



Memorandum

March 19, 2018

TO: Town Council
Planning and Zoning Commission
Julie Couch, Town Manager

FROM: Israel Roberts, AICP
Planning Manager

SUBJECT: **REVIEW OF THE DIAGNOSTIC REPORT ON THE ZONING AND
SUBDIVISION ORDINANCES**

BACKGROUND: As part of a continuing effort to routinely update and maintain our development regulations, with Town Council's permission, staff entered into a contract in June 2017 with Freese and Nichols, Inc. (FNI) to rewrite the Town's Zoning and Subdivision Ordinances.

The current version of both codes has been sporadically updated over the years, mostly in response to issues or conflicts that have occurred. This has caused a patchwork of development criteria that is spread throughout both ordinances, which, in some cases, has created various conflicts and inconsistencies within the individual chapters of each code. The main goal of the rewrite is to reorganize and coordinate an effective and understandable zoning and subdivision code that can easily be updated in future versions, however, there will also be various policy questions that will be reviewed by both the Planning and Zoning Commission and Town Council.

The process of revising both ordinances will be divided into various phases. The first phase, is the creation, and a review, of a diagnostic report of both ordinances.

STATUS OF ISSUE: Attached to this memorandum, is the diagnostic report prepared by FNI. The diagnostic report is the first step in the rewrite and reorganization process of the zoning and subdivision ordinances. The intent of the diagnostic report is to identify and summarize deficiencies of both codes. The report does not suggest specific verbiage changes to each identified deficiency, but rather outlines probable options to resolve each issue. Specific revisions to each code will be reviewed, a presented, in future phases.

RECOMMENDATION: Review the presented diagnostic report, suggest revisions, and permit staff, and FNI, to continue onto the next phase of the rewriting process.

ATTACHMENTS:

Diagnostic Report

Town of Fairview

Diagnostic Report

**A Guideline to Updating the
Subdivision Ordinance and Zoning Ordinance**

Draft for Joint Workshop with Council and Planning and Zoning Commission

Meeting Date: March 19, 2018

FAIRVIEW TOWN HALL

Prepared by



Table of Contents

| | |
|---|----------|
| Introduction..... | 3 |
| General..... | 4 |
| 1) Style and User-Friendliness..... | 4 |
| 2) Definitions Update, as needed..... | 4 |
| 3) Correction of Inconsistencies in Names | 5 |
| Subdivision Ordinance | 6 |
| 4) Content Update and Reorganization | 6 |
| 5) Removal of Appendix..... | 7 |
| 6) Plat-Related Items Consolidation..... | 7 |
| 7) Platting Procedures Review and Update | 7 |
| 8) Plat Approval..... | 8 |
| 9) Construction Plan Inclusion..... | 8 |
| 10) Removal of Certain Final Plat Contents | 8 |
| 11) Unrelated Items Removal or Transfer..... | 9 |
| 12) Approval Authority for Fundamental Application..... | 9 |
| 13) Development Procedural Steps..... | 10 |
| 14) Inclusion of an Optional Pre-Application Meeting..... | 12 |
| 15) Reduce Time for Application Processes..... | 12 |
| 16) Provisions for Development Plat..... | 12 |
| 17) Clarification for Filing Plat Personnel | 13 |
| 18) Filing and Submission Dates Clarification | 13 |
| 19) Removal of Disapprove without Prejudice Option..... | 13 |
| 20) Formulation of Alternative Approach for Tree Removal Plat Plan..... | 14 |
| 21) Design Standards Consolidation..... | 14 |
| 22) Transfer of Landscape Buffer Requirements..... | 15 |
| 23) Waiver Procedure Clarification | 15 |
| 24) Application of Fee In lieu of Park Dedication | 16 |

