



## AGENDA

**REGULAR MEETING OF THE  
PLANNING AND ZONING COMMISSION  
CITY OF HIGHLAND VILLAGE, TEXAS  
TUESDAY, NOVEMBER 19, 2019, 7:00 PM  
HIGHLAND VILLAGE MUNICIPAL COMPLEX  
CITY COUNCIL CHAMBERS  
1000 HIGHLAND VILLAGE ROAD, HIGHLAND VILLAGE, TEXAS**

**OPEN SESSION  
(City Council Chambers – 7:00 PM)**

1. Call to Order/ Roll Call.
2. Consider Approval of the Minutes from the Special meeting of held on November 5, 2019.

**3. Visitor's Comments**

*(Anyone wishing to address the Planning and Zoning Commission must complete a Speakers' Request form and return it to City Staff. In accordance with the Texas Open Meetings Act, the Commission is restricted in discussing or taking action on items not posted on the agenda. Action on your statement can only be taken at a future meeting.)*

*Anyone wishing to address the Planning and Zoning Commission on any item posted on this agenda for possible action, including matters posted as a Public Hearing, must complete a Speakers' Request Form available at the entrance to the City Council Chambers and present it to the City Staff prior to the meeting being called to order. Speakers may be limited to three (3) minutes and given only one opportunity to speak on an item. Other procedures regarding speaking on matters posted for action on this agenda are set forth on the Speakers' Request Form. Subject to applicable law, the Planning and Zoning Commission reserves the right to modify or waive at any time the procedures relating to members of the public speaking on matters placed on this agenda.*

4. Conduct Public Hearing and Review and Consider an application for a Conditional Use Permit (C.U.P.) to allow for an Amusement Arcade Business to be located in an approximately 2,572 square foot area of Lot 1, Block A, The Shops at Highland Village, commonly known as 1700 Cottonwood Creek, #140.
5. Consider a Final Plat for a 2.713 ± acre tract of land located in the E. Clary Survey, Abstract No. 248, to be known as the Tequesta Subdivision, located at 1400 Highland Village Road.
6. Receive Status Report on Various Projects.
  - Future P&Z Meetings
7. Adjournment.

Pursuant to Section 551.071 of the Texas Government Code, the Planning and Zoning Commission reserves the right to consult in closed session with its attorney and to receive legal advice regarding any item listed.

**I HEREBY CERTIFY THAT THIS NOTICE OF MEETING WAS POSTED ON THE PUBLIC BULLETIN BOARD AT THE MUNICIPAL COMPLEX, 1000 HIGHLAND VILLAGE ROAD, HIGHLAND VILLAGE, TEXAS IN ACCORDANCE WITH THE TEXAS GOVERNMENT CODE, CHAPTER 551, ON NOVEMBER 15, 2019 NOT LATER THAN 5:00 P.M.**

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Autumn Aman  
Community Development Coordinator

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's Office at (972) 899-5132 or Fax (972) 317-0237 for additional information.

Removed from posting on the \_\_\_\_\_ day of \_\_\_\_\_, 2019 at \_\_\_\_\_ by  
\_\_\_\_\_ at \_\_\_\_\_.

**DRAFT MINUTES**  
**SPECIAL MEETING OF THE**  
**PLANNING AND ZONING COMMISSION CITY OF HIGHLAND VILLAGE, TEXAS**  
**HELD IN THE MUNICIPAL COMPLEX, 1000 HIGHLAND VILLAGE ROAD**  
**TUESDAY, NOVEMBER 5, 2019**

**1. Call to Order/Roll Call.**

Chairman Stan Lemko called the meeting to order at 7:00 p.m.

**Roll Call**

Present:	Stan Lemko	Chairman
	Angelina Robinson	Commissioner
	Denver Kemery	Commissioner
	Guy Skinner	Alternate Commissioner
	Eric Edwards	Alternate Commissioner--Arrived 7:03 p.m.
Absent:	Dee Leggett	Vice Chairman
	Dylan Romo	Commissioner
Staff Members:	Kevin Laughlin	City Attorney
	Autumn Aman	Community Development Coordinator
	Scott Kriston	Director of Public Works
	Kimberlee Huntley	Community Services Assistant

Prior to proceeding forward with the meeting, Chairman Lemko and the City Attorney Kevin Laughlin discussed the preferred method of conducting a meeting.

**2. Consider Approval of the Minutes from the Regular meeting of the Planning and Zoning Commission held on October 15, 2019.**

Alternate Commissioner Guy Skinner made a motion to approve the minutes as written. Commissioner Denver Kemery seconded the motion.

