



CITY OF FAIR OAKS RANCH

PLANNING AND ZONING COMMISSION MEETING

Thursday, March 25, 2021 at 6:30 PM

Via Zoom Videoconference

AGENDA

VIRTUAL MEETING NOTICE

There exists a public health emergency related to the COVID-19 VIRUS that necessitates a meeting of the Planning and Zoning Commission to take place via video conference pursuant to government code chapters 551.127, as modified by executive order of the Governor.

Zoom Videoconference Link: <https://www.zoomgov.com/j/1601995909>

Phone in number: US: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Webinar ID: 160 199 5909

If you wish to address the Planning and Zoning Commission via telephone, please select *9 on your phone, this will place you in a queue for speaking. At the appropriate time, the City Secretary will call upon each individual separately. *6 will unmute your phone to allow you to speak.

OPEN MEETING

Roll Call - Declaration of a Quorum

CITIZENS and GUEST FORUM

If you are calling by phone and wish to address the P&Z Commission, select *9 on your phone; this will place you in a queue for speaking. At the appropriate time the City Secretary will call upon each individual separately. Select *6 to unmute your phone to speak. In accordance with the Open Meetings Act, the P&Z Commission may not discuss or take action on any item which has not been posted on the agenda.

WORKSHOP

1. Discussion on amendment of the Fair Oaks Ranch Unified Development Code.

Lata Krishnarao, AICP, LEED ND, Gunda Corporation

ADJOURNMENT

Signature of Agenda Approval: s/Carole Vanzant

Carole Vanzant, Assistant City Manager

I, Christina Picioccio, City Secretary, certify that the above Notice of Meeting was posted on the outside bulletin board at the Fair Oaks Ranch City Hall, 7286 Dietz Elkhorn, Fair Oaks Ranch, Texas, and on the city's website www.fairoaksranchtx.org, both places being convenient and readily accessible to the general public at all times.

As per Texas Government Code 551.045, said Notice was posted by 6:30 PM, March 19, 2021 and remained so posted continuously for at least 72 hours before said meeting was convened.

The Fair Oaks Ranch City Hall is wheelchair accessible at the side entrance of the building from the parking lot. Requests for special services must be received forty-eight (48) hours prior to the meeting time by calling the City Secretary's office at (210) 698-0900. Braille is not available.
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PLANNING & ZONING COMMISSION WORK SESSION 2
CITY OF FAIR OAKS RANCH, TEXAS
March 25, 2021

Item #1.

AGENDA TOPIC: Discussion on the proposed amendments to the Unified Development Code

DATE: March 25, 2021

DEPARTMENT: Public Works

PRESENTED BY: Katherine Schweitzer, P.E., Manager, Engineering Services
Lata Krishnarao, AICP, LEED ND, Gunda Corporation

EXECUTIVE SUMMARY

A recently updated comprehensive plan, newly adopted Unified Development Code (UDC), changes in Texas Local Government Code, and a desire for clear development standards and procedures are a few examples of why periodic ordinance review is critical to ensure that Fair Oaks Ranch remains a community of high standards.

The first step in the process of updating the Unified Development Code was to prepare a diagnostic report. To formulate the diagnostic report, the project team interviewed City Staff to collect their observations on the most pressing issues in the current Unified Development Code and their ideas on resolving those issues. Next, the project team processed and reviewed planning applications alongside City Staff and applicants to understand the processes and requirements firsthand while simultaneously identifying opportunities for improvement. Finally, the project team synthesized comments within a comprehensive framework of state statute analysis and industry best practices to produce the actionable recommendations proposed here.

The next step is to discuss these proposed amendments with the Planning and Zoning Commission, to gain their input on the proposed recommendations. A series of work sessions have been scheduled with the Planning and Zoning Commission to facilitate this discussion. The recommendations will be reviewed by legal staff and their input will be incorporated. After gathering input from the Planning and Zoning Commission and subsequently the City Council, the final amendments to the UDC, Zoning Map, and/or Comprehensive Plan, as required, will be undertaken to incorporate the recommendations, following the appropriate public hearing procedures.