25) Removal of Subdivision Identification Signage from Plat Contents..... 16

26) Inclusion of Regulation for Street Construction..... 16

Zoning Ordinance 18

27) Content Update and Reorganization 18

28) Separation of Uses and Standards from the Zoning Districts Section..... 19

29) Removal or Transfer of Unrelated Items..... 19

30) Zoning Relief Procedure Establishment..... 19

31) Approval Authority for Fundamental Applications..... 20

32) Use-Chart Matrix Development..... 21

33) Land Use Types Evaluation and Update..... 21

34) Clarification and Implementation of Conditional Use Permit District..... 22

35) Zoning Procedures Review and Clarification..... 22

36) Clarification of Planned Center and Planned Development District..... 23

37) Implementation of the Planned Center (PC) District..... 23

38) Clarification of Average Density Single Family Residential Development 23

39) Dimensional Standards Tables Development..... 24

40) Accessory Building/Structure Regulations..... 24

41) Provision of Conditional Standards for Sports Courts..... 25

42) Evaluation of Special Uses such as Churches 25

43) Evaluation of the Public Arts Requirements 26

44) Property Notification Boundary Discussion 26

45) Site Development Requirements Evaluation and Update..... 26

46) Transfer of Oil and Gas Well Drilling and Production Section 27

Introduction

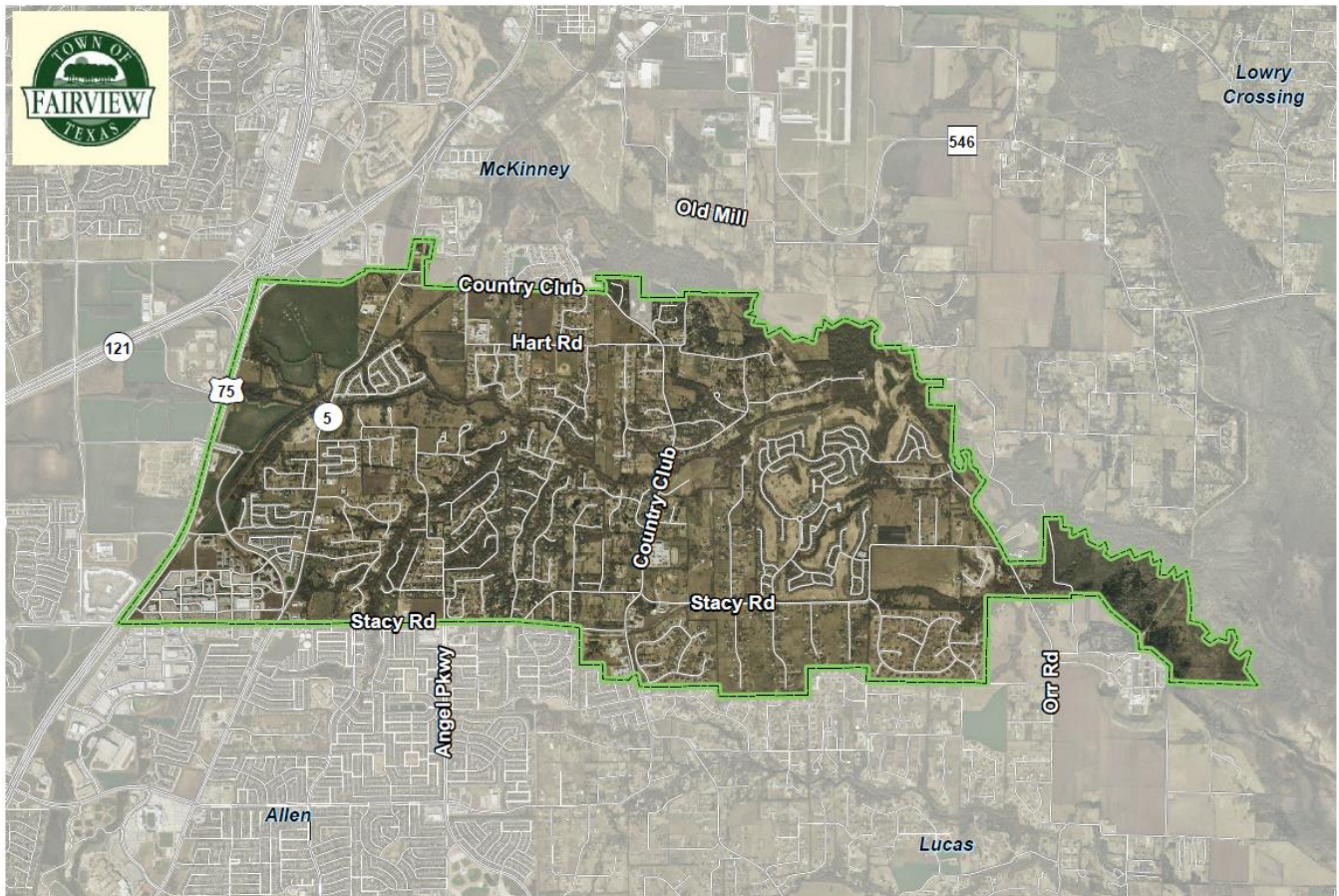
This diagnostic report represents the first step in the Town Council’s directive to update, reorganize, and simplify the Town’s zoning and subdivision ordinances. The report examines the issues and deficiencies in the existing ordinances and suggests updates for the rewrite of the ordinances. It is important to note that this report does not solve all the issues, but rather identifies the issues and outlines probable options to resolve the issues. Upon approval by the Town Council, this report will be used to guide the ordinance rewrite process. During that process, the specific solutions to the identified issues will be determined by the consultant and Staff and incorporated into the new zoning and subdivision ordinances.

| Fairview Quick Facts | |
|----------------------|---------------|
| Incorporation | 1958 |
| Location | Collin County |
| Total Population | 9,110* |
| Median Age | 49** |
| Number of Households | 3,209* |
| Average Home Value | \$493,150* |

*Source: Town of Fairview

**Source: ACS 5-years estimate

Town of Fairview Aerial Map



General

1) Style and User-Friendliness

Diagnostic Observation

A typical user of the ordinance desires to quickly find information to answer questions he or she may have. It is commonly accepted that an ordinance for any community is scanned by readers and not intended to be read from cover to cover; therefore, it is important to design a document that meets the “scan-ability” desire of its readers. With the current format, the reader cannot scan through the document and quickly find information due to the lack of subheadings and organizational format.

Recommendation

The format should be structured more like an outline with subheadings for each paragraph. The following steps should be taken in order to improve the ordinance format and provide readers greater control over understanding the ordinance:

- Improve numbering system and layout
- Incorporate the use of more subheadings to increase the ability to scan
- Utilize bullet points or illustrations when possible
- Use cross references and hyperlinks to simplify navigation

2) Definitions Update, as needed

Diagnostic Observation

The definitions section is key to having a successful document. If words and terms are clearly defined, then the implementation of the regulations is more easily managed. If definitions are too vague, conflicting, or not defined at all, then the Town Staff and users have greater difficulty in understanding the requirements and whether the regulations apply in a given case. Both the zoning and subdivision ordinances have definitions listed in multiple sections which create confusion and inconsistencies. For example, some definitions are listed under the definitions section of Article 14.02 and some definitions are listed under the definitions section of Article 14.03 of the zoning ordinance. Additionally, many common terms and uses are not defined in the ordinances. For example, the term “Town Manager or his or her designee” is used within the subdivision ordinance, but not defined in the ordinance. On the other hand, the zoning ordinance defines “Administrator” as the Town Manager but continues using town manager in the document without having a definition for the term “Town Manager” itself.