**Motion Passed (5-0)**

**3. Visitor Comments.**

There were no Visitor Comments.

**4. Conduct Public Hearing and Consider proposed amendments to Section 1 and 2 of Exhibit "A" "Subdivision Ordinance" to Chapter 26 "Subdivision and Site Development Regulations" of the City of Highland Village Code of Ordinances relating to the procedure for the approval of subdivision plats and plans.**

Community Development Coordinator Aman introduced the City Attorney Kevin Laughlin.

City Attorney Laughlin stated the Texas Legislation had adopted a new law in the form of House Bill (HB) 3167 that went into effect September 2019. He continued the purpose of the bill was to tighten up the development plat and plan process. State law had previously only applied to final plats on the 30-day approval process and over the course of time some cities probably had a lengthy review process and as a result of that, state law now applies to a greater variety of plans and plats that relate to the development of property. Cities are now adjusting their subdivision regulations to conform to state requirements, tightening up the review process, commenting process, and also the denial process. He continued, if you were going to deny or issue a conditional approval of a plat application, you must state in writing what makes the plat fail or what it would take to make the application comply, you would also have to identify the specific section of the Ordinance that applied.

Mr. Laughlin continued stating there was one item that HB 3167 did not do and that was define what it meant for an application for a plat or plan to be "filed." In failing to provide a definition for "filed," cities that adopted into their subdivision approval procedures the concept of "administrative completeness" since the so-called "Vesting Statute" (Chapter 245, Texas Local Government Code) became law and have applied that process to avoid triggering the 30-day approval clock on in-complete plat applications, may still use that process. For those cities that did not previously have as part of its subdivision approval procedures an "administrative completeness" requirement, many cities are proceeding to add that concept to their subdivision regulations. He stated this was one of the main reasons for amending the subdivision ordinance, adding the definition for "administratively complete application" along with "official filing date" (where the 30-day clock would start).

The Commissioners and City Attorney Laughlin briefly discussed other items that had been effected by HB 3167 and other additional amendments merely intended to do some minor cleanup of the Subdivision Ordinance as it relates to the following:

- What it means for an application for a plat or plan to be filed.
- Specific time lines for city staff to turn around review comments on an application.
- The public hearing requirement relating to replat applications and how it was eliminated for all replats except replats of residential property for which a variance or special exception is requested.
- The amendments would create a "check list" making it part of the official regulations.
- Changing the language of variance to special exception. The word "variance" has a specific legal use in the application of zoning regulations and to avoid any confusion and possible challenges to any exceptions a city council may wish to make in approving a subdivision plat, staff proposes to replace the word "variance" with the phrase "special exception."
- City Manager having administrative authority to approve certain types of plats.
- Formatting of the definitions within the ordinance.
- Removing the Park and Recreation Advisory Board from the subdivision application review process. With the City's trail system at virtual build out, it was the consensus of the City Council that review of subdivision applications by the Parks and Recreation Advisory Board was no longer a necessary step in the application process.
- Tree legislation and mitigation and the Commissions limitation of what they can do about trees on private property and how it is more limiting to what it used to be.
- Preliminary plats, why and when required.

Commissioner Kemery questioned conditional acceptance, stating maybe it should not be used, maybe the application should be denied.

City Attorney Laughlin stated that could always be a possibility, however, there may be a case where it might not be warranted, giving an example of the "compass rose" not being on a plat, items that do not in impact the design of the drawing itself.

Chairman Lemko opened the Public Hearing at 8:14 p.m.

There were no speakers for the Public Hearing.

Chairman Lemko closed the Public Hearing at 8:14 p.m.

Commissioner Angelina Robinson made a motion to send the ordinance forward to City Council for approval as presented. Alternate Commissioner Eric Edwards seconded the motion.

**Motion Passed (5-0)**

**5. Receive Status Reports on Various Projects**

- **Discuss Future P&Z Meeting dates**

Community Development Coordinator Aman stated the next regular meeting would be held on November 19, 2019.

**6. Adjournment.**

Meeting adjourned at 8:16 p.m.

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Autumn Aman  
Community Development Coordinator

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Chairman – Stan Lemko  
Planning and Zoning

**CITY OF HIGHLAND VILLAGE**  
**PLANNING AND ZONING**

**AGENDA# 4**

**MEETING DATE: November 19, 2019**

**SUBJECT: Conduct Public Hearing and Review and Consider an application for a Conditional Use Permit (C.U.P.) for an Amusement Arcade business to be located in an approximately 2,572 square foot area of Lot 1, Block A, The Shops at Highland Village, commonly known as 1700 Cottonwood Creek, #140.**

**PREPARED BY: Autumn Aman, Community Development Coordinator**

**BACKGROUND**

An application was received for a Conditional Use Permit (C.U.P.) for an amusement arcade business to be located in approximately 2,572 square foot lease space in The Shops at Highland Village Shopping Center.

