

**MINUTES OF THE MEETING OF THE JERSEY VILLAGE
PLANNING AND ZONING COMMISSION**

April 29, 2013 – 7:00 p.m.

THE PLANNING AND ZONING COMMISSION OF THE CITY OF JERSEY VILLAGE, TEXAS, CONVENEED ON APRIL 29, 2013 AT 7:00 P.M. IN THE CIVIC CENTER, 16327 LAKEVIEW, JERSEY VILLAGE, TEXAS

A. The meeting was called to order at 7:02 p.m. and the roll of appointed officers was taken. Commissioners present were:

Chairman, Debra Mergel	Tom Eustace, Commissioner
Barbara Freeman, Commissioner	Joyce Berube, Commissioner
George Ohler, Commissioner	

Commissioners Rick Faircloth and Michael O’Neal were not present.

Council Liaison, Justin Ray was not present when the meeting was called to order but joined the meeting in progress at 7:45 p.m.

Council Member Harry Beckwith III, PE, was not present when the meeting was called to order but joined the meeting in progress at 7:45 p.m.

Staff in attendance: Lorri Coody, City Secretary; Bobby Gervais, City Attorney; Danny Segundo, Director of Public Works; Christian Somers, Building Official; and Deborah Capaccioli-Paul, Engineering Technician.

City Manager, Mike Castro was not present when this meeting was called to order, but joined the meeting in progress at 7:50 p.m.

B. Consider approval of the minutes for the meeting held on April 9, 2013.

Commissioner Freeman moved to approve the minutes for the meeting held on April 9, 2013. Commissioner Eustace seconded the motion. The vote follows:

Ayes: Commissioners Eustace, Berube, Freeman, and Ohler
Chairman Mergel

Nays: None

The motion carried.

C. Discuss and take appropriate action concerning the application request of Height Venture Architects LLP, 1111 North Loop West, Suite 800, Houston, TX 77008 to make modifications to some “mixed-use,” “highway mixed-use,” mandatory plaza, civil building, and streets in District D and to consider the existing Conceptual Plan as a Special Development Plan in accordance with the requirements of Chapter 14, Section 14-120, subsection 3.7 of the Jersey Village Code of Ordinances.

Building Official, Christian Somers, introduced the item. He explained that Height Venture Architects LLP filed an application for a zoning amendment on April 24, 2013. The request

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is to make modifications to some “mixed-use,” “highway mixed-use,” mandatory plaza, civil building, and streets in District D and to consider the existing Conceptual Plan as a Special Development Plan in accordance with the requirements of Chapter 14, Section 14-120, subsection 3.7 of the Jersey Village Code of Ordinances.

Mr. Somers introduced Michael A Kravetz, Project Architect with Heights Venture Architects who gave a presentation on the applicant’s request. Mr. Kravetz explained the request with a series of slides demonstrating the current regulating plan for district D and the proposed changes to the current regulating plan should the Special Development Plans for two quadrants of land being called (1) Jersey Village Court and (2) Jones Crossing be approved.

The Special Development Plan submitted for the two developments generally conforms to the special requirements of district D. However, there are a few areas for review by the Commission where amendments to the Code are necessary. These changes involve road alignments and code revisions as follows:

ROAD ALIGNMENTS		
Street Indicator*	Issue	Road Alignments
Mandatory Road Realignments		
A	Cuts through property and intersects at drainage.	Align with edge of Jones Crossing property line.
B	Street cuts through property.	Align streets around civic building to existing grid.
C	Does not connect to Wright Road.	Extend street to Wright Road.
Non-Mandatory Road Realignments		
D	Cuts through property.	Aligns with Jones Crossing property line.
E	Cuts through property.	Aligns with boundary between Jones Crossing and Jersey Village Court.
Jones Road Alignment		
F	Does not match where actually built.	Shows Jones Road as actually built.
*According to Applicant's Special Development Plan.		

CODE REVISIONS	
1	Change part of Highway Mixed Use Zone and Mixed use Zone into a Transition Use Zone with allowable 100% warehouse use.
2	Increase requirement of Mixed Use Zone in front of Transition Zone to 40% frontage requirement.
3	Modifications to green zones and civic building based on realigned roads.
4	County drainage area removed from zoning status.

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In reviewing these alignments, the Commission engaged in discussion. There was concern that there may be some issues with making the adjustments. However, it was explained by the Architects that the adjustments will go hand in hand with the requested code changes and the road alignments will enhance the ability to build on some areas of the property that would otherwise not be “buildable.”

