

CITY OF FARMERSVILLE
PLANNING AND ZONING COMMISSION AGENDA
REGULAR CALLED MEETING
March 19, 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 February 21, 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 Section 77-91 to allow residential living quarters on the first floor I the Central Area District by Ordinance # O-2012-0410-001
- B. Public Hearing to 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

IV. WORKSHOP

- A. 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

V. DISCUSSION OF PLACING ITEMS ON FUTURE AGENDAS

VI. 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 March 16, 2012, by 5:00 P.M. and remained so posted continuously at least 72 hours proceeding the scheduled time of said meeting.

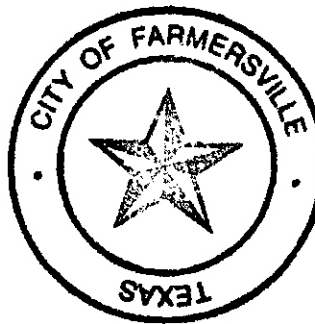


Tom Waitschies, Chairman

Dated this the 16th day of March, 2012.



Edie Sims, City Secretary



Dated this the 16th day of March, 2012.



TO: Planning and Zoning Commission
FROM: Edie Sims, City Secretary
DATE: March 19, 2012
SUBJECT: Discuss, approve or disapprove minutes from February 21, 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 February 21,2012

(II - A)

**FARMERSVILLE PLANNING & ZONING COMMISSION
SPECIAL SESSION MINUTES
February 21, 2012**

The Farmersville Planning and Zoning Commission met in special session on February 21, 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 Public Works Director Ben White, City Attorney Alan Lathrom, City Secretary Edie Sims and Council Liaison Paul Kelly.

CALL TO ORDER AND RECOGNITION OF CITIZENS/VISITORS

City Secretary Edie Sims called the meeting to order at 6:32pm. 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 December 12, 2011 and January 17, 2012 with Betty Sergent seconding the motion. Motion carried unanimously.

PUBLIC HEARING – CONSIDER, DISCUSS AND ACT UPON A CONTINUANCE OF A SPECIFIC USE PERMIT FOR PARADISE ISLES GAME ROOM LOCATED AT 1055 W. AUDIE MURPHY PARKWAY, SUITE 103, FARMERSVILLE

Chairman Waitschies opened the Public Hearing at 6:37pm and asked for those to speak for the continuance of the Specific Use Permit for Paradise Isles Game Room. Don Donovan came before the Commission and requested a continuance of his business of 11 years. When asked by Craig Overstreet how prizes are awarded, Mr. Donovan stated that he uses a card system for points. The points are added up to a prize which is purchased from Sam's Club. No gift cards or cash is used. The card can be aggregated to add up points. Mr. Donovan stated he still has 40 machines and is open from 9:00 a.m. to 11:00 p.m. Monday through Thursday. Friday and Saturdays hours are 9:00 a.m. to midnight. Sundays the hours are 12 noon to 11:00 p.m. No one spoke against the Specific Use Permit continuance. Chairman Waitschies closed the Public Hearing at 6:40 p.m.

Lee Warren motioned to approve the Specific Use Permit continuance with John Politz seconding the motion. Members voting for were Bill Nerwich, John Politz, Betty Sergent and Lee Warren. Craig Overstreet stated opposition.

City Attorney Alan Lathrom indicated that the Commission needed to clarify the term of the Specific Use Permit. Lee Warren rescinded his motion with John Politz rescinding his second. Lee Warren motioned to approve the Specific Use Permit continuance for one (1) year with John Politz seconding the motion. Members voting for were Bill Nerwich, John Politz, Betty Sergent and Lee Warren. Craig Overstreet stated opposition. Motion carried 4 to 1.

