shah, Mr. Early, Mr. Ramsey, and Ms. Price

Noes: None

Abstain: Mr. Hughes

Motion carried 6 – 0 – 1

#### **C. SUBDIVISION PLATS**

None

#### **D. PD SITE PLANS**

**SP – 07 – 01      Consider Site Plan for 43-dwelling-unit multiple-family development on a 2.985-acre tract of land in the McKinney & Williams Survey Abstract Number 1118 (Southeast corner of Chapin Road and Williams Road)**

The Chair introduced the item and asked for a presentation from the applicant.

Dan McGinnis with McGinnis Land Consultants, 108 West 8<sup>th</sup> Street, Suite 300, Fort Worth, representing the owner/developer Williams Road Partners, LP, said the subject property has been zoned high density, multi-family for over 30 years. The developer is proposing to build 43 units, which is approximately half of the allowed density for this particular zoning.

Mr. McGinnis said these are not multi-family units. They will be constructed as individual single-family units, condominiums, for individual sale with three bedrooms and two bath homes with a garage. He said they will have a homeowner's association and a condominium owner's association with the bylaws submitted to the Staff for review and approval. Mr. McGinnis said this is an opportunity to create some open space in a community that is zoned multi-family. This will not be an apartment complex with a manager's office but will be for individual sale.

Mr. McGinnis said they have submitted a site plan in accordance with the City's ordinances. He said they are requesting the site plan approval from the Commission as they meet the zoning, landscape, and bufferyard requirements. Mr. McGinnis said they are in agreement with Staff's comments. They will submit a final plat and engineering plans to the City for their approval, prior to going to construction and those engineering plans will include detailed stormwater and hydrology studies. Mr. McGinnis said there is floodplain going through the property and the City's Subdivision Ordinance requires zero impact from proposed development and they intend to do those studies to make sure they meet those requirements.

The Chair asked for any comments or questions from the Commission.

Mr. Early asked Mr. McGinnis if there were any of Staff's comments that they did not agree with. Mr. McGinnis said they do not agree with the fact they are required to build sidewalks along Chapin Road and Williams Road, in an area that does not have sidewalks on either of those major arterials. Mr. McGinnis said they could have a requirement in their homeowner's association that they would be required to pay their assessment to build the sidewalks on this property, when the City gets the adjacent sidewalks to this property. He said they did not show the sidewalks on the site plan because they felt it would be more of an issue when they get further along with the building plans. The rest of the Staff comments they are aware of or they agree with or will be worked out in the platting process.

The Chair asked for any comments or questions from the Commission. There being none, the Chair asked for a report from Staff.

Ed Gallagher said the site plan for the 2.985-acre, "D" Multiple Family District-zoned site at the southeast corner of Chapin Road and Williams Road is submitted by Williams Road Partners LP through Larry Campbell. The site plan is submitted in conformance with Zoning Ordinance requirements of "D" District and depicts 43 dwelling units in eight, two-story buildings.

The plan indicates meeting or exceeding all Height and Area Regulations of "D" District and all parkway requirements, conformance with Landscape and Buffer Regulations, and Sign Regulations of the Zoning Ordinance.

The site plan proposes future platting as a minor plat and the deferral of sidewalk obligations. The staff has no objection to the minor plat process but does not support the sidewalk deferral. The final plat should include money in lieu of land to address parkland dedication requirements of the Subdivision Ordinance.

Mr. Gallagher said the submittal proposes to subdivide the 43 dwelling units, on the single lot, in a condominium fashion for future sale. The condominium document should be submitted for approval by the City Attorney and recorded with the final plat. The condominium document should address ownership, maintenance, and liability regarding all common elements. Ownership should be undivided and include grounds, and exterior walls and roofs of buildings. Maintenance should include routine maintenance as well as more significant repairs and replacement of grounds/landscaping, driveway pavement, interior walks, retaining walls, drainage facilities, and exterior walls and roofs of buildings. Maintenance should include utility charges for all utilities serving the common areas and the maintenance of casualty and liability insurance regarding all common element including grounds, and exterior walls and roofs of buildings. Mr. Gallagher said the condominium document should include and maintain reserve fund for major maintenance expenses as well as monthly dues for routine reoccurring maintenance expenses. The document should include provisions to place liens on properties and the organizational structure for the operation of the owners association.

Mr. Gallagher said a second driveway is shown on Chapin Road and designated for emergency use only. That driveway should be deleted but the provisions for the three-point turnaround west of Building "C" must be maintained. Fire lanes, drive and parking areas should be concrete and meet City Design Standards. Internal sidewalks and additional site illumination should be added, and at least one handicapped space should be provided in the guest parking area.

