

**CITY OF FARMERSVILLE
PLANNING AND ZONING COMMISSION AGENDA
REGULAR CALLED MEETING
May 21, 2011
6:30 P.M., CITY MANAGER'S OFFICE, CITY HALL**

I. PRELIMINARY MATTERS

- Call to Order, Roll Call, Prayer and Pledge of Allegiance
- Welcome guests and visitors and Citizen Comments: Anyone wanting to speak on any items that are not the subject of a Public Hearing on this agenda is asked to speak at this time, with an individual time limit of 3 minutes. This forum is limited to a total of 30 minutes. *(Please note that the Planning and Zoning Commission cannot respond to, discuss or take any action regarding citizen comments made hereunder because of the limitations established by the Texas Open Meetings Act, Texas Government Code Chapter 551, violations of which Act carry criminal penalties.)*
- Planning and Zoning Commission Announcements relating to items of public interest: Announcements regarding local or regional civic and charitable events, staff recognition, commendation of citizens, traffic issues, upcoming meetings, informational update on City projects, awards, acknowledgement of meeting attendees, birthdays, and condolences.

II. ITEMS FOR DISCUSSION AND POSSIBLE ACTION

- A. Discuss, approve or disapprove minutes from April 16, 2012 Planning & Zoning Meeting

III. PUBLIC HEARING

- A. Public Hearing to consider, discuss and act upon an amendment to the Comprehensive Zoning Ordinance by amending Chapter 62, entitled "Streets, Sidewalks and Other Public Places," and Chapter 65 entitled "Subdivisions" to amend the sidewalk requirements by Ordinance # O-2012-0522-002

IV. ADJOURNMENT

- No action may be taken on comments received under "Recognition of Visitors".
- The Commission may vote and/or act upon each of the items listed in the Agenda.

The Planning and Zoning Commission reserves the right to adjourn into Executive Session at any time during the course of this meeting to discuss any matters listed on the agenda, as authorized by the Texas Government Code, including, but not limited to, Sections 551.071 (Consultation with Attorney).

Persons with disabilities who plan to attend this meeting and who may need assistance should contact the City Secretary at 972-782-6151 or Fax 972-782-6604 at least two (2) working days prior to the meeting so that appropriate arrangements can be made. Handicap Parking is available in the front and rear parking lot of the building.

I, the undersigned authority, do hereby certify that this Notice of Meeting was posted in the regular posting place of the City Hall building for Farmersville, Texas, in a place and

manner convenient and readily accessible to the general public at all times, and said Notice was posted on May 18, 2012, by 5:00 P.M. and remained so posted continuously at least 72 hours proceeding the scheduled time of said meeting.



Tom Waitschies, Chairman

Dated this the 18th day of May, 2012.



Edie Sims, City Secretary

Dated this the 18th day of May, 2012.





TO: Planning and Zoning Commission
FROM: Edie Sims, City Secretary
DATE: May 21, 2012
SUBJECT: Discuss, approve or disapprove minutes from April 16, 2012 Planning and Zoning Meeting

Minutes can be found at the following website:

http://www.farmersvilletx.com/government/agendas_and_minutes/planning_and_zoning/index.jsp

ACTION: Approve, make changes or disapprove minutes from April 16, 2012

(II - A)

FARMERSVILLE PLANNING & ZONING COMMISSION
REGULAR SESSION MINUTES
APRIL 16, 2012

The Farmersville Planning and Zoning Commission met in regular session on April 16, 2012 at 6:30 p.m. at the City of Farmersville Council Chambers with the following members present: Bill Nerwich, John Politz, Craig Overstreet, Betty Sergent, Lee Warren, Tom Waitschies. Doug Dann was absent. Staff members present was City Manager Ben White, City Attorney Alan Lathrom and City Secretary Edie Sims.

CALL TO ORDER AND RECOGNITION OF CITIZENS/VISITORS

Chairman Tom Waitschies called the meeting to order at 6:30pm. Edie Sims called roll and announced that a quorum was present.

DISCUSS, APPROVE OR DISAPPROVE MINUTES FROM MARCH 19, 2012

Lee Warren motioned to approve the minutes as presented from March 19, 2012 with Betty Sergent seconding the motion. Motion carried unanimously.