CONSIDER, DISCUSS AND ACT UPON A CONTINUANCE OF A SPECIFIC USE PERMIT FOR AMERICAN GLORY GAME ROOM LOCATED AT 2202 W. AUDIE MURPHY PARKWAY, FARMERSVILLE

Chairman Waitschies opened the Public Hearing at 6:42 p.m. and asked for those to speak for the continuance of the Specific Use Permit for American Glory Game Room. Chris Ball came before the Commission and requested a continuance of his business of 2 years. When asked by Craig Overstreet how prizes are awarded, Mr. Ball stated that he uses a ticket system. The tickets equal \$5.00 and can be turned in for a prize which was previously purchased. If a customer wants another type of merchandise, Mr. Ball stated he will get said

merchandise in trade for the tickets. No gift cards or cash is used. Mr. Ball stated he still has 50 machines and is open from 9:00 a.m. to 11:00 p.m. Monday through Thursday. Friday and Saturdays hours are 9:00 a.m. to midnight. Sundays the hours are 12 noon to 11:00 p.m. No one spoke against the Specific Use Permit continuance. Chairman Waitschies closed the Public Hearing at 6:45 p.m.

Lee Warren motioned to approve the Specific Use Permit continuance for one (1) year with John Politz seconding the motion. Members voting for were Bill Nerwich, John Politz, Betty Sergent and Lee Warren. Craig Overstreet stated opposition. Motion carried 4 to 1.

UPDATE TO THE DRIVE-IN, DRIVE-THROUGH, ACCESSORY USE MODIFICATIONS OF PROVISIONS

City Attorney Alan Lathrom briefed the Commission and audience stating that accessory uses for drive-ins and drive-thru's were not allowed with the current Zoning Ordinance. A recent site plan was brought to the Planning and Zoning Commission where the developer requested a drive-thru beer and wine store. This request was the purpose of researching the drive-thru uses. Chairman Waitschies invited the public for comment. No one came before the Commission with comments. Bill Nerwich stated he has approached several people in town regarding this issue and no one has given an opinion one way or the other. Mr. Nerwich stated we should treat the drive-thru beer and wine stores like the Game Rooms where a Specific Use Permit is required. Mr. Nerwich continued stating that the voters made their opinion known by voting to sell beer and wine and it is not what the public wants by manipulating the rules to restrict that vote.

City Attorney Alan Lathrom stated that the Specific Use Permit would allow room for stacking cars, appropriate lighting, speaker noise pointed away from residences and proper screening to make sure it is compatible with the surroundings. Lee Warren stated the Specific Use Permits are very subjective and would rather have clear rules in an ordinance. Mr. Lathrom stated that cities are by and large precluded for alcoholic sales under purview of the Texas Alcoholic Beverage Commission (TABC). The Commission cannot amortize alcohol sales like other uses. The TABC preempts the City's rules. Mr. Lathrom requested direction for language. The Commission concurred that the language should allow an accessory use with a primary use. The Commission requested to have a recommendation for approval as amended or revised at the next meeting.

DISCUSSION AND STUDY TO MAKE RECOMMENDATIONS TO THE CITY COUNCIL REGARDING POSSIBLE AMENDMENTS TO THE COMPREHENSIVE ZONING ORDINANCE RELATED TO RESIDENTIAL USES BEING LIMITED TO THE SECOND FLOOR AND ABOVE OF A BUILDING IN THE CA DISTRICT TO EXPAND THE RESIDENTIAL AREA TO A LIMITED AREA ON THE FIRST FLOOR OF A BUILDING LOCATED IN THE CA DISTRICT

Jack Alexander, owner of 1001 Bargains located at 110 McKinney Street, came before the Commission to request the permission to live on the first floor apartment of his building in the Central Area District of downtown. Mr. Alexander stated he does not have immediate plans of residing at this location, but would like to have this option. Chairman Waitschies stated he visited the business and the apartment appears to be a reasonable floor space of 30% of the overall space. The original ordinance prevented anyone from having a residence on the first floor per City Attorney Alan Lathrom. The Commission concurred that 30% living space and 70% retail space is comparable. The Commission requested to have a recommendation for approval as amended or revised at the next meeting.