Mr. Gallagher said the City Engineer notes a number of engineering considerations that must be addressed with future design and construction. However, the engineering considerations do not affect the site plan. Mr. Gallagher said the Fire Department's comments include conformance with all fire lane requirements. The Police Department notes that the lack of security lighting invites vandalism, burglary, and other crimes and strongly recommends additional external illumination throughout the project and offers to assist the developer in the illumination design. The Benbrook Water Authority and other utilities note the need for additional easement areas.

Staff recommends that after a public hearing, the Planning and Zoning Commission approve the site plan for the 43-unit multi-family development in the McKinney & William Survey (SP-07-01) subject to:

1. conformance with all final plat requirements of the Subdivision Ordinance including all engineering and drainage considerations, the installation of standard sidewalks along Chapin Road and Williams Road, and money in lieu of land for parkland dedication,
2. a condominium document addressing ownership, maintenance, and liability of all common elements including grounds, and exterior walls and roofs of buildings, reserve funds, assessments, and organizational structure with the document to be approved by the City Attorney and filed for record with the final plat; and
3. the deletion of the emergency vehicle driveway on Chapin road, concrete fire lanes, drives and parking meeting City standards, internal sidewalks, additional external illumination, and handicapped parking.

The Chair asked for any further comments or questions from the Commission. There being none, the Chair opened the public hearing at 10:01 p.m. and asked if anyone wished to speak for or against the item.

Rodney Baker, 8017 Westvale Drive, said there could possibly be up to 200 people living in the 43-unit development. In this small area this will increase traffic and crime and basically be a completely different world for whoever is living in that area so he is against approval of the site plan.

Ken McCormick, 8005 Northbrook Drive, said he opposes the site plan because the way the driveway is situated; it dumps right in front of his street. Mr. McCormick said at 4:00 or 5:00 in the afternoon, he cannot get out of his street now and with more people, a traffic light will be needed at the intersection of Chapin Road and Williams Road. He said even if these are to be duplexes, what would keep people from buying them and renting them out and they end up like the duplexes on Coates Circle that are run down and trashy.

Gayle Hebert, 3820 Brookdale, said she would like to know the selling price of the condos. Ms. Hebert said she would recommend that the area be gated because of all the kids passing from Western Hills High School. She said she checked with the Benbrook Police Department and the apartments on Coates Circle have one of the highest crime rates in Benbrook so if you are putting multi families into one area, you are going to have more crime. Being gated would provide security for the people that live in the development, the people that live around it, and also security for the kids that walk from the high school.

Ms. Hebert said if the development is going to happen, they need a traffic light at the intersection of Chapin Road and Williams Road. She asked what materials will be used for the exterior of the buildings and who will enforce the rules of the homeowner's association. They have their own neighbor association and they can not force the people to paint their houses and to keep their roofs maintained.

Tanya Pettit, 8016 Northbrook Drive, said she concurs with the traffic issues but does not want a traffic light. Ms. Pettit said the high schools and middle schools are overcrowded now as it is, and with that many more multi bedrooms, there will be even more students. She said FWISD is not going to work with them and the City Council can not seem to come up with any other options. Ms. Pettit said a lot of children loiter around the Fina Station and walk up and down the streets at the intersection so security is another issue. She said traffic is another problem that needs to be addressed.

Tony Cummings, 3801 Palomino Drive, said he has a business at 8000 Longford Drive, which is one block north of the subject property and traffic is a problem. He said that the concern is not how the development will be built but how it is going to be run because they do not want another Las Vegas Trail.

Larry Campbell said he is the applicant/developer for the subject property. Mr. Campbell said he has another development of town houses that he lives in, located in Benbrook. He said the new development will have a homeowner's association, responsible for maintaining and enforcing all of the rules and regulations. Whenever someone buys one of the homes, they will sign a document that outlines the declarations and covenants stating who is responsible for maintaining the facility, including roofs, streets, alleys, etc. The document will include exterior guidelines and who is responsible for that control, and the authority of enforcing maintenance on the individually owned residences.

Mr. Campbell said another document is the bylaws that will define how the association is organized, when it has to meet, and budget approval including how the association money is spent. Another document will be the rules and regulations that are put together by the association. These could include a rule that garages are used for cars, not for junk and storage.

Mr. Campbell said this will be a very attractive development for the community. From the east side to the west side, there is approximately a 14 to 15-foot drop in elevation so they will have a very nice terraced or tiered wall.

In addressing Ms. Hebert's questions, Mr. Campbell said they have not set the prices but the homes will sell for approximately \$100,000 and the exterior will be built out of brick stucco and siding that will not curl. In reference to Mr. McCormick's question, Mr. Campbell said the buyers can rent these homes just like everyone else in the City can rent out their current homes.

Mr. Campbell said they do not anticipate gating the development but they are not ruling it out. He said they are here to answer questions and requesting Commission approval of the site plan, in the form that it is in now, which includes the required items listed in the Zoning Ordinance.

