

**MINUTES
FAIRVIEW, TEXAS
PLANNING AND ZONING COMMISSION
THURSDAY, FEBRUARY 12, 2009**

Chairman Bill Wells called the meeting to order at 7:05 p.m. Commission members present were Darion Culbertson, Tom Supan, Renee Powell, Paul Hendricks, Brayton Campbell and Sylvia Hastedt. Staff members present were Planning Director, Alan Efrussy; Assistant to the Town Manager, Matt Donnell; Community Development Manager, Ray Dunlap and Town Secretary, Michelle Lewis Sirianni.

1. Consider and take action regarding the minutes of the January 22, 2009 Planning and Zoning Commission meeting.

Commissioner Powell advised the Town Secretary of a few grammatical corrections prior to this meeting, which have been corrected.

Commissioner Culbertson made a motion to approve the minutes of the January 22, 2009 Planning and Zoning Commission meeting. Commissioner Campbell seconded that motion and the motion was unanimously approved.

2. Discussion of a potential zoning district for the Oaks of Fairview Subdivision, currently annexed but unzoned, consisting of 16 lots and 19.917 acres, generally located west of Lakewood Drive, east of Ashwood Lane, south of Willow Court, and north of Old Stacy Road.

Mr. Donnell introduced this item stating that at the last commission meeting the consensus of the commission members was to recommend zoning to the One-Acre Ranch Estate Zone (RE-1). Mr. Donnell stated that the largest lot at 2.24 acres is the only one that is large enough to replat into two lots if zoned RE-1. Mr. Donnell stated that this lot was replated at a previous date to combine two lots, which created the larger lot and lowered the density for the subdivision; therefore, staff is supportive of the RE-1 zoning district for this subdivision.

Chairman Wells opened discussion to the public. Stewart Teasley, 390 Ashwood Lane, stated that he is the president of the Homeowners Association for the Oaks of Fairview and stated that he'd like to request that this item be tabled for thirty days. Mr. Teasley stated that there is a guest house on 380 Ashwood Lane and he doesn't know if the guest house conforms to the requirement within an RE-1 district and that it might be considered a non-conforming use. Mr. Teasley commented that the homeowners association has no objection to the zoning, but would like to have his neighbor obtain an opportunity to voice his opinion.

Chairman Wells closed the public hearing and opened discussion to the commission members.

Mr. Donnell stated that the accessory building ordinance addresses the maximum square

footage for a RE-1 district and any accessory building request over 900 square feet could apply for a Conditional Use Permit (CUP). Mr. Donnell stated that if the subdivision is zoned to the RE-1 zoning district, the accessory building on 380 Ashwood Lane would become a legal non-conforming use and would remain on the property.

Commissioner Culbertson stated that he believes that the RE-1 zoning is appropriate and there is no need to delay the commissions discussion, since any future discussion regarding accessory buildings would remain the same as now. Commissioner Culbertson stated that he wishes the resident was able to be in attendance, but believes the commission should move forward.

Commissioner Powell asked if the accessory building met setbacks when built. Mr. Donnell responded that he is not sure when the building was actually built and at that time, most probably the accessory building ordinance had not been amended.

Commissioner Hendricks stated that he believes the outcome of the zoning would be the same and does not believe that thirty days would make a difference. Chairman Wells added that the accessory building will remain on the property and there is no penalty regarding it staying on the premises, and that the building would be grandfathered as a legal non-conforming use. Chairman Wells added that if the building was destroyed by a natural act and then requested to be built at a later date, then the building would have to follow current regulations.

Commissioner Culbertson made a motion to approve the zoning to the One-Acre Ranch Estate Zone (RE-1) for the Oaks of Fairview Subdivision, currently annexed but unzoned, consisting of 16 lots and 19.917 acres, generally located west of Lakewood Drive, east of Ashwood Lane, south of Willow Court, and north of Old Stacy Road. Commissioner Powell seconded that motion and the motion was unanimously approved.

3. Conduct a public hearing and take action regarding establishing setbacks for swimming pools within residential areas in the Commercial Planned Development District (CPDD).

Mr. Donnell introduced this item stating that the setbacks for subdivisions within the Commercial Planned Development District should vary because of the varying lot dimensions within each subdivision. Mr. Donnell stated that staff would like to create an ordinance that will contain language that will reference as follows: that in the absence of an easement, the swimming pool setbacks for the single family residential subdivisions within the Commercial Planned Development District (CPDD) shall be three (3) feet from any lot line. Swimming pools, and swimming pool decks or aprons shall not be constructed within said three (3) foot setback. Mr. Donnell stated that the three foot setback only applies to the Commercial Planned Development (PC) District in Cypress Crossing and that the Planned Center (PC) District shall have a setback of then (10) feet from any line.

Chairman Wells opened discussion to the public. Jennifer Seiter, 5146 Pond View Lane, stated that areas of Sloan Creek have different leveling, which causes drainage issues. Mrs. Seiter stated that her concern is that if the pool is placed three feet from the drainage

space, then their drainage would worsen and cause more problems. Chairman Wells stated that an easement is an invisible line that allows drainage to flow in a proper way.

