

FARMERSVILLE PLANNING & ZONING COMMISSION
SPECIAL SESSION MINUTES
November 15, 2012

The Farmersville Planning and Zoning Commission met in special session on November 15, 2012 at 6:30 p.m. at the City of Farmersville Council Chambers with the following members present:, Bill Nerwich, Betty Sergent, Craig Overstreet and Tom Waitschies. Bryce Thompson and Lee Warren were absent. Staff members present was City Manager Ben White, Police Chief Mike Sullivan, City Attorney Alan Lathrom and City Secretary Edie Sims. Council Liaison present was Michael Carr.

CALL TO ORDER AND RECOGNITION OF CITIZENS/VISITORS

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

Item II – A) DISCUSS, APPROVE OR DISAPPROVE MINUTES FROM AUGUST 20, 2012 PLANNING & ZONING MEETING

On a motion from Craig Overstreet and a second by Betty Sergent, the Commission approved the minutes as presented. Motion carried unanimously.

Item II – B) PUBLIC HEARING TO CONSIDER, DISCUSS AND ACT UPON A REQUEST FOR A PERMANENT SPECIFIC USE PERMIT FOR THE PROPERTY LOCATED AT 101 CANDY STREET

Chairman Waitschies opened the Public Hearing at 6:33pm asking for anyone to come forward to speak in favor of the permanent Specific Use Permit. Rex Thain, residing at 109 College Street, came before the Commission at a previous meeting and asked for a zoning change and the response was that the zoning request was too broad. Mr. Thain stated he is now requesting a permanent Specific Use Permit. When completing the permit application, Mr. Thain stated he tried to eliminate all the issues regarding zoning per the discussion from the zoning change request.

Mr. Thain expressed to the Commission that he plans on purchasing this property based on the zoning being finalized. Mr. Thain stated he plans on moving his existing business to the property on Candy Street but would like to have the latitude for future occupancy if the property is sold.

Craig Overstreet pointed out portions of Mr. Thain's list of allowed uses included a paint shop, auto painting or auto body rebuilding. These are particular businesses which are questionable to be located in the Central Area zoning. Mr. Thain stated that EPA has very strict guidelines and standards for these types of businesses and would be less of an issue than a print shop.

Mr. Thain expressed to the Commission that spot zoning was an issue at the last P&Z Meeting. Candy Street is the dividing street between Commercial zoning and the Central Area zoning and stands as a buffer which limits the types of businesses in the CA District. While planning for 10-20 years from now, Mr. Thain asked for leeway to utilize this property which is 11,000 square feet.

Chairman Waitschies asked for anyone to come forward to speak against the request for a permanent Specific Use Permit.

Pat Morgan, residing at 115 N. Main, expressed concern as her husband has COPD and she does not want to have a business which will bring adverse environmental issues to the area. Ms. Morgan also stated there are a lot of children in this area and whatever business is brought in needs to be aware of the traffic issues.

Deborah Bailess came before the commission expressing her concerns to protect the integrity of Main Street and the historical value of the area. Ms. Bailess expressed that broad zoning is not good for the community.

With no one else coming forward, Chairman Waitschies closed the Public Hearing at 6:43pm.

Commissioner Bill Nerwich stated during the Commission's discussion that he understands Mr. Thain's requests and needs but the list of requested allowances must be constrained and limited to one specific use. Some of the requests listed do not fit in the downtown area and should be located in Light Industrial zones. Mr. Nerwich also questioned if the property was sold, wouldn't the new owner need to apply for a Specific Use Permit according to the requested use? City Attorney Alan Lathrom indicated that each owner would need to apply for a Specific Use Permit if the business were outside the standard uses allowed in the CA District. Typically, the property has only one use for the person utilizing the space instead of multiple uses. Some of the uses requested in Mr. Thain's application are not allowed in the CA District, so requesting a Specific Use Permit would be rejected for those items. In accordance with what is known, Mr. Thain's business could potentially fit under clothing or assembly of light use. Mr. Thain informed the Commission that he has fabrication as well and not just assembly. Questions were then raised as to what exact zoning use Mr. Thain's business, Ride Right, would apply. With looking toward the future as well, City Manager Ben White suggested that the Code Enforcement Officer enter his existing business to help define the exact zoning requirement for Mr. Thain to operate at no cost. At that point, then decisions can be made whether to change our Zoning Ordinance to allow light manufacturing in the CA District.

