



**CITY OF FARMERSVILLE
PLANNING AND ZONING COMMISSION MINUTES
REGULAR CALLED MEETING
February 26, 2018, 6:30 P.M.
COUNCIL CHAMBERS, CITY HALL
205 S. Main Street**

I. PRELIMINARY MATTERS

- Chairman Bobby Bishop presided over the meeting which was called to order at 6:30 p.m. Commissioners Sarah Jackson-Butler, Kevin Adamson, Lance Hudson, Luke Ingram, and Russell Chandler were in attendance. Paul Kelly was not present. Also, in attendance was City Manager, Ben White; staff liaison, Sandra Green; City Attorney, Alan Lathrom; and Council liaison, Craig Overstreet.
- Craig Overstreet led the prayer and the pledges to the United States and Texas flags.

II. PUBLIC HEARING

- A. Public hearing to consider, discuss and act upon a recommendation to the City Council regarding an application requesting a change in zoning on approximately 0.3444 acres of land, more or less, from Single-Family 1 (SF-1) District Uses to C-Commercial District uses. The property is generally situated at 311 Sycamore Street and is known as Lot OL 1 of the Gaddy Addition, and located in the W.B. Williams Survey, Abstract A952, of Farmersville, Collin County, Texas.
- Bobby Bishop opened the public hearing at 6:32 p.m.
 - James Foy who resides at 211 College Street stated he was speaking against spot zoning. He explained he is against spot zoning because this property is a residential lot that the applicant has requested to change to commercial. The problem is that it is located around other residential property and he stated spot zoning is illegal. He recalled the case of Burkett vs. the City of Texarkana where the Texas 6th District Court of Appeals observed that spot zoning is descriptive of the process of singling out a small parcel of land for use classification different from and inconsistent with that of the surrounding area for the benefit of the owner of such property and to the detriment of the right of the other property owners. In the case of Thompson vs. the City of

Palestine, the Texas Supreme Court indicated spot zoning as preferential treatment that defeats a pre-established Comprehensive Plan and it is piece-mail zoning. He stated in a paper called *Land Use Regulation for Texas Cities*, attorney Brad Young indicates that two pitfalls that cities must be mindful of is to avoid spot zoning and contract zoning. He wrote that spot zoning is an illegal practice of zoning a single tract of land that is incompatible with the surrounding area, the City Zoning Ordinance and the Comprehensive Plan. He explained contract zoning is an illegal agreement with the City and a property owner to adopt a certain zoning classification in exchange for certain promises by the property owner. Terrence Welch, with Brown & Hofmeister, wrote a paper that he presented to a Land Use Conference in Austin in 2016. In the paper he said spot zoning is the rezoning of property that benefits the specific property, so the use classification is less restrictive than required by the original Zoning Ordinance. He claimed Mr. Welch indicated when City Council departs from its Comprehensive Plan and rezones a small tract, it violates the state law requirement that zoning is to be in accordance to the Comprehensive Plan. Thus, spot zoning is illegal because it is an arbitrary departure from the Comprehensive Plan. He explained that if the property is rezoned to commercial it could be used for any commercial activity. He explained he understood Mr. Crump is wanting to utilize the property as office space but later it could be used as other things. He urged the Commission to not spot zone and leave the use as residential.

- George Crump addressed the Commission and explained he is the owner who is requesting that the zoning be changed. He stated the facility was used as a daycare center in the past. It is a single-family dwelling, but it faces a cemetery and it would be difficult to use as a residence. The plan is to use it as an office building. He indicated it would not be conducive to have any other use because there is not enough land.
- Bobby Bishop closed the public hearing at 6:37 p.m. and asked Ben White for some information regarding the zoning.
- Ben White indicated he would refer to attorney Alan Lathrom since there was a lot of legality involved.
- Alan Lathrom explained that when this change was applied for he and Sandra Green looked at the Comprehensive Plan to figure out what the future land use plan showed. He asked Sandra Green to read the information from the Comprehensive Plan.
- Sandra Green stated the information in the Comprehensive Plan showed the future land use to be in Central Farmersville.
- Bobby Bishop asked if the property was originally zoned commercial and then changed to single family residential.
- Sandra Green stated she did not believe so. It appeared to always be zoned as residential.
- Alan Lathrom explained that a day care center is allowed by right in a residential zoning district.
- Sandra Green read the information for the Central Farmersville area in the Comprehensive Plan that indicated the area would be predominately single

family residential uses with multi-family, institutional, commercial, and industrial uses scattered throughout. The area is laid out in a historic grid pattern and reflects the cultural values of the past. In the future it is anticipated that the area will remain predominately single family residential or duplex uses on the smaller lots, higher density townhomes, multi-family and commercial uses may be appropriate if it is consistent with the layout and character of the area. The intent of any new development in this area should be to maintain the existing development patterns, provide capable fill in development, and enhance and stabilize the existing neighborhood. Residential areas in Central Farmersville are not to exceed twelve (12) dwelling units per gross acre.

