

THE SMOKING GUN

**WRITTEN PROOF THAT THE
154' BELL TOWER FOR
CREEKWOOD WAS NEVER
APPROVED UNLESS THE
HEIGHT CONDITIONS IN
EXHIBIT "C" WERE ALSO
MET. THOSE CONDITIONS
WERE NEVER MET, SO THIS
PRECEDENT IS INVALID.**

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Step 1: 8/24/06 P&Z States Conditions for Approval

A motion was approved by the P&Z on 8/24/06 that clearly and explicitly states that the CUP for Creekwood would only be approved with conditions...

*“Upon satisfactorily meeting the following **conditions**: the 38-foot one-story multi-purpose building height is approved; the location and footprint of the bell tower is approved, **with the height, noise, and sound system of the bell tower to be address at a later time in the development process...**”*

Commissioner Renee Powell made a motion to approve the Conditional Use Permit, site plan, and associated documents for the Creekwood United Methodist Church, consisting of 28.4 acres of land, located at the southwest corner of Stacy Road (FM 2786) and Country Club Road (FM 1378), and zoned One-Acre Ranch Estate Zone (RE-1), upon satisfactorily meeting the following conditions: the 38-foot one-story multi-purpose building height is approved; the location and footprint of the bell tower is approved, with the height, noise, and sound system of the bell tower to be addressed at a later time in the development process; submittal of an agreement between Lovejoy School and Creekwood United Methodist Church for support of a driveway interconnect

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Step 2: 9/05/06 Town Council Public Debate

The P&Z forwarded their approval conditions to the Town Council for debate. That document was dated 8/29/06. On 9/5/06, the community discussed the Creekwood CUP. A motion was approved by the Town Council on 9/5/06 that clearly and explicitly states that the CUP for Creekwood would only be approved with conditions...

*"A motion was made by Councilwoman Sommers to approve the Conditional Use Permit for Creekwood United Methodist Church as submitted, including the 150 foot height for the bell tower **AND** 38 foot height for the building **AND INCLUDES ALL OTHER CONDITIONS LISTED ON THE ORDINANCE IN EXHIBIT C WHICH INCLUDES THE ADDITION HEIGHT OF THE BUILDING (38') AND GOES BACK TO PLANNING & ZONING FOR THE BELLS WITH A NOTE THAT COUNCIL HAS NO PROBLEMS WITH THE TOWER..."***

and 3 PM. A motion was made by Councilwoman Sommers to approve the Conditional Use Permit for Creekwood United Methodist Church as submitted, including the 150 foot height for bell tower and 38 foot height for the building and includes all other conditions listed on the ordinance in Exhibit "C" which includes the addition height of the building (38") and goes back to Planning and Zoning for the bells but with note that Council has no problems with the tower. Seconded by Mayor Pro Tem Fraser, with all in favor.

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Step 2: 9/05/06 Town Council Public Debate (Continued)

The Town Council motion above is a distinct reference to the P&Z recommendation from Step 1 that was submitted on 8/29/06 after their 8/24/06 meeting. **The CUP included strict approval conditions referenced in Exhibit C.** These conditions CANNOT BE IGNORED. The motion as recorded in the minutes can appear confusing at first because it states the 150 foot height was approved **BUT** it also states that the approval is contingent on the conditions set forth in Exhibit C. The two items legally work together as shown below in the Exhibit C Ordinance.

Certain groups may want to cherry pick the items they like while ignoring the conditions they dislike relating to approval conditions. That's not how it works. The entire ordinance including Exhibits must be used to determine approval conditions.

Also the reference above about the fact that the Council has *"no problems with the tower"* has NOTHING TO DO WITH HEIGHT AND EVERYTHING TO DO WITH THE FACT THAT THE COUNCIL WAS WILLING TO ALLOW CREEKWOOD TO BUILD A TOWER AS PREVIOUSLY STATED BY THE P&Z WHEN THEY SAID ON 8/24/06 *"the location and footprint of the bell tower is approved, with the height, noise, and sound system of the bell tower to be address at a later time in the development process..."*. This fact becomes evident when you read the minutes listed below dated 9/14/06 about the town council meeting.