DIAGNOSTIC REPORT

In an effort to update, reorganize and simplify the findings of the review of the City's UDC, the observations and accompanying recommendations were consolidated into five main categories:

- 1. Legally Sound Document:** Included recommendations to ensure that regulations are fair, defensible, and directly grounded in a legal framework. Modifications to the Code necessitated by recent changes in the Texas Local Government Code were also identified.
- 2. Written Language Clarification:** Included recommendations for improving the Code's material content, including its written style, as well as eliminating confusing and conflicting language.

3. **Application Process Improvement:** Included recommendations that:
 - a. Ensure review of all development applications is in accordance with regulatory requirements and standards.
 - b. Incorporate simpler and more efficient processes where permitted by the state statutes, e.g., subdivision approval process.
 - c. Assist the users to locate and comply with the application processing requirements with ease.
4. **A User-Friendly Format:** Included recommendations to explain the development approval process in a manner that is easily understandable. Clear and accessible permit instructions facilitate development and encourage resident engagement with their municipal representatives. The UDC should be visually appealing and written with its audience in mind. A user-friendly format makes it easy for the applicants to find all relevant requirements and submit complete applications, for City Staff to administer the regulations in a fair, efficient, and effective manner, and for public officials to understand the process better.
5. **Adherence to Fair Oaks Ranch Comprehensive Plan:** Recommendations to reflect the core principles and values espoused by the City of Fair Oaks Ranch residents, which have been captured in the Comprehensive Plan. Includes policy implementation opportunities to reflect the aspirations of the 2018-2019 Comprehensive Plan.

PROPOSED AMENDMENTS TO BE DISCUSSED AT SESSION 2

The amendments proposed at this session are considered minor and pertain to incomplete information, inconsistencies, grammatical errors, and missing standards/guidelines. The attached memo explains the amendments.

P & Z ACTION

Review recommendations and provide input.

City of Fair Oaks Ranch
Proposed Unified Development Code Amendments
Session 2 - Incomplete Information, Inconsistencies, Grammatical Errors,
and
Missing Standards/Guidelines

Contents

1. Observation - Clarification of Requirements	2
2. Observation - Simultaneous Application Submittals	3
3. Observation - Determination of Application Completeness and Notification.....	4
4. Observation - Incomplete Information	6
5. Observation – Drive-Through Facilities.....	10
6. Observation – Omitted Procedures	11
7. Observation – Permit Expiration Consistency.....	11
8. Observation – Incorrect References	12
9. Observation – Building Frontages.....	12
10. Observation – Application Timeline.....	12

Recommended amendments:

Italicized text indicates current text in the UDC.

Strike out text indicates proposed deletions.

Bold and underlined text indicates additions.

1. Observation - Clarification of Requirements

Section 1.9 - Updates or Code Amendments, explains the process for revising the UDC. It is not clear if the process includes a public hearing as required by the state statutes.

✓ Recommendation

Clarify the process and include a public hearing to ensure compliance with statutory requirements.

Proposed Changes:

Section 1.9 Updates or Code Amendments

The purpose of this section is to provide for updates to the Code in order to modify procedures and standards for workability and administrative efficiency, eliminate unnecessary development costs, and update the procedures and standards to reflect changes in the law or the state of the art in land use planning and urban design.

Any person may provide a request for amendment to the Code to the City Manager (or designee) in the following manner:

- *The request for amendment will be labeled “Code Amendment Request” and will include a summary of the proposed changes, the reason for the proposed changes, and suggested text amendments.*
- *The City Manager (or designee) may conduct workshops to informally discuss the Code Amendment Requests with neighborhoods, developers, homebuilders, design professionals, and other stakeholders in the development process.*
- *The City Manager (or designee) will receive the amendment request and will refer the proposed amendments to the Planning and Zoning Commission.*
- **The proposed amendments will be heard at a joint public hearing of the Planning and Zoning Commission and the City Council.**

~~(4)~~ **(5)** *The Planning and Zoning Commission will refer the Code Amendment Request to the City Council with recommendations for amendments to the Code.*

~~(56)~~ **(56)** *Code Amendment Requests will serve a legitimate purpose. The City Manager (or designee) will review each request and make a determination on whether the request serves a legitimate purpose. The City Manager (or designee) will forward the requests as described above and notify individuals who submitted an Amendment Request of the status of their request. An individual whose request is denied by the City Manager (or designee) and who disagrees with the decision, can petition the City Council to consider his/her request within 60 days. The City Council will make a final determination as to whether the request should be forwarded to the Planning and Zoning Commission per the procedure described above.*

2. Observation - Simultaneous Application Submittals

The UDC permits simultaneous submission of multiple applications (Section 3.3(2) – Related Applications and Permits). This presents a conflict with statutory time limits on approvals, especially for plats. Typically, permit applications should not be reviewed if zone change and platting processes have not been completed.

