



CITY OF FULSHEAR

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FULSHEAR CITY COUNCIL MEETING/WORKSHOP APRIL 10, 2012

I. CALL TO ORDER

A special Council/Workshop meeting of the Fulshear City Council was called to order by Mayor. Thomas C. Kuykendall, Jr. at 6:44 p.m. Tuesday, April 10, 2012 at the Irene Stern Community Center, 6920 Katy Fulshear Road, Fulshear, Texas and all citizens were welcomed.

II. QUORUM

A quorum was present.

MEMBERS PRESENT:

*Thomas C. Kuykendall, Jr., Mayor
J. B. Collins, Jr., Mayor Pro Tem
Larry Beustring
Stephen Gill
Laverne Patterson
Jeff Roberts*

Staff Present:

*D. (Diana) Gordon Offord, City Secretary
J. Grady Randle, City Attorney
C. J. Snipes, City Administrator
Michelle Kirchner, Building Inspector
Cheryl Stalinsky, Economic Development Director*

III. DISCUSSION of PROPOSED ZONING ORDINANCE

There were approximately 60 residents in the audience and only about half signed the sign in/out sheet. Mayor Kuykendall announced that we have a proposed zoning ordinance and stated it is an ordinance of the City of Fulshear, Texas providing rules and regulations of land use, structures, businesses, and related activities within territorial limits of the City of Fulshear, Texas, providing for providing a penalty, and providing for severability. He stated this is a workshop for the City Council. He stated this is not an open forum for discussion but we will be having a Public Hearing on next week where next week you will have the opportunity to present your concerns and comments. Mayor Kuykendall stated this is for the City Council to have a discussion regarding the proposed zoning ordinance. We have had several meetings and we have answered your questions to the best of our ability. We posted the answers to your questions within two days to the City's website. Mayor Kuykendall stated that from his perspective no wants to rush it and we want

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make sure we have due process, due meetings, due diligent, and discussion. He stated there have been several changes to the proposed ordinance and the maps. Mayor Kuykendall asked C.J. Snipes, City Administrator to start the discussion.

Mr. Snipes stated that 20 questions came out of the last meeting and asked everyone received a copy. There was a lot of concern regarding manufactured homes. We have changed the maps. He stated that manufactured homes will be able to replace as long as the cause is from natural disaster and once by owner if you want to just make a change. In the downtown area, residents will still be able to maintain their cattle as long as you own the property. Another question was asked about the restrictive of the two, zoning or deed restrictions. Answer: It all depends on the deed restrictions in effect for each neighborhood. In either case it will be the most restrictive of the two. There was another question regarding holding a B-Q in your yard was no longer allowed. This is absolutely not true stated Mr. Snipes. The only exception to this will be if a "burned ban" has been issued. The ordinance has been revised to all folks to sell items from their front yard which include fruit stands, firewood, etc. Also, the ordinance allows for multi-family dwellings-one will be in Cross Creek Ranch and the downtown district by special permit. This is a basic zoning ordinance and therefore not restrictive currently with architect designs. Folks can design their homes as they see fit. This ordinance allows for sexually oriented businesses only in certain districts and would require a special permit. Mr. Snipes stated that a question was asked about subdividing larger properties if they are located in an R-1 zone. He advised that if the ordinance has gone into effect, the individual should make sure they have an understanding regarding the deed restrictions in that area and that according to state law, the more restrictive of the zoning ordinance or deed restrictions would take precedence. Mr. Snipes asked if anyone had a question to please fill out the back of the form and leave it up front. Answers would be available at City Hall and the City's website by the close of business tomorrow.

Question from the audience was asked if zoning applied to the "ETJ". The answer was that zoning does not apply to the ETJ. The next question was if a person owned 20 acres in the ETJ, could subdivide and place a mobile home on the property. The answer was "yes" if they followed the rules for the subdivision and sign ordinance if it was a commercial development and met the County requirements.

Alderman Patterson asked for a listing of all the residents of who has manufactured homes as she wants to make sure they are not a part of the R-1 zone on the map. C. J. Snipes stated the map included clear back to the Belmont Trust property. He stated he would provide Alderman Patterson with a list.

Aldermen Collins wanted to know if you could rebuild your residence back if it got burned down no matter what part of town it were in. Example given: If Alderman Collins home burned on Katy -Fulshear Road, he could rebuild as his property is classified as part of the downtown district but if Derek's home burned and he is located in a commercial district, it would require him to get a special permit. Mr. Snipes agreed.

Alderman Collins asked if he sold property in the downtown area and someone wanted to put in a commercial business----would they be able to do so? Mr. Snipes responded yes but depending on the type of business it would require special use permit. For example, a bar would go through a much stricter permitting processing than if it was a day care.

Alderman Collins stated that a lot of people are concerned that zoning will increase their taxes. City Attorney Grady Randle stated your appraisal is regulated by state law. State law under the tax code says that your property must be appraised to the fair market value. Each property will be appraised on the

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characteristics that effect that property's market value. It cannot exclude what other properties in the same neighborhood are being appraised at. So what this means if you live in a neighborhood that has houses then they are going to appraise all those houses as the same. If you are in an area with a commercial business next door, then your appraisal will be different as you do not have all houses next door. It does not have anything to do with zoning---they are looking at the "use". Zoning is trying to make the same use in all of the same district. It does not have any impact on zoning---it's what the chief appraisal says your house is worth and you can fight that just like anything else.

