FAIRVIEW TOWN COUNCIL AND THE PLANNING AND ZONING COMMISSION SPECIAL JOINT MEETING MINUTES DECEMBER 8, 2016

The Fairview Town Council and the Planning and Zoning Commission met in special joint session on Thursday, December 8, 2016 at 7:00 p.m. at 372 Town Place, Fairview, Texas. Those present were Mayor Darion Culbertson; Mayor Pro Tem John Adler; Councilmembers Ron Samuels, Frank O'Reilly, Pam Little, Paul Hendricks and Renee Powell; Planning and Zoning Commission Chairman Sim Israeloff; Vice Chairman Pat Friend; and Commissioners Gregg Custer, Scott Almy, Ricardo Doi, John C. Cox and Glenn Carlin. Staff present included Town Manager, Julie Couch; Chief Financial Officer, Jason Weeks; Planning Manager, Israel Roberts; Town Engineer, James Chancellor; Town Secretary, Elizabeth Cappon; and Town Attorney, Clark McCoy.

Mayor Culbertson and Chairman Israeloff called the meeting to order at 7:00 p.m. and declared quorums were present.

PRELIMINARY PLAT: WOODLAND FARM ESTATES ADDITION: Consider and take necessary action on a request for approval of a preliminary plat for the Woodland Farm Estates Addition. The 20.7-acre tract of land is located north of Old Stacy Road, between Collinwood Drive and Lakewood Drive and is zoned for the (RE-2) Two-acre Ranch Estate District. Applicant: Doug Mousel, LandPlan Development. (PP2016-02).

Mr. Roberts gave a presentation on agenda item 2(a), a preliminary plat for the Woodland Farm Estates Addition, 10 lots on more than 20 acres zoned RE-2 and located north of Old Stacy Road, between Collinwood Drive and Lakewood Drive.

Mr. Roberts stated that when the Preliminary Plat was presented to the Parks and Recreation Advisory Board, they had recommended a trail be added to connect Collinwood Drive and Lakewood Drive. Mr. Roberts stated that the applicant has requested to use cash in lieu of a parkland dedication instead. Mr. Roberts stated that as the plat meets all RE-2 standards, it is recommended for approval as presented.

Chairman Israeloff stated this was not a public hearing but due to the amount of public reaching out to the Commission and Council, they would allow public comments.

Gary Carter, 1000 Timber Lane, stated that he lived off Lakewood Drive. Mr. Carter stated that he provided input to the Parks and Recreation Advisory Board and would like to see the Parks and Recreation Advisory Board's recommendation for a trail along the Southern end of the development to connect the neighborhoods be implemented. Mr. Carter stated that Old Stacy Road currently is the only connector for the neighborhood and it does not have any sidewalks. Mr. Carter added that the four way stop at Lakewood Drive is oddly shaped and dangerous for kids to be crossing.

Paul Westbrook, 440 Lakewood Drive, stated that he is the former Parks and Recreation Advisory Board Chairman and the current master plan indicates the Town should look for trail opportunities in that area. Mr. Westbrook stated that the required park dedication amount would not be enough for a park but could make a perfect trail corridor between the two streets. Mr. Westbrook stated that this is likely the last opportunity to add a trail connection in the area.

Chairman Israeloff asked if the Parks Board recommended a particular location for the trail. Mr. Westbrook stated that the residents would be okay with any location that works for the developer that connects the two streets but that near the drainage ditch would be least preferable.

Mayor Culbertson and Mr. Westbrook discussed potential trail and easement sizes.

Jay Jones, 360 Collinwood Drive, stated his support for adding a trail. Mr. Jones stated that there is a lot of Heritage Ranch and school traffic along Old Stacy Road.

The applicant and developer, Doug Mousel, LandPlan Development Corporation, 5850 Granite Parkway, stated his opposition to the trail requirement. Mr. Mousel stated that based on his municipal experience he was not sure the Town could have a dedication requirement for a trail rather than a park. Mr. Mousel added that he was not trying to circumvent the requirement and was willing to pay the cash in lieu.

