

City of Fairview

7100 CITY CENTER WAY
FAIRVIEW, TN. 37062



Phone: 615-799-1585
Email: codes@fairview-tn.org

Municipal Planning Commission

Regular Meeting

APRIL 9, 2013

7:00 p.m.

Mike Smith, Chairman
Robert Benson, Vice-Chairman
Lisa Anderson, 1st Secretary
Matthew Beata, 2nd Secretary
Beverly Totty, Mayor,
Toney Sutton, Commissioner
Michael Mitchell
Marsha Hock-Elliott
Todd Behan

Present: Smith, Benson, Anderson, Beata, Totty, Sutton, Mitchell. Hock-Elliott

Absent: Behan

Others Present: City Engineer Will Owens, City Attorney Larry Cantrell,
Planning/Codes Director Donn Lovvorn, Codes Clerk Sharon Hall

1. CHAIRMAN MIKE SMITH CALLED THE MEETING TO ORDER AT

1.1 Lovvorn led the prayer and the pledge.

2. APPROVAL OF THE AGENDA-

2.1 Beata made a motion for approval. Sutton Seconded. Benson stated he would like to defer 8.6, discussion of the Islands within the City of Fairview. Benson stated our state legislatures have put a moratorium on annexing property by a municipality unless the owner of the property wants to be annexed. Benson asked Lovvorn is that correct. Lovvorn stated yes sir. Sutton stated that will be in conflict until 2015, is that correct. Lovvorn stated yes sir. Sutton stated he would make a deferral. Smith stated we have not seen any conceptual site plan for a grading permit on 8.4, so they would like to defer until they do. Lovvorn stated just totally remove it. All were in favor.

3. CITIZENS COMMENTS - (Limited to the first five to sign in and a limit of three minutes each.) None

4. APPROVAL OF THE MINUTES-

4.1 MARCH 12, 2013 REGULAR MEETING

Sutton made a motion for approval. Benson Seconded. Totty stated she had a question on page four at the top, Mr. Beata did you vote on that or extend. Beata said he voted. Totty stated thank you. All were in favor.

5. RECOMMENDATION -2013-3

5.1 DISCUSS AND OR ACTION ON AN AMENDMENT TO THE FAIRVIEW ZONING ORDINANCE RELATIVE TO MINOR HOME OCCUPATIONS.

Lowvorn stated this was passed on the first reading at last Thursdays Board of Commissioners meeting.

5.2 DISCUSS AND OR ACTION ON AN AMENDMENT TO TABLE 5-102 A OF THE FAIRVIEW ZONING ORDINANCE.

Lowvorn stated this was passed on the first reading at last Thursdays Board of Commissioners meeting.

6. BONDS

6.1 SWEETBRIAR SPRINGS – PERFORMANCE BOND TO COVER THE ROAD, WATER, SEWER, DRAINAGE, EROSION, STREET SIGN ALLOWANCE, AND EMERGENCY ACCESS - \$45,000.00 - THE PLANNING COMMISSION LOWERED THE BOND ON JUNE 12, 2005. BOND EXPIRES MAY 15, 2013.

Lowvorn stated the developer has been notified that the bond will expire May 15, 2013. Lowvorn stated we have been in contact with the bank and they have stated they will be sending that to us on. Lowvorn ask Sharon Hall what day, the day before, the fourteenth.

6.2 SCARBOROUGH VILLAGE SUBDIVISION – PERFORMANCE BOND TO COVER THE ROADS, SIDEWALKS, AND STORM DRAINAGE. \$52,000.00. PLANNING COMMISSION SET THE BOND ON FEBRUARY 12, 2008. THE BOND EXPIRES MAY 19, 2013.

Lowvorn stated we already received this renewal this past week.

7. OLD BUSINESS –

7.1 VACATION OF LOT 6 FROM THE EVERGREEN INDUSTRIAL PARK SUBDIVISION PLAT. MAP 18, PARCEL 47.27, 6.97 ACRES. CASSANDRA K. FAGAN OWNER.