WORKSHOP – EXPECTATIONS AND REQUIREMENTS OF PLANNING & ZONING COMMISSION

City Manager Ben White came before the Commission to discuss what will be changing from the staff's perspective. When an item is presented to the Commission for review and recommendation, the staff will include a response and recommendation. This will allow details to be checked, such as the Police Department's surety of an operation – whether previous problems have existed or not. Other items from time to time will be presented for approvals which add value to the request. The Commission can start expecting research to be provided from City staff. From P&Z, Mr. White encouraged a member of the P&Z to come before the City Council when an ordinance is being recommended to Council to clarify questions and support the ordinance as presented. Making this appearance may help shorten the cycle of an ordinance and allowing passage or denial. Having a representative from the P&Z at Council meetings would also allow understanding of what is expected from the Council of the P&Z Commission. Lee Warren suggesting having a large map available as well when property is being discussed.

PUBLIC HEARING – CONSIDER, DISCUSS AND ACT UPON AN AMENDMENT TO THE COMPREHENSIVE ZONING ORDINANCE BY AMENDING CHAPTER 62, ENTITLED "STREETS, SIDEWALKS AND OTHER PUBLIC PLACED," AND CHAPTER 65 ENTITLED "SUBDIVISIONS" TO AMEND THE SIDEWALK REQUIREMENTS BY ORDINANCE # O-2012-0508-001

Chairman Waitschies opened the Public Hearing at 6:45pm and asked for those to speak for the zoning ordinance changes regarding sidewalks. City Attorney Alan Lathrom indicated that Section 65-576 was not addressed and would conflict with Chapter 62 and 65; therefore requiring a second Public Hearing. Lee Warren motioned to move this item to the next meeting to allow for a public hearing to resolve conflicting language in the ordinance with Betty Sergent seconding the motion. Motion carried unanimously.

RECONSIDER, DISCUSS AND ACT UPON AN AMENDMENT TO THE COMPREHENSIVE ZONING ORDINANCE BY AMENDING SECTION 77-91 TO ALLOW RESIDENTIAL LIVING QUARTERS ON THE FIRST FLOOR IN THE CENTRAL AREA DISTRICT

City Manager Ben White informed the Commission that the Council has requested the Commission to reconsider the ordinance regarding living quarters on the first floor within the

Central Area District. This was brought back due to the issue of owner/occupancy. The original ordinance submitted to the City Council for approval had removed the statement requiring owner/occupancy as a requirement to having living quarters on the first floor. Previously, the Commission concurred that the City should not enforce who lives in the facility. This issue should be between the owner of the building and the occupant.

Paul Kelly interjected that a citizen came forth and did not have an issue with the 60/40 percentage; however the occupancy issue was not advantageous to the business owner if stipulated owner/occupant. The question remains if the business failed yet the resident remained, how would this affect a future business? City Manager Ben White indicated that the current form will not be passed by City Council. Lee Warren stated the less government involvement, the better. Bill Nerwich asked why an ordinance would pass that is unenforceable. This is the main reason the owner/occupancy requirement was removed. Mr. Nerwich also stated that we have a tenant in an unused business setting downtown, yet it keeps the building from dying.

Donna Williams, of Red Door Antiques, came before the Commission expressing her concerns regarding the issue. Mrs. Williams expressed owners needed to be allowed to utilize their property with a residence on the first floor. It will give extra attention to downtown security and keep life on the square after 5pm. Mrs. Williams asked for the mistakes that had occurred in the past regarding residential living downtown and if the boarded up windows bring a quality and investment to the downtown area. Another topic brought up was the restroom requirement. In their store, the Williams' offer restroom facilities and open those facilities during events which helps promote business. The use of restroom facilities, she believes, should be left up to the business owner. Mrs. Williams encouraged the Commission to reconsider allowing living quarters on the first floor buildings as the potential purchase of the Candy Kitchen building is only one story yet it has 11,000 square feet of area.

Paul Kelly commended Mrs. Williams sharing her viewpoint and encouraged others to come forth and present their opinions. Mr. Kelly also encouraged Mrs. Williams to present her thoughts at the Council meeting when this item is presented.

