

**MINUTES
FAIRVIEW, TEXAS
PLANNING AND ZONING COMMISSION
THURSDAY, JULY 8, 2010**

Chairman Campbell called the meeting to order at 7:01 p.m. Commission members present were Ricardo Doi, Paul Hendricks, Renee Powell, Darion Culbertson and Brad Northcutt. Staff members present were Planning Director Alan Efrussy; Assistant to the Town Manager, Matt Donnell; Community Development Manager, Ray Dunlap; Budget and Management Analyst, Adam Wilbourn; and Town Secretary, Michelle Lewis Sirianni. Commissioner Tom Supan was absent.

1. Consider and take action regarding minutes of the June 10, 2010 Planning and Zoning Commission meeting.

Commissioners Doi and Powell stated that their corrections were called in prior to the meeting.

Commissioner Culbertson made a motion to approve the minutes of the June 10, 2010 Planning and Zoning Commission meeting. Commissioner Northcutt seconded that motion and the motion was unanimously approved.

2. Conduct a public hearing and take action regarding zoning the Collinwood Acres and Collinwood Acres North Subdivisions to the Planned Center Zone (PC).

Mr. Dunlap introduced this item stating that these subdivisions are un-zoned and consist of a variety of lot sizes, setbacks, land uses, etc. Mr. Dunlap stated that town staff recommends the Planned Center (PC) zoning, which would make all of the current uses legal conforming uses. Mr. Dunlap stated this would allow all current uses in existence to keep the same land use rights and privileges in the future that exist today.

Chairman Campbell opened the public hearing. Jane Willis, 460 Country Club Road, stated her concern is the one acre lots and likes the two acre lots and asked how the town is going to zone these lots.

Commissioner Northcutt asked if the lot sizes range from half acre in size to five acres, and does the Planned Center zoning keep the uses conforming within the zone.

Mr. Dunlap responded stating that the uses will remain the same as will setbacks and any lots less than one acre will be proportioned to the RE-1 zoning district.

Commissioner Powell asked if the residents would be able to subdivide lots. Mr. Dunlap responded stating that a resident can request to have their lot subdivided by going through the public hearing process, which would be presented to the planning and zoning commission and town council.

Commissioner Culbertson requested a brief overview of the Planned Center Zone.

Mr. Efrussy responded that when land is annexed and zoned within a town, it is important to make sure land uses are in zoning conformance and protected from inappropriate land uses. Mr. Efrussy stated that if property remains unzoned, it's legally available for other uses, which could mean for example, that an unwanted commercial use could be placed within a residential area. Mr. Efrussy stated that when there is a subdivision where lots range in size, standard zoning doesn't apply and would have limitations. Mr. Efrussy stated by using the Planned Center (PC) zoning district, every single lot, land use, etc. can become legal and conforming and if a neighbor wants to make a change on their lot, they can go through the public hearing process, which would go to the commission and town council. Mr. Efrussy stated overall, it protects property owners and the town.

Chairman Campbell asked if the ordinance within their packet was provided to the residents. Mr. Dunlap responded that a public meeting was held and copies were mailed out to said residents.

Jay Jones, 360 Collinwood, stated that the ordinance states that existing uses will be legally conforming and asked if this also applies to utilities. i.e. fire hydrants. Mr. Dunlap responded that everything that exists as is will be fine.

Jane Willis, 460 Country Club, stated that she thought when the town was incorporated that all properties were zoned to the RE-2 zoning district. Mr. Efrussy responded that if that was the case, then property would have already been zoned and if that was done in 1958 when the town was incorporated, and then there would be a map indicating the zoning. Mr. Efrussy stated that town staff did research on the town's history and this subdivision is not zoned.

David Hall, 341 Collinwood, stated that the definition of a paved surface is equal to concrete. Mr. Hall stated that he disagrees with this definition and that the ordinance doesn't state 'existing uses'. Mr. Hall asked if this applies with the septic systems, setbacks, etc. Mr. Hall stated that he believes the ordinance is unclear. Mr. Efrussy responded that the PC Zoning requirements, which is an exhibit to the adopting ordinance addresses these concerns.

Commissioner Northcutt asked if once zoned and the uses become legal as they currently exist, then what are the requirements for any changes or if a resident

would like to add an accessory building. Mr. Donnell responded that if a resident adds on to an existing structure and the current setback is legal, then as long as they do not encroach into that setback, there is no issue. Mr. Donnell stated that if the resident adds on as a detached building, then that has to conform to setbacks. Mr. Donnell stated that if the lot is less than one acre, then the property owner would take a percentage of the property to determine setbacks from the primary structure: for example, a .88 acre property would have setbacks 88% of the RE-1 zone. Mr. Dunlap commented that when town staff looked at the neighborhood, some uses existed for many years and the town believed that there is no reason to create a hardship or place a time limit on those uses.