Hock Lee, 5606 Emerson Court, asked if the five (5) foot easement was from the property line or the drainage easement and when would the ordinance take effect. Mr. Lee stated that some lots in his subdivision are smaller and the five feet would restrict the size of the pool. Mr. Donnell responded that the Villages of Fairview, Phase I has a five foot setback and an easement waiver can always be requested through the town engineer, who would make the final decision. Mr. Donnell commented that the town engineer would take into consideration the impact of neighbors and the people downstream. Mr. Donnell stated that this subject ordinance is scheduled to go before town council on March 3rd. Chairman Wells stated that it is illegal to construct in an easement and that situation has been no different than before other than establishing how far from the easement to construct.

Christy Donaldson, 5140 Pond Springs Circle, asked what the easement is from the fence line and is concerned that when the lots were graded in her subdivision that they were passed with poor drainage because of how the water drains through the middle of her yard. Chairman Wells responded that they can check to see where their easements are along the boundary line and that they may or may have any easements, but the setbacks will specify how close to the property line or easement the pool, deck or apron can be placed.

Chairman Wells closed the public hearing and opened discussion to commission members.

Commissioner Hendricks stated that he believes the three (3) feet is generous. Commissioner Hendricks commented that the smaller lots could be a problem due to the limited space between each lot.

Commissioner Hendricks made a motion to approve the three (3) foot setback from the property line in absence of an easement in the single family residential subdivision lots within the Commercial Planned Development District (CPDD). Commissioner Campbell seconded that motion and the motion was unanimously approved.

Chairman Wells noted that this recommendation excludes the single family homes within the Villas In The Park Subdivision.

Mr. Donnell called a point of order. Mr. Donnell stated that he would like to amend the motion to exclude Phase III of the Sloan Creek Estates Subdivision.

Commissioner Powell made a motion to approve the three (3) foot setback from the property line in absence of an easement in the single family residential subdivision lots within the Commercial Planned Development District (CPDD) excluding phase III of Sloan Creek Estates. Commissioner Campbell seconded that motion and the motion was unanimously approved.

4. Continue discussion regarding square footage of accessory buildings.

Mr. Donnell introduced this item stating that the consensus at the last meeting was to bring this item back for further discussion because the commission members wanted additional information for further discussion regarding height and not counting detached accessory buildings toward the total square footage if the detached garage is the only garage on the property. Mr. Donnell stated that there is no language in the International Building Code or the International Residential Code that references the standard size of a three car garage. Mr. Donnell commented that staff can get the building inspector to look at other different codes if the commission wishes.

Mr. Donnell stated that in regard to the height issue, a Conditional Use Permit could be requested for a two story building. Commissioner Culbertson asked what would be gained by using a CUP. Chairman Wells stated that developers typically build to maximum allowable height. Mr. Donnell stated that per the International Building Code, that one can build a ceiling as low as seven (7) feet.

Commissioner Powell stated that if the maximum square footage is the footprint of the pad site, then she would like to see a provision to regulate the height of the building, especially if 35 feet is the maximum on a one story house. Commissioner Hendricks stated that if the maximum height on a primary structure is 35 feet and 30 feet for the secondary structure, then the concern is still the height if developers/builders build to the maximum height.

Commissioner Campbell stated he is concerned with how the building would be used since the bigger the structure is more prone to commercial use, which is not permissible.

Commissioner Culbertson commented that maybe they put restrictions on height by zoning districts.

Chairman Wells commented that by using the current square footage as the footprint and restrict the height to 18-20 feet high and any exceptions in square footage or height can be requested through a CUP. Mr. Donnell stated that he believes 16-18 feet is reasonable and they could state it as 16 feet from floor to ceiling with roof pitch matching the primary structure.

Commissioner Hastedt commented that the commission could set the height so that it cannot be higher than the primary structure on adjacent lots to the surrounding home. Commissioner Supan commented that it is hard to define adjacency and agrees that 16 feet is sensible.

Chairman Wells stated that 16, 18 or 20 feet would be appropriate and any more than that could be requested through a CUP. Commissioner Powell agreed with the 16 foot floor to ceiling height with the roof pitch to match the primary architectural element of the primary structure.

The commission members agreed that a three car garage should match the maximum square footage allowed within any given said zoning district as the standard size and that

14 feet floor to ceiling height with the roof pitch matching the primary residence for the height of an accessory building.

5. Adjourn.

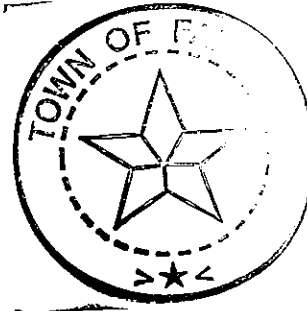
Chairman Wells adjourned the meeting at 8:30 p.m.

Respectfully submitted,

Michelle Lewis Sirianni

Michelle Lewis Sirianni
Town Secretary

ATTEST:



B. Wells

Billy Wells, Chairman
Planning and Zoning Commission