Bill Nerwich motioned to have the original ordinance return to Council with the recommendation to approve as presented which has the 60/40 living space percentage and removing the stipulation of owner/occupant requirement. Lee Warren seconded the motion.

As a continued discussion, Lee Warren expressed concerns of deliveries being made from the front of the store on the square versus in the rear of the building due to conflict with the residential area. Mr. Warren stated he would like to see a separation of commercial/retail space versus residential space.

With a motion and second on the floor, the motion was passed unanimously. A public hearing will be rescheduled for the May 22nd City Council meeting for reconsideration.

ADJOURNMENT

Bill Nerwich motioned to adjourn with John Politz seconding the motion. P&Z Commission adjourned at 7:23 p.m.

ATTEST:

Tom Waitschies, Chairman

Edie Sims, City Secretary

2 | P & Z Meeting 04/16/2012



TO: Planning and Zoning Commission
FROM: Edie Sims, City Secretary
DATE: May 21, 2012
SUBJECT: Public Hearing to consider, discuss and act upon an amendment to the Comprehensive Zoning Ordinance by amending Chapter 62, entitled "Streets, Sidewalks and Other Public Places," and Chapter 65 entitled "Subdivisions" to amend the sidewalk requirements by Ordinance # O-2012-0522-002

Ordinance # O-2012-0522-002 is attached for review

ACTION: Approve or disapprove Ordinance # O-2012-0522-002 for recommendation to the City Council.

(III - A)

**CITY OF FARMERSVILLE
ORDINANCE # O-2012-0522-002**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FARMERSVILLE, TEXAS, AMENDING THE SUBDIVISION ORDINANCE, ORDINANCE NO. 2007-08 AS AMENDED, THROUGH THE AMENDMENT OF CHAPTER 62, ENTITLED "STREETS, SIDEWALKS AND OTHER PUBLIC PLACES" AND CHAPTER 65 ENTITLED "SUBDIVISIONS"; PROVIDING A PENALTY CLAUSE; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL CONFLICTING ORDINANCES; PROVIDING FOR PUBLICATION; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, after public notice and public hearing as required by law, the Planning and Zoning Commission of the City of Farmersville, Texas, has recommended the amendment of Chapter 62 of the Code of Ordinances, entitled "Streets, Sidewalks and Other Public Places" and Chapter 65 of the Code of Ordinances, entitled "Subdivisions" to clarify that public sidewalks are to provide a safe area for pedestrians and to set out set requirements for sidewalk construction; and

WHEREAS, all legal requirements, conditions, and prerequisites have been complied with prior to this recommended text amendment coming before the City Council of the City of Farmersville; and

WHEREAS, the City Council of the City of Farmersville, after notice and public hearing as required by law and upon due deliberation and consideration of the recommendation of the Planning and Zoning Commission and of all testimony and information submitted during said public hearings, the City Council is of the opinion and finds that the change of such zoning text will not be detrimental to the public health, safety, or general welfare of the citizens of the City, and will promote the best and most orderly development of the property affected thereby, and as well the owners and occupants thereof, and the City generally;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FARMERSVILLE, TEXAS:

SECTION 1: That from and after the effective date of this Ordinance Chapter 62 of the Code of Ordinances, entitled "Streets, Sidewalks and Other Public Places" and Chapter 65 of the Code of Ordinances, entitled "Subdivisions" Ordinance #2007-08 as amended, of the City of Farmersville, Texas, be, and the same is hereby, amended to read as follows:

**CHAPTER 62: STREETS, SIDEWALKS AND OTHER
PUBLIC PLACES, ARTICLE V**

DIVISION 1. Pedestrian concrete walkways (sidewalks) shall meet the following conditions and shall be provided along both sides of newly constructed streets as follows:

- (1) MAJOR THOROUGHFARE SIDEWALK PLACEMENT – The sidewalk shall be no less than five (5) feet wide on both sides of the street as shown by Exhibit “A”;
- (2) SECONDARY THOROUGHFARE SIDEWALK PLACEMENT – The sidewalk shall be no less than five (5) feet wide on both sides of the street as shown by Exhibit “B”;
- (3) COLLECTOR ROADWAY SIDEWALK PLACEMENT – The sidewalk shall be no less than four (4) feet wide on both sides of the street as shown by Exhibit “C”;
- (4) RESIDENTIAL STREET SIDEWALK PLACEMENT – The sidewalk shall be no less than four (4) feet wide on both sides of the street as shown by Exhibit “D”;
- (5) RESIDENTIAL ESTATE STREET SIDEWALK PLACEMENT – The sidewalk shall be no less than four (4) feet wide on both sides of the street as shown by Exhibit “E”;

Division 2.