- Alan Lathrom stated the Comprehensive Plan allows for staggering uses within Central Farmersville. The zoning is a discretionary combination by the Planning & Zoning Commission and the City Council and if they feel like the use is not consistent with what the Comprehensive Plan calls for then the Commission could disapprove the request. He explained if the zoning is changed to a commercial use it could not be restricted to specific uses. All uses that are allowed in commercial zoning areas would be allowed, unless you have a planned development. But, a planned development has not been applied for.
- Bobby Bishop asked if other requirements such as lighting would come into play.
- Alan Lathrom stated there would be requirements such as parking and other items, based on the type of use.
- Bobby Bishop asked about churches and where they can go within the City.
- Alan Lathrom indicated churches can go in to any residential zoning district by right. He pointed out that day cares, churches and schools can pretty much go in to residential districts. Churches and schools can go in to whatever zoning district they would like.
- Bobby Bishop asked if the only things facing Sycamore Street right now would be the church and the building that Mr. Crump owns.
- Ben White stated the cemetery also faces Sycamore.
- Bobby Bishop explained the biggest concern seems to be the number of activities that could eventually go into the building as a commercial use. He asked Alan Lathrom to expand upon that.
- Alan Lathrom indicated if the applicant received a planned development for an office building then the use of that property would be used for only that purpose. When you zone straight commercial and if a change takes place, every use would be allowed. On straight commercial zoning the Commission does not have the right to carve out uses they do not want to allow. The City does not have the ability to enter into a development agreement to carve out the use of professional office buildings because that would be contract zoning and that does violate state law.
- Sarah Jackson-Butler asked if the property could be used as an office even if it is not zoned commercial.

- Alan Lathrom stated no because it is a residential zoned area. The only way you could have an office use in a residential zoned district is by having a home occupation. If you have a primary residence, you could have an office as an accessory use but there would be restrictions. For example, you could not have more than one employee in the office besides the homeowner.
- Bobby Bishop asked if Alan Lathrom indicated it would be legal to rezone the property to commercial.
- Alan Lathrom indicated only if the Commission believes it falls within the description set out in the Comprehensive Plan.
- Kevin Adamson asked if the Commission approves this item and someone else up the street wanted to rezone to commercial would they have to allow it.
- Alan Lathrom stated not necessarily. Part of the problem is finding the balance for locations of diverse types of uses that are allowed under the Central Farmersville District the way it is set out in the Comprehensive Plan. If the City is zoning according to the Comprehensive Plan it is okay, but if you start to go away from the Comprehensive Plan that is where you get into spot zoning.
- Bobby Bishop indicated that if the property was going to be used as a residential home the owners would probably have to be tear it down and start over. He indicated if the property stayed the way it is now it would more than likely remain abandoned.
- Lance Hudson asked if the building would have to have façade changes if it was changed to commercial.
- Alan Lathrom indicated there would not be a requirement for changing the façade, but there may be landscaping and parking requirements that would have to be met.
- Bobby Bishop asked if they would have to bring the building up to code.
- Alan Lathrom indicated the property is not grandfathered so it would have to be brought up to code.
- Sarah Jackson-Butler asked if there was a time limit on this request.
- Alan Lathrom indicated there was not a time limit because this was not like a plat.
- Kevin Adamson stated it is a hard decision because he believes that an office is the best use of the property, but the way the property faces the residential neighborhood could be a problem. In the future if someone wanted to put a paint shop or something else there, that would not be a suitable location for it. He stated he did not know what to do with the property otherwise.
- Russell Chandler asked if there was another way the property owner could bring this back differently other than the way it is being presented.
- Alan Lathrom indicated he would have to check the Ordinance to see the minimum acreage required for a planned development.
- Sarah Jackson-Butler recommended the item be tabled until the next meeting for research to be done. She wanted to see how it can be zoned so people do not think it is spot zoning and in case others in the area ask to rezone later.

