

**SPECIAL TOWN COUNCIL
MEETING MINUTES
July 17, 2014**

The Town Council met in special session on Thursday, July 17, 2014 at 6:30 p.m. at 372 Town Place, Fairview, Texas. Those present were Mayor Darion Culbertson, Council Members Ron Samuels, John Adler, Frank O'Reilly, Henry Lessner, Paul Hendricks and Renee Powell; Town Manager, Julie Couch; Planning Manager, Ken Schmidt; Interim Town Secretary, Caitlin Scalley; Engineer In Training, Danielle Gregory; and Town Attorney, Clark McCoy.

Mayor Culbertson called the meeting to order at 6:31 p.m. and declared a quorum was present.

The council then adjourned into executive session at 6:32 p.m. to consult with legal counsel regarding pending or contemplated litigation including CPDD zoning issues.

Mayor Culbertson reconvened back into regular session at 6:48 p.m.

CUP 1528 POND BLUFF WAY: Conduct a public hearing, consider, and take any necessary action on a request by Katana Homes for approval of a Conditional Use Permit in order to allow for the construction of an accessory building on a property that is zoned Commercial Planned Development District – Zone L and is specifically located at 5128 Pond Bluff Way, being Lot 2, Block J of the Sloan Creek Estates – Phase III subdivision. (ZA2014-11)

Mr. Schmidt stated the applicant is proposing to construct a 315 square foot outdoor kitchen and to encroach into the required 15 foot setback from the primary structure by a distance of 1.8 foot. Mr. Schmidt stated the applicant's proposal conforms to all other requirements for accessory buildings. Staff received 2 statements of support and 2 statements of opposition. Councilman Lessner stated one of the opposition statements did not oppose. Mr. Schmidt stated staff recommends approval of the application as submitted.

The council had a discussion regarding HOA approval of the application.

Mayor Culbertson opened the public hearing. No comments were made and the public hearing was closed.

Mayor Culbertson opened discussion to council. No comments were made.

Councilman Samuels made a motion to approve the Conditional Use Permit for Katana Homes. Councilman O'Reilly seconded the motion, and the motion was unanimously approved.

SITE PLAN RESIDENCE INN HOTEL: Conduct a public hearing, consider, and take any necessary action on a request by Cumulus Design for approval of a Site Plan for a proposed hotel on Lot 2R-2, North Addition, a 2.733± acre lot that is zoned Commercial Planned Development District (CPDD), Zone K, and is generally located east of Convention Drive and north of Murray Farm Road. (SP2014-02)

Mr. Schmidt stated the applicant is proposing to establish an extended stay Marriot Residence Inn Hotel. The property is currently zoned CPDD- Zone K and has vested rights through an existing Concept Plan. Mr. Schmidt stated there are several changes to the design from the Concept Plan approval, including the colors, additional stucco and a shingled roof. Staff received 1 statement of support and no statements of opposition. Mr. Schmidt stated staff recommends approval of the Site Plan, conditioned upon council roof type preference and clarification of the public art provision.

Mayor Culbertson opened the public hearing and invited the developer to speak.

Paul Cragun of Cumulus Design stated the development is scheduled to break ground by the end of 2014. Council asked questions regarding the changes to the roof and the public art provision. Mr. Cragun stated the goal is to aesthetically blend the structure to match with existing structures and the interior design would be developed after Site Plan approval.

Dennis Jaglinski, 5567 Emerson Court, asked about potential fencing for the development. Mr. Schmidt stated fencing is not typical for hotels, and the applicant is proposing a screened and gated dumpster.

Mayor Culbertson closed the public hearing.

Mayor Culbertson opened discussion to council. No comments were made.

Councilman O'Reilly made a motion to approve the Site Plan for the hotel as submitted. Councilman Adler seconded the motion, and the motion was unanimously approved.

AMENDING PLAT RESIDENCE INN HOTEL: Consider and take any necessary action on a request for approval of an Amending Plat for a proposed hotel on Lot 2R-2, North Addition, a 2.733± acre lot that is zoned Commercial Planned Development District (CPDD), Zone K, and is generally located east of Convention Drive and north of Murray Farm Road.

Mr. Schmidt stated the applicant's proposal provides for access, water, drainage, electrical and utility easements. The proposal conforms to the town's subdivision regulations. Mr. Schmidt stated staff recommends approval as submitted.

Councilman Hendricks made a motion to approve the request. Councilwoman Powell seconded the motion, and the motion was unanimously approved.