- a) Concrete sidewalks on residential streets will have a width of not less than four (4) feet and thickness of not less than four inches and will be constructed of 3,500 psi concrete on both sides of all streets.
- b) Sidewalks will be constructed not less than one foot from the street right-of-way line and will extend along the street frontage including the side lot corner lots and block ends.
- c) All concrete for sidewalks will be placed on a two-inch sand cushion and will be reinforced with number three (3) reinforcing steel bars placed at 18 inches on center each way.
- d) The developer may petition for a determination to the Chief Planning Official in the form of a written variance request when the sidewalk construction is either not feasible or inappropriate at the time of subdivision construction. If any funds are expended for engineering or other qualified opinions, the developer will be responsible for reimbursing the City for all charges incurred. If determined to be inappropriate at the time of construction by the City, funds for such construction shall be placed in escrow with the City by the developer. The sidewalk escrow rate will be approved by resolution by the City Council.
- e) Construction standards for sidewalks shall be set forth in the City of Farmersville’s Design Standards.

Division 3. Appeals

- 1) Appeals shall be made to the Board of Adjustment regarding a decision made by the Chief Planning Official under this ordinance. Such appeal shall be taken within 15 days after the decision has been rendered by the Chief Planning Official, by filing with the City Secretary from whom the appeal is taken and with the Board of Adjustment, a notice of appeal specifying the grounds thereof. The City Secretary from whom the appeal is taken shall forthwith transmit to the Board of all the papers constituting the record upon which the action appeal from was taken.
- 2) An appeal shall stay all proceedings of the action appealed from unless the Chief Planning Officer from whom the appeal is taken certifies to the Board of Adjustment, after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a Court of Record on application and notice to the Chief Planning Officer from whom the appeal is taken and due cause shown. The Board of Adjustment shall fix a reasonable time for the hearing of an appeal, give the public notice thereof by posting such notice in the mail addressed to all owners of real property located within 200 feet of the property to which the appeal applies and by publishing notice of such hearing in a newspaper of general circulation in the City. Both the posted and published notice shall be given at least ten days prior to the date set for the hearing. At the hearing, any party may appear in person or by attorney or by agent.
- 3) When in its judgment, the public convenience and welfare will be substantially served and the appropriate use of the neighboring property will not be substantially or permanently injured, the Board of Adjustment may, in specific cases, after public notice and public hearing, and subject to appropriate conditions and safeguards, authorize the following special exception to the regulations herein established.
 - a) Permit the reconstruction, extension or enlargement of a sidewalk by a non conforming use of the lot or tract, provided such reconstruction does not prevent the return of such property to a conforming use.
 - b) Permit such modifications as may be necessary to secure appropriate development of a parcel of land which differs from other parcels in the district by being of such restricted area,

shape or slope that it cannot be appropriately developed without such modification.

- c) Require the discontinuance of nonconforming uses of land under any plan whereby the full value can be amortized within a definite period of time, taking into consideration the general character of the neighborhood and the necessity for all property to conform to the regulations of this article. All actions to discontinue a nonconforming use of land shall be taken with due regard for the property rights of the persons affected when considered in the light of the public welfare and the character of the area surrounding the designated nonconforming use and the conservation and preservation of the property. The Board shall, from time to time, on its own motion or upon cause presented by interested property owners, inquire in to the existence, continuation or maintenance of any nonconforming use within the City.

SECTION 2: That it is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION 3: That from and after the effective date of this Ordinance, any person, firm or corporation violating any of the provisions of the City of Farmersville Sign Code as amended hereby shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court of the City of Farmersville, Texas, shall be subject to a penalty of a fine not to exceed the sum of two thousand (\$2,000.00) for each offense and each and every day any such offense shall continue shall be deemed to constitute a separate offense.