Recommendation

All definitions in the zoning and subdivision ordinances should be evaluated and updated or removed, as needed. For example, all sign-related definitions should be removed from the subdivision ordinance. New definitions will be added as needed.

3) Correction of Inconsistencies in Names

Diagnostic Observation

The ordinances use inconsistent terms which may create confusion. For example, there is an inconsistency in referring to Site Plans in section 14.03.034 of the zoning ordinance. It is once referred to as “site development plan” and later referred to as “site plan”.

Recommendation

It is recommended that all terms and names be consistent throughout the ordinances.



Subdivision Ordinance

4) Content Update and Reorganization

Diagnostic Observation

The existing ordinance describes different sections of the ordinance in a haphazard manner that is difficult to follow. Additionally, the existing ordinance does not include many important pieces that are commonly included in a subdivision ordinance.

Recommendation

In order to better organize and include all the contents related to the subdivision ordinance, it is recommended that the proposed layout in Table 1 is used. All existing contents should be carefully evaluated and reorganized for placement under the proper sections. All the missing elements from the existing ordinance should be included.

Table 1: Proposed Layout for Subdivision Ordinance

| | |
|-----------|--|
| Section 1 | General Provisions |
| Section 2 | Decision-Maker Authority |
| Section 3 | Application Submittal and Processing Procedures |
| Section 4 | Plats and Platting Procedures |
| Section 5 | Construction Plans |
| Section 6 | Subdivision Development Requirements and Standards |
| Section 7 | Relief from Subdivision Development Requirements and Standards |
| Section 8 | Definitions |

5) Removal of Appendix

Diagnostic Observation

The current ordinance has an Appendix section containing elements not directly related to the Ordinance such as contract forms with developers.

Recommendation

It is recommended that the Appendix section be removed from the Ordinance. The documents within the Appendix should be kept on the Town website; reference of the location should be added to the Ordinance.

6) Plat-Related Items Consolidation

Diagnostic Observation

There is no separate section for Preliminary Plat; the processes involving Preliminary Plats and Final Plats are described throughout separate sections.

Recommendation

All plat related items and requirements (preliminary plat, final plat, amending plat, replat) should be consolidated in Section 4: Plats and Platting Procedures. Each type of plat should have a clearly defined purpose and detailed procedures outlined within the section. These procedures should explain when and how a plat is used.

7) Platting Procedures Review and Update

Diagnostic Observation

Preliminary plats, final plats, and other standard procedures are important to the development process. These procedures are not clearly and concisely articulated in the existing subdivision ordinance. Additionally, the procedures include confusing provisions. For example, the P&Z can either approve, disapprove or disapprove without prejudice and the Town Council either approves or disapproves.

Recommendation

It is recommended that all procedures be reviewed and outlined in a way that better inform individuals of specific requirements. Also, the procedures should be well-outlined in the ordinance text to communicate the procedural requirements. The use of visuals, such as flow charts, should be included in the subdivision regulations to clarify procedures. Efforts should be made to shorten the time it takes to complete different procedures. Additionally, coordination among departments is critical to establish the best format for review and approval procedures.

8) Plat Approval

Diagnostic Observation

Currently, for a plat to be approved, the P&Z and the Town Council must approve the plat.

Recommendation

In an effort to improve efficiency, a single body approval process can be considered. Per Section [212.006](#) of the Texas Local Government Code (TLGC), “the municipal authority responsible for approving plats under this subchapter is the municipal planning commission or, if the municipality has no planning commission, the governing body of the municipality.” It is recommended that the Town considers making Planning and Zoning Commission the sole authority for plat approval as that can speed up the process of approving plats and reduce burden from the Council. However, if the Town deems suitable, the current approval procedure can remain the same.

9) Construction Plan Inclusion

Diagnostic Observation

Some of the requirements and procedures for a Construction Plan are outlined in the building regulation section of the Code of Ordinances. This is one of the fundamental elements of platting process and should be consolidated in the subdivision ordinance as it does not work as efficiently when separated out in different sections of the Code.

Recommendation

A section for Construction Plans should be included as Section 5: Construction Plan to establish construction standards and provide guidance how and when the construction procedures should be conducted. All the existing requirements and procedures should be consolidated and incorporated within the subdivision ordinance.

10) Removal of Certain Final Plat Contents

Diagnostic Observation

The Final Plat Contents section includes several certificates that can be easily maintained with the applications instead of being listed out within the ordinance.

Recommendation

It is recommended that the certificates be removed from the Subdivision Ordinance and maintained with applications. It will enable Staff to easily modify these certificates, when needed, without having to go through an ordinance amendment process.

11) Unrelated Items Removal or Transfer

Diagnostic Observation

The regulation for Sight Barrier Fence or Road Gate requirements are not suitable for Subdivision Ordinance.

Recommendation

The regulation for Sight Barrier Fence or Road Gate requirements should be transferred to the Zoning Ordinance.

12) Approval Authority for Fundamental Application

Diagnostic Observation

The Subdivision Ordinance does not provide clear direction on the roles of the decision-maker authorities which might result in confusion, unnecessary delay in procedures and/or the possible incident of conflicting with the state regulations. For example, the authority of Planning and Zoning Commission and Town Council are described throughout the platting procedures in a non-cohesive manner; there is not a section that provides a user with an overview of the approval related information.

