

**CITY OF FARMERSVILLE  
PLANNING AND ZONING COMMISSION AGENDA  
REGULAR CALLED MEETING  
April 16, 2011  
6:30 P.M., COUNCIL CHAMBERS, 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 March 19, 2012 Planning & Zoning Meeting

**III. WORKSHOP**

- A. Expectations and requirements of Planning & Zoning Commission

**IV. 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-2012-0508-001
- B. 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 I the Central Area District.

**V. 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 April 13, 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 13<sup>th</sup> day of April, 2012.**



**Edie Sims, City Secretary**



**Dated this the 13<sup>th</sup> day of April, 2012.**





TO: Planning and Zoning Commission  
FROM: Edie Sims, City Secretary  
DATE: April 16, 2012  
SUBJECT: Discuss, approve or disapprove minutes from March 19, 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](http://www.farmersvilletx.com/government/agendas_and_minutes/planning_and_zoning/index.jsp)

**ACTION: Approve, make changes or disapprove minutes from March 19, 2012**

(II - A)

FARMERSVILLE PLANNING & ZONING COMMISSION  
REGULAR SESSION MINUTES  
March 19, 2012

The Farmersville Planning and Zoning Commission met in regular session on March 19, 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

City Secretary Edie Sims 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 DECEMBER 12, 2011 AND JANUARY 17, 2012

Craig Overstreet motioned to approve the minutes as presented from February 21, 2012 with Betty Sergent seconding the motion. Motion carried unanimously.

PUBLIC HEARING – CONSIDER, 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 OF THE CENTRAL AREA DISTRICT BY ORDINANCE # O-2012-0410-001

Chairman Waitschies opened the Public Hearing at 6:38pm and asked for those to speak for the amendment to allow living quarters on the first floor of the Central Area District. No one spoke for the amendment. Chairman Waitschies then asked for those opposing the amendment presented. No one came to speak against the amendment. Chairman Waitschies closed the Public Hearing at 6:38 p.m.

Lee Warren questioned that the previous discussions lead to a percentage of square footage to be allowed for living quarters with his question being confirmed. Mr. Warren continued the conversation to identify if 60/40 percentage is a fair percentage for other businesses in the Central Area. John Politz interjected that at 35/65 percentage may be considered.

Lee Warren then changed the discussion to restrooms and exits. Mr. Warren questioned if a building should have one restroom for the business and one restroom for the residence. Mr. Warren also contended that both restrooms would need to be ADA compliant and accessible. Mr. Warren also expressed concerns of deliveries for the business which may be a pathway through the residential portion of the building. City Manager Ben White indicated that the inspections would follow the commercial standards and requirements. The residential, even though a second use, would be secondary to the commercial use which would be primary. Mr. Warren expressed concern of commercial access to the rear of the building. John Politz considered limiting the owner of the business to be the only tenant, basically stating the owner must be the occupant. Mr. White questioned how this would be enforced. The discussion then turned to separating utilities for the business versus residential. The Commission was informed that separate utilities would be installed per each use.

Mark Moss, of Diversified Realty, expressed concerns of this topic as his aunt and uncle own a building downtown. Mr. Moss stated we have a dead square and he asked the Commission not to inflict harsh restrictions which does not allow the square to be vibrant. Mr. Moss encouraged the Commission to accommodate without eliminating retail space. Mr. Moss



expressed concern not to eliminate retail square footage and allow others to utilize the spaces available. Perhaps creating a corridor could eliminate issues of separating restrooms. Lee Warren stated he is also considering other buildings, not just Jack Alexander's building which opened this topic. Bill Nerwich encouraged the restroom space should be between occupant and commercial space should be the owner's issue and not for the City to monitor. City Manager Ben White stated as long as the building, including residential, meets the Fire Code, the City should not get involved.

Bill Nerwich stated that a change needs to be made to the ordinance regarding facing the square. Some store fronts are along Main Street which all businesses do not face the square. In keeping with the public's requirement not to have the square as residential, Mr. Nerwich requested the change to reflect the business area to be at the front of the building with residential being at the farthest portion of the building away from the building's store front.

Brian Williams, owner of Red Door Antiques, came before the Commission to express concerns of making ADA requirements for the interior of the building when the main entrance may or may not be ADA compliant. After a lengthy argument between Mr. Williams and Lee Warren, ADA inspection requirements would be investigated to ensure that all requirements are met by either Bureau Veritas, the City's current inspection provider, or by a State inspector. Mr. Williams also expressed concerns that the Commission was implementing too stringent rules that would not allow a business owner the opportunity to utilize his building.

