



## **ORDINANCE NO. 3377**

**AN ORDINANCE OF THE CITY OF FARMERS BRANCH, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF FARMERS BRANCH, TEXAS, AS AMENDED; BY AMENDING THE DEVELOPMENTS STANDARDS RELATING TO THE USE AND DEVELOPMENT OF TRACT 3 IN PLANNED DEVELOPMENT NO. 90 (PD-90) ZONING DISTRICT; ADOPTING AN AMENDED CONCEPTUAL SITE PLAN; PROVIDING FOR PRESERVATION OF PRIOR REGULATIONS RELATING TO OTHER PORTIONS OF PD-90; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A CONFLICTS RESOLUTION CLAUSE; PROVIDING FOR INJUNCTIVE RELIEF; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000.00); AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Planning and Zoning Commission of the City of Farmers Branch and the governing body of the City of Farmers Branch, in compliance with the laws of the State of Texas and the ordinances of the City of Farmers Branch, have given requisite notice by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all property owners generally and to all persons interested and situated in the affected area and in the vicinity thereof, the governing body, in the exercise of the legislative discretion, has concluded that the Comprehensive Zoning Ordinance and Zoning Map should be amended;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS, THAT:**

**SECTION 1.** The Comprehensive Zoning Ordinance of the City of Farmers Branch, Texas, be, and the same is hereby amended by amending the development standards relating to the use and development of the real property identified and described as "Tract 3" in Exhibit "A" of Ordinance No. 2921, as amended by Ordinance No. 2995, (referred to herein as "the Property" or "Tract 3")(said development standards being amended being the same as those set forth in Exhibit "C" of Ordinance No. 2921) to read as follows:

### **A. LAND USES**

All uses of the Property shall be permitted only in the location shown on the site plan. Should a desired alteration or change in use represent a substantial departure from the approved site plan, then such shall be allowed only after resubmittal of the amended site plan.

#### **1. Primary Permitted Uses.** The following uses are permitted within Tract 3:

##### **a. Residential Uses:**

- (1) Multi-family residential (apartment and condominiums); and**

- (2) Home offices and home occupation.

b. Commercial Uses:

Retail uses are encouraged within the District and shall conform to the following standards. A minimum of 30 square feet of retail space shall be provided for every residential unit developed within Tract 3.

- (1) *Retail Services*: Establishments providing services to the general public including restaurants, banks (without drive-through only), real estate and insurance office, travel agencies, health and educational services, and galleries.
- (2) *Retail Trade*: Establishments engaged in selling new goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods. Sale of used goods or merchandise is prohibited.
- (3) *Personal Services*: Establishments primarily engaged in providing services involving the care of a person or his or her apparel, including laundry (pick-up only, no drive-through), cleaning and garment services (pick-up only, no drive-through), garment pressing, coin operated laundries, beauty and barber shops, shoe repair, health clubs and spa, etc.
- (4) *Professional Office*: Includes, but is not limited to, lawyers, engineers, architects, landscape architects, urban planners, accountants, economic consultants, realtors, doctors, dentists, chiropractors, veterinarians (except kennel and overnight animal care facilities are prohibited), or other professionals similar to those listed above.
- (5) *Retail Specialty Shop*: Includes, but is not limited to, the sale of gifts, antiques, flowers, books, jewelry, wearing apparel, or craft shops making articles exclusively for sale at retail on the premises. Sale of used goods or merchandise is prohibited.
- (6) *Day Care*.

**2. Accessory Permitted Uses.** The following accessory uses that are incidental and subordinate to the principal use of the land or building with Tract 3 and located on the same lot with the principal use are permitted:

- a. Community convenience or recreational facilities including health clubs, swimming/spas pools, gazebos, or laundry facilities for the use by

occupants of a development within the mixed residential area.

- b. Public and semi-public open space uses, including parks, playgrounds, and public structures.
- c. Kiosks, provided they are located immediately adjacent to a retail use and are located on private property. Kiosks shall not occupy more than fifty (50) square feet of area and not exceed ten (10) feet in height.
- d. Outdoor seating associated with a restaurant; provided outdoor seating is adjacent to the restaurant and located on private property. Outdoor seating shall not block any pedestrian walkways.
- e. Limited outdoor display and sale of merchandise are permitted within the property line of any given development within the Property. Outdoor Display shall not exceed fifty (50) square feet in area for any individual retail tenant.
- f. “Sidewalk sales” or other displays of merchandise outside of a retail establishment and within the fifteen (15) foot private property setback are permitted; as long the display area does not block any pedestrian walkway; provided, however, sidewalk sales or merchandise display involving the stacking of furniture or other merchandise outside of a retail establishment for more than three consecutive days or more than six days in any calendar month is prohibited.
- g. Outdoor Special Events are subject to the approval of the Building Official in accordance with applicable City ordinances.