Recommendation

Introduce a section to discuss the roles of Decision-Maker Authorities within the ordinance. Careful evaluation should be used to ensure that there is no conflict with the State requirements. Each authority's (Council, P&Z, or Staff) role in subdivision processes should be documented in sub-sections. It is recommended that a summary table shows the approval authorities of the fundamental applications. Figure 1 demonstrates an example of such table.

Figure 1: Example of a Summary Table for Subdivision Approval Authorities (For Illustration Purposes Only)

| Application Type | Town Council | Planning & Zoning Commission | Zoning Board of Adjustment | Director of Development Services | Town Engineer |
|---|--------------|------------------------------|----------------------------|----------------------------------|---------------|
| <i>Subdivision-Related Applications</i> | | | | | |
| Preliminary Plat | Approve | Approve | | Review | |
| Final Plat | | Approve | | Review | |
| Minor Plat | Approve | Approve | | Review | |
| Replat | Approve | Approve | | Review | |
| Amending Plat | | | | Approve or Defer | |
| Deferral to the Commission of an Amending Plat Decision | | Approve | | | |
| Plat Vacation | Approve | | | Review and Recommend | |
| Construction Plans | | | | | Approve |

13) Development Procedural Steps

Diagnostic Observation

The current process of development cannot prevent developers from selling lots before the construction for improvements takes place and cannot ensure that any modification in the field are captured in the Final Plat.

Recommendation

It is recommended that a flowchart be included to demonstrate the development process. There are two common approaches that most cities and towns adopt for the platting process. Three different approaches are outlined with Figure 2, Figure 3, Figure 4 and on the next page. The Town currently applies Option A (Figure 2), however, all three options should be evaluated to determine the best possible procedure to adopt.

(See Figures on the next page)



Figure 2: Platting Procedure Option A (Current Procedure)

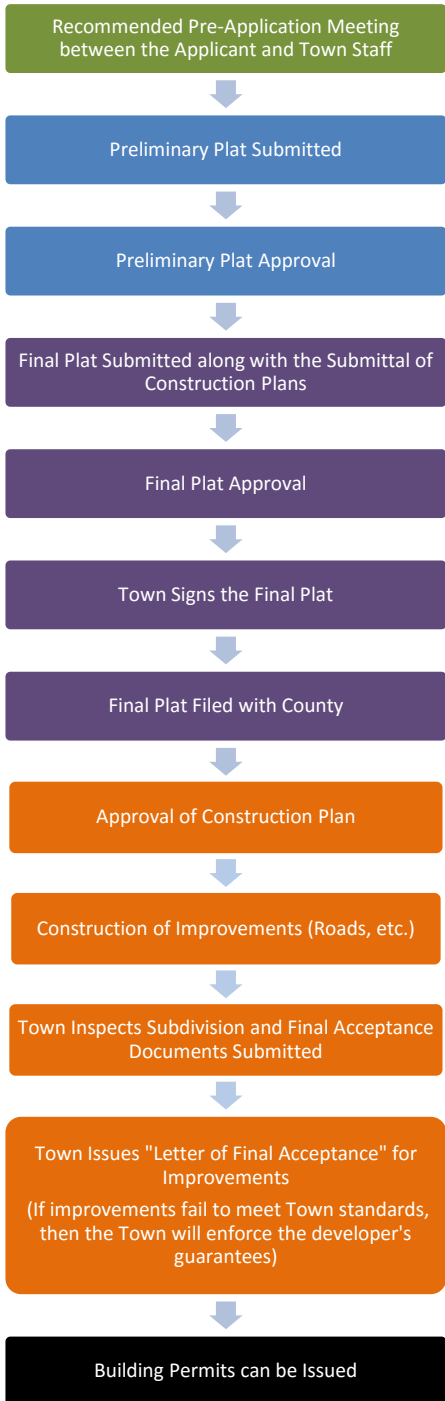


Figure 3: Platting Procedure Option B



Figure 4: Platting Procedure Option C



14) Inclusion of an Optional Pre-Application Meeting

Diagnostic Observation

There is a provision for a Concept Plan and a Voluntary Preliminary Working Plat in the beginning of the platting process. Concept Plans are typically correlated with zoning rather than platting which may create confusion and inconsistencies in the platting process. The Voluntary Preliminary Working Plat may cause vesting related issues as it is not clear from the ordinance when vesting applies.

Recommendation

The Concept Plan and the Voluntary Preliminary Working Plat in the beginning of the platting process should be replaced with an optional Pre-Application Meeting between the Town and the developers. Also, there should be a provision of a letter of vested rights waiver to be signed by the applicant before the Pre-Application Meeting to ensure that the applicant understands that no vesting is applied at that time.

15) Reduce Time for Application Processes

Diagnostic Observation

Currently, all plats need to be approved by the P&Z and Council which can create delays in the development process.

Recommendation

Considerations should be made to assign different tasks to different authorities in order to expedite the development process. For example, minor plats can be administratively reviewed in an effort to shorten the application timeframe.

16) Provisions for Development Plat

Diagnostic Observation

The current subdivision ordinance does not include development plat provision from TLGC Chapter 212 Subchapter B. As per State Law, platting procedure may be required for developing a property without subdividing it.

Recommendation

It is recommended that the provisions of Development Plat in accordance with TLGC Chapter 212 Subchapter B be included to ensure platting procedure is applied to all developments, even when the applicant is not subdividing the property.

17) Clarification for Filing Plat Personnel

Diagnostic Observation

The current ordinance does not clarify which Town Staff member is responsible for accepting plats.

Recommendation

It is recommended that the plats be accepted by the Planning Manager.