John Politz motioned to approve the Ordinance # O-2012-0410-001 with amendments to the percentage allowed for residential to be 60% Commercial/40% Residential. Craig Overstreet seconded the motion. Motion carried 4 to 1 with Lee Warren voting against. Bill Nerwich motioned to delete the owner occupant phrase with John Politz seconding the motion. Motion carried unanimously. Craig Overstreet motioned to amend the ordinance to reflect the residential area to be at the rear of the building farthest away from the building's store front with John Politz seconded the motion. Motion carried unanimously.

Bill Nerwich motioned to pass the ordinance with the amendments discussed. Craig Overstreet seconded the motion. Motion carried 4 to 1 with Lee Warren voting against.

PUBLIC HEARING – CONSIDER, DISCUSS AND ACT UPON AN AMENDMENT TO CHAPTER 77, "ZONING," OF THE CODE OF ORDINANCES, CITY OF FARMERSVILLE, TEXAS, BY AMENDING SECTION 77-1, "DEFINITIONS," SECTION 77-94, "ACCESSORY AND INCIDENTAL USES," AND SECTION 77-100, "RETAIL AND RELATED SERVICE USES," RELATIVE TO DRIVE-IN AND DRIVE-THROUGH RETAIL AND COMMERCIAL FACILITIES AS ACCESSORY USES AND/OR PRIMARY USES ALLOWED BY RIGHT IN CERTAIN ZONING DISTRICTS

Chairman Waitschies opened the Public Hearing at 7:31pm and asked for those to speak for the zoning ordinance changes to allow drive-ins and drive-through uses. Kevin Meguire came before the Commission to express his request for the Commission to approve the zoning ordinance changes. Mr. Meguire referred to a Concept Plan for Blondie's Beer and Wine which was approved by the Planning and Zoning Commission and was later found that the drive-through style of business did not conform with the zoning ordinance thereby making their business illegal before being allowed to move forward. This project was placed on hold. Mr. Meguire had specific concerns regarding clarity, regards to an escape lane and stacking space of 20. Mr. Meguire asked the Commission to be careful and diligent in going forward in this process. Chairman Waitschies asked for anyone opposing the zoning amendment to step forward. No one spoke opposing. Chairman Waitschies closed the Public Hearing at 7:38pm.



City Attorney Alan Lathrom indicated that the zoning amendment ordinance does not require a Specific Use Permit. The ordinance presented allows for retail uses as accessory and stand along primary uses as identified in a zoning district with a "P" designation. Mr. Lathrom indicated that he accessed other cities ordinances regarding stacking and used them as a guide since stacking on major highways and other roadways was the concern.

The Commission discussed escape lanes and the relationship to a fire lane. Typically a fire lane has enough room to travel around to exit the drive thru. Other questions arose regarding where first service begins. For Blondie's Beer & Wine, it would be at the entrance of the drive-through building. Mr. Meguire indicated that an additional fire lane has a cost factor of over \$60,000. City Attorney Alan Lathrom stated that there are instances where a fire lane could equal an escape lane and thereby not requiring an escape lane. John Politz stated he likes the stacking spaces to remain at 3. Commission discussed the stacking lanes and all concurred that 3 was sufficient. Alan Lathrom questioned if the Commission would like to keep the statement under Section 3 (g) and Section 4 (g) regarding Child-care and day schools for the stacking space to remain one space per twenty students on a circular drive. This particular statement would help alleviate issues in the future for child-care locations.

Lee Warren motioned to approve the ordinance by deleting escape lanes throughout the ordinance and changing all stacking requirements to 3 with the exception of the child-care. John Politz seconded the motion. Motion carried unanimously.

WORKSHOP TO DISCUSS 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-2012-0508-001

City Manager Ben White informed the Commission that the sidewalk ordinance was not completed in time for the Public Hearing requirement and that there are a lot of tentacles that affected other ordinances. John Politz asked for examples of each style of street per the Exhibits presented. Currently the City does not have any streets that are identical to Exhibit A. Exhibit B could be compared to Farmersville Parkway. Exhibits C, D and E are collector streets such as Main Street which feed to smaller residential streets. Mr. White indicated that the Public Hearings will be prepared and ready for Commission action at the next P&Z meeting.