✓ Recommendation

Modify this section to clarify the sequential order and pre-requisites for each type of application and permit related to development.

Section 3.3 Related Applications and Permits

Related applications and permits will be submitted, reviewed, and approved / denied based on the procedures listed below. Some of these procedures may be followed concurrently, while some procedures require pre-approval of other procedures. The Administrative Procedures Manual should clarify the timing of these procedures.

1. Development Requiring Multiple Approvals

The following restrictions apply to development applications requiring multiple approvals:

a) Policy Related Applications. *Policy related applications for permits required for a particular project ~~may occur in any order but~~ will be sequenced so that when final actions occur, each approval provides any requisite requirement for a subsequent related approval.*

b) Subdivision Applications:

i. *Subdivision applications may ~~generally not~~ be considered concurrently.*

ii. *The Comprehensive Plan Compliance Review should occur before any Subdivision Application.*

iii. *When required, the Concept Plan must be approved before the Preliminary Plat may be submitted.*

iv. *No application for Final Plat review will be considered complete and accepted for submittal until final action on the Preliminary Plat has occurred.*

v. *Approval of the Final Plat will not be granted until written approval of associated construction plans and plans for dedication of land and community facilities has been given by the City Manager or his designee.*

a) Development Applications:

- *No Development or permit application may be considered if there is pending subdivision activity for the same tract of land, except for administrative determinations.*
- *Appeals of administrative decisions may only occur after a final decision by the City Manager.*
- *Consideration of development or permit applications will be sequenced so that when an approval occurs, it will provide any requisite requirement for a subsequent related approval.*

(2) Simultaneous Submission of Related Applications

Submittal of different applications related to the same development may **not** be made simultaneously, ~~although and~~ the review and processing of applications must remain in sequence as described in Table 3.1 above and /or elsewhere in this Code.

a. Applicants may **not** file multiple applications for non-concurrent actions / approvals. ~~It should be understood, however, that applications~~ **Applications must be filed in the sequence that they will be reviewed and processed in the sequence required** pursuant to this Code. After each application receives final action, the next consecutive application in the Code process will be reviewed for completeness pursuant to the appropriate process.

b. **Acceptance of** any application submitted simultaneously with other applications is subject to approval of all other related applications that are prerequisite(s) to consideration of another application in the development process. Denial or disapproval of any concurrently submitted application will prevent ~~consideration~~ **acceptance** of any related applications unless and until the denied or disapproved application is resolved or approved.

c. An applicant may withdraw any individual application from a group of simultaneously submitted applications. **If an application that is considered a pre-requisite to another application is withdrawn, then all consecutive applications may be considered withdrawn.**

3. Observation - Determination of Application Completeness and Notification

Requirements for written determination of application completeness and notification via certified mail in Section 3.4(4) (d) appear to be in conflict the requirements of the Texas LGC.

A recent bill approved by the Texas Legislature, Texas House Bill 3167, dubbed the “shot clock” bill, went into effect on Sept. 1, 2019. The bill expands on previous legislation requiring cities and counties to act on plat applications within 30 calendar days. The new law extends this

requirement to other types of site development plans, including preliminary plats, preliminary subdivision plans, and subdivision construction plans. Additionally, subsequent applications will now be subject to a 15-day review period. Plans that have not been acted on at the end of these timeframes must be automatically approved.

Under the new law, municipalities have the option to “approve,” “disapprove” or “approve with conditions” future development applications. The law further requires municipal authorities conditionally approving or disapproving an application to provide a written statement of conditions or reasons for disapproval, citing specific laws or municipal ordinance language. This provision is intended to prevent reviewers from providing arbitrary comments to prevent a development from occurring. However, opponents of the new regulations argue this provision prevents staff from using engineering judgement or best practices to prevent unsafe or undesirable development practices.