Sharon Armstrong stated they are here tonight to request that the Planning Commission grant a variance to the one hundred percent requirement for the signatures to vacate this parcel, you have the authority within your subdivision regulations to do so. Benson stated Ms. Armstrong, he just wants to clarify, and do you have the one hundred percent of the signatures required. Armstrong states no sir, she has every signature with the exception of Mr. Derryberrys Tennessee Paving Company property and of course the City would have to sign off to if you are inclined to grant the variance. Sutton made a motion that they decline the variance due to the fact that the rules and regulations stated that you must have one hundred percent of the signatures. Benson Seconded. Anderson stated she doesn't understand the part that they have the right to grant a variance. Lovvorn stated our subdivision regulations are set up just like the zoning ordinance to give variances in certain situations where hardships lie not on the fault of the property owner. Lovvorn stated this Board and the Board of Zoning appeals is given the authority to grant variances in those cases. Sutton stated he would like to have a point of order. Smith stated he wanted to call the vote. All were in favor except Totty abstained. Armstrong stated thank you for your time.

7.2 DISCUSS AND OR ACTION ON AN APPLICATION FOR ANNEXATION. PROPERTY LOCATED AT 2950 FAIRVIEW BOULEVARD. MAP 69, PARCEL 9.00. JERRY CARY OWNER.

Totty made a motion for approval. Anderson Seconded. Mr. Cary present stated he has lived in this same house for twenty years and has four different addresses in the County so he just thought he would move it into the City. Everyone welcomed him to the City. All were in favor.

7.3 DISCUSS AND OR ACTION ON AN APPLICATION FOR ANNEXATION. PROPERTY LOCATED AT 2931 FAIRVIEW BOULEVARD. MAP 69, PARCEL 79.00. RUSSELL SPICER OWNER.

Stewart Johnson present to represent Russell Spicer. Sutton made a motion for approval. Anderson Seconded. Cantrell stated on the annexation request form, it says does this property abut City property, its circled no. Cantrell stated we can't annex property that doesn't abut City property. Cantrell stated in looking at the map in the area he believes it does abut City property, he believes that to be an error. Cantrell stated if that's and error it needs to be corrected to say yes. Smith stated can that annexation be made before that is corrected or can we annex this in contingent upon the corrections. Johnson stated he had authorized him to make the corrections and that he didn't realize the roadway counted as property when he filled out the application. Smith stated it appears we have everything in order now, can we get a vote. All were in favor.

7.4 DISCUSS AND OR ACTION ON AN APPLICATION FOR ANNEXATION. PROPERTY LOCATED AT 2980 FAIRVIEW BOULEVARD. MAP 69, PARCEL 4.00. ELDRIDGE SEXTON OWNER.

No one present to represent. Sutton asked did they have proper notification, Donn. Lovvorn stated yes sir. Smith stated this is the second time we've been through this. Benson made a motion to defer. Totty Seconded. Lovvorn stated if you'll just make a motion to with draw from the agenda that way he will send them a letter ask them if they want to proceed and if they do not then it won't be a deferred item hanging out there. Lovvorn stated he will put back on the agenda if they want to proceed. Benson stated he will retract his motion and then make a motion that they delete 7.4 off the agenda. Mitchell Second. All were in favor.

7.5 DISCUSS AND OR ACTION ON SITE PLAN FOR A PARKING LOT LOCATED AT 1365 FAIRVIEW BOULEVARD MAP 23I, GROUP B, PARCEL 12. ZONED CG. NORDALE III L.P. OWNER.