DISCUSSION OF PLACING ITEMS ON FUTURE AGENDAS

Lee Warren requested to discuss egress for dual types of occupancy to separate them for the first and second floor.

ADJOURNMENT

Craig Overstreet motioned to adjourn with Bill Nerwich seconding the motion. P&Z Commission adjourned at 7:19 p.m.

ATTEST:

\_\_\_\_\_  
Tom Waitschies, Chairman



Edie Sims, City Secretary

DRAFT



TO: Planning and Zoning Commission  
FROM: Edie Sims, City Secretary  
DATE: April 16, 2012  
SUBJECT: WORKSHOP – Expectations and requirements of the Planning and Zoning Commission

City Manager Ben White will make a presentation to the Commission.

**ACTION: No action is required**

(III - A)





TO: Planning and Zoning Commission  
FROM: Edie Sims, City Secretary  
DATE: April 16, 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-2012-0424-001

Ordinance # O-2012-0424-001 is attached.

- ACTION:**
- 1) Open Public Hearing and call time.
  - 2) Ask those that are FOR the amendment to speak
  - 3) Ask for those OPPOSING the amendment to speak
  - 4) Close the Public Hearing and call time.
  - 5) Open the discussion to the P&Z Commission.
  - 6) Discuss, approve or disapprove recommending to City Council.

(IV - A)