Chairman Israeloff asked Town Attorney McCoy about Mr. Mousel's statement. Mr. McCoy stated that he believed the Town could require parkland dedication in the form of a trail easement at the discretion of the Council with the assistance of staff. Chairman Israeloff asked Mr. McCoy how the Commission or Council would proceed in the case if they wanted to add the trail. Mr. McCoy stated they could not modify or add conditions to the preliminary plat; they would need to deny it without prejudice and have the applicant submit a new preliminary plat with a trail easement. Mr. McCoy added if the Planning and Zoning Commission denied it without prejudice, there would be no action on the part of the Council at the meeting.

Chairman Israeloff discussed the Town's history of utilizing long cul-de-sacs, resulting in less connectedness of older neighborhoods.

Town Manager Couch clarified that should the Commission or Council want to designate land, it should be a right-of-way of at least 15 feet in width for maintenance, rather than an easement, so it is a separate tract of land from the neighboring properties. Mr. Roberts stated that a straight 15-foot wide trail would be about 700 square feet less than the required amount of parkland dedication. Ms. Couch added that meant there would be space for a trail but likely no remaining funds to develop it.

Commissioner Doi stated his support for a trail but discussed with Mr. Chancellor the viability of still having ten RE-2 lots with the trail right-of-way as well as potential tree removal.

Commissioner Cox stated the Commission should determine whether the Town is willing to expend the funds to build a trail or at a minimum maintain the property before going forward. Chairman Israeloff stated there are several instances in the Town where a right-of-way has not yet been built but it reserves it if the Town ever wants the right-of-way. Commissioner Cox stated he understood that, but if he were a neighbor, he would want assurance that someone would maintain the property. Mr. Mousel added there are other developments in Town where his company designated a trail easement and the trail has never been built such as in Tranquility Farms and Oakwood Estates. Vice Chairman Friend stated his support for adding a trail.

Vice Chairman Friend made a motion to deny without prejudice a preliminary plat for the Woodland Farm Estates Addition. Commissioner Doi seconded the motion and the motion to deny was unanimously approved.

CUP: SPORTS COURT AT 560 KENTUCKY LANE: Conduct a public hearing, consider and take necessary action on a request for approval of a Conditional Use Permit (CUP) for a sport court. The subject site is located at 560 Kentucky Lane and is zoned for the (PC) Planned Center District. Owner/Applicant: James Newby. (Case No. CUP2016-15).

Mr. Roberts gave a presentation on agenda item 3(a), on a request for approval of a sports court at a 2.8-acre site located at 560 Kentucky Lane. Mr. Roberts stated the sports court was already constructed due to misinformation provided to the applicant by their contractor.

Mr. Roberts stated that of the 74 notices mailed to the surrounding residents, the Town had received four letters of support, three letters of opposition and three letters of opposition that were later withdrawn or changed to support after speaking with the applicant.

Mr. Roberts stated that Staff recommends approval subject to use, design and landscaping as well as the prohibition of lighting of the sports court.

Chairman Israeloff opened the public hearing.

The applicant, James Newby, 560 Kentucky Lane, stated his support for the application. Mr. Newby apologized for his mistake in building the sports court without the CUP. Mr. Newby stated that it was for his grandchildren who visit approximately once or twice per month.

Roy Smith, 908 Scenic Ranch Circle, stated his opposition to the sports court. Mr. Smith stated that his Mother's home has the most exposure to the sports court and that he is concerned about noise, property values and use of temporary lighting. Mr. Smith stated that her bedroom is closest to it with the court just 45 feet from the property line. Mrs. Smith added that if the CUP were approved and the Newbys were to sell the home, they would have no recourse over how much the sports court is used. Mr. Newby stated his willingness to plant additional landscaping for soundproofing.

Larry Sewell, 916 Scenic Ranch Circle, asked if the sports court met the setback requirements. Mr. Roberts stated that it did, as the setback for an accessory structure is 30 feet. Mr. Sewell asked if there was precedent in the Town of a structure being built then denied. Mr. Sewell asked what would happen if the CUP were denied. Mr. McCoy stated that the structure have to be removed.

Chairman Israeloff closed the public hearing.

Vice Chairman Friend stated his opposition to building a structure without permission.