18) Filing and Submission Dates Clarification

Diagnostic Observation

The current ordinance establishes that a plat is not considered to be “filed” if it does not permit the P&Z to consider it at a regular meeting within the 30-day window. It is not clarified that the filing may not be official until the plat consideration is placed on P&Z’s agenda to fulfill the requirement mentioned above, vesting applies from the day the plat is submitted, even if it is not officially filed.

Recommendation

A published calendar should be formulated to track filing and submission dates of plats. The Town should establish “Official Submission Dates” and “Official Vesting Dates” for the platting process. There should be a clear difference between the LGC 245 vesting requirement (“Official Vesting Date”) and LGC 212 30-day action requirement (“Official Submission Date”).

19) Removal of Disapprove without Prejudice Option

Diagnostic Observation

The existing platting procedure includes three different actions from the P&Z and Town Council: approve, disapprove and disapprove without prejudice. However, approval of a final plat is a ministerial process and final plats should either be approved or disapproved based on whether they meet the requirements.

Recommendation

It is recommended that the “disapprove without prejudice” option be removed from the final approval authority (in current ordinance, Town Council is the final authority).

20) Formulation of Alternative Approach for Tree Removal Plat Plan

Diagnostic Observation

Currently it is required that a tree removal plat plan is submitted with the Preliminary Plat and acts as a condition for Final Plat approval. However, a tree removal permit is also required, and the Town Engineer is the approval authority for the tree removal permit by Article 3.15: Natural Resources Management and Tree Protection. This process may create inconsistencies and confusions as the tree removal plat plan and the tree removal permit are reviewed by two different authorities.

Recommendation

The Town's tree preservation efforts should be evaluated to serve as a basis to determine how the process should be modified. Multiple approaches can be adopted to improve the process. For example, the tree removal plat plan process can be removed, a requirement of submitting a tree survey with the preliminary plat showing the locations of existing trees and potential trees to be removed can be established, and the tree removal permit process can control. The preliminary plat should show the general tree groupings and types with an aerial whereas the final plat should demonstrate detailed information on the existing trees and the trees to be removed. If any changes to the plat approval process occurs, then the optimal time of tree removal may change. Additionally, it is recommended that the tree preservation section be in compliance with the recent bill (HB 7) passed by the Texas Legislature.

21) Design Standards Consolidation

Diagnostic Observation

The design standards are outlined in other ordinances and are not consolidated within the subdivision ordinance.

Recommendation

It is recommended that design regulations and standards are evaluated and consolidated; all standards be outlined in Section 6: Development Requirements and Standards in a clear and concise manner to ensure adequate and appropriate standards are provided for guiding future development in Town. The following items should be considered to be included in the Subdivision Development Requirements and Standards section:

- Adequate Public Facilities
- Conformance to Plans and Code
- Access Management
- Blocks
- Easements and Dedications
- Homeowners' Associations
- Lot Design
- Parks and Open Space Dedication
- Parks and Open Space Design
- Streets
- Thoroughfare Screening
- Sidewalks
- Water and Wastewater Requirements
- Drainage and Environmental Requirements

22) Transfer of Landscape Buffer Requirements

Diagnostic Observation

The provisions for landscape buffer are scattered throughout both the subdivision ordinance and the zoning ordinance. However, landscape buffer related requirements are typically included in and implemented by the zoning ordinance.

Recommendation

It is recommended that the landscape buffer requirements be consolidated in the zoning ordinance.

23) Waiver Procedure Clarification

Diagnostic Observation

The current provision for waivers or variances is very general and only states that "A variance or waiver of any of these rules and regulations may be granted by the board of adjustments, upon a showing that there are special circumstances or conditions affecting the property in question and that enforcement of the provisions of this article will work a hardship on the applicant, and that such variance or waiver, if granted, will not be materially detrimental to the public welfare or injurious to other property rights in the vicinity". Such statement does not provide adequate direction for the waiver needs and the basis of granting waivers.

Recommendation

Conditions of approval should be listed to clarify Council and Staff's authority to approve major and minor waivers. It is recommended that a mechanism to apply for waivers from the Subdivision Design Standards should be outlined in Section 7: Relief from Subdivision Development Requirements and Standards. This section should articulate clear and detailed steps and requirements for obtaining a waiver from the standards and contain the following items:

- Petition for Subdivision Waiver
- Subdivision Proportionality Appeal

24) Application of Fee In lieu of Park Dedication

Diagnostic Observation

The current ordinance has a Conveyance of Land for Parks section that requires developers to dedicate land for public parks. However, this approach is most effective when the Town has large parcels of land available to dedicate.

Recommendation

It is recommended that standards and regulations for pro-rated fee in lieu of park dedication be established as a means of generating dollars and to ensure that the Town has adequate amount of park for the residents.

25) Removal of Subdivision Identification Signage from Plat Contents

Diagnostic Observation

The requirements of the plat contents currently contain subdivision identification signage as an item to be shown on the plat. Typically, no structure-type item is required to be shown on the Plat.

Recommendation

It is recommended that the final signage be removed from the list of plat content requirements.

26) Inclusion of Regulation for Street Construction

Diagnostic Observation

The current ordinance establishes that: "As a condition for the approval of all future subdivision plats submitted to the town for approval, the owners of the property to be developed shall dedicate to the public, if required by the plan, sufficient property to provide the minimum width of the thoroughfare established by the thoroughfare plan." This requirement does not clarify that the developer is the responsible party for the "construction" of the streets.