Finally, the rule prevents staff from making new comments on applications after the initial review and comment period. This stipulation prevents reviewers from providing comments on design elements that were overlooked during the first review but also has the potential to extend to cases where modifications to the plans have resulted in new compliance or safety issues.

The entire Unified Development Code will be reviewed to ensure compliance with the Texas House Bill 3167.

✓ **Recommendation**

Modify this section to ensure that application processing procedures comply with state statutes (, including completeness checks and applicant notification requirements.

(4) Determination of Application Completeness.

*d. Written Determination. Not later than the ~~fifteenth tenth~~ **(15th 10th)** business day after the date an application is submitted, the City Manager (or designee) will make a written determination whether the application constitutes a complete application. This will include a determination that all information and documents required by this Code for the type of permit being submitted or other requirements have been submitted. A determination that the application is incomplete will be mailed to the applicant within such time period by United States Certified Mail at the address listed on the application. The determination will specify the documents or other information needed to complete the application and will state that the application will expire if the documents or other information is not submitted within 45 days after the date the application was submitted.*

e. An application filed on or after the effective date of this ordinance will be deemed complete on the 11th business day after the application has been received, if the applicant has not otherwise been notified that the application is incomplete. For purposes of this Section, the applicant will be deemed to have been notified if the City has mailed a copy of the determination as provided in subsection d.

4. Observation - Incomplete Information

Tables 3.1- Summary of Review Authority, 3.2- Expiration of Inactive Permits or Approvals, 3.3- Summary of Required Public Hearings, and 3.4- Summary of Notice Requirements are incomplete or inaccurate- platting procedures, missing application types, statutory compliance, clarifications, and applicant/public notification.

✓ **Recommendation**

Amend these tables to ensure consistency, completeness, accuracy, and conformance with state statutes. These recommended changes have been identified in the redlined UDC in Appendix B.

Please see proposed revisions below:

Table 3.1 Summary of Review Authority								
PERMIT OR APPLICATION	Within City Limits	Within ETJ	<u>Pre-Application Conference</u>	Administrative Review	Planning & Zoning Commission	Zoning Board of Adjustment	City Council	Appropriate County
POLICY RELATED APPLICATION PERMITS								
Comprehensive Plan amendment	+	+		O	O		X	O
Code Text Amendment	+	+		O	O		X	O
Special Use Permit	+			O	O		X	O
Zoning Map Amendment (Zoning or Rezoning)	+		O	O	O		X	
Planned Unit Development (PUD)	+		O	O	O		X	
Annexation		+	O	O			X	
Conservation Development Alternative (CDA)	+		O	O	O		X	
SITE DEVELOPMENT RELATED APPLICATIONS AND PERMITS								
Zoning Verification	+			X				
Legal Lot Verification	+	+		X				
Written Interpretation	+	+		X				
Certificate of Design compliance	+			X				
Stormwater Permit	+	+		X				
Appeal of Administrative Decision (Zoning)	+	+				X		
Appeal of Administrative Decision (All others)	+	+					X	
Special Exception	+	+		O		X		
Policy Variance (development Standards, ex. Lane-widths, Landscaping Requirements)	+	+		O			X	
Judicial Variance (Zoning-related, ex. Setbacks, Building Frontage)	+	+		O		X		
Site Development Permit	+	+		X				
Master/Common Sign Plan	+	+		X				
Sign Permit	+	+		O			X	
Temporary Use Permit	+	+		X				
On-Site Wastewater (OSSF) Permit	+	+						X
SUBDIVISION AND PROPERTY DEVELOPMENT RELATED APPLICATIONS AND PERMITS								
Minor Plat	+	+		X				
Amending Plat	+	+		X				
Replat	+	+		O	O		X	
Development Plat	+	+		O	O		X	
Conceptual Plan	+	+		O	O		X	
Preliminary Plat	+	+		O	O		X	
Final Plat	+	+		O	O		X	
Construction Plan	+	+		X				
Policy Variance (development Standards, ex. Lane-widths, Landscaping Requirements)	+	+		O	O		X	
Judicial Variance (Zoning-related, ex. Setbacks, Building Frontage)	+	+		O		X		
Development Agreement	+	+		O	O		X	
+: Applicable X: Final Action O: Review/Recommendation *: Limited Review Authority/Applicability								