**3. Specific Use Permit Required.** Property within Tract 3 may be used and developed for the following purposes following approval of a specific use permit in accordance with the provisions of the Comprehensive Zoning Ordinance, as amended or succeeded:

- a. Full-Service Hotel (a full-service hotel shall have a minimum of full-service restaurant, room service, meeting space and concierge service).
- b. Sidewalk cafe not associated with an adjacent restaurant.
- c. Commercial uses listed in Section 1.A.1., above, if such use is also carried through on more levels above the street level.
- d. Kiosk not located on private property. An encroachment license shall be obtained from the Building Official for the temporary use of the sidewalk for display or sale of merchandise as permitted under Section 1.A.2.f, above.

**4. Prohibited Uses.** Any uses not specifically allowed in Sections 1.A.1, 1.A.2, or 1.A.3 are expressly prohibited. In addition, the following additional uses are specifically prohibited:

- a. Drive-up or drive through establishments.
- b. Pawn Shops
- c. Pornographically or sexually oriented businesses.
- d. Tattoo Studios.
- e. Massage parlors.
- f. Funeral services.
- g. Motor vehicle repair.
- h. Motor-vehicle rental or sales facility.
- i. Dry cleaning plant; provided, however, a pick up station is permitted.
- j. Call Centers.
- k. Cell towers and antenna over 60 inches high (other than one central satellite dish per lot provided such dish is less than five feet in diameter).
- l. Bingo Parlor.
- m. Any active use on the surface of any part of the water body, such as, but not limited to, swimming, boating, jet skiing, or fishing.

**B. BUILDING VOLUME REGULATIONS**

**1. Maximum floor area ratio: 3:1.**

**2. Building heights:**

- a. Building height is defined as the vertical distance from grade plane to the average height of the highest roof surface.
- b. The minimum height of residential buildings within Tract 3 shall be 35 feet. All buildings shall be constructed with at least three stories. Individual leasing offices and clubhouses constructed and used in association with the residential uses of the development may have a

different minimum height, provided such height is established by building elevations approved in association with the approved site plan

- c. The maximum building height shall be eighty-five (85) feet, or a height certified by FAA, whichever is lower.
- d. The final constructed minimum and maximum height of each building shall be established at the time of site plan approval; provided, however, such heights shall conform with b. and c., above.

### **3. Building setbacks**

- a. The minimum front setbacks shall be 15 feet, and maximum setback shall be 25 feet, measured from building wall to the nearest back-of-curb.
- b. The setback requirements in a., above, shall apply to a minimum of 70% of the overall building façade of Phase 1 and 60% of Phase 2 in accordance with the Conceptual Site Plan.

## **C. SITE COVERAGE AND LANDSCAPE**

- 1. **Lot Coverage.** The maximum ground floor gross square foot building coverage within Tract 3 shall not exceed 80% of the total area of the lot on which the building is located.
- 2. **Landscaped Open Space.** The landscaped open space shall be not less than 10% of gross site area. If development on a lot within Tract 3 is phased, the 10% requirement for developed Landscaped Open Space shall be required for each phase. The existing Blue Lake located on Tract 3 shall be considered a separate lot and not counted as part of any future developments required 10% open space requirement within Planned Development District No. 90. "Landscaped Open Space" shall mean zones of grass, ground cover, trees and shrubs, paved and landscaped areas for pedestrian uses, and lakes or fountains, but shall not include paved areas for parking or regular traffic flow.
- 3. **Courtyards.** Open courtyard areas internal to buildings may be included as Landscaped Open Space in meeting minimum Landscaped Open Space requirements provided for herein.
- 4. **Irrigation.** All planted landscaped areas within the District shall be supplied with a fully automatic irrigation system.
- 5. **Trees.** Trees shall be planted as follows:
  - a. On-grade parking lots shall have one (1) tree per 20 parking spaces planted within parking islands.