Discussion was had that perhaps the suggested changes will change the intended “mixed used” concept of the TOD (transit oriented development) idea of Jersey Crossing. The warehouse concept tends to lend itself toward commercial and away from a TOD concept.

Mr. Kravetz explained that allowing the warehouse district permits the developers the ability to build out the other areas. It creates the funding to get the other development built.

Mr. Kravetz also explained that the requested zoning amendments are a “win – win.” There is some give and take in the approach and the warehouse district will only be 10% of the entire development plan.

The Commission engaged in discussion about the location of the warehouse district. Mr. Kravetz explained that in developing the plan this area was selected because it was the least desirable for development. The area along US 290 has the railroad tracks fronting it and there is an area of “mixed use” land use as a buffer along Jones Road. They explained that once the warehouse district is built and underway, the intent is to build “up-scale lofts” in the area.

The Commission discussed the traffic volume on Jones Road and how this might be a problem with large trucks entering the warehouse district. The Commission wanted to know how this increase in “truck traffic” will be addressed should the Special Development Plan be approved. The Architects explained that the traffic is addressed from a conceptual level by confining traffic to one of the coordinating drives; however, other than this, perhaps a traffic study is needed. The Commission wondered if the railroad right-of-way was an option for the truck traffic, but Mr. Kravetz explained that this was not an option.

Mr. Kravetz introduced Mr. Oliver Chang, the owner of the 30 acres for which most of the proposed changes are being made. He was present to answer any questions that the Commission might have for him.

Council Liaison, Justin Ray joined the meeting in progress at 7:45 p.m.

The Commission asked for input from Staff. Mr. Somers, the City’s Building Official, told the Commission that the Special Development Plan submitted, while not exactly in accordance with the adopted form based code; does address the topographical issues pointed out by the Architects and initially overlooked when the form based codes were adopted. Additionally, due to the market and other factors, it might be that the mixed use development initially hoped for may not be a possibility. That being said, the proposal comes close to what was intended and Staff is receptive to the request.

City Manager, Mike Castro joined the meeting in progress at 7:50 p.m.

Despite Staff’s support, the Commission is concerned about the truck traffic that may come with this request along with the other problems that accompany increased truck traffic.

In closing his presentation, Mr. Kravetz explained subsection 3.7 of the Chapter 14-120. He told the Commission that a request for a Special Development Plan (SDP) permits the requestor to ask for a modification to any of the standards of Section 14-120. SDP's are intended to allow applicants development flexibility to address specific market opportunities and/or contexts. He went on to tell the Commission that in evaluating an SDP the Commission and City Council may consider the extent to which the application meets any of the following:

1. The goals and intent of the Conceptual Plan;
2. Provides a "Master Plan" approach by consolidating multiple properties to create a predictable, market-responsive development for the area;
3. Fits the adjoining context by providing appropriate transitions;
4. Provides public benefits such as usable civic and open spaces, livable streets, structured or shared parking, and linkages to transit and adjoining opportunities; and
5. Does not hinder future opportunities for higher intensity, mixed use development.

Mr. Kravetz stated while only one is required; the Special Development Plan submitted meets all five (5) of the criteria listed.

The Commission closed discussion on this item by asking for more information concerning truck traffic and the noise that may result from same. They agreed that the May 14, 2013 agenda would contain a discussion item for this issue as well as an item for the preparation of a preliminary report.

D. Discuss and take appropriate action regarding information received from the Transit Oriented Development (TOD) Consultants pertaining to the effects of digital signs on development, growth, property values, etc. in the TOD area.

Danny Segundo, Director of Public Works, introduced the item. Background information is as follows:

At its April 9 meeting, the Commission requested staff contact the city's TOD consultant regarding digital billboards. Specifically, the Commission desired to know the relationship between the presence of digital billboards and the desirability of an area for development. Will the presence of a digital billboard within the TOD area help or hinder development of this part of the city?

Staff subsequently contacted Kimley-Horn and Associates (KHA). The planner that worked with the city on the TOD project, Joe Willhite, is employed by another firm and was not available for comment. The city manager contacted Mr. Sam Lott, with KHA, to address the Commission's request. Mr. Lott has referred the city manager to a KHA planner with expertise in this area. Subsequently, the planner contacted the city manager to gain background information and determine the exact nature of the Commission's request.