Table 3.2: Expiration of Inactive Permits or Approvals	
Comprehensive Plan Amendment	No Expiration
UDC Text Amendment	No Expiration
Special Use Permit	No Expiration
Zoning Map Amendment (Rezoning)	No Expiration
Planned Unit Development	No Expiration
<u>Conservation Development Alternative</u>	<u>No Expiration</u>
Annexation	No Expiration
Letter of Regulatory Compliance	24 Months
Written Interpretation	24 Months
Certificate of Design Compliance	24 Months
Storm Water Permit	24 Months
Appeal of Administrative Decision	24 Months
Administrative Exception	24 Months
Variance	No Expiration
Administrative Plat	No Expiration <u>(on Recorded Plats)</u>
Concept Plan	24 Months
Preliminary Plat	12 Months
Final Plat or Development Plat	No Expiration on a Recorded Final Subdivision Plat; 12 months for a plat approved by City Council that has not posted surety, begun construction of public infrastructure, or failed to provide required recording information
Construction Plan	24 Months
Development Agreement	As Specified in Agreement
Site Plan Development Permit	24 Months
Master Sign Plan	24 Months
Sign Permit	24 Months
Temporary Use Permit	As Specified in Agreement
Sign Special Exception or Appeal to an Administrative Decision	No Expiration

Consider adding an expiration date for PUD/CDA if no plat or permit has been issued

Table 3.3 Summary of Required Public Hearing			
Type of Application	Planning and Zoning Commission	Zoning Board of Adjustment	City Council
Comprehensive Plan Amendment	X		X
UDC Amendment	<u>X</u>		X
Special Use Permit	X		X
Zoning Map Amendment (Zoning or Rezoning)	X		X
Planned Unit Development	X		X
<u>Conservation Development Agreement</u>	<u>X</u>		<u>X</u>
Annexation			X
Appeal of Administrative Decision (Zoning)		X	
Appeal of Administrative Decision (All others)			X
Policy Variance	X		X
Judicial Variance		X	
Development Agreement	X (*See Note)		X
Appeal of Denial of Sign Permit		X	
Replat			X

X - Public Hearing Required

Development Agreements containing any of the above provisions must meet the public hearing requirements of such.

* - Pursuant to City Charter Section 7.14 B3

5. Observation – Drive-Through Facilities

Conditional use guidelines for retail sales or services with a drive-through facility have not been developed (Section 4.10 – Conditional Uses).

✓ Recommendation

Develop drive-through facility guidelines and incorporate them into the Fair Oaks Ranch municipal code and UDC.

Points of discussion:

- If adjacent to another commercially zoned property between which screening would not typically be required, if that property is being used as residential at the time of site plan submittal, the building would have to be re-oriented. Identify existing instances to see where this situation exists.
- Consider guidelines on outdoor speakers that can be detrimental when adjacent to residential uses.
- Additional adjacency requirements such as setbacks, landscaping, opaque fencing, etc.

Section 4.10 Conditional Uses

(1) *Retail Sales or Service with Drive Through Facility* Retail Service with drive through facility will be governed by the **following requirements: design guidelines promulgated by the City or by a design UDC. Until such guidelines are adopted, an applicant will develop plans consistent with the comprehensive plan and submit them to the City for approval by the City Manager (or designee), with appeal to the Zoning Board of Adjustment.**

- (1) Drive through windows and similar elements shall not be located in yards adjacent to residential zone or use.**
- (2) Such facilities must meet all applicable screening and landscaping requirements of Section 7.5(7) and Section 7.7.**
- (3) A stacking space shall be an area on a site measuring eight feet (8') by twenty feet (20') with direct forward access to a service window or station of a drive through facility which does not constitute space for any other circulation driveway, parking space, or maneuvering area.**
- (4) For financial institutions with drive-through facilities, and restaurants with drive-thru service, each teller window or station, human or mechanical, shall be provided with a minimum of five (5) stacking spaces.**
- (5) For retail operations, other than restaurants, banks and kiosks that provide drive-up service, including pharmacy and dry cleaners, a minimum of three (3) stacking spaces for each service window shall be provided.**
- (6) Each car wash bay (of any type), vacuum, or gas pump shall be provided with a minimum of four (4) stacking spaces, in addition to the bay or**

pump itself. One stacking space shall be provided at the exit end of each wash bay for window-drying and other detailing unless a separate area and shade structure is provided. The finish and drying area must be located out of circulation aisles, access easements, fire lanes and streets. Vehicle drying area shall not be in a yard along a Primary or Secondary Frontage.