Chairman Campbell asked about the grazing animal(s) requirements and if property owners exceeded the requirement, is there a fine or does the resident have to make a special request for a new pet. Mr. Dunlap responded that town staff is not going to walk into every resident's back yard to see if they are in violation, but as long as it doesn't become a nuisance, then everything existing is fine, but any new animals added would have to come back to the commission.

Jane Willis, 460 Country Club, asked if there would be a drainage issue for properties less than two acres with septic tanks. Mr. Donnell responded that utilities are not a zoning issue and they have no affect on the ordinance, but the town engineer would address any drainage issues, but there is currently no issue.

Commissioner Powell asked on Exhibit A, letter F under Specific Zone Requirements, it mentions that all homes shall have smoke and heat detection equipment installed. Commissioner Powell asked if heat detectors was equivalent to sprinklers (fire suppression) and if the language 'all new homes' could be added to the ordinance.

Commissioner Doi asked if a home needs to be re-built, but is larger and maybe a different shape what would be the process to address this. Mr. Dunlap stated that it would go straight to building permits, but Exhibit A, letter L under Specific Zone Requirements addresses the height and setbacks.

Chairman Campbell asked if Chief Price has reviewed the access to existing streets. Mr. Efrussy responded that the current language was reviewed by Assistant Fire Chief/Fire Marshal Bell and James Chancellor, town engineer and that language is approved by then.

Commissioner Culbertson made a motion to approve zoning Collinwood Acres and Collinwood Acres North Subdivisions to the Planned Center Zone (PC) conditioned upon adding the ratio reduction for accessory buildings and setbacks for primary structures less than one acre to use the RE-1 zoning requirements by percentage and that existing uses be legal conforming uses. Commissioner Powell seconded that motion and the motion was unanimously approved.

3. Conduct a public hearing and take action regarding Revised elevations for the Site Plan for the Fairfield Residential apartments located within the CPDD, Zone K.

Mr. Donnell introduced this item stating that these apartment buildings were designed and built to allow two dishes atop the roofs of each building, not each unit. Mr. Donnell stated that they've had issues with individual dishes being put on balconies and per the town's code within this area it is not permissible, but staff believes their plan is the most feasible way to provide residents with dish service and recommend approval of the Revised Elevations for the Site Plan for Fairfield Residential.

Commissioner Hendricks asked if there were guidelines when the dishes were installed and if the apartments and installers were aware that they were not permissible.

Larry Lee, AICP, Fairfield Residential, stated that to reduce the satellite dishes they wired each building to have one dish that residents can connect to and keeps the dishes out of public view. Mr. Lee stated that the leasing office prohibits tenants from attaching dishes to each unit and it has been a constant battle, so they believe this option will provide tenants with the option to get dish service or regular cable and they can place the dishes on each building as much out of plain view as possible.

Commissioner Doi asked how the locations were chosen. Mr. Lee responded that they tried to locate where it was least visible and they will face south/southwest.

Commissioner Northcutt asked if the dish would be larger since they are covering more people. Mr. Lee responded that the normal size of a dish is 12-18" and these will be 32x23" and are oval shape. Chairman Campbell asked if there are penalties involved if the resident doesn't comply. Commissioner Hendricks asked if the residents were installing or installers and if they were installing foreign language dishes. Mr. Lee stated there are penalties and not certain if the foreign language will be included or not.

Commissioner Powell made a motion to approve the Revised elevations for the Site Plan for the Fairfield Residential apartments located within the CPDD, Zone K. Commissioner Culbertson seconded that motion and the motion was unanimously approved.

4. Conduct a public hearing and take action regarding a Final Plat for Phase II of the Villas in the Park subdivision.

Mr. Donnell introduced this item stating that this Final Plat is for the remainder of Phase II of the Villas in the Park subdivision. Mr. Donnell stated that staff has reviewed and the plat meets all requirements and recommends approval.

Commissioner Northcutt asked if they had a projected completion date. Mr. Swegler responded that they should be moving dirt in a few months and expects within 18 months to be near completion or complete. Commissioner Northcutt asked how many homes are there. Mr. Swegler responded that there will be 32 patio homes.

Commissioner Hendricks made a motion to approve the Final Plat for Phase II of the Villas in the Park subdivision. The motion was seconded by Commissioner Northcutt and the motion was unanimously approved.

5. Discussion regarding modifications to the requirements for temporary use for concrete batch plants and temporary use for asphalt batch plants.

Mr. Efrussy introduced this item stating that the town will continue to grow and development establishing batch plants as early as possible in the construction process is important and will save the town and developer time and money. Mr. Efrussy stated that approval for a temporary batch plant now requires a Special Use Permit (SUP) within the Commercial Planned Development District (CPDD) and a Conditional Use Permit (CUP) is required for areas outside of the CPDD and only allowed in the Planned Center (PC) and General Business (GB) zones. Mr. Efrussy stated that temporary batch plants could help town-generated projects to be completed quicker and with more efficient work levels, reducing traffic problems as well as cost.