Brian Hamilton present to answer questions. Benson read Engineers report, which will become part of these minutes. Exhibit A. Benson made a motion for approval. Mitchell Seconded. Benson asked has the TDOT permits been obtained. Hamilton stated they have been submitted and any moment we should have their approval, the revised site plan has all comments from TDOT been addressed. Benson stated he will revise his motion to be contingent upon TDOT's permit being obtained. Sutton Seconded. Smith stated when they first looked at the plans they looked at an extruded curb, has that been included and all the notes from staff review been done. Yes they have. Elliott asked has anyone else driven out there and tried to make a left turn. Anderson stated she had. Elliott asked how she perceived that. Anderson stated it was fine. Hamilton stated it is close to four hundred feet of site distance each direction. Elliott stated and when the shrubbery that's recommended exists will that in anyway obstruct. Hamilton stated those are going to be dwarf will be easily seen over the top. Elliott stated would it be challenging to your business if at some point in the next five years or longer, we have a need to widen the road. TDOT has said they will take it out of the inside not the outside. Smith stated he would like to clarify inside and outside, you're talking about the radius of the curve at the highway. Hamilton stated they said would take it out of the inside not the outside, spoke to the assistant director of planning for TDOT. Owens stated Ms. Elliott those are all great questions, if this site was located on a City Street all of those questions would certainly be address by City staff. Owens stated since it is located on a TDOT highway, part of their review process will review every one of those questions that you just ask. Owens stated TDOT has full authority to permit or disallow driveway entrances into and off of their highway. Owens stated so that's why he stated in his comments he

wanted to make sure that their approval would be contingent upon them approving whatever permit process they have for that driveway access. Owens stated also any widening of the road would be at TDOT discretion, we are not currently aware of any additional right of way they've purchased in this area. All were in favor.

8. NEW BUSINESS-

8.1 FINAL SUBDIVISION PLAT FOR TWELVE LOTS IN THE HEARTLAND RESERVE SUBDIVISION. MAP 18, PARCEL 55.01, 7.63 ACRES, R-20 ZONING. HEARTLAND RESERVES INC. OWNER.

Tony Reasons present to answer any questions. Benson read Engineer report, which will become part of these minutes. Exhibit A. Lovvorn stated Mr. Chairman. Lovvorn stated on the first note, he didn't mention it to Will before you created you report, but they were approved under the old Subdivision Regulations before the detention areas were required to have fences, so this is a final plat that should match the Subdivision Regulations that they were approved under. Sutton asks are you saying everything on here qualifies already. Lovvorn stated the requirement of being fenced wasn't a requirement in the previous subdivision regulations, so he doesn't know if they can require him to put a fence around the detention pond. Totty stated can we still suggest that an open pond have a fence in a residential subdivision. Lovvorn stated you can suggest it. Cantrell stated you can suggest not require if it was approved under the old regulations. Anderson made a motion for approval. Sutton Seconded. Developer was asked if he would be acceptable to providing a fence around the detention pond and putting a notations on the final plat.

1. Maintenance schedule for the detention pond
2. Person responsible for the scheduled maintenance of the detention pond.

Developer agreed to add these two notations to the plat. Smith asked for a vote on the motion as stated. All were in favor.

8.2 PRELIMINARY SITE PLAN FOR TIGER IMPORTS TO BUILD A 3,500 SQUARE FOOT BUILDING LOCATED AT 7107 JUNIPER ROAD. MAP 18, PARCEL 47.16, 1.47 ACRES, IG ZONING. TIGER IMPORTS LLC, OWNER.

Tony Reasons present to answer questions. Benson made a motion for approval. Sutton Seconded. Smith stated nice to see a business in Fairview expanding. All were in favor.

8.3 GRADING PLAN FOR THE WAL-MART SPOILS SITE LOCATED AT 2396 FAIRVIEW BOULEVARD. MAP 46, P/O PARCEL 82, 3.632 ACRES. EARL LAMPLEY OWNER.