Mr. Aaron Nathan, with KHA, subsequently called the city manager to report his findings. Mr. Nathan had conversations with planners who worked within KHA, and external to the firm. Mr. Nathan spoke with a total of four planners that he considered to be expert in the area of land development. It was a clear consensus of the group that placement of a digital

billboard near the TOD would not adversely impact the potential for development in the area. Mr. Nathan spoke of several caveats to his position. He believed his opinion was valid, subject to the following conditions:

- The proposed billboard was directionally focused on U.S. 290 highway traffic, and was not oriented toward the TOD or the Jones Road extension.
- The size of the proposed billboard was consistent with the existing billboard, and not markedly different from other billboards in the vicinity.
- The proposed billboard was consistent with the context of the area, and did not differ in terms of shape, height, movement, proportionality, etc.

Prior to the conversations with Mr. Nathan, staff found related case law that speaks to the unique nature of billboards and billboard advertising. The excerpt below is from a New York / U.S. District Court Case from 2005. The excerpt acknowledges that billboards create unique development issues. Although this may not specifically address the Commission's direct question, it is a legal finding that seems to support many of the negative consequences associated with digital billboard advertising. The Court's findings are included herein as an attachment. There are other Findings of Fact from the case that speak to the Commission's present concerns.

40. The court rejects the attempt to liken the erection of billboards along Sunrise Highway to existing on-site advertising and/or the limited code violations pointed out by Nichols. Instead, this court finds, and the Supreme Court has noted, that billboards, "by their very nature, wherever located and however constructed," are, simply, different. *They are designed to "stand out and apart from their surroundings" and therefore "create a unique set of problems for land use planning and development."*

To summarize, we have a planning firm that is familiar with the city. They offer the opinion that the placement of a digital billboard near the TOD will not adversely affect development potential, subject to several reasonable caveats. Staff has found case law that would seem to indicate otherwise. In the New York case, after hearing testimony, a U.S. District Court held that billboards are different, and do stand out. Although the New York case does not speak directly to digital billboards, a logical extension of the findings would indicate that digital billboards "Stand out more".

Discussion was had about the lawsuit and about the TOD development information. Some members of the Commission felt that the City of Houston is a growing Community that does not have billboards, and that Jersey Village is being asked to accommodate because Houston will not. It was felt, if you cannot have Houston, why not Jersey Village.

E. Discuss and take appropriate action regarding the unique major interchange created between US 290 and Beltway 8 by the US Highway 290 expansion project and how the new roadway affects digital signage.

Danny Segundo, Director of Public Works, introduced the item. He gave a presentation which gave information regarding the unique major interchange created between US 290 and Beltway 8 by the US Highway 290 expansion project and how the new roadway affects digital signage. His presentation focused mostly on Segment 6 of the project. He explained

the project in terms of the location of the new roads as well as the relocation of the City's utility easements. He showed slides depicting what the roadway looks like now which is 11 lanes wide; and what it will look like when it is completed which is some 23 lanes wide. He also showed the location of the existing billboards along this stretch of highway, indicating which signs will be eliminated because of the project.

The Commission appreciated this information and engaged in limited discussion on the matter.

F. Discuss and take appropriate action regarding the effects of digital signage on local businesses, including the effects upon the City in terms of cost and labor connected to the placement of service announcements and emergency messaging.

Lorri Coody, City Secretary, introduced the item. She told the Commission that one of the questions that the Commission asked for additional information on at its April 9, 2013 meeting involved the effects of digital signage on local businesses. The Commission felt that additional information was needed in connection with the following:

How many local businesses want this sign for advertising? How will it impact local businesses? Will it cost the City for putting the ads on the signs, especially when there are changes in the ads? For example when the ad for the golf course is placed, who will prepare the lay-out for this advertising? What skills are needed? How much staff time is needed? Does the city currently have this skill set within the existing employee base etc.?

Ms. Coody explained that without conducting an actual survey, it would be difficult to determine how many of the local businesses actually want this sign for advertising. However, she stated that it may be possible to determine how many businesses would be interested in using this form of advertising median by exploring the costs/rates associated with same.

Advertising rates were a topic of discussion during the April 9, 2013 Planning and Zoning Meeting, when the Commission asked how much Clear Channel charges for digital billboard ads. At that time, Mr. Vela with Clear Channel mentioned that many factors figure into these rates and did not have the figures available.