The applicant is proposing to utilize the space for a business consisting of an area for playing electronic games along with retail sales of games.

**IDENTIFIED NEED/S:**

The use of this building for this type of business, amusement arcade, requires the approval of a Conditional Use Permit in accordance with the City of Highland Village Comprehensive Zoning Ordinance in a Retail Zoning District.

Public Hearings are required for Conditional Use Permits. All notification requirements have been met. As of the date of this briefing, November 13, 2019, staff has received no calls or written comments as a result of the public hearing notices.

**OPTIONS & RESULTS:**

Options are to recommend to the City Council that the application be (1) approved as submitted, (2) approved with modifications, or (3) deny the request. The Commission may also postpone any action in order to receive any additional information which it requests be presented.

**PROGRESS TO DATE: (if appropriate)**

City staff has reviewed the application and all staff comments have been addressed by the applicant. The applicant will be present to address any questions or comments the Commission may have.

**BUDGETARY IMPACT/ORDINANCE CHANGE: (if appropriate)**

This will have no impact on budget. A draft ordinance has been prepared by the City Attorney and is included with this briefing.

**RECOMMENDATION:**

City staff has no objections to the application. The Commission should review the applicant's request and provide a recommendation to City Council.

**ORDINANCE NO. 2019-\_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF HIGHLAND VILLAGE, TEXAS, GRANTING A CONDITIONAL USE PERMIT (C.U.P.) FOR AN AMUSEMENT ARCADE FOR A 2,572 SQUARE FOOT AREA OF A BUILDING LOCATED ON LOT 1, BLOCK A, THE SHOPS AT HIGHLAND VILLAGE, HIGHLAND VILLAGE, TEXAS, SAID PROPERTY BEING MORE COMMONLY KNOWN AS 1700 COTTONWOOD CREEK, #140, HIGHLAND VILLAGE, TEXAS; APPROVING A SITE PLAN; PROVIDING FOR TERMINATION ON ABANDONMENT OR DISCONTINUANCE OF THE CONDITIONAL USE; PROVIDING FOR A CONFLICTS RESOLUTION CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000) FOR EACH OFFENSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Planning and Zoning Commission and the governing body of the City of Highland Village, Texas, in compliance with the laws of the State of Texas and the Ordinances of the City of Highland Village, Texas, have given the requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all the property owners generally and to all persons interested and situated in the affected area, and in the vicinity thereof, and in the exercise of its legislative discretion, and upon a finding that the proposed conditional use is consistent with the standards for approval set forth in Section 12.3 of the Comprehensive Zoning Ordinance of the City of Highland Village, Texas, the City Council has concluded that the Comprehensive Zoning Ordinance and Zoning District Map of the City of Highland Village, Texas, as previously amended, should be further amended as follows:

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HIGHLAND VILLAGE, TEXAS, THAT:**

**SECTION 1.** The Comprehensive Zoning Ordinance of the City of Highland Village, Texas, as amended ("Zoning Ordinance"), shall be further amended by granting a Conditional Use Permit (C.U.P.) for an Amusement Arcade for a 2,572 square foot portion of a building located on Lot 1, Block A, The Shops of Highland Village, City of Highland Village, Denton County, Texas, and more commonly known as 1700 Cottonwood Creek, #140, Highland Village, Texas ("the Property"), the location of the Property being depicted in Exhibit "A," attached hereto and incorporated herein by reference.

**SECTION 2.** If the use of the Property for the purpose of operating an Amusement Arcade (a) does not commence before the first anniversary of the effective date of this Ordinance or (b) is discontinued or abandoned for a period of six (6) consecutive months, such use shall not resume and this Ordinance and the Conditional Use Permit granted herein shall be deemed to have terminated. For purposes of this Section 2, whether or not the required use has been discontinued or abandoned shall be determined in the same manner as the abandonment or discontinuance of a non-conforming use as set forth in Section 7 of the Zoning Ordinance, as amended.



**SECTION 3.** All ordinances of the City of Highland Village related to the use and development of the Property heretofore adopted and in effect upon the effective date of this Ordinance are and shall remain in full force and effect except to the extent amended by this Ordinance or to the extent there is an irreconcilable conflict between the provisions of said other ordinance and the provisions of this Ordinance, in which case the provisions of this Ordinance shall be controlling.