Greg Dewaal was present to answer questions. Benson made a motion for approval. Anderson Seconded. Smith stated he has one recommendation from the Tree Commission that was discussed during their meeting with Dewaall and Associates present, for the record they have done an excellent job with this plan of erosion control for the site. Smith stated the Tree Commission recommends that the condition of approval of the drainage and grading plan for the future development for this site be required to meet the City's tree density worksheet requirements based on an as built survey that will be provided by Dewaal and Associates Consulting Engineer once the work is completed. Dewaal stated yes sir we're in agreement with that. Sutton asked do we have all state required permits. Dewaal stated the plans have been submitted to the State of Tennessee for the notice of coverage. Sutton made an amendment to the motion defer until we get all permits available. Smith stated we have a motion on the floor can we make the motion contingent upon getting the permits. Elliott Seconded. Smith stated we have an original motion on the floor, can we add to original motion contingent upon getting those permits. Sutton stated the information that he got was there was a discrepancy on the 3.62 acres that was agreed upon earlier and this is something that Mr. Smith needs to verify. Dewaal stated the total acreage of the property is 14.37 as opposed to the disturbed area is only one corner of the property that will be filled the rest of the property, per this plan is being left alone. Johnson stated in the beginning Mr. Smith told them that he was going to do the entire property not just this 3.62 acres that's being presented before you this evening, it was the property owners request that we wait until the rest of the paper work gets in so they know that the whole thing can be done at one time, instead of starting and the state say they have decided that they aren't going to give them a permit. Lovvorn stated to let them know if they defer it they will have to take action on the next meeting one way or the other or it becomes approved. Benson said suppose we just delete from the agenda. Lovvorn stated you have got to take action on this, approve it, disapprove it or approve with conditions. Cantrell stated you need to vote on the amendment first. Smith stated is there any more discussion on the amendment, seeing none he needs a vote all those in favor of deferring the motion as amended say I. All were in favor except Totty stated nay. Cantrell stated that you will have to take action on the next meeting or it approves itself. Smith stated does everyone understand what Mr. Cantrell has stated. Totty asked at this point you have a thirty day window, do you have options of moving that dirt or is the job expended at this time. Dewaal stated that puts them in a bind.

8.4 CONCEPTUAL SITE PLAN/GRADING PLAN FOR A BIG BOX RETAIL STORE TO BE LOCATED AT 2396 FAIRVIEW BOULEVARD. MAP 46, P/O PARCEL 82, 15 ACRES. EARL LAMPLEY OWNER
Removed from the agenda.

8.5 DISCUSS AMENDING THE MASTER DEVELOPMENT PLAN FOR FAIRVIEW HISTORIC VILLAGE. MAP: 69, PARCEL: 62.00, 3.54 ACRES HOD ZONING. CITY OF FAIRVIEW OWNER.

Smith stated is there anyone from the Historic Village? Anderson stated the City owns it. Anderson stated she needs to make everyone aware that she is the Vice Chairman of the Historic Commission and she would like to reserve the right to discuss and vote. Benson made a motion for approval. Sutton Seconded. Lovvorn stated this is just for discussion only. Smith stated we originally approved this a few years ago, what changes they want to do to the plan. Lovvorn stated in this future area there is an amphitheater that has been brought to him to ask for a change in zoning to allow the moving of the amphitheater to this area here but we're in conflict with this detention facility right here. Lovvorn stated he's not saying that the detention pond can be reengineered to go in a different place. Lovvorn stated but when you move the amphitheater to create a place for people to sit, it was requested that the sidewalk come on around to the Triangle School to come through this area here so it would create an open space for people to be able to sit on the lawn. Lovvorn stated the farmhouse and the barn; they just want to swap the two. Smith stated so when you drive up, you drive up to your major parking lot in the front, you walk up and the first thing you see is the barn instead of the house. Smith stated he personally thinks that is backwards. Smith stated also the Farmers Market is looking at putting a structure there or possibly moving that to the Historic Village. Lovvorn stated his understanding was the reason for moving the amphitheater was to put it over by the parking area so that could be utilized by the Farmers Market as well. Smith asks Anderson can she help him figure out why they want to change the barn and the house. Anderson stated no. Totty stated do we have to ask the national historical registry in changing any zoning or is that directed in the City only. Lovvorn stated the zoning is going to stay the same it's going to still be a HOD, but when you approve an overlay district, when you bring a master development plan to be approved, where the buildings are going, that's where they have got to go. Lovvorn stated he was just ask to put this on for discussion because going through the rezoning process, we have to spend money to have someone to make those changes on the plan.

8.6 DISCUSS THE ISLANDS WITHIN THE CITY WHERE THE CITY LIMITS SURROUNDS PROPERTY IN THE COUNTY. BOB BENSON
Deferred.

9. REPORTS FOR DISCUSSION AND INFORMATION

9.1 *PLANNING/ZONING/CODES DEPARTMENT* – Nothing

9.2 CITY ENGINEER – Owens stated on his Engineering report that he submits each month, even items that you may or may not think would have Engineering comments. Owens stated he is always going to follow the meeting agenda and identify each agenda item just for the simple fact there's no question as to whether or not has the Engineer looked at it or has he not or does he need to or that kind of a thing. Owens stated so he will continue that practice if it's suitable to everybody else, other than that Happy Spring and enjoy the nice weather.

