

CITY OF FAIRVIEW

BOARD OF COMMISSIONERS & PLANNING COMMISSION JOINT WORK SESSION MINUTES

August 11, 2020

John W. Blade, Mayor
Debby Rainey, Vice Mayor
Derek K. Burks, Commissioner
Rod Dawson, Commissioner
Scott Lucas, Commissioner
Scott Collins, City Manager
Tim Potter, City Attorney
Brandy Johnson, City Recorder

Present: Blade, Rainey, Burks, Dawson, Lucas, Anderson, Butler, Cali, Schulist, Jenkins, Senyard, Qualls
Others Present: Collins, Johnson, Potter, Sullivan, Paisley, Blackburn

(1) **Call to order** by City Manager Collins at 5:32 p.m.

(2) **Items of Discussion –**

1. **COMPREHENSIVE PLAN** – The 2040 comprehensive plan has been accepted by the Board of Commissioners and needs formally adopting. One of the biggest components to prepare before adoption is the revised land use map. When we introduce the revised version it has to be a usable tool and while it is a big task, there are a few steps to make it easier. The comprehensive plan and land use map will be adopted separately but they work together.
2. **ZONING** - New zoning defined in the land use map will not rezone current properties, however, it sets the preference going forward. **EXAMPLE #1:** Recent request to rezone property adjacent to Castleberry Farms and the question of what zone does the current land use map designate this property? The land use map is to be used as a guide and is not an absolute. In making the decision about this recent proposal, the board attempted to compare the existing R-20 zoned Castleberry development to the proposed at R-15. The existing has sewer service but the new property was requested at R-15 zoning to accommodate the additional area required for on-site sewer installation. We need to consider the city's ability to provide sewer in the decision process. **EXAMPLE #2:** Consider a comprehensive traffic study which would look at our entire traffic corridor. We can use the study to dictate new intersections and entrances for new developments to dictate traffic flow. We don't want more stretches like Highway 100 between City Hall and Bowie Lake Road. The study would include areas for potential growth both inside and outside of city limits. **EXAMPLE #3:** Cumberland at Chester Road intersection and further out. A comprehensive traffic study will help with land use map application and looking at the location of potential developments with advance planning to locate entrances to create better intersections for traffic flow. Recent request for rezone property at Northwest Highway and Highway 96 that brought about discussions of property access. The city has plans to replace the bridge on Northwest and straighten out the dogleg as it approaches Highway 96 to create a right-angle intersection rather than the odd angle it currently is.
3. **COMMERCIAL ZONING** – The first question when someone applies for rezoning to commercial general is typically what are they going to put there? But in actuality, once zoned a specific designation they may put anything covered under that designation there. If they plan to build a restaurant but the plan doesn't come to fruition, the property is sold and the new owner can put

anything within the commercial general zoning in that space. Collins reviewed the current listing of commercial general applications reminding that anything listed would be an acceptable usage based on current zoning. Some issues may be beyond our knowledge and control, such as the 10-year non-compete agreement Hardee's made with the property owners for no additional fast food locations on the property. Waffle House was only ok because there is no drive-thru window. Commercial General would become a legacy zoning. Current commercial general would not change (unless by owner request) but we could add an overlay to existing zones. Collins shares an example of how commercial zoning could be broken down into like uses for tighter zoning. The land use map would be broken into residential and commercial as the main categories but then each of those would be broken down further into individual zones. Zoning for all types of businesses must be allowed but we would dictate zones where the various types of developments would be appropriate based what is currently there and/or what the comprehensive plan dictates. Mixed use projects with various commercial and residential zoning would fall into another category. Consider the Bellevue One development as an example of mixed use commercial as it contains residential, various commercial (retail, restaurants (full-service and fast food), various medical, administrative services, movie theater and transient habitation). We would begin by looking at the current land use plan and comprehensive plan to apply commercial areas and then begin to break those areas down into acceptable uses. The list presented is a possible breakdown but we would need to determine what types of businesses work well together in deciding the various possible commercial zones.

4. **RESIDENTIAL ZONING** – Historically, Fairview has applied the PUD or POD designation to residential zoning for flexibility of lot sizes within a development. A PUD allows lot sizes to be one half the size required for straight zoning. For example, a R-20 zoning would have 20,000 square foot lots but a PUD designation with R-20 allows for 10,000 square foot lots. Collins suggests eliminating the PUD/POD designation options for single standard use residential developments. This would make the developer bring to the city the zoning they actually want. Minimum lot sizes wouldn't change and the density stays the same but it is called as it is. From the example above, rather than a R-20 PUD designation it would be straight R-10 zoning. Consider design standards for smaller lot sizes and this would require BOC approval. With homes closer together some materials can increase the safety of fire spread so with smaller lots come stricter standards. The zones for higher density developments would be applied to the land use map. Straight zoning rather than PUD eliminates interpretation. We may want to establish minimum lot sizes with straight zoning as well. With more dense zonings we still have the requirement for open spaces and improvements. Example: developer "x" wants to build single family cottages on zero lot lines to include restaurants and retail within the development. In this situation we would apply a POD, mixed-use, overlay onto the site plan because the zoning is within the overlay. This cleans up the process and approves the interior districting of the project. What happens to plans that never materialize? The zoning cannot expire. Once zoned, only the property owner can request changes. Individual components of a district (as in the example above) can have expiration dates, however, and may require re-approval (within an approved PUD/POD). With this in mind we can assign a calendar to the site map but a time frame would need to be determined. Keep in mind that sewer accessibility is likely at least ten years away. Consider that what could have been zoned as R-15 in straight zoning might not be possible with on-site sewer system so R-10 may be more appropriate. So the same overall density may require smaller lot sizes to compensate for the space of on-site sewer. We have to consider what makes sense for the area, possible future developments, traffic patterns and such. We need to redefine our residential and commercial zoning before we begin to apply the overlay for land use.
5. **FINAL PLAT APPROVALS** – Currently final plat approvals are signed by the PC chair and secretary. Ideally, this would be changed to the PC chair and city manager with the city manager having the responsibility to report to the BOC. Once filed by the county, the city is the owner of the property but no notice of ownership has been given to the BOC the way we currently handle. We

