MINUTES
FAIRVIEW, TEXAS
PLANNING AND ZONING COMMISSION
MEETING & WORKSESSION
THURSDAY, FEBRUARY 10, 2011

Chairman Campbell called the meeting to order at 6:51 p.m. Commission members present were Ricardo Doi, Renee Powell, Paul Hendricks, Brad Northcutt and Darion Culbertson. Staff members present were Planning Director Alan Efrussy; Town Manager, John Godwin; Town Engineer, James Chancellor; Assistant to the Town Manger, Matt Donnell; Community Development Manager, Ray Dunlap; Budget and Management Analyst, Adam Wilbourn; Town Secretary, Michelle Lewis Sirianni; and Town Attorney, Clark McCoy. Commissioner Tom Supan was absent.

1. **The Planning and Zoning Commission will conduct a public hearing and take action regarding recommendations for amending the Code of Ordinances, Ch. 14 Zoning; Sec. 14.02.006: Non-conforming Use, clarifying that a nonconforming use or business involving a permanent type structure shall be discontinued for a period of one year, before the nonconforming use shall be deemed abandoned.**

   Mr. Efrussy introduced this item stating that to provide further clarification regarding certain portions of these regulations, the town staff and the town attorney are recommending an amendment, which would help aid in avoiding ambiguity. Mr. Efrussy stated that the recommended changes include striking the word 'business' and adding the language 'for a period of one year and for a period of six months, or the structure vacated'. The section paragraph would read as follows:

   > "(f) When a nonconforming use ~~or business~~ involving a permanent type structure is discontinued for a period of one year, or the structure vacated for a period of one year, the nonconforming use shall be deemed abandoned and such facts shall be construed as conclusive proof of intent to abandon the nonconforming use. When a nonconforming use ~~or business,~~ not involving a permanent type structure, is discontinued for a period of six months, or the structure vacated or moved from the premises for a period of six months, the nonconforming use shall be deemed abandoned and such facts shall be construed as conclusive proof of intent to abandon the nonconforming use."

   Commissioner Doi asked how the timeframe was determined. Mr. McCoy responded that the "discontinuance date" or when the business ceased operations

would require a factual investigation since the town will not always know when this occurs.

Commissioner Northcutt asked what the reason for the change is and if there are any outstanding issues. Mr. McCoy responded that the old language allows for the assumption for the business to be discontinued and would lose non-conforming status and the amendment applies a standard time frame. Mr. McCoy commented that there is one property in town located at 851 Stoddard Road that ceased operations in November/December of 2010.

Chairman Campbell opened the public hearing. No comments were made and the public hearing was closed.

Commissioner Powell made a motion to approve the recommendation for amending the Code of Ordinances, Ch. 14, Zoning; Sec. 14.02.006: Non-conforming Use, clarifying that a nonconforming use or business involving a permanent type structure shall be discontinued for a period of one year, before the nonconforming use shall be deemed abandoned. Commissioner Culbertson seconded that motion and the motion was unanimously approved.

2. **Conduct a joint work session with the Town Council regarding updating and amending the Code of Ordinances, Chapter 4: Business Regulations, Article 4.04 Sexually Oriented Businesses, and related zoning district regulations regarding locations for Sexually Oriented Businesses.**

Mr. McCoy introduced this item stating that he would like to present legal/planning issues involved with Sexually Oriented Businesses (SOB) and discuss and provide feedback regarding the proposed draft ordinance updating and amending the code.

Mr. McCoy stated that the town has to designate an area within town limits to provide SOB's. Mr. McCoy stated that with the First Amendment protection, the town cannot regulate content of speech, but can regulate the secondary affects, which includes regulating time, place and business conduct. Mr. McCoy stated that the unique challenge for Fairview is its size and establishing a location where allowable. Mr. McCoy stated that licensing is required along with fees set by the council; all being subject to Site Plan approval and conducting Background Information on all parties. Mr. McCoy talked about areas of town where SOB's normally are located and discussed with town council and the planning and zoning commissioners an area of town to consider for SOB's based on zoning criteria and distance from land use(s) and/or other zoning districts.

No action was taken.

3. **Conduct a joint work session with the Town Council regarding possible use of the old west side water tower for certain advertising.**

   This item was passed over until next month.

4. **Adjourn.**

   Chairman Campbell adjourned the meeting at 8:36 p.m.

Respectfully submitted,

TOWN OF FAIRVIEW

Michelle Lewis Sirianni
Town Secretary

Brayton Campbell, Chairman
Planning and Zoning Commission