

**State of Texas
County of Denton
City of Lake Dallas**

The Planning and Zoning Commission of the City of Lake Dallas met on July 17, 2014 at 7:00 p.m. in the Lake Dallas City Hall located at 212 Main Street, Lake Dallas, Texas with notice of the meeting posted as required by Title 5, Chapter 551.041 of the Texas Government Code.

A. Call to Order

B. Roll Call

Present: Chairperson Ben Gilbert, Commissioners Peggy Shelton and Clyde Fisher

C. Pledge of Allegiance

Chairperson Gilbert led the Pledge of Allegiance.

D. Citizen's Agenda

No one came forward and Chairperson Gilbert closed the citizen's agenda.

E. Business:

1. Consideration and Action on approval of Minutes for June 26, 2014 meeting.

Motion to approve the minutes for June 26, 2014 was made by Clyde Fisher; second by Peggy Shelton.

Ayes: Fisher, Shelton, Gilbert,

Noes: None

2. Public Hearing to hear comments on an application by Cary Daniels, business owner of Daniels Brothers Management, for a Special Use Permit to allow the use of arcade and video games for the purpose of a sweepstakes business at the property located at 209 S. Shady Shores Road, Suite 400, City of Lake Dallas, Denton County, Texas. The legal description of the property is A0958a McCarroll, Tract 13a, and it is zoned C-2 Commercial. Chapter 122, Zoning, of the Code of Ordinances of the City of Lake Dallas, Article XIII, Special Use Permits, Section 122-691 (19), allows for application to be made.

Michael Fox of 10521 Murray S Johnson St, Denton, TX was the first to speak. He is the representative for Lonestar Media Holdings, the company that provides business opportunities which also raises money for certain charities. They provide genuine sweepstakes games. The prizes are determined before anyone starts playing the games. Customers are given the option to play for free for a certain amount of time or they can give a monetary donation to receive more points and an opportunity to keep playing. The businesses have a certain number of touch screen computers for customers to use to play the games. Customers have to show a picture ID in order to play and are given a PIN to input in to the computers. The main frame for the computers is located in Atlanta, Georgia. The sweepstakes prizes are cash prizes assigned to comply with the Texas State Law.

Clyde Fisher asked where else these businesses are operating and how long have they been open and Mr. Fox gave a few locations such as El Paso, Sansom Park, and Abilene. Mr. Fox said he didn't know the exact amount of time they have been open in Texas but he guessed around a year. Each business owner picks their own charity where 10% of the proceeds of the business are donated to the charity of choice which in this case is the Boys and Girls Club of North Texas in Lake Dallas, TX.

Mr. Fisher asked who counts the money and Mr. Fox answered that it is the computer in Atlanta, Georgia. The books will be completely open to anyone that wants to see them.

Kathy Thompson, of 203 Lake Dallas Dr, came up next. She had questions regarding the business and how it is run. She asked Mr. Fox how people could play for free and yet still expect a certain amount of donations. Mr. Fox said that technically twenty-five people could come in and play for free and still win prizes, but generally speaking, those that enjoy the games and the chance for winning prizes will make donations to keep playing. Ms. Thompson asked, why aren't donations considered the same as a payment? Mr. Fox answered that the Court of Law has determined it is different. No one has to give a donation. A customer can choose to make a donation to keep playing or come back the next day to play for free.

Derek Barch of 15530 Plum Ln, McKinney, TX came up next to speak. He has been in the same type of business in the state of Texas since 1996. He advises this type of business does have a bad reputation attached to it but in the fifteen years his business has been open in McKinney he has not had any problems. He does not allow alcohol or foul language. He wants his business to be an option for entertainment for residents as opposed to going out to eat or to a movie. He is going to be a business partner with the Daniels and offer them management expertise. He said this type of sweepstakes' business is the same as the sweepstakes that McDonalds offers where someone has the option of mailing in a form to get a free game piece. But, in his business, instead of mailing in a form one can just go in and play for free. Clyde Fisher asked if there is something published that gives the odds. He answered they do have the odds listed inside for everyone to see.