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Step 3: 9/05/06 Ordinance 2006-24 Approved

It is important to note that the written Ordinance takes precedence over any public minutes, debate or oral representations. The Town Council approved the Creekwood CUP on 9/5/06 for Ordinance 2006-24. Here is what it actually says which is consistent with the 8/24/06 P&Z hearing, 8/29/06 P&Z recommendations and the 9/5/06 Town Council Meeting.

“A motion was made by Councilwoman Sommers to approve the Conditional Use Permit for Creekwood United Methodist Church as submitted, including the 150 foot height for the bell tower AND 38 foot height for the building AND INCLUDES ALL OTHER CONDITIONS LISTED ON THE ORDINANCE IN EXHIBIT C...”

Please notice that the approved language below in Exhibit C is IDENTICAL to the recommended language from 8/24/06 and 8/29/06 from the P&Z...

“the location and footprint of the bell tower is approved, with the height, noise, and sound system of the bell tower to be address at a later time in the development process...”

So yes the 154' Tower was approved only if all the conditions in Exhibit “C” were also met. Those Exhibit “C” conditions were NEVER met.

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Step 3: 9/05/06 Ordinance 2006-24 Approved (Continued)

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FAIRVIEW, TEXAS:

Section 1. That the Comprehensive Zoning Ordinance and the zoning map of the Town of Fairview are hereby amended by granting a Conditional Use Permit for the Creekwood United Methodist Church, consisting of 28.4 acres of land, located at the southwest corner of Stacy Road (FM 2786) and Country Club Road (FM 1378), and zoned One-Acre Ranch Estate Zone (RE-1) and further shown on Exhibit "A", described on Exhibit "B", and with the conditions stated on Exhibit "C", which is attached hereto and fully incorporated herein.

8-29-06 Exhibit "C" CUP for Creekwood UMC

The following shall be conditions of approval regarding the Conditional Use Permit for the Creekwood United Methodist Church:

1. The location and footprint of the bell tower is approved, with the height, noise, and sound system of the bell tower to be addressed at a later time in the development process before the planning and zoning commission;
2. Final review and approval of water utilities and fire hydrant location by the City of Allen;
3. Establishment of a developer's agreement regarding timing and payment of the 10' trail requirement;
4. All conditions subject to the administrative approval of the town staff, except the height, noise and sound system;
5. All conditions of approval must be stated as notes on the Site Development Plan, or as a separate sheet attachment.

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Step 4: 9/14/06 Town Council Minutes Released

Lastly, let's examine the final public minutes relating to the 9/5/06 motion to approve the Creekwood CUP with conditions. Everything that was approved **WITH** conditions.

*"The town council made the following motion to approve this request which was unanimously approved: (1) the 154' height of the bell tower is approved; (2) the 38' building height is approved; (3) **all other conditions of approval as stated in Exhibit C of the adopting ordinance are approved**; and (4) that the town staff shall tell the planning and zoning commission that the town council does not have a problem with the sound system of the bell tower.*

So yes the 154' Tower was approved **only** if all the conditions in Exhibit "C" were also met. Those Exhibit "C" conditions were NEVER met. In fact, Creekwood ended up coming back about 11 years later in 2017 to build a 55' tall tower.

8. Status of a Conditional Use Permit for the Creekwood United Methodist Church, consisting of 28.4 acres, located at the southwest corner of Stacy Rd. (FM 2786) and Country Club Rd. (FM 1378), and zoned One-Acre Ranch Estate Zone (RE-1).

Alan Efrussy introduced this item by explaining that on August 24, 2006, the planning and zoning commission approved a Conditional Use Permit (CUP) for the Creekwood United Methodist Church, with conditions. At its August 24, 2006 meeting, the planning and zoning commission asked the town staff to provide status of the CUP for the church. At the September 5, 2006 town council meeting, five citizens spoke in support of this CUP request and the town council made the following motion to approve this request which was unanimously approved: (1) the 154' height of the bell tower is approved; (2) the 38' building height is approved; (3) all other conditions of approval as stated in Exhibit C of the adopting ordinance are approved; and (4) that the town staff shall tell the planning and zoning commission that the town council does not have a problem with the sound system of the bell tower. Mr. Efrussy further included information regarding the