need to report and catalog all city-owned infrastructure. Example: Castleberry Farms Aden Woods Section II where the final plat was filed (we believe as an attempt to guarantee sewer taps) and the city owns the location of roadways that don't yet exist. This leaves a liability for the city. City attorney Tim Potter to verify state statute on who is required to sign final plats.

6. **BOND AND LETTERS OF CREDIT EXTENSIONS** – Historically, Fairview has extended these agreements automatically without the owner or developer having to come forward. The problem is we have active performance bonds that are 20 years old. The developer should be coming forward to the Planning Commission and explaining why the work isn't done. We should identify a reasonable time period for the work. 90 days prior to that expiration a decision should be made on whether we will call the bonds or letters of credit or the developer comes in to justify why the work isn't done. Collins suggests the Planning Commission be able to offer one one-year term extension. For additional or longer extensions the developer should report to the BOC to plead their case. The reasoning behind this is the city (the BOC) becomes the owner of the infrastructure and they should be the decision makers for the extension. Calling a bond is a process and the city has to be willing to take on the work and carry to completion. An example of the issue at hand is the Sweetbriar Springs development. They have bonded infrastructure with a partial phase completed for many years and the city wants to complete the infrastructure for the residents who have already purchased homes.
7. **ANNEXATIONS AND REZONING** – We are researching the use of ordinances versus resolutions for annexations as has been dictated by the state. Because zoning amends the zoning ordinance this is needed. A base zoning for annexations brought in without a defined use needs to be determined. A policy for non-contiguous annexations also should be developed. We don't own our utilities but we do have the consideration of police and fire service. We will begin to see non-contiguous requests more and more as we continue to develop.
8. **SITE PLAN EXPIRATIONS AND RESUBMITTALS** – We have had several discussions regarding the expiration of site plans and project phases. The zoning or zoning overlay of a property does not and cannot expire. Expirations may depend on whether or not a final plat has been filed. We need to take some time and visit our neighboring communities to see what they are doing and what does and what does not make sense for Fairview.
9. **HOME OWNERS ASSOCIATIONS** – With a requirement for open space also comes the requirement to maintain the space as well as any improvements such as tot lots, walking trails, pavilions and the like. Requiring these items without an HOA to maintain is futile unless the city is willing to own pocket parks in these developments.
10. **DETENTION POND OWNERSHIP** – Detention areas should not be attached to a residential building lot and if they are then the liability gets assigned to the homeowner. A review of the requirements to include ownership and other standards needs to be done.
11. **SIDEWALK REQUIREMENTS** – A comprehensive review of sidewalk requirements is needed. Example #1: Western Woods where the sidewalk runs through driveways creating inaccessible sidewalk. Sidewalks are governed by ADA and should be free of obstruction (width and a height of 8'). To prevent encroachment by homeowners' vehicles we should consider a setback distance from the sidewalk. This will allow adequate parking space and we can enforce impeding a sidewalk by ticketing. Example #2: Stable Acres corner "detention" lot where there should have been sidewalks but there are not. Sidewalks on either side of this lot end abruptly and empty into the street without a wheelchair landing space. There is no reason not to have a sidewalk at this site and not having one has created a liability. Example #3: Sidewalk to nowhere at Totty development on Horn Tavern Road. Because the city required sidewalks additional opportunities to drive off an embankment were created. Rather than sidewalks, we should have required covered storm drainage. The city owns the maintenance for all those drainage ditches. We need to determine what is required and how to apply the requirement as it applies to the longevity of sidewalks and managing stormwater.

12. CONCLUSION – Collins thanks all for attending as he knows this was a lot of information in a short amount of time. He asks for any questions to be emailed to the group so all can benefit from the answers. He will be forming a small group of PC and BOC members to meet with neighboring cities and review their zoning and planning regulations. We are looking at a work session similar to this prior to the September meeting as well. Once we put this group together we hope to have employable suggestions by January for the land use map and then adjust the zoning.

(3) Adjournment at 6:55 p.m.

Brandy Johnson
City Recorder