Recommendation

The language should be modified to establish that the developer is responsible for the construction of the streets within their development. Additional requirements to improve existing streets that would be impacted by the development should also be considered. Also, proportionality concerns should be addressed within the ordinance.



Zoning Ordinance

27) Content Update and Reorganization

Diagnostic Observation

The existing ordinance contains several divisions that cover various topics in a somewhat disorganized manner. For example, the first division (Generally) has multiple sections that are clearly articulating elements that are meant to belong in different divisions. For example, this division contains the public hearing procedure which is not a “General” provision; it has specific requirement which should be outlined in a “Procedure” section.

Recommendation

In order to better organize all the contents related to the zoning ordinance, it is recommended that the proposed layout is applied. All contents should be carefully evaluated and reorganized for their placement under proper articles.

Table 2: Proposed Layout for the Zoning Ordinance

| | |
|-----------|-------------------------------|
| Section 1 | General Provisions |
| Section 2 | Zoning Districts |
| Section 3 | Land Uses |
| Section 4 | Site Development Requirements |
| Section 5 | Development Review Bodies |
| Section 6 | Development Review Procedures |
| Section 7 | Zoning Relief Procedures |
| Section 8 | Definitions |

28) Separation of Uses and Standards from the Zoning Districts Section

Diagnostic Observation

The current ordinance contains the separate divisions for each zoning district where uses and standards are inconsistently laid out. These division (or sections) include the principal use, principal accessory uses, and specific zone requirements in general and landscape, lighting, screening (etc.) plan requirements for General Business, Planned Center and Planned Development Zone. This structure is difficult for users to find information from and provides inadequate mechanism to navigate.

Recommendation

Section 2: Zoning Districts should include the basic outline for each zoning district. The permitted/prohibited/conditional uses should be summarized within Section 3: Land Uses. All site development standards should be laid out in Section 4: Site Development Standards.

29) Removal or Transfer of Unrelated Items

Diagnostic Observation

Sidewalk, construction, water/sewer and erosion control design standards are included as site plan requirements. These are not appropriate requirements to be listed within the Zoning Ordinance.

Recommendation

Transfer all sidewalk, construction, water/sewer and erosion control design standards and requirements to the Subdivision Ordinance.

30) Zoning Relief Procedure Establishment

Diagnostic Observation

The current ordinance briefly outlines the zoning waiver with a general statement such as: the granting of said waiver shall not impair nor diminish the public health, safety and welfare, and shall conform to and carry out the purpose and intent of this ordinance. This statement is too vague and does not establish specific basis for granting waivers.

Recommendation

It is recommended that specific requirements and guidelines should be established for zoning relief procedures within Section 7: Zoning Relief Procedure of the proposed layout. Relief procedure should include:

- Interpretation Appeals
- Variances
- Special Exceptions

31) Approval Authority for Fundamental Applications

Diagnostic Observation

The Zoning Ordinance does not provide clear direction on the roles of the development review bodies which might result in confusion, unnecessary delay in procedures and/or the possible incident of conflicting with the state regulations. For example, the authority of Planning and Zoning Commission and Town Council are described throughout the ordinance in a fragmented manner. However, there is no section that provides a user all the authority related information.

Recommendation

Introduce a section to discuss the roles of Development Review Bodies within the ordinance. Careful evaluation should be used to ensure that there is no conflict with the State requirements and authorities are provided to appropriate bodies. Each authority's (Council, P&Z, BOA or Staff) role in zoning processes should be elaborated in sub-sections. It is recommended that a summary table show the approval authorities of the fundamental applications. Figure 5 demonstrates an example of such table.

Figure 5: Example of a Summary Table for Zoning Review Bodies (For Illustration Purposes Only)

| Application Type | Town Council | Planning & Zoning Commission | Zoning Board of Adjustment | Director of Development Services | Town Engineer | Director of Public Works | Building Official |
|--|--------------|------------------------------|----------------------------|----------------------------------|---------------|--------------------------|--------------------|
| <i>Zoning-Related Applications</i> | | | | | | | |
| Building Permit | | | | | | | Approve |
| Certificate of Occupancy | | | | | | | Approve |
| Sign Permit | | | | | | | Approve |
| Site Plan | | | | Review and Approve | Review | | Review and Approve |
| PD, Planned Development | Approve | Recommend | | Review | Review | | Review |
| Specific Use Designation (SUD) | Approve | Recommend | | Review | | | |
| Zoning Variance | | | Approve | Review | | | |
| Vested Right | | | | Review and Approve | | | |

32) Use-Chart Matrix Development

Diagnostic Observation

Currently the permitted and prohibited land uses are listed separately for each zoning district and conditional uses are inefficiently listed in the use regulations section. This structure does not provide the users an opportunity to see or compare all the uses listed for different districts at the same time. It also makes navigating through the document tiresome and inconvenient.

Recommendation

It is recommended that a “Use Chart Matrix” be developed to present permitted use by right, permitted use by SUP or prohibited uses for all districts. Each land use should have a clear definition in the definitions section and should be cross-referenced with the Use Chart. The Conditional Use District table should be incorporated within this Use-Chart Matrix.