Ms. Bailess expressed concerns of protest and asked how to stop the change in the Zoning Ordinance as this will change the entire dynamics of the downtown area. Alan Lathrom indicated that it would take a super majority of the Council's vote. Tom Waitschies indicated that if a rezoning were to occur, the impact would affect the entire CA District and not just one property. Mr. White indicated that if light industrial were allowed in the CA District, a change to the Zoning Ordinance would be required.

Bill Nerwich motioned to table this issue and move to a later date and to allow Mr. Thain's business needs to be investigated. Betty Sergent seconded the motion. Motion carried unanimously.

Item II – C) PUBLIC HEARING TO CONSIDER, DISCUSS AND ACT UPON A SPECIFIC USE PERMIT FOR AMERICAN GLORY GAME ROOM LOCATED AT 2202 WEST AUDIE MURPHY PARKWAY, FARMERSVILLE

Chairman Waitschies opened the Public Hearing at 7:18pm. Chairman Waitschies requested those who are FOR the Specific Use Permit for American Glory Game Room to come and speak. Chris Ball, residing at 4316 Mallard Lane, Sachse, Texas, came forward and requested the renewal of the SUP for American Glory Game

Room. No one else came before the Commission in favor of the SUP for American Glory Game Room.

Chairman Waitschies asked for those OPPOSING the SUP for American Glory Game Room. No one came forth. Chairman Waitschies closed the Public Hearing at 7:19pm.

Police Chief Mike Sullivan came forward to present information to the Commission regarding the game rooms as a whole; particularly indicating that an audit of each game room was performed on September 17, 2012 and again on November 6, 2012. During both inspections, American Glory was found to have 53 machines on the floor. The ordinance for American Glory Game Room permits only 50 machines. A further investigation of all the game rooms was conducted with the Texas Comptroller's Office which regulates amusement businesses. This investigation found no record of American Glory Game Room or Chris Ball as a current amusement license holder. Mr. Ball had an amusement license but it has not been active since 2002.

Police Chief's recommendation to the Commission is that the business is to verify ownership, comply with all state and local regulations, and not approve the SUP until verifications have been made.

Commissioner Bill Nerwich stated he is not for approving American Glory's SUP since this game room is operating out of compliance. Chris Ball came before the Commission stating that 53 gaming machines were in the building but not on the floor for use. Some of the machines may be out of order and he keeps spares available per Mr. Ball. Also Mr. Ball stated that he does not own the machines but is provided the machines through his vendor, World Wide Gaming, who holds the license for the machines. Mr. Ball stated that the machine owners pay taxes and licensing fees. The owners of the machines pay for the stickers as required by the State. Chief Sullivan stated the 53 counted were machines that were available for use on the gaming floor at American Glory.

Commissioner Craig Overstreet questioned if any illicit activity or complaints have been reported at this game room with Chief Sullivan stated no problems were reported to the Police Department. Mr. Overstreet also questioned Mr. Ball his hours of business with Mr. Ball replying that he opens at 8:30 am and closes either at 11pm or 12am weekends. Chris Ball stated the Farmersville Police Officers come by regularly and has not had any problems. Mr. Ball stated he does not want to operate his game room more than what the City has allowed.

Commissioner Craig Overstreet stated it appears that American Glory Game Room is operating out of compliance with the number of machines and motioned not to renew the SUP. Bill Nerwich stated he would like a clarification of the number of machines on the gaming floor. With more questions being raised about the owner of the gaming machines, Chief Sullivan stated he would need to check state law on the legality of another company owning the machines while the game room is operating the machines. Bill Nerwich seconded the motion to not approve the renewal of American Glory Game Room's Specific Use Permit. Motion carried unanimously.

Item II – D) PUBLIC HEARING TO CONSIDER, DISCUSS AND ACT UPON A REQUEST FOR A SPECIFIC USE PERMIT FOR JOKER'S WILD GAME ROOM LOCATED AT 812 MCKINNEY ST., FARMERSVILLE

Chairman Waitschies opened the Public Hearing at 7:41pm and asked for those FOR the Specific Use Permit for Joker's Wild Game Room to come forward. With no one coming forward, Chairman Waitschies asked for anyone OPPOSING the Specific Use Permit to come forward. With no one coming forth, Chairman Waitschies closed the Public Hearing at 7:41pm.