Frank Daniels, the owner of Daniels Air, came up next. He wanted to give a brief description of how this opportunity came about when a lease space became available in their building. They were trying to figure out how they wanted to proceed with it. His family has known Mr. Barch for a long time. They were excited to join him in this business venture since it gave them a chance to also give back to the Boys and Girls Club. They plan to be transparent and always keep their information public. Clyde Fisher asked how big the suite is; it was determined it is around 1100 sq ft. Mr. Fisher asked if he thought there might be a parking issue. Mr. Daniels answered that he didn't think there would be any problems with parking at the location. They want to start the business small and in no way do they believe the business will be associated with anything questionable.

Clyde Fisher asked the City Attorney, David Berman, what were his thoughts on the business and special use permit request. Mr. Berman stated with this type of business there can be added burden on the Police Department regarding enforcement and investigation. He cannot say whether it would create more crime or hurt property values. The job for the Commission is whether to recommend or not recommend the business to open not whether it is legal. It is a gray area whether it is legal and a loophole has been found in Texas law which is why they are even allowed to open. Regarding the sweepstakes available through McDonalds, it is not the same thing. Their sweepstakes is for commercial enterprise and for the purchase of food. These businesses have a more casino or parlor atmosphere and it needs to be determined whether this would be beneficial to the public. There is no use by right in the zoning ordinance for this type of a video arcade which is why it has to come before the Planning and Zoning Commission. Mr. Fisher asked if it was granted and later determined to be illegal would Lake Dallas be culpable; Mr. Berman answered no, the City would not be held liable.

Ms. Thompson came up to speak again. She said no matter what the business owners say people will still perceive it as gambling and it will affect the City as a whole. She lives

nearby and said she doesn't want this in her neighborhood. She is also certain that parking will be an issue as it already poses a problem with the businesses already there.

Derek Barch came up to speak again. He said the City Attorney's interpretation is inaccurate. Even though the Attorney General does not like these types of arcades, including eight-liners, he cannot find a legal reason to outlaw it. Reference the impact on the area, it is a very small area and shouldn't pose a problem. Bottom line is we want to provide an entertaining way to raise money for charity.

Public Hearing Closed.

3. Consideration and Action to approve a Special Use Permit to allow the use of arcade and video games for the purpose of a sweepstakes business at the property located at 209 S. Shady Shores Road, Suite 400, Lake Dallas, Texas

Ben Gilbert reiterated that the reason it came to the Planning and Zoning Commission is because it does not fit anything set forth in the current zoning ordinance.

Clyde Fisher still confirmed that it will go to council a week from today and they are just giving a recommendation to them.

Char DuPree spoke next urging the Commission to consider the City Attorney's input in granting or denying the SUP and to ask of themselves, is this good for the community? Mr. Fisher asked what Ms. DuPree thought about the parking issue. She answered the building code requires one parking spot for every 200 sq ft of space which only means four or five places and parking already appears to be an issue.

Motion to deny a Special Use Permit was made by Clyde Fisher; second by Ben Gilbert.

Ayes: Fisher, Gilbert, Shelton

Noes: None

Motion Passed

4. Consideration and Action to approve the proposed site plan for 451 Betchan Avenue.

Mr. Linley came up to speak regarding the site plan for 451 Betchan Ave. He said he must obtain approval before he can proceed.

Char DuPree said the building plans have already been approved as well at the 40% masonry exception. It is a good site plan and a good business. Mr. Fisher said it looked good and it will really make that part of town look better.

Motion to approve the proposed site plan for 451 Betchan Avenue was made by Clyde Fisher; second by Ben Gilbert.

Ayes: Fisher, Gilbert, Shelton

Noes: None

Motion Passed.

F. Future Agenda Items

The August agenda will include the zoning change on Swisher initiated by the City.

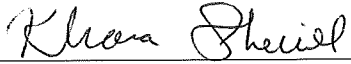
G. Adjournment

Motion to adjourn was made by Clyde Fisher; second by Ben Gilbert.

The meeting adjourned at 8 PM.



Ben Gilbert, Chair



Khara Sherrill, Planning and Zoning Secretary