

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

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

1. Consider and take action regarding the minutes of the January 27, 2011 Planning and Zoning Commission meeting.

Commissioner Doi stated that he called in corrections prior to the meeting.

Commissioner Culbertson made a motion to approve the minutes of the January 27, 2011 commission meeting. Commissioner Doi seconded that motion and the motion was unanimously approved. Commissioner Northcutt abstained since he was not at that meeting.

2. Consider and take action regarding the minutes of the February 10, 2011 Planning and Zoning Commission meeting.

Commissioner Doi stated that he called in correction prior to the meeting.

Commissioner Northcutt made a motion to approve the minutes of the February 10, 2011 commission meeting. Commissioner Doi seconded that motion and the motion was unanimously approved.

3. Conduct a public hearing and take action regarding updating and amending the Code of Ordinances, Chapter 4: Business Regulations, Article 4.04 Sexually Oriented Businesses, with further restrictions and prohibitions and otherwise regulating sexually oriented businesses.

Mr. Efrussy introduced this item stating that the commissioners had a work session with town council last month and asked the town attorney, Mr. McCoy to address a few more issues that had been discussed. Mr. Efrussy stated that a revised draft ordinance has been submitted to them in their packets and will let Mr. McCoy speak to the changes that were made.

Mr. McCoy, town attorney, stated that commissioners were given a handout summarizing the revisions to the draft of the proposed ordinance. Mr. McCoy stated that updated information includes additional specifications under what is prohibited along with distance restrictions that now include youth centers, creeks and streams, and relation to U.S. 75 is now 1,200 feet versus 500 feet. Mr. McCoy stated that with recommendations from the work session he also changed the closing time from 10 p.m. to 12 p.m. and security is now required, including a commissioned security officer or Texas peace officer and video cameras. Mr. McCoy stated that no maximum building size has been set and has left this item for the commission to discuss further.

Chairman Campbell asked if there should be a minimum and maximum building size established. Commissioner Culbertson asked Mr. McCoy if he had suggestions on a point of reference from other cities. Mr. McCoy responded that he couldn't find a point of reference from other cities. Police Chief Granver Tolliver commented regarding the building size. Chief Tolliver stated that in his experience with Dallas County, he had less calls regarding the larger more upscale facilities versus the smaller seedier establishments. Chief Tolliver stated that smaller establishments attract a different clientele and oftentimes may encourage unwanted activity. Mr. McCoy added that with those comments, a minimum size requirement would be more important than a maximum size requirement. Commissioners agreed to a six (6) thousand square foot minimum size building requirement.

Commissioner Doi asked in regard to item (a) under 'Adult Media Stores or Adult Retail Stores shall be subject to the following additional standards' if they could modify the language pertaining to the eight (8) feet high or to the ceiling to reflect this requirement even if the room is not all one level and to also address it under 'Anatomical Areas' item (a) in regards to the sale of adult media. Mr. McCoy responded that he will address these concerns.

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

Chairman Campbell opened further discussion to the commission members. Commissioner Doi asked why the proposed draft ordinance references the 1200 feet to the FEMA guidelines. Mr. McCoy responded because it is part of the streams and creek distance requirements.

Commissioner Culbertson made a motion to approve the updated Sexually Oriented Business Ordinance (SOB) to include the 6,000 minimum building size requirement as well as all other items discussed and those referenced by Commissioner Doi and Mr. McCoy in regards to the 'eight foot to ceiling' reference. Commissioner Northcutt seconded the motion and the motion was unanimously approved.

4. Conduct a public hearing and take action regarding amending the Commercial Planned Development Zoning District (CPDD) by including a Special Entertainment Overlay Zoning District; said Overlay District comprising approximately 32.5± acres, and located within portions of the following subzones:

- **C-Town Square Zone**
- **E-Town Center Zone**
- **F-Western Office/Commercial Zone and described by a portion (32.5±acres) the following parcel: ABSTRACT A0275, JOSEPH DIXON SURVEY, TRACT 23, 206.876 ACRES.**

Mr. Efrussy introduced this item stating that there are location items related to the Sexually Oriented Business (SOB) ordinance. Mr. Efrussy stated that there is no precise zoning location other than the Planned Center Zone (PC) unless requested under a floating zone. Mr. Efrussy stated that based on research and analysis, town staff is recommending this acreage to be located within Zone F of the CPDD to accommodate the SOB uses. Mr. Efrussy stated that he met with Mr. Tarrant, representative of the Petefish property and Mr. Tarrant asked that uses be allowed by right or when a Special Use Permit has been approved be further elaborated upon in the proposed overlay district. Mr. Efrussy stated that in an overlay zoning district the base zoning stays the same as well as performance standards.

Chairman Campbell asked if a lot is developed, do they need to create another area. Mr. McCoy responded that they do not need to create another location since it has nothing to do with the town provided the town had no control over the purchase.

Commissioner Culbertson asked Mr. McCoy if he was okay with the reduction of acres from 32± to 5±. Mr. McCoy responded that the 5± acres is relatively small, but sufficient to establish an area and it provides a relative area and geographic security. Commissioner Doi asked how they came up with the shape of the property. Mr. Efrussy responded that it's based on the distance requirements and the interest to create a logically shaped property and for development purposes.