Commissioner Doi asked if the landscaping screening is to the satisfaction of the neighbors. Ms. Smith stated that she is additionally concerned about resale value or if another person were to purchase that home. Commissioner Doi and Mr. Roberts discussed the landscaping and replacement in the future. Mr. Roberts confirmed that replacement of any possible dead trees would be a requirement of the CUP. Commissioner Cox recommended denser landscaping to ensure a solid wall of landscaping would develop faster.

Commissioner Carlin and the applicant discussed the lighting prohibition.

Commissioner Doi made a motion to approve a Conditional Use Permit (CUP) for a sport court with the condition that the number of trees be doubled at four feet apart in a staggered pattern. Commissioner Cox seconded the motion and the motion was approved by a vote of 6 to 1; Vice Chairman Friend opposed.

Councilmember Powell asked when the sports court was built. Mr. Newby stated it was built in August of 2016 and that he was not made aware a permit was required until October of 2016.

Councilmember Adler asked if the Town had any recourse against contractors that give misinformation. Ms. Couch stated if the structure was removed, the contractor may be liable but it would be up to the applicant and the Town would not be involved. Commissioner Doi asked if it was possible to add a fine for contractors not informing residents of the proper permitting process. Mr. McCoy discussed the process for prosecuting ordinance violations. Mr. McCoy stated that a fine could probably be added. Mayor Culbertson stated he felt it was a good recommendation to add a penalty in the future.

Councilmember O'Reilly asked about prohibiting lighting for future owners. Mr. McCoy stated that was already in the ordinance.

Councilmember Hendricks asked if the applicant planned to fence around the sports court. The applicant stated that his property had a fence but he did not plan to add one for the sports court.

Mayor Culbertson opened the public hearing.

Ms. Smith stated that approving the CUP would set a precedent that it is okay to ask forgiveness rather than apply in advance. Ms. Smith described rules that she had abided by in regards to her property.

Mayor Culbertson closed the public hearing.

Councilmember Hendricks made a motion to approve a Conditional Use Permit (CUP) for a sport court subject to the conditions of the Planning and Zoning Commission. Councilmember Little seconded the motion and the motion was unanimously approved.

<u>MAJOR WARRANT: MASTER SIGN PLAN FOR THE VILLAGE AT FAIRVIEW</u>: Conduct a public hearing, consider and take action on a request for approval of a Major Warrant for a Master Sign Plan for the Village at Fairview. The site is located at the northeast corner of Central Expressway and Stacy Road and is zoned for the (CPDD) Commercial Planned Development District. (Case #MW2016-01).

Mr. Roberts gave a presentation on agenda item 3(b), on a request for approval of a Major Warrant for a Master Sign Plan for The Village at Fairview shopping center. Mr. Roberts stated that the major warrant is part of a rebranding effort by Lincoln Property Company to Fairview Town Center. Mr. Roberts stated that while other changes are planned for later, this particular major warrant deals with the additional monument signage to include a 60' LED display with 75 percent offsite advertising. Mr. Roberts stated the center would allow free advertising for Town events on it. Mr. Roberts stated other improvements include the elimination of pinch points, landscaping changes and the removal of some retail space so a main green space can be added.

Mr. Roberts stated that Staff recommends approval subject to seven conditions listed in Mr. Roberts' presentation.

The applicant, Robert Dozier, Executive Vice President, Lincoln Property Company, 2000 McKinney Ave in Dallas, gave a presentation on Lincoln Property Company's planned renovations to the Village at Fairview shopping center including the additional signage as well as the deconstruction of 40,000 square feet in order to create a green space gathering area, improve sightlines and remove traffic flow issues.

Jack O'Brien, O'Brien and Associates Architects, 5310 Harvest Hill Rd #136 in Dallas, expanded on Mr. Dozier's presentation.

Mayor Culbertson asked if the LED sign would always be 75 percent offsite advertising or if it would change over time. Mr. Dozier stated that LPC would hire Reynolds to build and manage the sign and that 75 percent offsite is what they have said is necessary for a return on investment on the sign. Mr. Dozier clarified for Councilmember Samuels that the 25 percent onsite advertising is free to the shopping center tenants. Councilmember Little asked if any types of businesses would be precluded from advertising. Mr. Dozier stated that certain ones would.

Chairman Israeloff opened the public hearing.