Since the April 9, 2013 meeting, Ms. Coody explained that staff asked Clear Channel to provide either an email or memo response outlining (1) the advertising rates and (2) the frequency of ad appearance for said rates for each of the following business types:

1. Mom and Pop type businesses. An example of this type of business in Jersey Village would be Natalita's Mexican Restaurant.
2. Medium sized businesses. An example of this type of business in Jersey Village would be Harbor Freight.
3. Conglomerate sized businesses – An example of this type of business would be Sprint or AT&T.

Clear Channel's response arrived late for the meeting packet, but included similar information as presented in the earlier meeting. Specifically the response was as follows:

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“It is difficult to quote a general rate for our digital billboard advertising since there are many factors that go into developing a contract for our services. Market conditions at the time of the contracted agreement, length of the contract, the amount of advertising being purchased, space availability, and desired day parts are just a few factors that would influence a rate. The advantages to local advertisers for this type of advertising include the flexibility of placing ads for a short period of time; no production costs (printing of vinyl coverings) and (depending on availability of slots) the immediacy of advertising placements.”

Ms. Coody explained that since no specific rate information was available from Clear Channel, Staff, via internet research, found information that will be presented in a power-point presentation that explores the costs/rates associated with digital billboard advertising.

Before the rate presentation, Ms. Coody addressed the questions concerning preparation of emergency alert announcements and public service announcements. She told the Commission that she had contacted Francisco Sanchez, Liaison/Public Information Officer, with Harris County Office of Emergency Management (HCOEM). She learned that HCOEM, in May of 2012, partnered with Clear Channel Outdoor to provide emergency messaging to area residents on Clear Channel’s digital billboards in the event of a natural or man-made disaster. Mr. Sanchez explained that Harris County has teamed with three other counties in developing a template to be used for posting emergency messages to digital billboards during such disasters. Basically, he stated that the template being used is designed to accommodate “pre-scripted,” 10 to 14 word messages to be used throughout an emergency. The template is titled “ALERT.” Under the title is a blank to accommodate the 10 to 14 word “pre-scripted” message. The ad closes with a website address and phone number. He stated that should Jersey Village require a template for emergency alerts, he recommends that we use this template in order to keep emergency alerts uniform in nature.

Mr. Sanchez mentioned that the ALERT messages are sent to Clear Channel with posting instructions based upon four (4) levels of need: (1) run when you can; (2) important – run as soon as you can; (3) really important – run now and rotate the message; and (4) Most important – run now, do not rotate, and keep up for a specified period of time.

Mr. Sanchez also explained that HCOEM uses the digital bill boards for public service announcements such as “Hurricane Season is Coming.” For this type message, he told me that Clear Channel will help with the graphics. They send the information and Clear Channel will prepare an ad that is graphically pleasing. There is no charge for the ad prepared by Clear Channel. He did state that this type of ad is only run depending upon available space and when run will rotate along with eight (8) other messages.

In completing her information for the Commission, Mr. Segundo began his presentation concerning digital billboard advertising rates. He explained that advertising costs are based upon:

- Market research
- Time-sensitive messages
- Rates compare with those of radio and TV
- Measuring viewers – 290 flow of traffic!
- The more people viewing your billboard, the higher the advertising rate

➤ Daily Effective Circulation – how many people potentially see billboard

Mr. Segundo also explained the cost per 1,000 tool used by advertisers and the typical time frames that board operators use, which are 4, 12, 24 and 52 weeks. He then went on to explain that Clear Channel has various networks throughout the Houston Area and he showed various slides depicting the cost for advertising on these signs in the various networks. These costs ranged from \$9,000 per week to \$5,000 per week. He explained that each advertiser is guaranteed 1,250, 8-second spots per day per sign.

Mr. Vela stated that network pricing is not accurate for the Jersey Village sign. He stated that the pricing for the Jersey Village sign would be much less since advertisers would be paying for ads that would only run on the one sign. He also stated that the Jersey Village sign would offer flexibility to buy less than weekly advertising. The Commission wanted to know how much the ads would cost. Nonetheless, Mr. Vela was not able to provide an amount/cost for advertising on the Jersey Village sign.

Mr. Vela was asked if there were examples of signs for his company displaying mom and pop advertising on a single sign. If so, where can this type sign be viewed? Mr. Vela could not think of one off hand, but was sure they had examples. City Manager Castro told of a recent visit he made to Conroe, Texas wherein he had an opportunity to view two (2) of Clear Channel's digital billboards. He viewed them for one (1) hour each. There were no mom and pop advertisements. There were only eight (8) advertisers, which consisted of large companies. Of these eight (8) companies, three (3) were companies affiliated with Clear Channel.