John Martinez, 4600 Ricky Ranch, said he is not opposed but he is not for the development and he has concerns. Mr. Martinez said the initial investment might be greater for Mr. Campbell, but he thinks he could better sell the properties if he made it into a gated community.

M.B. Lee, 4301 Plantation Drive, said he likes the homeowner's association with the requirement to abide by the rules. Mr. Lee asked if the buyer signs a contract agreeing to abide by the terms and if the condominium is sold, will the new buyer be required to sign the same contract?

Gloria Cummings, 3801 Palomino Drive, said she thinks 1,110 square feet is very small for a three bedroom house.

Helena Van Heiningen, 8020 Llano Avenue, said in the Staff report there was a comment requiring money in lieu of parkland. Van Heiningen asked if there is typically an amount of parkland for this type of development on this amount of space that is being given up for money and is this area more dense than it should be.

Gayle Hebert, 3820 Brookdale Drive, said she wanted to know what percentage of the exteriors will be brick. She said she wanted Mr. Campbell to drive the community and see all the signs and graffiti written on businesses in the area. Mr. Hebert said if Mr. Campbell wants people to buy in his development, he should really have it gated because not only would it help him; it would help the community.

Mr. Gallagher said the Subdivision Ordinance calls for parkland dedication at the rate of one-acre per 100 dwelling units for all residential developments. The City recognizes that in some cases like this project that would require approximately 20,000 square feet of parkland dedication, there are provisions in the Ordinance for providing cash in lieu of land that goes into a fund where it can be used for parkland acquisition and is restricted to parkland use for that particular planning area which in this case is North Benbrook. Mr. Gallagher said the requirement has been a part of the Ordinance for about 10 years.

Mr. Campbell said the homes will include three bedrooms, with two baths upstairs and a powder bath downstairs, 1,111 square feet of living space, and a one car garage. In response to Mr. Lee, Mr. Campbell said the declarations, covenants, and bylaws are all deed restrictions and will be recorded with the final plat and will always be a part of ownership. He said the association has the authority, through the bylaws, to amend or change some of the rules, as they see a need for change.

Mr. Campbell said in reference to Ms. Hebert, this is not a neighborhood association but a homeowner's association that is the ruling body and authority for this development. A neighborhood association is more voluntary where homeowner's associations are mandatory. Mr. Campbell said the homes will be approximately 60 percent brick with cement fiber board siding for the upper portion and under the eaves.

Pat McSwain, 3821 Brookdale Drive, said Ms. Hebert spoke with someone with the Fort Worth Planning and Zoning Commission. The Commission said the driving range and Fina Station on Williams Road are being considered for apartment complexes and she wanted to bring that to the attention of the Benbrook Commissioners because they do not want to have another Las Vegas Trail.

Clyde Taylor, 4313 Plantation Drive, said by his figures, the new units will be 22 feet by 25 feet and that would be a dinky size house. Mr. Taylor said the traffic on Williams Road gets very busy and if he was building the development, he would have all the drives on Chapin Road.

Ann Slover, 8001 Chapin Road, asked how they can keep more than one family from living in the homes because in her neighborhood there is a place with about 10 families living there and the City can not seem to do anything.

The Chair asked if anyone else wished to speak for or against the item. There being none, the Chair closed the public hearing at 10:32 p.m. and asked if the Commission had any comments, questions, or a motion.

Discussion followed between the Commission and applicant.

Motion by Dr. Marshall that the Planning and Zoning Commission the Planning and Zoning Commission approve the site plan for the 43-unit multi-family development in the McKinney & William Survey (SP – 07 – 01) subject to:

1. conformance with all final plat requirements of the Subdivision Ordinance including all engineering and drainage considerations, the installation of standard sidewalks along Chapin Road and Williams Road, and money in lieu of land for parkland dedication,
2. a condominium document addressing ownership, maintenance, and liability of all common elements including grounds, and exterior walls and roofs of buildings, reserve funds, assessments, and organizational structure with the document to be approved by the City Attorney and filed for record with the final plat; and
3. the deletion of the emergency vehicle driveway on Chapin road, concrete fire lanes, drives and parking meeting City standards, internal sidewalks, additional external illumination, and handicapped parking.

Second by Mr. Ramsey. The Chair called the question.

Vote on the motion:

Ayes: Dr. Marshall, Mr. Shah, Mr. Early, Mr. Ramsey, Mr. Hughes, and Mr. Dawson

Abstain: Ms. Price

Noes: None

Motion carried 6 – 1 – 0

**E. GENERAL**

None

**IV. PRESENTATIONS BY PLANNING AND ZONING COMMISSION MEMBERS**

None

**V. CITIZEN PRESENTATIONS**

None

**VI. ADJOURNMENT**

The Chair noted there were no additional matters of business on the regular Commission agenda and declared the Commission regular meeting adjourned at 10:45 p.m.

APPROVED: Oct. 11 2007

/S/ Bret Early Chair