- Motion to table until the next meeting made by Sarah Jackson-Butler
- 2nd to approve made by Kevin Adamson
- All members voted in favor

III. Items for Discussion and Possible Action

A. Consider, discuss and act upon minutes from December 18, 2017.

- Motion to approve made by Russell Chandler
- 2nd to approve made by Luke Ingram
- All members voted in favor

B. Consider, discuss and act upon minutes from January 22, 2018.

- Motion to approve made by Sarah Jackson-Butler
- 2nd to approve made by Kevin Adamson
- All members voted in favor

C. Discussion regarding schedule for Comprehensive Zoning Ordinance and Subdivision Ordinance review and approval.

- Sandra Green explained she forgot to notice the public hearing, so the dates would change accordingly. The public hearing would now take place on the normal Planning & Zoning meeting on March 19th. The City Council would then hold a public hearing on the 27th and full adoption should be in April.

IV. PLANNING WORKSHOP

A. Discussion regarding the proposed complete rewrite and revision of the City of Farmersville's Zoning Ordinance and Subdivision Ordinance (collectively "Ordinances") and discuss the proposed Ordinances and the changes, formatting, and modifications to the Ordinances.

- Bobby Bishop indicated the proposed Zoning Ordinance was much easier to read and it cleared up a lot of items.
- Ben White went through the table of contents and pointed out that several items were added in the document. He explained there was a lot of time spent on definitions and allowing staff to interpret items.
- Luke Ingram stated the document shows there will be 14 zoning districts and he wanted to know how that compares to the old document.
- Ben White stated parking was the only district that was removed. Also, the industrial zones went from I-1 and I-2 to LI and HI. Ben White stated there were some changes in the specific requirements for each district within the document. For example, brick requirements have been added.

- Sandra Green explained that Paul Kelly could not be at the meeting because he was at the School Board meeting, but he wanted it brought out at the meeting that he did not like the brick requirements. He stated he felt like it was being too restrictive on the citizens because they should be able to use wood on their houses.
- Sarah Jackson-Butler indicated she was under the impression the City would incorporate other items into the definition of masonry besides just brick.
- Sandra Green stated that had been done. Masonry would allow for brick, stucco and other materials that are spelled out in the document.
- Sarah Jackson-Butler asked what the percentage of masonry was being proposed.
- Sandra Green stated the document is asking for 75 percent on the first floor and 50 percent on the second.
- Ben White stated the City does not have to go with those percentages, but most cities around the area have those requirements.
- Lance Hudson stated he believed that most cities require more.
- Ben White stated the planned development zoning was changed to an overlay district. He also stated the highway commercial district was made into an overlay district.
- After discussions back and forth over the proposed zoning document the Commission, Alan Lathrom, or City staff members requested the following items be changed:
 - no fiberboard to be used on the exteriors of buildings
 - mixed use category to be added in the chart of uses
 - add definitions and examples of toxic and hazardous materials
 - add a use for a permanent concrete plant
 - a statement added under Section 4.6.2 Garage Apartment or Guest House that indicated the floor area of the guest house should not exceed a certain percentage of the primary structure; this would make it to where the guest house would never be larger than the main residence
 - in Section 4.7.4 Roofing Requirements change the shingles to reflect 30-year instead of 40-year; add grey and dark chocolate to acceptable colors of shingles; indicate that corrugated metal could only be used in the Downtown, Historical Area of Farmersville to protect the Onion Shed and other historical buildings
 - make sure the Ordinance reflects that the CA – Central Area District does not have to meet parking standards for the uses since parking is limited in the downtown area
 - Include brick, not concrete, would be allowed in the downtown area for parking since the streets are paved with brick
 - Check on the square footage requirements of the apartment units to see if it would restrict developers
 - consider other alternatives to brick for houses because the percentage stated in the proposed Ordinance could hinder residents; wood is commonly used in the City and the Commission

would like to have something with the look of wood that would hold up better to the elements


- After reviewing the propose Zoning Ordinance, the Commission moved on to the Subdivision Ordinance. Staff walked them through the changes that had been made to the document. The Commission members did not have any changes they wanted make to the Ordinance.

V. Adjournment

Meeting was adjourned at 8:35 p.m.

ATTEST:

APPROVE:


Sandra Green, City Secretary


Bobby Bishop, Chairman