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: March 19, 2012
SUBJECT: Public Hearing to 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 in the Central Area District by Ordinance # O-2012-0327-001

Ordinance # O-2012-0327-001 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.

(III - A)

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 27th 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 27th 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



TO: Planning and Zoning Commission

FROM: Edie Sims, City Secretary

DATE: March 19, 2012

SUBJECT: Public Hearing to 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

Ordinance # O-2012-0327-002 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.

(III - B)

**CITY OF FARMERSVILLE
ORDINANCE # O-2012-0327-002**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FARMERSVILLE, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF FARMERSVILLE, TEXAS THROUGH THE AMENDMENT OF CHAPTER 77, ENTITLED "ZONING," THROUGH THE AMENDMENT OF ARTICLE I, ENTITLED "IN GENERAL," BY AMENDING SECTION 77-1, ENTITLED "DEFINITIONS," THROUGH THE AMENDMENT OF DIVISION 3, "USE OF LAND AND BUILDINGS," THROUGH THE AMENDMENT OF ARTICLE II, ENTITLED "ZONING DISTRICTS," BY AMENDING SECTION 77-94, ENTITLED "ACCESSORY AND INCIDENTAL USES," AND SECTION 77-100, ENTITLED "RETAIL AND RELATED SERVICE USES," RELATIVE TO DRIVE-IN AND DRIVE-THROUGH RETAIL AND COMMERCIAL SERVICES AND FACILITIES AS ACCESSORY USES AND/OR PRIMARY USES ALLOWED BY RIGHT IN CERTAIN ZONING DISTRICTS; PROVIDING FOR SEVERABILITY; PROVIDING A REPEALER CLAUSE; PROVIDING FOR PUBLICATION; PROVIDING ENGROSSMENT AND ENROLLMENT; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Farmersville, Texas is a Type A General – Law Municipality located in Collin County, created in accordance with the provisions of Chapter 6 of the Local Government Code, and operating pursuant to the enabling legislation of the State of Texas;

WHEREAS, the City has previously adopted the City Manager form of government; and

WHEREAS, the City Council of the City of Farmersville, Texas, finds and determines that amending its ordinances regarding the City Manager is in the best interest and public health, safety, and welfare of the citizens of the City of Farmersville, Texas.

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

SECTION 1. INCORPORATION OF FINDINGS

The findings set forth above are found to be true and correct and are hereby incorporated into the body of this Ordinance and made a part hereof for all purposes as if fully set forth herein.

SECTION 2. AMENDMENT OF CHAPTER 77, ENTITLED "ZONING," BY AMENDING SECTION 77-1, ENTITLED "DEFINITIONS," BY AMENDING CERTAIN DEFINITIONS RELATED TO DRIVE-IN AND DRIVE-THROUGH RETAIL AND COMMERCIAL SERVICES AND FACILITIES AS ACCESSORY USES AND/OR PRIMARY USES ALLOWED BY RIGHT IN CERTAIN ZONING DISTRICTS.

From and after the effective date of this Ordinance, Section 77-1, entitled "Definitions," is hereby amended by deleting the existing definitions for the phrases "Accessory use" and "Drive-in service" and adopting definitions for the phrases with new definitions for the phrases "Accessory use," "Drive-in or drive-through service," "Escape lane," and "Stacking space" to read as follows, and inserting such definitions into Section 77-1 in alphabetical order:

"Accessory use means a use that is subordinate to, serves, and is customarily incidental to the primary use of the main building or to the primary use of the premises; is located on the same lot or tract of land; and, which otherwise meets all requirements of this Zoning Ordinance and all applicable building and fire codes, as each of the foregoing may be amended."

“Drive-in or drive-through service means and refers to a retail or commercial facility whose employees provide goods or services to patrons without requiring the patrons to leave their automobiles. Drive-in or drive-through service may be an accessory use or the primary use of the retail or commercial facility as more particularly provided in the land use charts contained in this Zoning Ordinance, and as hereafter amended. Any drive-in or drive-through service shall provide the appropriate number of required stacking spaces and an escape lane.”