(7) For automobile quick-lube type facilities, a minimum of three (3) stacking spaces shall be provided for each service bay in addition to the service bay(s) itself.

(8) For use not listed above number of stacking spaces will be determined by the City Manager or his/her designee.

6. Observation – Omitted Procedures

The UDC lists specific approvals and review materials but these items have been omitted or not included. Examples include criteria for Annexation Petition and Development Agreement on the bulleted list in Section 3.7 – Policy Related Applications and Permits, “charitable conversations” in 4.13(4)(d) Outdoor Display and Storage and expansion or conversion of existing buildings in Section 6.3(2)(b) – Site Development.

✓ Recommendation

Draft and include approval and review criteria for all missing applications.

We are addressing this in the review checklists.

7. Observation – Permit Expiration Consistency

Permits have varying expiration dates which make enforcement, compliance, and renewal difficult for City Staff and applicants. For example, the UDC calls for building permit expiration within 270 days from the permit issuance date (Section 3.12 – Building Permits) while other permits expire later after 365 days.

✓ Recommendation

Consider standardization of 365 days for all permits, where permitted by state statutes.

Section 3.12(d) – Building Permits – Expiration and Extension

- i. *Expiration.* A Building Permit for a residential or commercial development will expire if the building or work authorized by such permit is not commenced within 365 days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 365 days. For all other types of development, A Building Permit will expire if the building or work authorized by such permit is not commenced within ~~270~~ 365 days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of ~~270~~ 365 days. Before such work can be recommenced, a new permit will be first obtained to do so, and the fee for the new permit

will be one-half (1/2) the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work, and that the suspension or abandonment has not exceeded one (1) year. If the suspension or abandonment has exceeded one (1) year, the permit fee will be the full fee for a new permit and will comply with all codes and ordinances applicable at that time.

8. Observation – Incorrect References

The UDC incorrectly points to sections that do not address the subject matter being referenced. For example, Section 5.3(3)(b) sends the readers to Section 7.4(1) for “Direct Street Access Exceptions” but that topic is not discussed in the directed section.

✓ Recommendation

Ensure that the intra-document references are accurate.

Section 5.3 Minimum Requirements

No Preliminary Plat or Final Plat will be approved and no completed improvements will be accepted unless they conform to the standards and specifications of this Code. Every building erected or moved and every lot platted for development must conform to the following minimum requirements:

- a. Meet the minimum lot requirements of at least one type of lot described in this Section;*
- b. Have direct access to an approved public or private street or street right of way, as specified in this Code; ~~except as provided in Section 7.4(1) of this Code;~~*

9. Observation – Building Frontages

Buildings are required to be oriented towards primary or secondary frontage (Section 7.5(1) – Building Orientation and Standards). These frontages are referenced in the Zoning Map, and applicants and developers may not be aware of that.

✓ Recommendation

Consider editing this clause to state, “The type of frontage area is indicated on the Zoning Map:”

Section 7.5 (1) Building Design Standards – Building Orientation and Entrances

*Buildings shall be oriented towards Primary Frontages, where the lot has frontage along a Primary Frontage. If a building has no frontage along a Primary Frontage, then it shall front a Secondary Frontage. All other buildings may be oriented towards General Frontage Streets or Civic Spaces. **The types of Frontages are indicated on the Official Zoning Map.***

10. Observation – Application Timeline

Application processes and timelines are not clear. The users of the UDC should benefit from an outline for the overall development process.

✓ **Recommendation**

Consider using a standard format for all types of applications that would delineate all the steps required for all applications consistently. Include flowcharts and graphics in the Administrative Procedures Manual.

These standards have been created in the Administrative Procedures Manual. Please see the Administrative Procedures Manual for more details.