**CITY OF FARMERSVILLE  
ORDINANCE # O-2012-0424-001**

**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 appealed 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:

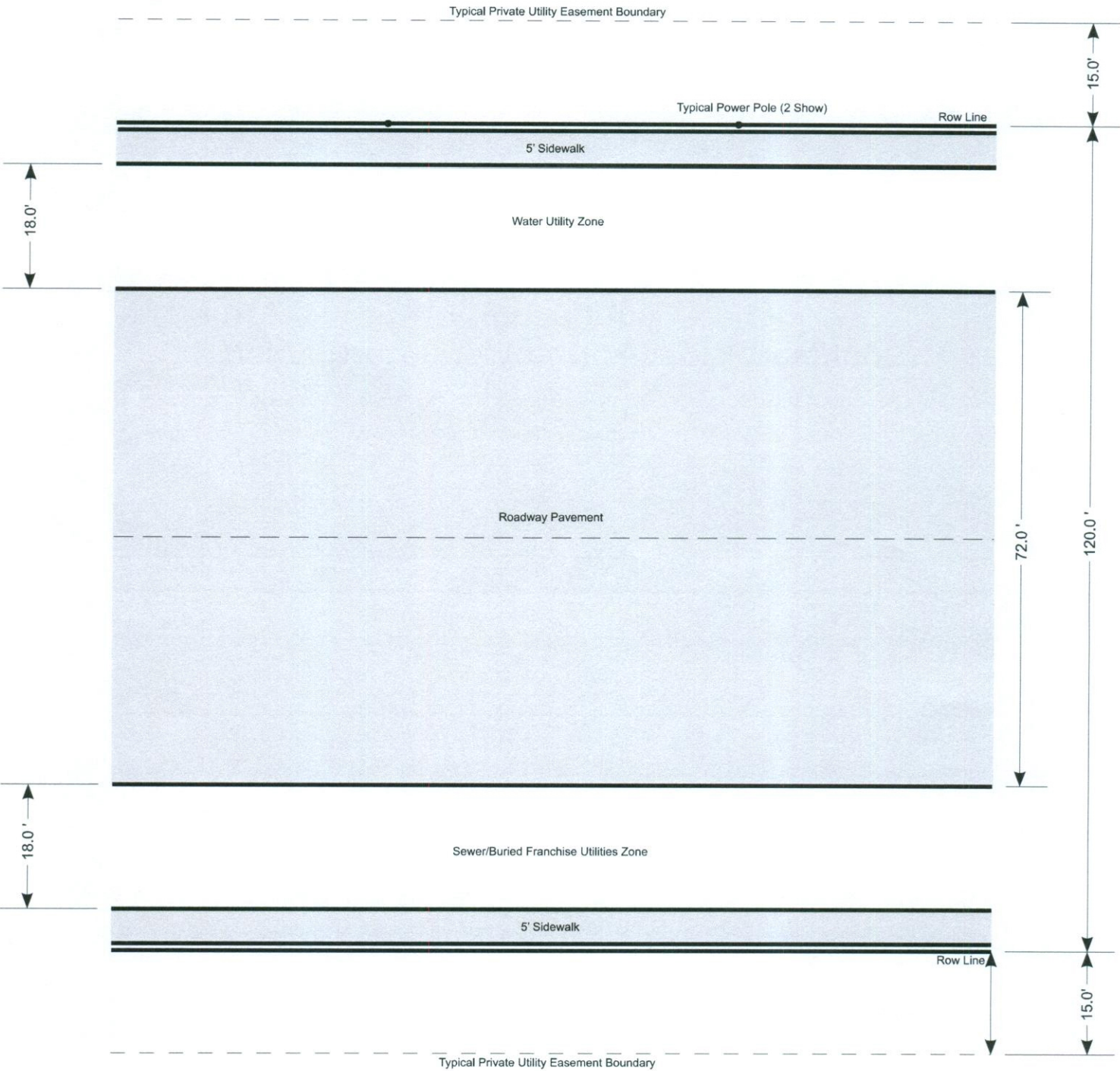
---