Gary Carter, 1000 Timber Lane, stated that he was opposed to the LED sign as it could result in the Town losing their Dark Sky Community status. Mr. Carter added these types of signs were prohibited by the Town previously.

Chairman Israeloff closed the public hearing.

The Commission, the Council and the applicants had an extended discussion regarding the LED sign and its advertising requirements.

Commissioner Cox stated he felt the LED sign should be closer to Stacy to reduce the light pollution issue and to give drivers heading North on U.S. 75 an opportunity to exit for the center.

Vice Chairman Friend stated his support for the changes and that he felt that Lincoln Property Company are experts in their field and the Commission should accept any of their suggestions.

Commissioner Doi stated that while he normally opposes LED signs, he would support anything that would help the shopping center.

Chairman Israeloff stated his delight with most of the proposed changes in the shopping center but added that he did not support the offsite advertising on the LED sign as it makes the sign a billboard with separate business interests from the mall.

Commissioner Custer stated he wanted to know how critical the LED sign was to the project. Commissioner Custer stated he felt conflicted as he agrees with Mr. Carter about the importance of Dark Skies but also he thinks the shopping center needs to be successful.

Commissioner Doi suggested changing the model to make it less offsite advertising. Mr. Dozier stated that 50 percent would be the minimum amount of offsite advertising to make the sign a viable option for the shopping center.

Chairman Israeloff stated his opposition to any amount of offsite advertising on the LED sign as it made the sign a billboard.

Mr. Dozier stated that the LED sign was not going to make or break the project and suggested replacing the LED sign with a non-LED monument sign.

Vice Chairman Friend made a motion to approve a Major Warrant for a Master Sign Plan for The Village at Fairview shopping center subject to the condition that the LED sign or monument sign just be for on premise advertising and does not include advertising for offsite businesses, regardless of whether an LED sign or a monument sign is used. Commissioner Cox seconded the motion and the motion was unanimously approved.

Mayor Culbertson suggested the Council take the developer's suggestion that they replace the LED sign in the plan with a monument sign.

Councilmember Samuels stated that he would like the sign to be able to promote anything within Fairview, rather than just the mall.

Councilmember Hendricks asked if there is a monetary value of the benefit of the sign. Mr. Dozier stated that it helped attract tenants as an amenity and free advertising.

Councilmember O'Reilly say Lincoln Property Company are the experts and if they think the LED sign will help, the Council should consider it for the shopping center.

Mayor Pro Tem Adler stated his agreement with using a monument sign now and the Council can consider an LED later. Councilmember Powell stated she agreed with Mayor Pro Tem Adler.

Mayor Culbertson opened the public hearing.

Mr. O'Brien stated he felt the LED sign was important for advertising events in the center.

Warren Westberg, 541 Lakewood Drive, President of the Town's EDC/CDC Boards, stated his support for the changes as proposed by the shopping center.

Mr. Carter stated that the developer agreed the sign does not break the deal, so while he supports the other changes he would not like to see the LED sign or future billboards in the Town.

Chairman Israeloff suggested that the Council motion be formed to allow a LED sign but without allowing offsite advertising.

Councilmember Little stated that she would like the sign to be able to advertise other businesses in Fairview such as Heritage Ranch. Mr. McCoy stated that any attempt by the Town to regulate the content of the sign is problematic beyond a definition of onsite versus offsite advertising.

Mayor Culbertson closed the public hearing.

Mayor Pro Tem Adler made a motion to approve a Major Warrant for a Master Sign Plan for the Village at Fairview with the condition that either a monument or LED sign allows for onsite advertising only, subject to approval by legal counsel as to form. Councilmember Hendricks seconded the motion and the motion was unanimously approved.

Chairman Israeloff adjourned the Planning and Zoning Commission at 9:23 p.m. At 9:24 p.m., the Council then adjourned into executive session regarding property acquisition, personnel and economic development negotiations. At 9:46 p.m., Mayor Culbertson reconvened back into regular session. Mayor Culbertson adjourned the Council at 9:47 p.m.

Darion Culbertson, Mayor

Elizabeth Cappon, Town Secretary

TOWN OF FAIRVIEW

Sim Israeloff, Planning and Zoning Commission Chairman