Discussion was had on the cost of advertising for local small businesses. Commissioner Freeman made mention of information she had located on Clear Channel's website concerning rates. She stated she found rates of some \$3500 per week and felt that these kinds of rates would be too expensive for most small businesses in Jersey Village.

Council Member Harry Beckwith was present at the meeting. He asked to speak and was granted permission by the Chairman. He stated that his wife owns and operates a local small business. He explained that she pays \$6,000 per month for one (1) 15 second slot per day, 7 days per week on a local radio station. Some Commissioners felt that perhaps renting space on one of the static billboards might provide better coverage for this kind cost for a local business.

The discussion on this topic ended with the realization that it all comes back to the decision of whether or not digital billboards are desired in Jersey Village.

G. Discuss with possible action a request from Council to review city requirements relating to digital billboards.

The Commission's discussion on item F led them to discussion on item G. Background information on this item is as follows:

Prior to this evening's meeting, the Planning and Zoning Commission previously met on March 11 and April 9 to discuss digital billboards. Before discussing the topic with the

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Commission, City Council discussed the item on two separate occasions, January 21 and February 18, 2013.

Much work has gone into this topic by the Commission and Staff. To begin the process, a list of Pros and Cons was developed. Nonetheless, in light of the public comments received on April 9, the information received during the presentations by Clear Channel Outdoor and Scenic Texas, the discussions held by the Commission during both meetings, and the extensive research performed by staff on this topic, it was necessary to adjust the list of Pros and Cons.

In making the adjustments, it seems that the most important factor/benefit for Jersey Village remains the ability to reduce visual clutter through the “sign swapping” program proposed by Clear Channel Outdoor. Also, in light of the additional information received, staff has moved several items to a Neutral Category.

The Commission used the list as tool to generate discussion on the billboard topic and for use in determining the next step in moving forward on this issue. The possibilities to move forward are:

- Recommend city council not move forward with any alteration to the city’s sign ordinance at this time;
- Recommend the city attorney draft proposed changes to the city sign ordinance to facilitate the placement of digital billboards within the city (The commission will need to specify elements to be the focus of draft language);
- Request staff provides further information on specific topics as enumerated by the Commission;
- Take no action.

The Commission engaged in discussion about the amber alerts and the public service announcements. The consensus was that these billboard messages may not be that helpful to Jersey Village residents. City Manager Castro pointed out that the benefit he could see for the signs during a hurricane might be to move people along the freeway and convince them not to stop in Jersey Village by providing information about what is not available like “No Gas.” He stated that this type of tool might have been very helpful during Hurricane Rita. Otherwise, City Manager Castro told the Commission that the City has a fairly sophisticated method of distributing information to residents concerning emergencies.

Discussion was had about the deficit realized each year in operating the Golf Course and whether or not advertising on the sign would enhance these results. The consensus was that it would not.

The Commission discussed the “sign swapping” proposal and what signs would be eliminated in the process. Clear Channel stated that this was still being reviewed and unknown at this time.

The Commission also discussed the legal ramifications of allowing digital billboard signs into the city. The City Attorney was asked his opinion of the most pressing legal ramifications. He named two as follows:

1. Condemnation Proceedings; and
2. The effects the ordinance will have on other sign owners.

Council Liaison Ray told the Commission that City Council is open to considering digital billboards in the City, but would like to insure that any ordinance changes are accompanied by safety guidelines.

The Commission felt that aesthetics are important. Consideration should be given to “how the city will be viewed when passing thorough.”

Equally important is what will be the view from our residents’ back yards? Will there be a glow in the sky? What is it going to look like from their homes?

It will also be important to consider if the sign will be a benefit to local businesses.

Finally, the legal ramifications are a concern for the Commission.

With no further discussion on the matter, Commissioner Ohler moved to table the request from Council to review city requirements relating to digital billboards for further discussion. Commissioner Eustace seconded the motion. The vote follows:

Ayes: Commissioners Eustace, Berube, Freeman, and Ohler
Chairman Mergel

Nays: None

The motion carried

H. Adjourn

With no additional business to conduct Commissioner Freeman moved to adjourn the meeting. Commissioner Eustace seconded the motion. The vote follows:

Ayes: Commissioners Eustace, Berube, Freeman, and Ohler
Chairman Mergel

Nays: None

The motion carried and the Commission adjourned at 9:28 p.m.

Lorri Coody, City Secretary