- b. Trees shall be planted around the perimeter and along all internal streets of Tract 3. Trees shall be installed approximately every fifty (50) feet along all public and private streets or travel-ways, except where proper street sight distance or access is compromised. City staff shall make final determination of all street tree placements.
- c. All surface parking areas shall be landscaped around the perimeter and contain a minimum of 5% of the lot area. All required landscaped areas requiring the placement of a tree shall not be smaller than 150 square feet with no dimension less than eight (8) feet.
- d. All required trees shall be not less than three (3) caliper inches in diameter measured four feet above the root ball at the time of planting.

**6. Plant Species.**

- a. All trees planted within the street right of way or parking areas shall be of a species selected from the following list: Red Oak, Live Oak, Cedar Elm, Chinquapin Oak, Lacebark Elm, Thornless Honey Locust, Chinese Pistache, Bald Cypress, and Pond Cypress. Other species of trees may be approved on a landscape plan approved at the time of site plan approval but shall in any case not include species expressly prohibited by other City ordinances.
- b. All shrubs planted within the street right of way shall be of a species selected from the following list: Fraser's Photinia, Nellie R. Stevens Holly, Burford Holly, Waxleaf Ligustrum, Japanese Ligustrum, Barberry, Compact Nandina, Dwarf Buford Holly, Indian Hawthorne, Junipers, Crepe Myrtle, Yaupon Holly, Crabapple, Redbud, and Texas Sage. Other species of trees may be approved on a landscape plan approved at the time of site plan approval, but shall in any case not include species expressly prohibited by other City ordinances.

**7. Other Requirements.** Any landscape requirement or provisions not addressed in this Ordinance with respect to Tract 3 shall be as specified in the Comprehensive Zoning Ordinance, as amended or succeeded.

**8. Maintenance.** All landscaped open spaces within the Property shall be maintained and managed by a Property Owners Association (POA). All such spaces, with the exception of open courtyard internal to a building, shall be open for public use at all times. The open space area surrounding and including Blue Lake shall also be open to the general public and maintained by a Property Owners Association (POA).

## **D. PARKING**

Parking within Tract 3 shall be provided for the proposed uses at the following minimum ratios, and shall be accommodated at grade or in structures.

1. **Retail, service, and affiliated office support systems.** One space per 400 square feet of gross area.
2. **Eating establishments.** One space for every 200 square feet of eating area.
3. **Residential uses.** 1.25 spaces per unit for each one bedroom unit, 1.75 spaces per unit for each 2 bedroom unit, and 2.25 spaces per unit for each 3 bedroom unit.
4. **Off-Site Parking.** Up to 15% of the required parking on-site for non-residential uses may be provided off-site, provided such spaces are within 200 feet of the development and located on private property.
5. **Shared Parking.** To foster mixed-use interaction between existing and future uses, the number of parking spaces required by this Section 1.D. may be reduced through use of shared parking agreements between owners of adjacent properties upon approval of the City Council at the time of site plan approval. Such shared parking agreements must, as a minimum, provide that the shared parking will remain in effect until such time as the uses requiring the shared parking continue to exist unless otherwise approved by the City.
6. **Standard Parking Stall.** Standard parking stalls shall be not less than nine (9) feet wide or eighteen (18) feet in length. No parking bay (comprised of two rows of standard parking stalls and one travel-way) shall be less than sixty (60) feet wide, inclusive of any structural columns.
7. **Roadside Stalls.** Roadside parking stalls shall be not less than eight (8) feet wide or twenty-two (22) feet in length. One (1) landscape island shall be constructed for a maximum of every eight (8) continuous stalls (or approximately 178 feet). Such island can be modified in design if the island interferes with drainage of the street. City staff shall have the authority to approve the final design of the modified island provided the modifications maintain the general intent of this Paragraph 7.

## **E. LOADING**

1. **Required Area.** Each proposed building shall provide at least one designated off street loading area or facility.
2. **Design.** Loading facilities shall be designed to minimize interference with traffic flow and to eliminate the need to use any public street for the maneuvering of any delivery vehicle.

## **F. SIGNS**

The size, quantity, location, and type of on-premise signs allowed within the Property shall be determined by the approved site plan.