Edie Sims, City Secretary



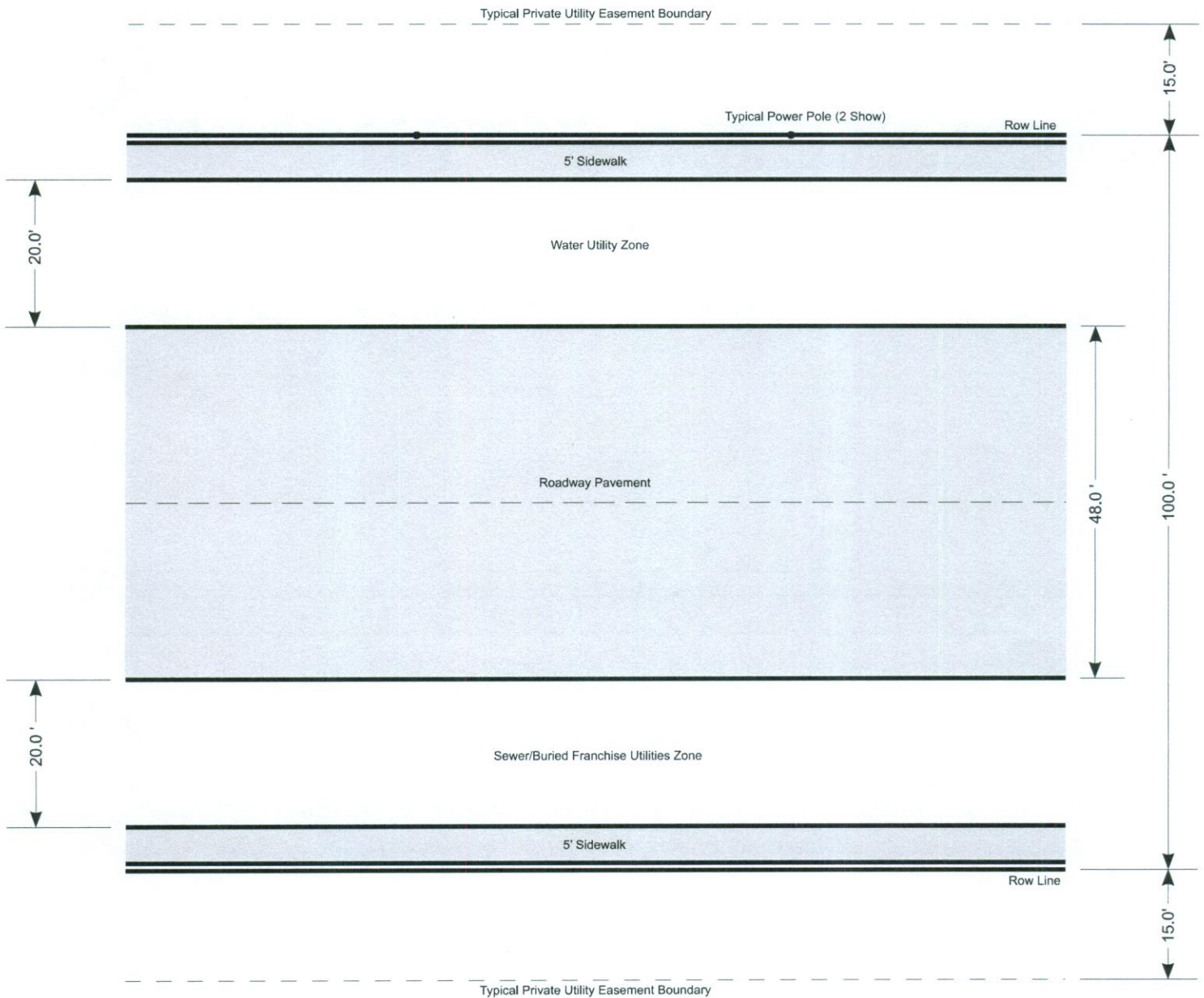
# Exhibit A

## Major Thoroughfare Sidewalk Placement



# Exhibit B

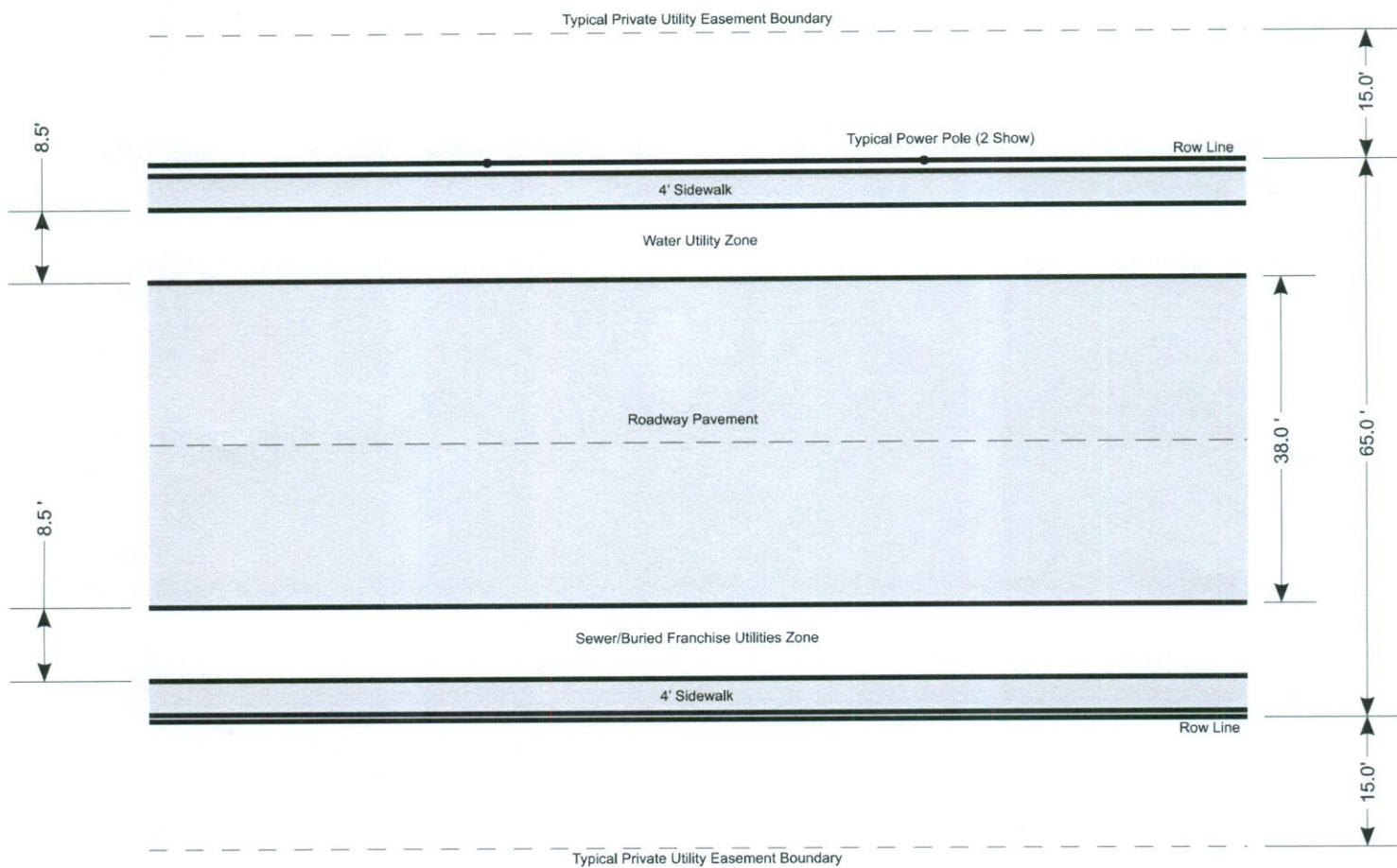
## Secondary Thoroughfare Sidewalk Placement