“Escape lane means a designated area at least 9’ wide that provides access around a drive-in or drive-through service facility. An escape lane shall be provided for any use containing a drive-in or drive-through service. An escape lane may be a part of the circulation aisle around the facility.”

“Stacking Space means a designated area that provides the ability for motor vehicles to queue on site prior to receiving a service. Each required stacking space shall be a minimum of nine feet (9’) in width and twenty feet (20’) in length and shall not be located within or interfere with any other circulation driveway, parking space, fire lane, or maneuvering area.”

SECTION 3. AMENDMENT OF CHAPTER 77, ENTITLED “ZONING,” BY AMENDING SECTION 77-94, ENTITLED “ACCESSORY AND INCIDENTAL USES,” RELATED TO DRIVE-IN AND DRIVE-THROUGH RETAIL AND COMMERCIAL SERVICES AND FACILITIES ALLOWED BY RIGHT IN CERTAIN ZONING DISTRICTS.”

From and after the effective date of this Ordinance, Section 77-94, entitled “Accessory and Incidental Uses,” is hereby amended by inserting the use “Drive-in or drive-through service” in alphabetical order to the land use chart for “Accessory and incidental uses” and allowing said use as a permitted accessory use subject to the attached conditions in the zoning districts identified in the chart below:

“

Type of Use	A	SF-1	SF-2	SF-3	2F	MF-1	MF-2	P	O	NS	GR	C	HC	CA	I-1	I-2	PD
Drive-in or drive-through service*									P	P	P	P	P		P	P	P

* In all Districts, at the time any building or structure is erected or altered, stacking spaces shall be provided in the number and manner set forth in the following list of property uses.

- Automated Teller Machine (ATM)
Three (3) stacking spaces per ATM lane.
- Automobile Oil Change and Similar Establishments
Three (3) stacking spaces per bay.
- Car Wash, Full Service
Six (6) stacking spaces per bay.
- Car Wash, Self Service (Automated)

- Three (3) stacking spaces per bay.
- e. Car Wash, Self Service (Open Bay)
Two (2) stacking spaces per bay.
 - f. Car Wash, Self Service (Drying Areas and Vacuum Islands)
Two (2) stacking spaces per drying area and/or vacuum island.
 - g. Child-care, Kindergartens, day schools, and similar child training and care establishments
One (1) stacking space per twenty (20) students provided on a through "circular" drive.
 - h. Dry Cleaning, Pharmacy, or Other Retail Establishments with a Drive-Through
Three (3) stacking spaces per lane from first service window.
 - i. Financial Institution
Five (5) stacking spaces per window or service lane.
 - j. Restaurant with Drive-Through
Five (5) stacking spaces per lane from closest of the first service window, order board, or other stopping point.

In addition, one single stacking space shall be provided after the final window, order board, or stopping point to allow vehicles to pull clear of the transaction area prior to entering an intersecting on-site driveway or maneuvering aisle. An escape lane shall also be provided for any use containing a drive-in or drive-through service. Furthermore, all outdoor communication systems used in conjunction with any drive-in or drive-through service shall be located a minimum of two hundred feet (200') from any residential zoning district unless (a) the building is located between the speaker box and adjacent residentially zoned property, or (b) the drive-in or drive-through service and related outdoor communication systems are separated from the residential area by an existing or future major thoroughfare identified on the City's Thoroughfare Plan."

SECTION 4. AMENDMENT OF CHAPTER 77, ENTITLED "ZONING," BY AMENDING SECTION 77-100, ENTITLED "RETAIL AND RELATED SERVICE USES," RELATED TO DRIVE-IN AND DRIVE-THROUGH RETAIL AND COMMERCIAL SERVICES AND FACILITIES ALLOWED BY RIGHT IN CERTAIN ZONING DISTRICTS."