**SECTION 4.** Should any word, sentence, paragraph, subdivision, clause, phrase or section of this Ordinance, or of the Comprehensive Zoning Ordinance, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said Ordinance or the Comprehensive Zoning Ordinance, as amended hereby, which shall remain in full force and effect.

**SECTION 5.** An offense committed before the effective date of this Ordinance is governed by prior law and the provisions of the Comprehensive Zoning Ordinance, as amended, in effect when the offense was committed, and the former law is continued in effect for this purpose.

**SECTION 6.** Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be subject to the same penalty as provided for in Comprehensive Zoning Ordinance as previously amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000) for each offense.

**SECTION 7.** This ordinance shall take effect immediately from and after its passage on Second Reading and publication of the caption in accordance with the provisions of the Charter of the City of Highland Village, and it is accordingly so ordained.

**FIRST READ ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 2019, BY THE CITY COUNCIL OF THE CITY OF HIGHLAND VILLAGE, TEXAS.**

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF HIGHLAND VILLAGE, TEXAS, ON SECOND READING ON THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020.**

**APPROVED:**

\_\_\_\_\_  
**Charlotte J. Wilcox, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Angela Miller, City Secretary**

**APPROVED AS TO FORM AND LEGALITY:**

\_\_\_\_\_  
**Kevin B. Laughlin, City Attorney**

(kbl:11/11/19:112115)

**ORDINANCE NO. \_\_\_\_\_**  
**EXHIBIT "A"**  
**PROPERTY LOCATION AND SITE PLAN**



**CITY OF HIGHLAND VILLAGE**  
**PLANNING AND ZONING**

**AGENDA# 5**

**MEETING DATE: November 19, 2019**

**SUBJECT: Consider a Final Plat for 2.713 ± Acres in the E. Clary Survey, Abstract No. 248, to be known as the Tequesta Subdivision as submitted by Tequesta Highland Village.**

**PREPARED BY: Autumn Aman, Community Development Coordinator**

**BACKGROUND**

An application for review and consideration of the Final Plat and Tree Plan was submitted for Tequesta.

The approximate total 2.713 acres tract is owned by Tequesta Highland Village, formally Foremost Investments. They would like to develop the property as a Residential Single Family Subdivision consisting of eleven (11) lots and a detention pond area.

On October 22, 2019, the City Council approved the Preliminary Plat and Preliminary Tree Plan.

The plat features the following:

1. The proposed subdivision will contain (11) lots for residential construction.
2. There is (1) common areas that will be maintained by the Homeowners Association.
3. A 5' sidewalk will be constructed along Highland Village Road.
4. A sidewalk will be constructed within the development.
5. One (1) tree will be preserved on the property and all others are proposed to be removed due to they are within the dedicated right-of-ways, easements, retaining wall location, buildable lot area, and within close proximity to the building foundations. The builder will be responsible for planting a minimum of (2) 4" caliper trees in the front yard of each house prior to certificate of occupancy being issued.

**IDENTIFIED NEED/S:**

N/A

**OPTIONS & RESULTS:**

Recommend approval of the final plat and tree plan as submitted, approve with conditions or disapprove with explanation.

**PROGRESS TO DATE: (if appropriate)**

City Staff and the City's Engineer have reviewed the application relating to drainage, utilities, and the tree mitigation plan and submitted comments back to the applicant. The applicant has resubmitted the application and, having addressed all comments from the City Staff and the City's Engineer, the plat drawing itself is found to comply with the current provisions of the City's subdivision regulations.

In accordance with Section 2.I of Ordinance No. 2019-1263 ("the PD Ordinance") establishing the Planned Development zoning regulation for the Tequesta Development, the applicant must establish a homeowners' association ("HOA") prior to the City Council's approval of the final plat for the property for the purpose of levying assessments against owners of property within the development and being responsible for the on-going maintenance of any common

areas, including entry features, drainage areas, etc. As of the date of this memo, the applicant has submitted and obtained approval from the City Attorney of the form of declaration of covenants, conditions, and restrictions containing the provisions required by the PD Ordinance. However, the applicant has not yet established the actual HOA, and City staff is awaiting submission to staff for review of the documents that would be filed with the Texas Secretary of State to create the HOA. City staff does not anticipate receiving those documents for review prior to consideration of the Final Plat application by the Commission.

Representatives from the engineer and developer will be present to answer any questions from the Commission.

**BUDGETARY IMPACT/ORDINANCE CHANGE: (if appropriate)**

No ordinance change is required.

**RECOMMENDATION:**

Staff recommends the Commission recommend the City Council approve the final plat subject to the condition that prior to signing and recording the final plat, the applicant must comply with Section 2.1 of Ordinance No. 2019-1263 by creating a homeowners' association that complies with said ordinance.