SECTION 4: That from and after the effective date of this Ordinance, all previously adopted ordinances, orders or resolutions heretofore passed and adopted by the City Council of the City of Farmersville, Texas, in conflict with the provisions of this Ordinance shall be, and the same are hereby repealed to the extent of any such conflict.

SECTION 5: That this ordinance shall take effect immediately from and after its passage and publication of the caption, as the law in such cases provides.

PASSED on first and final reading on the 24th day of April, 2012, at a properly scheduled meeting of the City Council of the City of Farmersville, Texas, there being a quorum present, and approved by the Mayor on the date set out below.

APPROVED:

Joseph E. Helmberger, P.E., Mayor

ATTEST:

Edie Sims, City Secretary

Exhibit A

Major Thoroughfare Sidewalk Placement

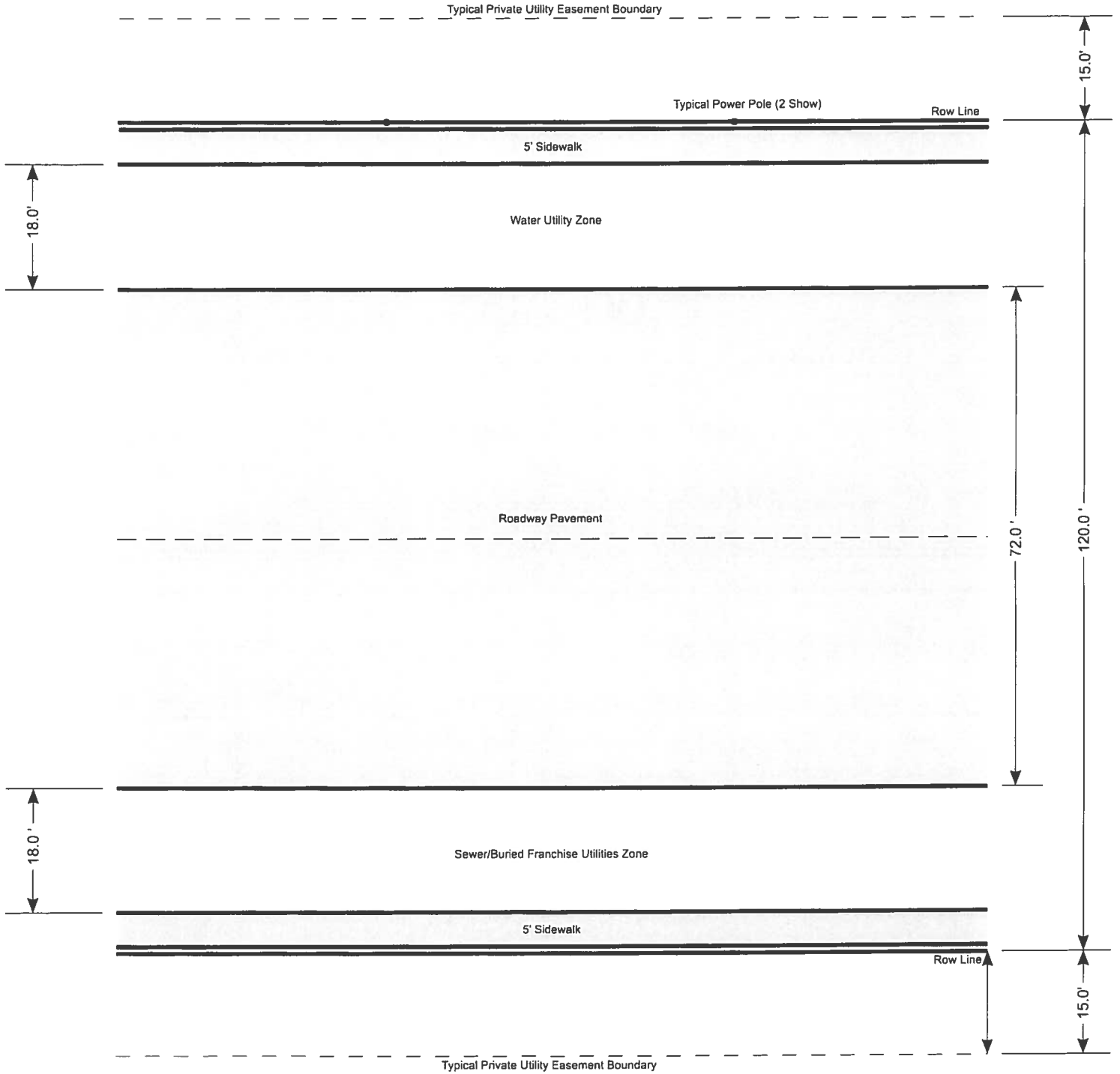


Exhibit B