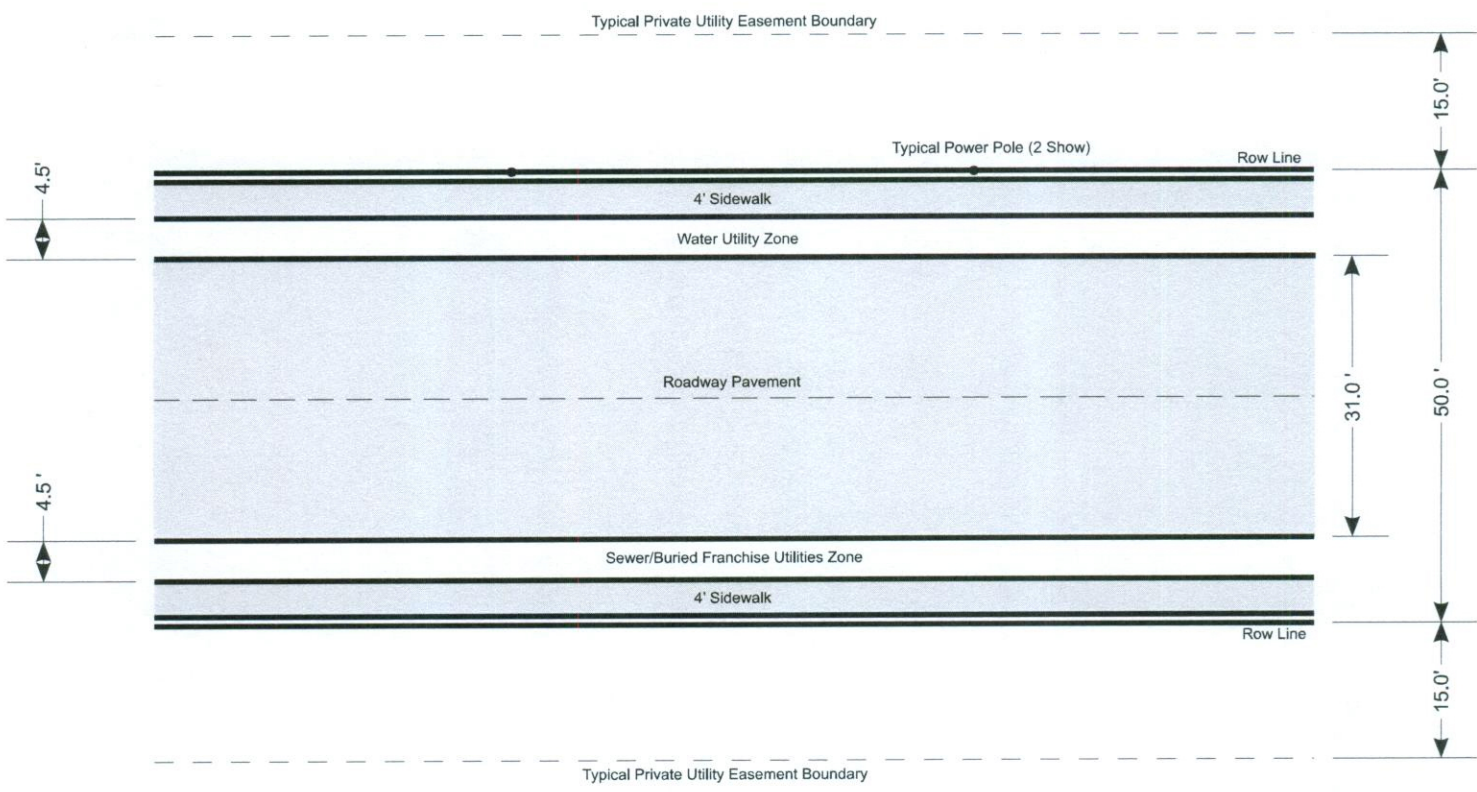
# Exhibit C

## Collector Roadway Sidewalk Placement



# Exhibit D

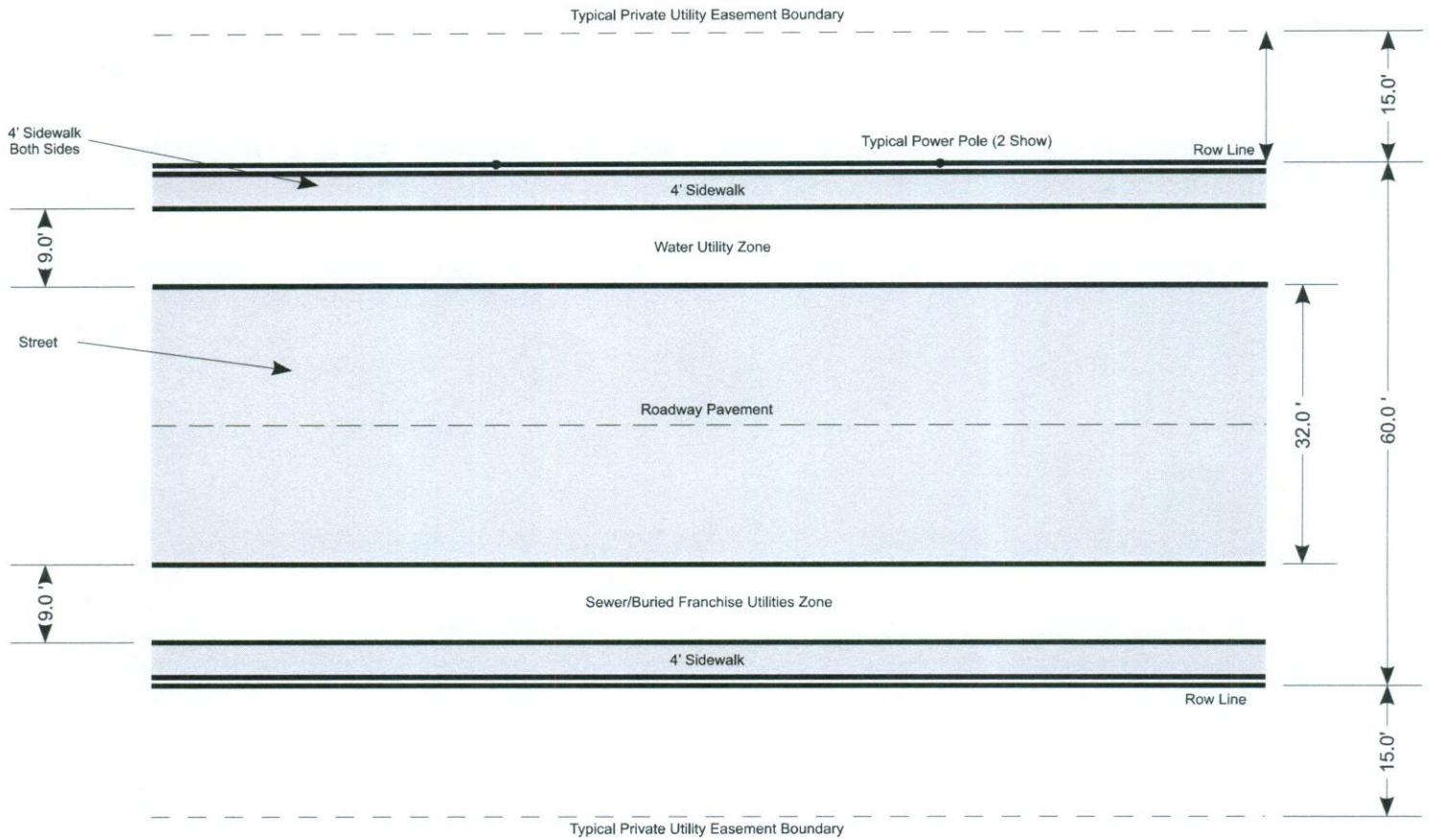
## Residential Street Sidewalk Placement





# Exhibit E

## Residential Estate Street Sidewalk Placement





TO: Planning and Zoning Commission  
FROM: Edie Sims, City Secretary  
DATE: April 16, 2012  
SUBJECT: 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

Ordinance # O-2012-0327-001 is attached (original version)

**ACTION: Consider, discuss and change ordinance and to make recommendation to the City Council for approval**

(IV - B)