ZONING CHANGE OAKSTREET WHOLESALE NURSERY: Conduct a public hearing, consider, and take any necessary action on a zoning change request by OakStreet Wholesale Nursery, LLC, generally, to amend Article 14.02 (Zoning Ordinance), Division 14 (Commercial Planned Development District) in order to add a new and unlisted use, "Wholesale Nursery and Landscape Supply" as a use that shall be permitted by Special Use Permit within Zone M of the CPDD. (ZA2014-09)

Mr. Schmidt stated his presentation would apply to all remaining agenda items pertaining to OakStreet Wholesale Nursery. Mr. Schmidt stated the applicant is applying for a zoning change to add "Wholesale Nursery and Landscape Supply" as a use permitted by a Special Use Permit in CPDD- Zone M. Mr. Schmidt stated the applicant is also applying for a Special Use Permit and a Site Plan for a "Wholesale Nursery and Landscape Supply" facility on the subject property.

Mr. Schmidt stated the proposed buildings would be located off of the subject property, but within one of the properties in the Town of Fairview. One building would be required and the other three would be optional. Mr. Schmidt stated Fairview would be established as the point of sale for all transactions that occur on these properties and the McKinney property. Staff received 1 statement of support for the application and no statements of opposition.

Mr. Schmidt stated the Planning and Zoning Commission recommends denial of the Zoning Change request, denial of the Special Use Permit and conditional approval of the Site Plan. These conditions include: 1) Wholesale Nursery and Landscape Supply shall only be permitted as a Temporary Use with expiration terms of the use as provided for in the approved ordinance and 2) improvements to the subject property and adjacent properties, and established requirements for the proposed use are completed as provided for in the Site Plan.

Mr. Schmidt stated staff has provided a proposed ordinance that permits temporary use for twelve years with opportunities to request two year extension periods, in accordance with standard zoning procedures.

Mr. Schmidt stated staff also recommends denial of the Zoning Change request, denial of the Special Use Permit and conditional approval of the Site Plan, associated Ordinance and Development Agreement with the aforementioned conditions.

Mayor Culbertson opened the public hearing.

Don Paschal, the developer, resides at 904 Parkwood Court, McKinney, Texas. Mr. Paschal stated this is an appropriate temporary use for the property and will help to transition the property in the future. Mr. Paschal stated he supported staff recommendations to deny the Zoning Change request and the Special Use Permit application. Mr. Paschal asked council to approve the Site Plan and associated Ordinance.

Mayor Culbertson closed the public hearing.

Mayor Culbertson opened discussion to council. No comments were made.

Upon a motion by Councilman Lessner and a second by Councilman Hendricks, the council voted unanimously to deny the zoning change request. The motion carried.

SPECIAL USE PERMIT OAKSTREET WHOLESALE NURSERY: Conduct a public hearing, consider, and take any necessary action on a request by OakStreet Wholesale Nursery, LLC for approval of a Special Use Permit for a proposed wholesale nursery and landscape supply facility on a 5.009± acres tract situated in the Joab Butler Survey – Abstract No. 68 that is

zoned CPDD, Zone M, and is generally located east of State Highway 5 and north of Frisco Road. (ZA2014-10)

Mayor Culbertson opened the public hearing. No comments were made.

Mayor Culbertson closed the public hearing.

Upon a motion by Councilman O'Reilly and a second by Councilman Samuels, the council unanimously voted to deny the Special Use Permit. The motion carried.

SITE PLAN OAKSTREET WHOLESALE NURSERY: Conduct a public hearing, consider, and take any necessary action on a request by OakStreet Wholesale Nursery, LLC for approval of a Site Plan for a proposed wholesale nursery and landscape supply facility on a 5.009± acres tract situated in the Joab Butler Survey – Abstract No. 68 that is zoned CPDD, Zone M, and is generally located east of State Highway 5 and north of Frisco Road. (SP2014-03)

Mayor Culbertson opened the public hearing. No comments were made.

Mayor Culbertson closed the public hearing.

Councilman O'Reilly made a motion to approve the Site Plan and ordinance granting a temporary use for Wholesale Nursery and Landscape Supply. Councilman Lessner seconded the motion, and the motion was unanimously approved.

DEVELOPMENT AGREEMENT: Consider and take any necessary action on a request for approval of a Developer's Agreement by OakStreet Wholesale Nursery, LLC, generally in order to establish conditions for the installation of public and private improvements for a proposed wholesale nursery and landscape supply facility on a 5.009± acres tract situated in the Joab Butler Survey – Abstract No. 68 that is zoned CPDD, Zone M, and is generally located east of State Highway 5 and north of Murray Farm Road.

Councilwoman Powell made a motion to approve the development agreement subject to former agreements and legal review. Councilman Adler seconded the motion, and the motion was unanimously approved.

Mayor Culbertson adjourned the meeting at 7:25 p.m.


DARION CULBERTSON, MAYOR

ATTEST:

Caitlin Scalley, Interim Town Secretary