Mr. Snipes stated we are now going to discuss some of the changes made to the ordinance. He started with the definitions. Mr. Snipes read Section 1-9 (zoning classification of annexed areas) definition change in the ordinance which states: "Any land which comes under the Zoning jurisdiction of the City by reason of its annexation into the city shall be temporarily classified into Residential Acreage (R1) Zoning District until permanent zoning is established by the City Council. The procedure for establishing permanent zoning on annexed territory shall conform to the procedure established by law for the adoption of original zoning regulations."

Mayor Kuykendall asked whose responsibility for updating map when changes occur. Mr. Snipes stated that Planning and Zoning Committee would review and send a recommendation to Council for approval. City Attorney Randle stated that the Council would be responsible for the final decision.

Automobile wrecking yard

Added Change: The presence on any lot of three (3) or more motor vehicles which for a period exceeding thirty (30) days, have not been capable of operating under their own power and from which parts have been or are to be removed for reuse or sale, shall constitute prima facie evidence of an automobile wrecking yard. Mr. Snipes stated the ordinance original noted two (2) vehicles and now more flexible as state law identifies 3 vehicles.

Eating and drinking place means an establishment where the principal business is the sale of food or beverages in a ready to consume State. *Typical uses include restaurants and other similar uses. This definition does not include an establishment that derives seventy five percent (75%) or more of the establishment's gross revenue from the on-premise sale of alcoholic beverages.*

Group Homes was revised to comply with state law definition. See page 7 of the proposed Zoning Ordinance for entire definition.

Public house – means an establishment that derives seventy five percent (75%) or more of the establishment's gross revenue from the on-premise sale of alcoholic beverages. *Also known as a bar.*

Smoking Paraphernalia establishment –has been brought in line with state law definition (see proposed ordinance- page 10 for specific details)

Mr. Snipes stated that this can be discussed by both PnZ Commission and Council regarding asphalt parking spaces. (page 18)

Properties within the downtown district and R-2 Residential Zoning District having: Properties within the R-1 Residential Zoning District may have fences of up to five feet (5') in height and may extend into the front yard past front building line. (see page 27 for full disclosure on fencing)

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The bottom of page 29 start to identify the changes for Commercial District. The special uses will be modified and be separate categories for each. Changes will be made in the near future.

Temporary use stands will now require a special use permit.

We allowed "Outdoor storage , mini-storage, self-storage , or facilities require the storage of goods , or equipment outside.

In the industrial area, mobile homes or HUD manufactured homes will be prohibited.

Also, in the downtown area---temporary stands, animal shelters, automobile repair, and public house will require a special permit.

Manufactured home or a recreational vehicle can be used while a permanent home is being constructed (other than manufactured district). City Attorney Randle stated there needed to be a time limit as you do not want this process to be a five year or longer period. A time limit will be inserted and can be re-newed if more time is needed.

Alderman Gill asked when the changes would be available for public review. Ms. Snipes stated that the would be in place by tomorrow and will be posted on the city's website or they can come by City Hall to review a copy of the changes.

Mayor Kuykendall asked about an update for the Zoning Map. Ms. Snipes stated that an update will be available on the website tomorrow also.

Mayor Kuykendall asked if anyone else had any more comments or questions like to bring forth.

Aldermen Roberts asked if he had a ten (10) acre tract that had a home and it was located in an R-1 then he decided to build a caretaker's home. Would it be considered Multi-family. Mr. Snipes stated "no".

Alderwoman Patterson referred to page 30 of the ordinance. She would like thrift shops and/or second hand stores removed from this section. Mr. Snipes stated that he would remove and place this under the section that governs retail stores.

Mayor Kuykendall asked if any Council Member objected to answering questions at this time. There was silence. Rev. Jackie Gilmore stated most people was interested in how zoning will benefit longtime residents. He stated for example a business was put next door to a longtime resident (some folks been here 50 years or more) and because of this it would eventually drive them out due to high taxes. He stated this is their concern.

Mayor Kuykendall stated that since Fulshear has started growing (subdivisions coming in, etc.) and we have had groups organized to assist in fighting against high taxes. He stated none of us in this room like paying higher taxes. Mayor Kuykendall explained that unfortunately we cannot control the commercial development that has already occurred and zoning should not affect your taxes and that according to

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state law the appraisal district should not use that to access your property value. They should be looking at the use of the land and the ones adjacent to it.

C.J. Snipes stated that right now there is zero control and if I lived next door to you –I could sell my property and put in a “honky tonk”. I have no protection for you but zoning will provide that protection in governing the kind of businesses that go up in the City now or in the future. We could have all kinds of commercial or developments downtown that we don’t want. Mr. Snipes stated that downtown has a mixer of businesses and homes and we have tried to make allowances where folks who are in the downtown area can keep what they have and also protect them so you want have just anything moving next door.

There were approximately another 30 minutes of questions and answers between the audience and Council. The most of the questions were regarding manufactured homes, sells of property in the downtown area, and increased to taxes due to zoning.

Mayor Kuykendall stated we will be looking to place this on the agenda within next couple of months but if more concerns arise, time will be allowed to addressed those issues.

IV. ADJOURNMENT

A motion was made by Alderwoman Patterson to adjourn. It was seconded by Alderman Beustring.

The motion was carried by the following vote:

Ayes: Aldermen Beustring, Collins, Gill, Roberts, and Alderwoman Patterson

Nays: None

Mayor Kuykendall announced that we are adjourned.

Thomas C. Kuykendall, Jr. - Mayor

Attest:

D. (Diana) Gordon Offord ---City Secretary