**CITY OF FARMERSVILLE  
ORDINANCE O-2012-0327-001**

**AN ORDINANCE OF THE CITY OF FARMERSVILLE, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF FARMERSVILLE, TEXAS, AS HERETOFORE AMENDED, THROUGH THE AMENDMENT OF CHAPTER 77, ENTITLED "ZONING," THROUGH THE AMENDMENT OF ARTICLE II, "ZONING DISTRICTS," BY AMENDING SUBPARAGRAPH (2) OF SECTION 77-91, "CENTRAL AREA DISTRICT," TO LIMIT RESIDENTIAL USES ON THE FIRST FLOOR OF A BUILDING IN THE CENTRAL AREA DISTRICT TO 30% OF THE OVERALL SQUARE FOOTAGE OF THE FIRST FLOOR OF A BUILDING LOCATED IN THE CENTRAL AREA DISTRICT; REPEALING ORDINANCES IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY; PROVIDING FOR GOVERNMENTAL IMMUNITY; PROVIDING FOR INJUNCTIONS; PROVIDING FOR NOTICE AND IMPLEMENTATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City desires to make available the opportunity to have residences in the Central Area District; and

**WHEREAS**, the City Council of the City of Farmersville, Texas finds that all prerequisites to the adoption of this Ordinance have been met; and

**WHEREAS**, the City Council of the City of Farmersville, Texas finds that it is in the best interest of the public health, safety and welfare to allow residential living spaces on the first floor in the Central Area District;

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

**SECTION 1. INCORPORATION OF FINDINGS**

All of the above premises are hereby found to be true and correct legislative and factual determinations of the City of Farmersville and they are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

**SECTION 2. AMENDMENT OF CHAPTER 77, ENTITLED "ZONING," BY AMENDING SUBPARAGRAPH (2) OF SECTION 77-91, "CENTRAL AREA DISTRICT," TO LIMIT RESIDENTIAL USES ON THE FIRST FLOOR OF A BUILDING IN THE CENTRAL AREA DISTRICT TO 30% OF THE OVERALL SQUARE FOOTAGE OF THE FIRST FLOOR OF A BUILDING LOCATED IN THE CENTRAL AREA DISTRICT.**

From and after the effective date of this Ordinance, Section 77-91, entitled "Central Area District," is hereby amended by deleting Subparagraph (2) in its entirety and replacing it with a new Subparagraph (2) to read as follows:

- "(2) A building in the CA District may be used for residential purposes by the owner or occupant of the entire structure provided however that such residential use shall be limited solely to:



- (a) a maximum of thirty percent (30%) of the overall square footage of the first floor and placed on that portion of the first floor at the farthest portion of the building away from the City Square with the remaining seventy percent (70%) of the first floor actually being used for retail or other commercial use; and
- (b) the second floor and above of the building."

### **SECTION 3. CUMULATIVE REPEALER**

This Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances or parts thereof in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided however, that any complaint, action, claim or lawsuit which has been initiated shall continue to be governed by the provisions of such Ordinance and for that purpose the Ordinance shall remain in full force and effect.

### **SECTION 4. SAVINGS**

All rights and remedies of the City of Farmersville are expressly saved as to any and all violations of the provisions of any Ordinances which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such Ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

### **SECTION 5. SEVERABILITY**

It is hereby declared to be the intention of the City Council of the City of Farmersville 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 should be declared unconstitutional by valid judgment or final decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Ordinance, since the same would have been enacted by the City Council without incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

### **SECTION 6. GOVERNMENTAL IMMUNITY**

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Farmersville in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.



## **SECTION 7. INJUNCTIONS**

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Farmersville in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Farmersville.

## **SECTION 8. ENGROSSMENT AND ENROLLMENT**

The City Secretary of the City of Farmersville is hereby directed to engross and enroll this Ordinance by copying the exact Caption and the Effective Date clause in the minutes of the City Council of the City of Farmersville and by filing this Ordinance in the Ordinance records of the City.

## **SECTION 9. EFFECTIVE DATE**

This Ordinance shall take effect immediately from and after its passage and publication of the caption as required by law.

**PASSED** on first and final reading on the 27<sup>th</sup> day of March, 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 THIS 27<sup>th</sup> DAY OF MARCH, 2012.**

**APPROVED:**

BY: \_\_\_\_\_  
Joseph E. Helmberger, P.E., Mayor

**ATTEST:**

\_\_\_\_\_  
Edie Sims, City Secretary

**APPROVED AS TO FORM AND LEGALITY:**

\_\_\_\_\_  
Alan D. Lathrom, City Attorney