9.3 CITY ATTORNEY- Nothing

10. COMMUNICATION FROM THE PLANNING COMMISSION MEMBERS.

Sutton stated is it possible to have something more clearly upon the screen, could you'll all see it, can we look at that Donn. Lovvorn stated the problem is that you got small files and trying to zoom in or trying to bring them up. Sutton stated the point he was trying to make is that's just not useful at all, if he can't read it he can't understand it. Sutton stated and the reason we have these big gigantic screens is for the people in the audience. Sutton stated he know that he is doing the best he can, but if there was a way he would like him to look into it so it could be more legible. Sutton stated secondly what can they do to avoid the situation like they had tonight as far as something that was started ten years ago, five years ago and since then there has been a change. Sutton stated there's got to be a way to grandfather something in from the first time it was applied for. Lovvorn stated you do, and when he brought the preliminary for reapproval you all reapproved it under the old regulations you didn't require him to come into compliance with the new regulations. Sutton stated also April 16th at 12:00 would like to invite everyone to come out, going to be at Spinners Pizza Restaurant.

Beata stated he has something for Donn in relation to the Heartland Reserve as far as the detention pond, on our new restrictions do we allow detention ponds to be on lots. Lovvorn stated if it's in a subdivision that has a home owners association then any common or any detention facilities should be on common ground that is maintained by homeowners association. Lovvorn stated the new subdivision regulations are written to when you have open facilities or areas that those areas are maintained by a home owners association, we just don't have anything under the new

regulations right now. Lovvorn stated they were adopted in 2007 and we still haven't even tried them out as far as new development. Beata stated he was echoing what Mayor Totty said as far as the maintenance schedule. Lovvorn stated the problem with older subdivisions with the detention facilities, homeowners do not maintain them, and they grow up and become wet lands. Lovvorn stated and we have several of them in Castleberry. Lovvorn stated and the homeowners want the City to do something with them, their protected by the State now because their wet lands. Lovvorn stated that was the reason in the new subdivision regulations we required the maintenance to be on the plats and who was responsible for doing that maintenance and having that schedule.

Anderson stated she just wanted to remind everyone to shop in your own City; we have some great new businesses out here take a look at them.

Totty stated she would like to footnote Mr. Beata, she being of knowledge of knowing that and we have citizens that have complained to the City and have pretty much been on their ear of how this get fixed this is a dangerous snake pit, kids crawled in, dog got lost whatever. Totty stated in more than one subdivision, not knowing that we would go to that because when she read it on the Engineering report it was covered in her mind. Totty stated or she would not let this come up face value to where you didn't realize what she was trying to say was a problem and that's why they changed to the other subdivision requirements because it was recognized as a problem so we didn't anticipate it but the issue of, Will being the Engineer. Totty stated she didn't know what time you put in the recommendations but that was a rabbit trail that did direct her in a place that she thought they were covered. Totty stated even knowing he was possible of the old so that's really a misconnect between, Codes Department, Engineering and Board that shouldn't of happened, at that point don't know how they could have fixed it, but she can see where it's really not a healthy thing but it put them in a position. Totty stated where ever that needs to go from here but thank you for highlighting that, does anyone want to comment on her statement. Sutton stated there has got to be a way to adjust it for things in the future even though it was started and grandfathered in, there's got to be a way for safety and liability purposes that we can change that. Totty stated when you approved the old and he came in and asked for the extension of the old to be renewed, that was an issue because she knows the new subdivision requirements but she don't know if that is easily done to give the old and new in a bullet point or italics or a highlight for the Board to understand because when they say sure we love you, we want you to come back in and your old stuff is good and that is what we run into and there is more stuff that we could run into. Totty stated they adopted in 2007 and this is 2013, we've had a few that have come back and we have been gracious, excited and wanting growth and development of roof tops so where it comes up is when you have an expired one that comes up again, unfortunately the knowledge