From and after the effective date of this Ordinance, Section 77-94, entitled "Accessory and Incidental Uses," is hereby amended by inserting the use "Drive-in or drive-through service" in alphabetical order to the land use chart for "Retail and related service uses" and allowing said use as a permitted use subject to the attached conditions in the zoning districts identified in the chart below:

Type of Use	A	SF-1	SF-2	SF-3	2F	MF-1	MF-2	P	O	NS	GR	C	HC	CA	I-1	I-2	PD
Drive-in or drive-through service*									P	P	P	P	P		P	P	P

* In all Districts, at the time any building or structure is erected or altered, stacking spaces shall be provided in the number and manner set forth in the following list of property uses.

- a. Automated Teller Machine (ATM)
Three (3) stacking spaces per ATM lane.
- b. Automobile Oil Change and Similar Establishments
Three (3) stacking spaces per bay.
- c. Car Wash, Full Service
Six (6) stacking spaces per bay.
- d. Car Wash, Self Service (Automated)
Three (3) stacking spaces per bay.
- e. Car Wash, Self Service (Open Bay)
Two (2) stacking spaces per bay.
- f. Car Wash, Self Service (Drying Areas and Vacuum Islands)
Two (2) stacking spaces per drying area and/or vacuum island.
- g. Child-care, Kindergartens, day schools, and similar child training and care establishments
One (1) stacking space per twenty (20) students provided on a through "circular" drive.
- h. Dry Cleaning, Pharmacy, or Other Retail Establishments with a Drive-Through
Three (3) stacking spaces per lane from first service window.
- i. Financial Institution
Five (5) stacking spaces per window or service lane.
- j. Restaurant with Drive-Through
Five (5) stacking spaces per lane from the closest of the first service window, order board, or other stopping point.

In addition, one single stacking space shall be provided after the final window, order board, or stopping point to allow vehicles to pull clear of the transaction area prior to entering an intersecting on-site driveway or maneuvering aisle. An escape lane shall also be provided for any use containing a drive-in or drive-through service. Furthermore, all outdoor communication systems used in conjunction with any drive-in or drive-through service shall be located a minimum of two hundred feet (200') from any residential zoning district unless (a) the building is located between the speaker box and adjacent residentially zoned property, or (b) the drive-in or drive-through service and related outdoor communication systems are separated from the residential area by an existing or future major thoroughfare identified on the City's Thoroughfare Plan."

SECTION 5. SEVERABILITY

It is hereby declared to be the intention of the City Council that the several provisions of this Ordinance are severable, and if any court of competent jurisdiction shall judge any provisions of this Ordinance to be illegal, invalid, or unenforceable, such judgment shall not affect any other

provisions of this Ordinance which are not specifically designated as being illegal, invalid or unenforceable.

SECTION 6. REPEALER

This Ordinance shall be cumulative of all other Ordinances, resolutions, and/or policies of the City, whether written or otherwise, and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those ordinances are in direct conflict with the provisions of this Ordinance. Any and all ordinances, resolutions, and/or policies of the City, whether written or otherwise, which are in any manner in conflict with or inconsistent with this Ordinance shall be and are hereby repealed to the extent of such conflict and/or inconsistency.

SECTION 7. PUBLICATION

The City Secretary of the City of Farmersville is hereby directed to publish in the Official Newspaper of the City of Farmersville the Caption, Penalty and Effective Date Clause of this Ordinance as required by Section 52.011 of the Local Government Code.

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. 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 10. EFFECTIVE DATE

This Ordinance shall take effect immediately upon its adoption and publication in accordance with and as provided by Texas law.

PASSED on first and final reading on the 27th 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 27th 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



TO: Planning and Zoning Commission
FROM: Edie Sims, City Secretary
DATE: March 19, 2012
SUBJECT: Workshop to discuss an amendment to the Comprehensive Zoning Ordinance by amending Chapter 62, entitles "Streets, Sidewalks and Other Public Places," and Chapter 65 entitles "Subdivisions" to amend the sidewalk requirements by Ordinance # O-2012-0424-001

Ordinance # O-2012-0424-001 is attached

ACTION: Workshop to discuss sidewalks

(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 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