Figure 6: Example of a Use-Chart Matrix (For Illustration Purposes Only)

| Legend for Use Chart | | SF-8, Single-Family Dwelling District | SF-10, Single-Family Dwelling District | SF-40, Single-Family Dwelling District | 2F, Two-Family Dwelling (Duplex) District | TH, Townhouse (Attached) Dwelling District | MF-16, Multiple-Family Dwelling District | MF-24, Multiple-Family Dwelling District | O, Office District | LR, Local Retail District | C, Commercial District | I, Industrial District | M, Mixed Use District |
|---|---|---------------------------------------|--|--|---|--|--|--|--------------------|---------------------------|------------------------|------------------------|-----------------------|
| P | Permitted in district indicated | | | | | | | | | | | | |
| | Prohibited in district indicated | | | | | | | | | | | | |
| S | Permitted in district upon approval of a Specific Use Permit (SUP) | | | | | | | | | | | | |
| P-# | Permitted if compliant with the corresponding numeric end note in Conditional Development Standards | | | | | | | | | | | | |
| S-# | Permitted by Specific Use Permit (SUP) if compliant with the corresponding numeric end note in Conditional Development Standards. | | | | | | | | | | | | |
| Residential Uses | | | | | | | | | | | | | |
| <u>Assisted Living/Nursing Home</u> | | | | | | | | | | | | | |
| | | | | | | | P | P | P | | | | |
| <u>Dwelling, Single-Family (Detached)</u> | | | | | | | | | | | | | |
| P | P | P | | | | | | | | | | | |
| <u>Dwelling, Single-Family (Attached – Duplex)</u> | | | | | | | | | | | | | |
| | | | P | | | | | | | | | | P |
| <u>Dwelling, Single-Family (Attached – Townhouse)</u> | | | | | | | | | | | | | |
| | | | | | P | | | | | | | | P |
| <u>Dwelling, Multi-Family</u> | | | | | | | | | | | | | |
| | | | | | | | P | P | | | | | P |
| <u>Guest House/Servants' Quarters</u> | | | | | | | | | | | | | |
| P-1 | P-1 | P-1 | | | | | | | | | | | |
| <u>Industrialized Housing</u> | | | | | | | | | | | | | |
| P-2 | P-2 | P-2 | | | | | | | | | | | P-2 |
| <u>Retirement Housing</u> | | | | | | | | | | | | | |
| | | | P | P | P | P | | | | | | | P |
| <u>Studio Residence</u> | | | | | | | | | | | | | |
| | | | | | | | | | | | | | P |
| Nonresidential Uses | | | | | | | | | | | | | |
| <u>Adult Day-Care Services</u> | | | | | | | | | | | | | |
| | | | | | | | | P | P | S | | | |
| <u>Agricultural Use</u> | | | | | | | | | | | | | |
| | | | P-3 | | | | | | | | | | |
| <u>Ambulance Service</u> | | | | | | | | | | | | | |
| | | | | | | | | | P | P | P | | |
| <u>Amusement, Commercial (Indoors)</u> | | | | | | | | | | | | | |
| | | | | | | | | P | P | P | | | P |
| <u>Amusement, Commercial (Outdoors)</u> | | | | | | | | | | | | | |
| | | | | | | | | | P-4 | P-4 | P-4 | | |
| <u>Antique Shop</u> | | | | | | | | | | | | | |
| | | | | | | | | P | P | | | | P |

33) Land Use Types Evaluation and Update

Diagnostic Observation

The listed land uses are in many cases, outdated. The existing list does not cover many of the land uses that are common in general or are likely to occur in Fairview. For example, different levels of child daycare and adult daycare facilities are missing from the list of land uses. Additionally, there is no guidance available on the procedures for unlisted uses.

Recommendation

The Use-Chart Matrix should be carefully crafted so that it includes all uses that are common, modern or have potential to occur in the Town in future. Along with primary uses, accessory uses should also be incorporated within the Use-Chart Matrix. A section should be included in Section 3 to provide direction on unlisted uses. All inconsistencies of uses should be resolved.

34) Clarification and Implementation of Conditional Use Permit District

Diagnostic Observation

The current zoning districts are functioning well for the Town. However, the zoning districts include a Conditional Use Permit District, which is confusing if it is used as a standard zoning district, evaluating land uses on a case by case basis. Typically, this type of evaluation is handled by a stand-alone CUP zoning case with a base zoning district (i.e., not a CUP zoning district); use of an entire zoning district for this purpose is confusing and creates complications. Moreover, the existing CUPs are not shown on the current zoning map.

Recommendation

It is recommended that the procedures for the evaluation of specific land uses be clearly outlined in Section 3: Land Uses to implement the use of the Conditional Use Permit District. The new approach will achieve the same results and would be considered less spot zoning. Additionally, the CUPs should be shown on a zoning map and clarification about their expiration should be provided within the ordinance, as CUPs are not typically granted on a temporary basis.

35) Zoning Procedures Review and Clarification

Diagnostic Observation

The zoning procedures are disorganized and inadequately described as part of Division 1 in the ordinance. These procedures need to be clear, concise, and easy to locate so every user can have an understanding of development processes.

Recommendation

It is recommended that all procedures be reviewed to better inform individuals of specific requirements. Also, the procedures should be well-outlined in the ordinance text to communicate the procedural requirements. The use of visuals, such as flow charts, should be included to clarify procedures. All review related procedures should be included in Section 6: Development Review Procedures such as:

- Zoning upon Annexation
- Zoning Text and Map Amendments
- Platting Property Not Zoned

- Creation of Building Site
- Certificates of Occupancy and Compliance
- Site Plan Requirements
- PD Application and Review
- Conditional Use Permit
- Amortization of Nonconforming Uses
- Vesting and Complete Application Requirements

36) Clarification of Planned Center and Planned Development District

Diagnostic Observation

The current ordinance does not clarify the difference between the Planned Center District and the Planned Development District. It appears that both districts' purpose is to offer flexibility for development.

Recommendation

Specific and distinguished purpose should be established for the Planned Center and Planned Development District. If these two districts are serving the same purpose, consideration should be made to merge them and convert them into one district.