Mr. Donnell commented that in regard to traffic problems, having the batch plants in one location will have less affect on the roads by keeping the heavy trucks off the roads and closer to the project(s).

Commissioner Culbertson stated that the issue isn't the temporary batch plants, but asked who actually approves them? Mr. Efrussy responded that an SUP or CUP would take longer to approve than if staff is allowed to make a quicker decision. Mr. Donnell added that staff can always bring this process to the commission for approval if the commission so desires. Chairman Campbell asked where the location would be for the temporary batch plant for the East Stacy Road

project. Mr. Efrussy responded that the proposed area would be across the street from the Fire Station #2 off Stacy Road on the west side of Kentucky Lane.

Commissioner Powell asked how long it takes to remove the plant regarding the East Stacy Road project. Mr. Brent Morris, Lacy Construction, responded that they are removed immediately when the job is done. Mr. Morris stated that each phase will take less than ten working days and the project will be complete before November, 2010.

Commissioner Hendricks asked what other commissions do in regard to approval. Mr. Donnell responded that regarding projects serving the public sector, they usually go right to building permits or the director of development and/or municipal engineer to approve the plan quicker. But in private sector developments, they may go to a council or other board. Mr. Donnell suggested that a sub-committee would lessen the time frame if that was a concern of the commission. Chairman Campbell stated that it seems more expeditious to have a governance, special meeting called and/or sub-committee to approve.

Commissioner Doi asked if there were any previous cases where there was a negative impact. Commissioner Doi stated that he likes being proactive and would there be a process of notifying residents. Mr. Efrussy responded that normal notifications in the public hearing process would require the town to notify everyone within 500' and staff does this based on mailing notifications eleven (11) days prior to a commission public hearing. Commissioner Powell asked if a sub-committee could meet and if approval is granted could town staff notify residents through the newsletter or e-mail.

Commissioner Northcutt asked if there was language in the ordinance eliminating the zoning districts or does it matter what the proposed location is zoned in order to have the batch plant placed on certain property. Mr. Efrussy stated that we want to allow the combined staff and Planning and Zoning Commission sub-committee process to be available within all zoning districts within the town of Fairview.

Chairman Campbell asked if there was anyone on the commission that would like to serve on the sub-committee for this particular issue. Commissioners Doi, Hendricks and Northcutt volunteered to serve with Commissioners Culbertson and Powell as alternates.

6. Discussion regarding setbacks for decks and patios within the Heritage Ranch development.

Mr. Donnell introduced this item stating that staff would like to discuss the concerns that the current deck and patio setback allows them to be constructed within the twelve foot rear yard setback can in some instances allow the deck or

patio to extend all the way to the property line and/or sidewalks. Mr. Donnell stated that they would like to discuss the potential of changing this setback to mirror that of the five foot rule for the swimming pools, saunas and spas, or even possibly a more stringent setback and the possibility of adding language that states that nothing can be constructed of a vertical nature within the existing setback so that it provides more protection to area.

Commissioner Culbertson asked if they were trying to regulate something that doesn't exist.

David Naehring, 937 Scenic Ranch Circle, stated that he serves on the architectural committee for Heritage Ranch and their twelve foot setback are consistently enforced and two variances have been granted where the resident was allowed saunas/pools to be within five feet and they are stringent on the landscaping and are not to obstruct view. Mr. Naehring stated that they have residential guidelines within the covenants that regulate this issue.

Commissioner Hendricks asked if there was a real issue or is this just applying to one project.

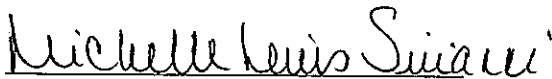
Marilyn Bows, 943 Scenic Ranch Circle, stated that some residents have no way to block or screen sun or even a place to sit and believes that some people should be able to request a variance or be able to extend past twelve foot setback. Mrs. Bows asked if the city has any recourse if they do something anyway. Mr. Donnell responded that there could be fines or possible removal.

The consensus of the commission is that Heritage Ranch is enforcing their restrictions and the town does not need to get involved at this time.

7. Adjourn.

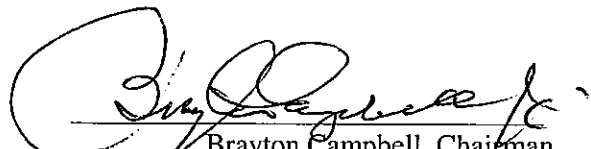
Chairman Campbell adjourned the meeting at 9:12 p.m

Respectfully submitted,



Michelle Lewis Sirianni
Town Secretary




Brayton Campbell, Chairman
Planning and Zoning Commission