Chairman Campbell opened the public hearing. David Tarrant, representative for

the Petefish family, 5551 SMU Blvd., Dallas, TX, stated that he understands why the town is establishing an SOB overlay zoning district, but requests to not approve this area due to being so close to Fairview Parkway and the Village At Fairview project. Mr. Tarrant requested that the town find a less desirable area.

Chairman Campbell closed the public hearing and opened discussion to commission members. Commissioner Doi asked if the town designates an overlay district, does the town have to ensure property is available. Mr. McCoy responded that the town just has to have a designated area.

Commissioner Doi made a motion to approve amending the Commercial Planned Development Zoning District (CPDD) by including a Special Entertainment Overlay Zoning District; said Overlay District comprising approximately 5± acres as depicted in the exhibit submitted along with the permitted use change(s) discussed above. Commissioner Culbertson seconded the motion and the motion was unanimously approved.

5. Conduct a public hearing and take action regarding amending the Code of Ordinances, Chapter 14: Zoning; whereby the Governmental Zoning District (G) is changed to the Government/Industrial Zoning District (G/I).

Mr. Efrussy introduced this item stating that in 2008, the town adopted a Government Zoning District (G) to protect the town further from government entities selling of properties and the potential development of inappropriate land uses. Mr. Efrussy stated that the town is recommending an increase in the land uses and to be re-classified as the G/I Zone. Mr. Efrussy stated these would provide the opportunity for land uses that could be compatible if the currently allowed governmental uses are wholly or partly eliminated as well as further protecting the town from sale of governmental property to private developers without Fairview having appropriate zoning protection. Mr. Efrussy stated that a selection of uses and definitions for the industrial-oriented uses in the proposed G/I Zoning District are taken from uses already listed within the CPDD Ordinance, Exhibit C- Land Use Matrix under the Industrial, Distribution, and Warehouse classification. Mr. Efrussy stated that accessory uses were added to the zoning district and that no Conditional Use or Special Use permits would be allowed within the G/I Zone.

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

Chairman Campbell opened discussion to the commission members. Chairman Campbell asked how much of this is in the flood plain and how would this affect the zoning district for industrial uses. Mr. Chancellor, town engineer, responded that over 95% is within the flood plain, but flood plain can always have

the opportunity to seek reclamation. Mr. Chancellor used Heritage Ranch as an example.

Commissioner Northcutt asked if the town needs to change the Government Zone to a Government/Industrial Zone since they are recommending an overlay district. Commissioner Culbertson agreed and asked if the town is adding an industrial use to stay in compliance with the SOB ordinance. Mr. McCoy responded that Fairview is limited on available space, but from a legal standpoint, the G/I district would make more sense. Commissioner Culbertson asked how much of a risk it is if the town doesn't rezone it. Mr. McCoy replied that if we rezone to G/I then it would make more territory available that is controlled and would most likely not be used.

Commissioner Supan commented that by changing the use of the property, the town is making it more difficult for potential SOB uses to develop, by placing potential SOB uses in an undesirable location. Commissioner Supan stated he is in favor of the G/I Zone. Commissioner Doi stated that he is okay with it. Commissioner Culbertson stated he likes the reassurance from James, but in his opinion, if the G Zone is modified, it could be used for industrial uses. Commissioner Northcutt agreed with Commissioner Culbertson and added that he doesn't believe it's necessary to change the G Zone on the west side of town.

Commissioner Doi made a motion to approve the amending the Code of Ordinances, Chapter 14: Zoning; whereby the Governmental Zoning District (G) is changed to the Government/Industrial Zoning District (G/I). Commissioner Supan seconded the motion. Motion passes with a 3-2 vote.

- 6. Conduct a public hearing and take action regarding the zoning of property that is annexed, but unzoned, to the Planned Center (PC) Zone, for an area of property commonly known as the Lovejoy Independent School District administration building property, consisting of 11.05± acres, and generally located south of Stacy Road, west of and adjacent to Country Club Road (FM 1378), east of Mossbrook Lane, and north of Country Brook Lane. Further described below:**

Being a 11.05± acres tract of land situated in the Gabriel Fitzhugh 340 acre survey, ABS No. 318, and the George Fitzhugh 398 acre survey, ABS No. 320, Collin County, Texas; and most recently by Precise Land Surveying Inc. Dated 08/25/2010. Totaling approximately 11.05± acres of land.

Mr. Donnell introduced this item stating that the town recently annexed the LISD property and now town staff is recommending the zoning of this property to the

Planned Center (PC) Zoning District. Mr. Donnell stated that the PC zoning district is the most effective zoning to apply on this property as it relates to the existing and future uses for this LISD property.

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

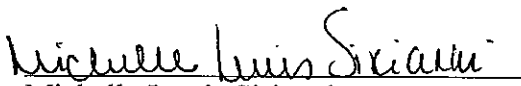
Chairman Campbell opened discussion to commission members. No comments were made.

Commissioner Culbertson made a motion to approve the zoning of property that is annexed, but unzoned, to the Planned Center (PC) Zone, for an area of property commonly known as the Lovejoy Independent School District administration building property, consisting of 11.05± acres, and generally located south of Stacy Road, west of and adjacent to Country Club Road (FM 1378), east of Mossbrook Lane, and north of Country Brook Lane. Commissioner Northcutt seconded that motion and the motion was unanimously approved.

7. Adjourn.

Chairman Campbell adjourned the meeting at 9:38 p.m.

Respectfully submitted,


Michelle Lewis Sirianni
Town Secretary




Brayton Campbell, Chairman
Planning and Zoning Commission