## **G. EXTERIOR MATERIALS**

1. **“Masonry” Defined.** For purposes of this Section 1.G., “masonry” means construction composed of stone, brick, concrete, hollow clay tile, decorative concrete block (but not split-faced or plain faced allowed), or other similar building units or material or combination of these laid up unit by unit and set in mortar.
2. **Minimum Requirements.** For all buildings, exterior walls shall be constructed with not less than 75% masonry material, excluding glass, glass block, stone, cast-stone, or other materials deemed as trim or accents.
3. **Cast in Place.** Use of cast in place of concrete, concrete tilt wall (cast on site or pre-cast) or other material shall be submitted for City Staff approval and determination of consistency with the intent of this Section 1.G.
4. **Wood Prohibited.** Use of exterior wood siding or wood shingle is prohibited. Wood is permitted as a “trim accent” material only.
5. **Stucco.** Use of stucco or other plaster type material (not Exterior Insulation Finishing System, i.e. “EIFS”) for exterior wall is allowed but shall not be more than 25% of the exterior surface. The use of EIFS material shall be allowed as "trim" material only.
6. **Courtyards.** Internal courtyards not visible from the public or private streets, street easements, or adjacent properties are exempt from the percentages outlined in Paragraph 2 and 5, above. Vinyl and plastic fence material are prohibited.
7. **Roof Materials.** Unless otherwise approved by Director of Community Services or designee, roof materials at pitched roofs shall be concrete roofing tile, clay or slate tiles or standing seam anodized or weather coated metal. Thirty (30) year architectural composite shingle roofing material can be used upon approval by the Director of Community Services or designee upon a determination that the appearance and application of such material is generally consistent with the intent of these regulations and any building elevations approved as part of the approved site plan. Flat roofs can be used provided they have a minimum of 42" parapet wall and screening devices that will be used for mechanical equipment.
8. **Parking Garages.** All above-ground structured parking garages that have



frontage on a public street must have a finished front facade or screen, which is complementary to the adjacent building.

## **H. STREETS, ACCESS EASEMENTS, AND SIDEWALKS**

All public street rights-of-way, public access easements, public alleys, private streets and fire lanes within Tract 3 shall be constructed in conformance with City Engineering design criteria.

- 1. Generally.** Streets must be designed and constructed within and/or adjacent to Tract 3 to mitigate the impact of development as identified in a site traffic study or as otherwise may be required as a condition of site plan approval. The street improvements that are required to be constructed shall include as a minimum (but not be limited to): traffic signals and intersection improvements at entrances to the internal roads to the east end of the Property, around the intersection of Midway Road, Blue Lake Circle, and McEwen Drive; along Blue Lake Circle, McEwen Drive, and all internal street improvements within the Property. New streetlights, tree planters, trash receptacles, street benches, shall be installed and maintained by the owner/applicant.
- 2. Sidewalks.** Sidewalks shall be provided on all public and private streets. The width of the sidewalk shall be in direct proportion to the projected volume of users. Barrier-free ramps are required at all intersections and both sides of drives.
- 3. Ground Level Access.** For buildings with residential units on ground level, direct street access to street shall be provided as much as possible.
- 4. Maintenance.** All privately owned streets and easements within Tract 3 shall be maintained by a Property Owner Association. All such streets and easements shall be open for public access at all times, and includes sidewalks.
- 5. Miscellaneous.** All street lights, trash receptacles, street furniture, street signs shall be uniform in appearance and approved by the Director of Community Services or designee prior to installation.

## **I. PHASING**

- 1. Generally.** If a tract is to be developed in phases pursuant to this Ordinance, each sub-tract shall conform to the basic performance standards of this Ordinance, as though it were a separate site.
- 2. Public Access and Fire Lane.** Prior to the issuance of a Certificate of Occupancy for any phase of development in Tract 3, a public access and fire lane of at least twenty-four (24) feet in width shall be constructed within a dedicated public access and fire lane easement to enable ingress and egress to and from the property. Such easement shall be indicated on the site plan for review and approval.

3. **Phased Building Site.** If a building site is to be developed in phases, the submittal shall also include a conceptual plan for future phases showing the approximate location of circulation corridors and public utility corridors, and the approximate location of buildings and parking for future phases.