Police Chief Mike Sullivan spoke to the Commission regarding this particular game room per his recent investigation. Upon the audit inspection on September 17, 2012 and again on November 16, 2012, Joker's Wild Game Room was in compliance with 39 machines on the floor and their permit allows a maximum of 40. Chief Sullivan also informed the Commission that Joker's Wild Game Room has a gaming license and is registered with the State Comptroller's Office. Chief Sullivan stated that Joker's Wild Game Room has been in business for quite a while and the Police Department has not had any issues with this game room.

Commissioner Craig Overstreet questioned since the game room is not located in the Light Industrial Zone, is that enough reason to disallow approval? City Attorney Alan Lathrom stated this is not necessarily a reason not approving the SUP. Council has passed an ordinance which requires new game rooms to be located in the Light Industrial Zones of the City. With that being said, Commissioner Bill Nerwich asked if any police incidents have occurred at this game room with Chief Sullivan replying no. Chief Sullivan stated this game room has been located at its location for quite a while and there have not been any problems at this location. When searching for information on the Texas Comptroller's website, Joker's Wild Game Room's information was easily discovered and all requirements have been met.

Commissioner Bill Nerwich motioned to approve Joker's Wild Game Room SUP. The motion died for a lack of a second.

Item II – E) PUBLIC HEARING TO CONSIDER, DISCUSS AND ACT UPON A REQUEST FOR A SPECIFIC USE PERMIT FOR PARADISE ISLES GAME ROOM LOCATED AT 1055 WEST AUDIE MURPHY PARKWAY, SUITE 103, FARMERSVILLE

Chairman Waitschies opened the Public Hearing at 7:45pm and asked for those FOR the Specific Use Permit for Paradise Isles Game Room to come forward. Don Donovan came before the Commission stating that he has been in business as Paradise Isles Game Room for 12 years and would appreciate the continuance of his business. Chairman Waitschies asked for anyone OPPOSING the Specific Use Permit to come forward. With no one coming forth, Chairman Waitschies closed the Public Hearing at 7:46pm.

Police Chief Mike Sullivan reported to the Commission regarding this particular game room per his recent audit inspection on September 17, 2012 and again on November 16, 2012, Paradise Isles Game Room was in compliance with 38 and 39 machines on the floor and their permit allows a maximum of 40. Chief Sullivan also informed the Commission that Paradise Isles Game Room has a gaming license and is

registered with the State Comptroller's Office. Chief Sullivan stated that Paradise Isles Game Room has been in business for quite a while and the Police Department has not had any issues with this game room.

With no issues and being in compliance, Commissioner Bill Nerwich motioned to approve the continuance of the Specific Use Permit for Paradise Isles Game Room. The motion died for a lack of a second.

Item II – F) PUBLIC HEARING TO CONSIDER, DISCUSS AND ACT UPON A REQUEST FOR A SPECIFIC USE PERMIT FOR TRIPLE CRAZY GAME ROOM LOCATED AT 865 WEST AUDIE MURPHY PARKWAY, FARMERSVILLE

The Commission took no action on this item as Triple Crazy Game Room did not turn in an application requesting continuance of their Specific Use Permit. Their allotted time per ordinance for their Specific Use Permit is out of compliance.

Item II – G) INFORMATIONAL PRESENTATION BY JANINE SISAK REGARDING WORKFORCE HOUSING IN FARMERSVILLE

Janine Sisak with DMA Development Company came before the Commission with an informational presentation regarding workforce housing in Farmersville. Ms. Sisak's company develops, owns and manages properties that specialize in senior and workforce properties. The workforce properties are affordable housing for individuals and families that are challenged financially. The developer does not subsidize through HUD or any other funding entity and the housing is not Section 8.


Presently the developer is administered through the State of Texas which means they will not sell out and leave an undeveloped property. The development will be right restricted. DMA has identified a property adjacent to Murphy's Crossing. With the presentation, Ms. Sisak requested the Commission to express concerns so that a very successful housing community could be planned. DMA is planning to apply to the Texas Department of Housing and Community Affairs to fund this development and requested support of this project.

The information was well received by the Commission, however no action was required.


ADJOURNMENT

Betty Sergent motioned to adjourn with Craig Overstreet seconding the motion. P&Z Commission adjourned at 8:10 p.m.

ATTEST:



Edie Sims, City Secretary



Tom Waitschies, Chairman