is on the table and they may not get the same directive or we have new ones coming open. Totty stated other thing is Special Olympics, Fairview is honored to host, was scheduled for Thursday the 11th that has been changed due to a rain date. Totty stated they have put the Special Olympics that will take place at the field between the Fairview High School and the middle school for Friday 12th at 7:30a.m. Totty stated they are honored to hosting the Special Olympics and if you could be a part please do so; they would love to see you out. Totty stated and has Toney was commenting the Chamber of Commerce is having the state of the City address and she has been asked to speak and it's at 12:00 p.m. at Spinners Restaurant and everyone is invited. That is all, thank you.

Elliott stated she has one comment and this isn't totally related, did anyone notice in the news today that River wood Road is experiencing, over in Cottonwood, there is a sink hole opening up and it has closed River wood. Elliott stated the county is of course making a comment, apparently they have collier coming in drilling before TDEK give approval and it just made her realize that they as a City have also had some sink holes open up and the article left her in a bit of a quandary as to who would be responsible if we should have multiple roads with sink holes underneath. Totty stated Will she's going to ask him to address, if you recall on Cumberland Drive, what took place, even though it didn't touch our street, where and what would have been the steps if it did. Owens stated if a sink hole did present itself within public right of way that was inside of the City limits, his recommendation would be that the City would be responsible for taking appropriate steps. Owen stated A. would be to make sure the area is safe immediately and that may stopping passage of vehicular traffic as well as pedestrian traffic if needed. B. take the appropriate steps in exploring the area , access the area for potential damage then move forward to remedying the situation and part of that remedy would include contacting the State for their permit process for, basically anytime you're doing work around a sink hole the State requires you to do that.

Smith stated he had a couple of comments, we're developing our City where we left off in 2007 he's been on the Board since 2006 and he remembers that Donn gave a report around that time 2007 or 2008 that there were twenty five or thirty subdivisions. Smith stated Chairman Bissell at that time mapped those out that had been approved that had not yet been started, now he thinks he heard earlier that everyone that had been approved has been approved under the old subdivision regulations that were prior to 2007, post 2007 we have not seen any new Subdivisions come into the City for conceptual, preliminary or final approval. Lovvorn stated no sir. Smith stated so you folks on this Board can take it that anything that you see on Subdivisions has already been approved under the old subdivision regulations. Smith stated so if you look at drainage easements, detention ponds and those types of things we almost need to have a copy of the old

specs because that's what they are going to be under. Lovvorn stated most everything out there that has been approved is preliminary's, the finals have expired. Lovvorn stated before they could proceed they would have to come back in and get there preliminary's approved so at that time you could approve them under the old regulations or say you will have to come into compliance with the new regulations, then they would have to redraw and resubmit and bring them back for approval. Smith stated he wanted to say Will that you got caught tonight in a situation that you didn't get prepared for and you were going under a set of rules that are in place and have been in place for six years and they have let a couple of subdivisions go under the old subdivision regulations as a way to get this development started, that were final. Smith stated he doesn't find fault at the way it went it's just a human thing, Donn thought one thing, you thought another, it just happens. Smith stated you just rattled everything off about sink holes, off the top of your head, he has always been very impressed with what you do for the City, and he just wanted to let that be said. Smith stated finally along that line the state legislature is going through committee now, if a single phase development gets put in place there is going to be a ten year limit on change. Smith stated and multi-phase subdivisions will be fifteen year limit on subdivision regulation changes. Smith stated so what we have in place now, if this passes and someone comes to us and we put them under the new subdivision regulations that will be good for ten years. Smith stated you can take that and see how you feel about that. Smith stated he personally thinks that takes away the responsibility and the ability from local planning commissions to govern their own City and does not take into consideration new technologies and things that are coming on in the building that could be implemented that necessary don't have to be.

- 11. ADJOURNMENT-** Smith stated needs a motion for adjournment. Totty made a motion for adjournment. Sutton Seconded. All were in favor. Adjourned at 8:28 p.m.

Chairperson

Secretary