## **J. CONCEPT PLAN**

1. **Concept Plan Approved.** Tract 3 shall be developed in substantial compliance with the Concept Plan attached to this Ordinance as Exhibit “D-1” and incorporated herein. The Concept Plan establishes the general development intent for Tract 3, including general street layout, primary block configuration, conceptual building shape and layout on each block, general location of public and private parks and amenities, parking arrangement, and generalized public use and access easements. The Concept Plan shall serve as a guide for the approval of any and all Site Plan submissions relating to Tract 3, but shall not be construed to specify precise dimensions, locations, or configurations; such details shall more accurately and appropriately be determined at time of Site Plan approval.
2. **Amendments.** Any amendment of the Concept Plan shall follow the same procedure as required for a zoning amendment. City staff may approve minor amendments to the Concept Plan that do not result in a change in designated uses, the size and bulk of buildings permitted by this Ordinance, or the generally direction and located of streets. City staff shall have the right to present any proposed minor Concept Plan amendment to the Planning and Zoning Commission and City Council for approval.

## **K. SITE PLAN APPROVAL**

Prior to beginning any development on a building site within the Property, a comprehensive Site Plan detailing the proposed development shall be submitted to the Planning and Zoning Commission for review and recommendation and City Council for final approval. No construction permits shall be issued prior to Site Plan approval. Approval shall be based on compliance of the Site Plan with the standards, guidelines, and intent set forth in this ordinance and the Comprehensive Zoning Ordinance. The application for a Site Plan shall include, among other things, the general layout of all streets (public or private), the location of buildings, the proposed building elevations (including building height, exterior materials, and other elements showing compliance with this Ordinance), and a landscaping plan.

## **L. SPECIAL EXCEPTIONS**

In those circumstances where the owner/applicant believes that, due to unique characteristics of the site or other special circumstances, strict compliance with the standards outlined in this Ordinance is not feasible or desirable and that deviation from the standards will allow for equal or better results, the applicant may request a special exception in conjunction with the site plan application for the site to be developed. The Planning and Zoning Commission and City Council

shall consider all requests for special exception to the standard within the context of consistency with the overall concept of the proposed development and whether or not to approve the special exception as part of the approved site plan. In no case shall a special exception be granted that would result in allowing property to be used for a purpose not otherwise permitted by this Ordinance, would allow buildings to exceed the maximum height set forth in this Ordinance, or to alter the requirements with respect to exterior building materials.

**SECTION 2.** Exhibit “D” of Ordinance No. 2921, as amended by Ordinance No. 2995, is hereby further amended to read as set forth in Exhibit “D-1” attached hereto and incorporated herein by reference, it being the express intent to adopt such amendment solely to address the changes to the Conceptual Site Plan affecting Tract 3 as enacted by this Ordinance.

**SECTION 3.** Exhibit “E” of Ordinance No. 2921, as amended by Ordinance No. 2995, is hereby further amended to read as set forth in Exhibit “E-1” attached hereto and incorporated herein by reference, it being the express intent to adopt such amendment solely to address the changes to the Overall Site Plan affecting Tract 3 as enacting by this Ordinance.

**SECTION 4.** It is the express intent that this Ordinance amend only the use and development regulations relating applicable to Tract 3 of PD 90. The use and development of Tracts 1, 2, 4, and 5 of PD 90 as set forth in Ordinances No. 2921, as amended by Ordinance No. 2995, shall continue to be governed by Ordinance No. 2921, as amended by Ordinance No. 2995, without amendment and notwithstanding any reference to the use a development regulations applicable to Tract 3 as set forth in said ordinances.

**SECTION 5.** In the event of an irreconcilable conflict between the provisions of another previously adopted ordinance of the City of Farmers Branch and the provisions of this Ordinance as applicable to the use and development of the Property, the provisions of this Ordinance shall be controlling.

**SECTION 6.** Should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Comprehensive Zoning Ordinance as a whole.

**SECTION 7.** An offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Comprehensive Zoning Ordinance, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

**SECTION 8.** Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be subject to the same penalty as provided for in the Comprehensive Zoning Ordinance of the City of Farmers Branch, as heretofore amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense; and each and every day such violation shall continue shall be deemed to constitute a separate offense.

**SECTION 9.** This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such case provide.

**DULY PASSED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH,  
TEXAS, ON THIS DAY, THE 6<sup>th</sup> OF SEPTEMBER, 2016.**

ATTEST:

APPROVED:

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Amy Piukana, City Secretary

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Bob Phelps, Mayor

APPROVED AS TO FORM:

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Peter G. Smith, City Attorney  
(kbl:8/29/16:78545)

# ORDINANCE NO. 3377

## EXHIBIT "D-1" – Conceptual Site Plan





ORDINANCE NO. 3377  
EXHIBIT "E-1" –Overall Site Plan