37) Implementation of the Planned Center (PC) District

Diagnostic Observation

The Planned Center (PC) District is currently being used for the purposes of traditional planned developments. However, the implementation of the district may be confusing as there is also a Planned Development (PD) district.

Recommendation

It is recommended that the section for Planned Center District be evaluated and clarified. Details should be provided to guide the appropriate and intended implementation of this district.

38) Clarification of Average Density Single Family Residential Development

Diagnostic Observation

There is a provision of Average Density Single Family Residential Development within the Planned Center and Planned Development districts. It is understood that Average Density Single Family Residential Development is specifically providing guidance on single-family developments that do not

fit into the traditional single-family zones; however, this provision appears to be confusing and redundant.

Recommendation

It is recommended that the provision for Average Density Single Family Residential Development be clarified with specific purpose and applicability.

39) Dimensional Standards Tables Development

Diagnostic Observation

The dimensional standards such as setbacks, lot dimensions and building heights for different districts are listed under each district; however, it appears that the standards are not consistently listed for all districts. Additionally, as they are listed within each district, it becomes difficult for the users to compare them when they are formatted in such manner.

Recommendation

Tables should be developed to demonstrate dimensional standards for residential and nonresidential districts for easy, clear and comparable articulations of the dimensional standards. The dimensional standards for each district should also be evaluated to determine their appropriateness and effectiveness for each district.

40) Accessory Building/Structure Regulations

Diagnostic Observation

The current ordinance does not provide appropriate definitions and regulations for accessory buildings/structures. Additionally, setback requirements provided for residential accessory buildings in the current ordinance may be too restrictive depending on the lot size and provides one standard setback for all directions (front, rear, side). Also, there are more than one table providing directions for setbacks of accessory buildings which provides conflicting information.

Recommendation

Accessory building/structure should be adequately defined. It is recommended that a set of standards be established in order to enable staff to approve allowance of accessory buildings/structures. A table should be developed with clear and appropriate setback guidelines for residential accessory buildings. The table should include the following guidelines:

- Minimum square footage
- Minimum height (and how the height will be measured)
- Minimum number

- Minimum allowed building area coverage
- Minimum front setback
- Minimum side setback
- Minimum rear setback
- Minimum setback for corner lots
- Prohibited locations
- Barns and other types of livestock housing

41) Provision of Conditional Standards for Sports Courts

Diagnostic Observation

The current ordinance requires zoning approval for allowing Sports Courts.

Recommendation

It is recommended that conditional standards be established for Sports Court. It will enable sports courts to be permitted without having to go through a zoning approval process, provided that they meet the specific conditions.

42) Evaluation of Special Uses such as Churches

Diagnostic Evaluation

Section 14.02.010 of the current ordinance describes use regulations of churches, schools and fraternal lodges. The ordinance allows churches in any zone except a flood hazard zone upon an application for a conditional use permit.

Recommendation

It is recommended that churches are allowed by right with or without conditional standards but not with a conditional use permit. Churches and other religious institutions are protected under the Religious Land Use and Institutionalized Persons Act (RLUIPA). The use regulations on churches and religious institutions must be consistent with the requirements outlined by Federal Law. Additionally, the requirements of site plans and landscape plans should be clearly defined.

43) Evaluation of the Public Arts Requirements

Diagnostic Evaluation

Currently all nonresidential development projects are required to include public art having a monetary value equal to or greater than 1% of the total cost of construction of the development. This type of requirement is good for the quality of development.

Recommendation

It is recommended that an evaluation be made on the public arts standards to determine the details of implementation, the effectiveness and goals for public arts and the approval authority.

44) Property Notification Boundary Discussion

Diagnostic Evaluation

The current property notification boundary requirement is 500'. It should be noted that, the State requirement for property notification is 200' and that the Town's requirements exceeds the State requirement. It should be noted that property notification boundary remains 200' for the purposes of determining the need of supermajority votes.

Recommendation

With the lot sizes in the Town, the 500' notification requirement has been working well. It is recommended the requirement remains the same even though it exceeds minimum requirement set out by the State.

45) Site Development Requirements Evaluation and Update

Diagnostic Observation

The architectural standards, such as building façade standards and residential anti-monotony standards, are not addressed in the current zoning ordinance. Additionally, the general standards that are reflected in the look and feel of neighborhoods and other places need to be reviewed to ensure that they achieve the envisioned quality. Landscaping, screening, parking and lighting standards are outlined for some zoning districts which creates inconsistencies in design and quality.

Recommendation

To order to guide future development toward the desired direction, new standards for building façades and anti-monotony standards should be included in Section 4. Site Development Requirements. All the current standards should be evaluated and updated to create the following sub-sections:

- Landscape Requirements
- Screening Standards
- Off-Street Parking and Loading Requirements
- Lighting Standards
- Accessory Structure Standards
- Supplementary Regulations
- Nonresidential Development Standards
- Residential Development Standards

46) Transfer of Oil and Gas Well Drilling and Production Section

Diagnostic Observation

Chapter 14: Zoning includes the Oil and Gas Well Drilling and Production regulations. These regulations may no longer be enforceable after 2015, when the Texas Legislature made local governments' ability to regulate oil and gas drilling very limited.

Recommendation

It is recommended that the lawsuit filed against the City of Denton regarding oil and gas well drilling production and the subsequent legal changes be reviewed by the Town Attorney to determine if the oil and gas regulations are in compliance with the State Law. Additionally, the Oil and Gas Well Drilling and Production should be considered to become stand-alone chapters within the Town's Code of Ordinances.