Secondary Thoroughfare Sidewalk Placement

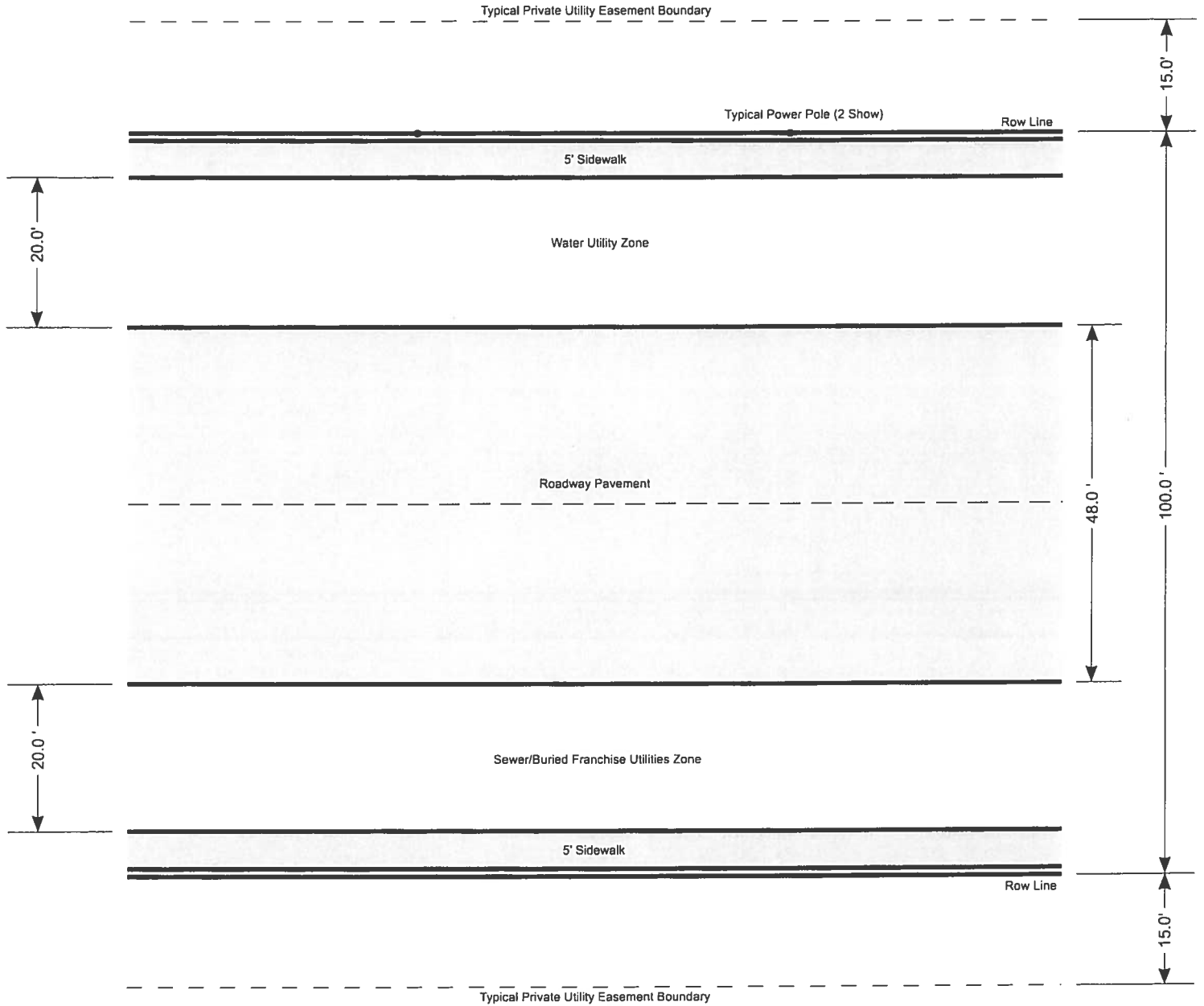


Exhibit C

Collector Roadway Sidewalk Placement

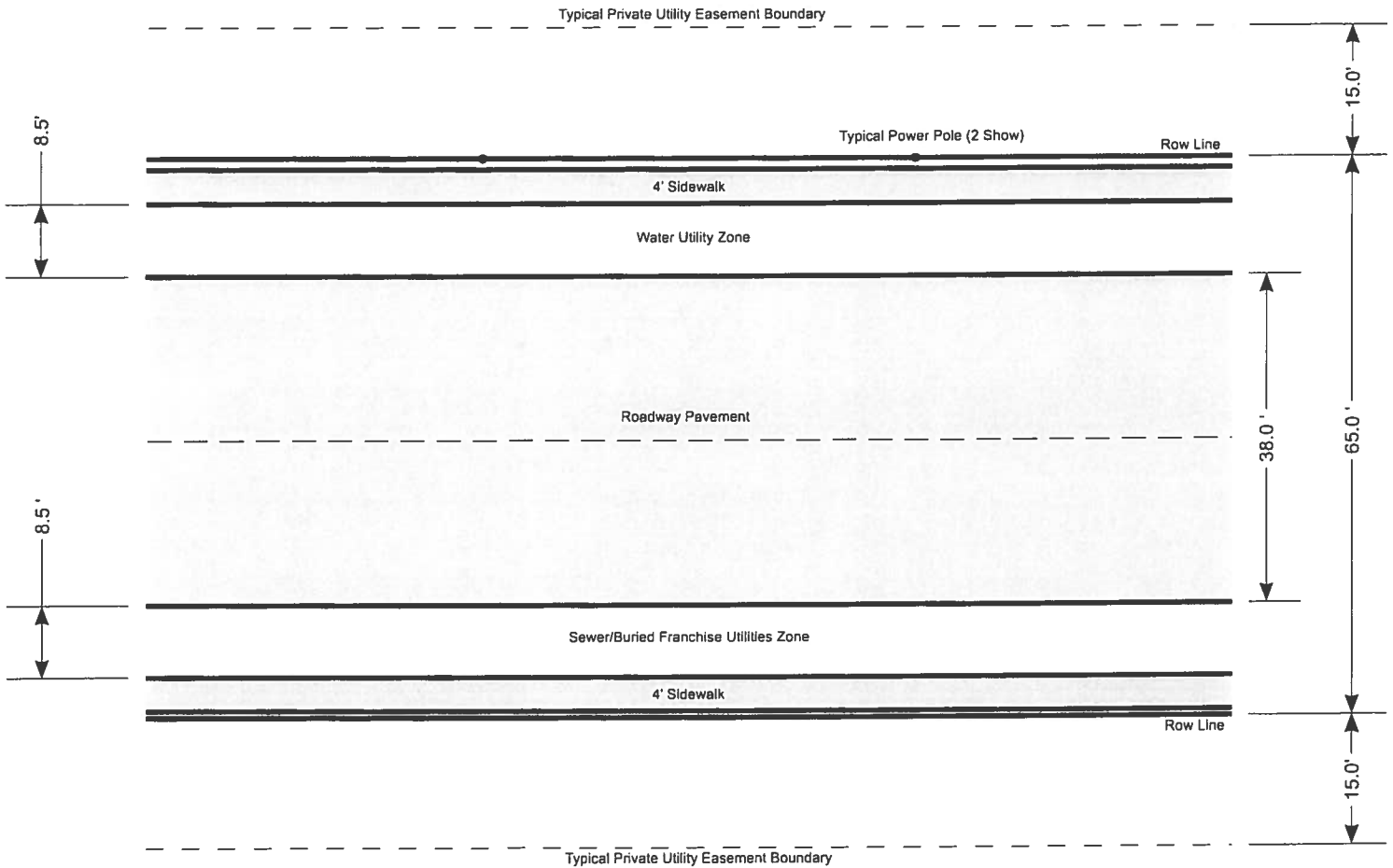


Exhibit D

Residential Street Sidewalk Placement

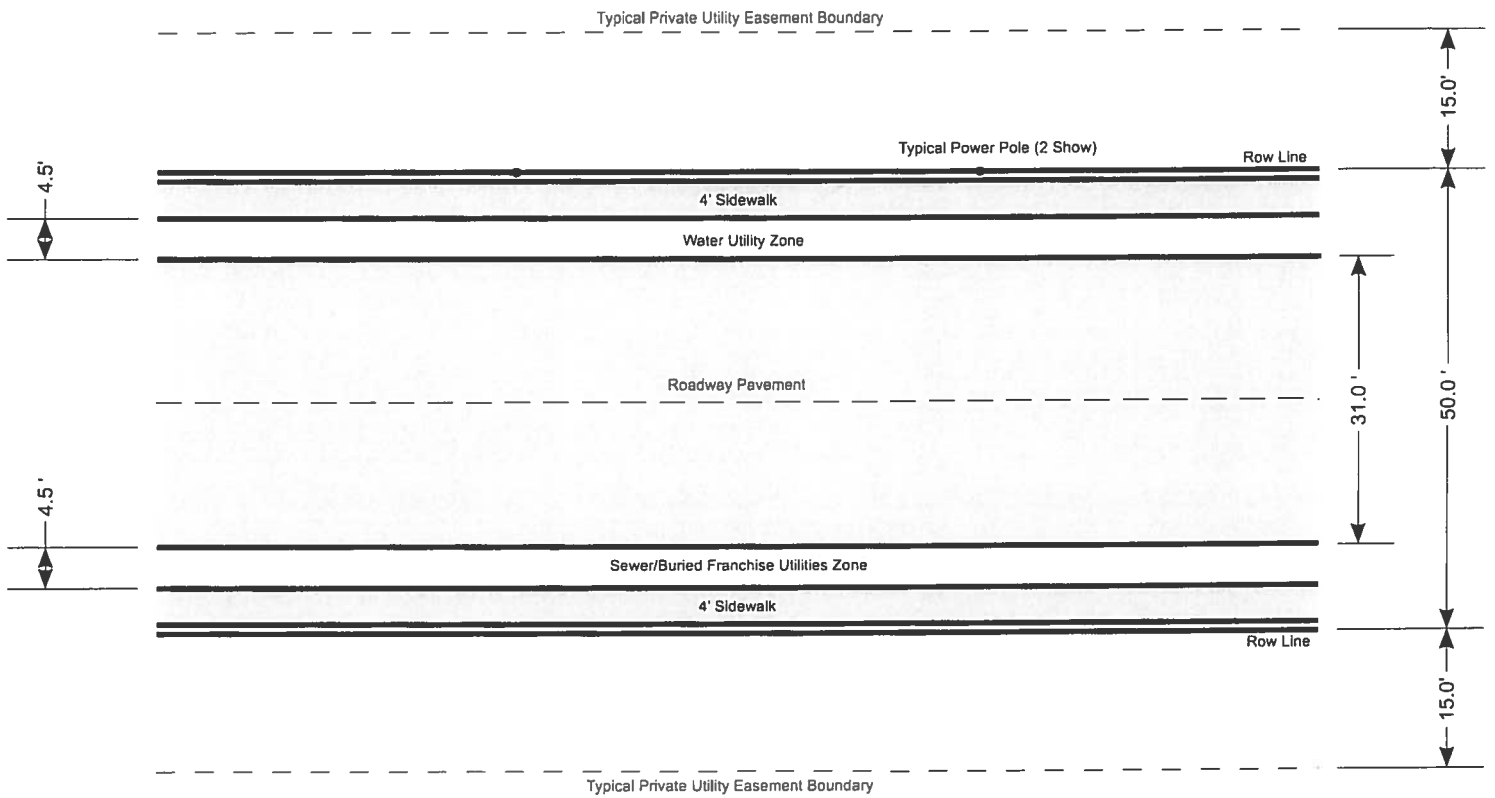


Exhibit E

Residential Estate Street Sidewalk Placement

