

**REGULAR MEETING OF
CANTON PLANNING & ZONING COMMISSION
SPECIAL DATE: 5:30 P.M., THURSDAY, JANUARY 14, 2010**

CITY HALL, 290 E. TYLER STREET, CANTON, TEXAS

MINUTES

The Canton Planning & Zoning Commission met at the above-named date and time in the City Hall Council Chambers. Commission members present were Lynn Etheridge, Mike Phillips, Don Spence and Brad Williams. Elisa Heard was absent. Building Inspector Coy Prather and Assistant City Secretary Debra Johnson were also in attendance. Discussion and action were as follows:

1. CALL TO ORDER – Lynn Etheridge called the meeting to order at 5:31 p.m. and declared a quorum present.
2. APPROVAL OF MINUTES OF THE NOVEMBER 9, 2009, MEETING – The minutes of the December 7, 2009 Commission Meeting were unanimously approved upon motion by Brad Williams and second by Donald Spence.
3. CONSIDER UTILIZATION OF IMPACT FEES FOR THE CITY OF CANTON – Lynn Etheridge explained the Planning & Zoning Commission had been appointed by Council as the Impact Fee Committee. There was currently a balance of \$241,510 in collected fees. Andy McCuiston pointed out all the fees were not yet collected. The \$240,000 from Brookshires was applied to the cost of the water and sewer lines. Coy Prather said an agreement was made with Brookshires so they would install the water and sewer lines and receive credit on the impact fee. Brookshires spent more money than what would have been spent on the impact fee. Mr. McCuiston said the City came out about \$10,000 to the good in that transaction. He explained the impact fees were based on a study done by the engineers. Mr. Prather said impact fees were to compensate cities for how a new business would impact the city's various systems. They were paid for expansions of facilities, infrastructure, and water and sewer. Impact fees were usually applied in places with rapid growth. Slow growth was one reason Council decided to waive the impact fees. Impact fees already collected had to be monitored and administered pursuant to state law. There were some projects in the engineering study that were not completed. Impact fees could be used to complete any of those projects. The project recommended by staff was the new sewer line for the east outfall. Interstate 20 had to be bored under to get the line to the sewer plant. The project would benefit Mill Creek Resort and any other businesses in that area. Mr. McCuiston explained the whole project would cost \$1.2 million and would be done in two phases. Mike Phillips questioned when Bridwell Center would pay the rest of their impact fees. Mr. Prather said he had sent the owner a notice about the unpaid fees. He said they would not allow any additional utility hookups without having the impact fees paid. He added the fees were based on meter size. The Bridwell Center contractor met with Rick Malone and agreed to pay the impact fees as the water meters were installed. Mayor Wilson said the City allowed the Bridwell Center to hold off paying the fees until the buildings were occupied. Donald Spence asked about a system for someone tying into the system paying a pro rata impact fee. Mr. Prather responded there

was no such system. Mercy Rushing advised impact fees could not be reimbursed according to state law. Lynn Etheridge said she was involved with the nursing home going in on Highway 19. Having to pay impact fees would have made the deal fail. She felt bad that some people had to pay the fees now that they have been repealed. Mr. Prather said those who had paid impact fees could ask for refunds if the City did not go forward with the projects in the study. Our engineer recommended the sewer project as the most necessary. It would enhance the area for Mill Creek Resort, which had paid an impact fee. Mr. Spence suggested a work session to review the projects and recommendations prior to making a decision. Mike Phillips suggested the item be tabled until such a work session could be held. Mr. Prather suggested having the work session at the next regular meeting. Mr. Prather added there were several projects for which the funds could be used. The engineer had indicated which were the most critical. The east outfall project would help the most people. Brad Williams made a motion to table the item until the next regular meeting to allow time for the committee to review the material. Mike Phillips seconded and all voted in favor.

4. ADJOURN – There being no further business to discuss, the meeting was adjourned at 5:55 p.m. upon motion by Brad Williams and second by Donald Spence.

Approved the 8th day of February, 2010.



Elisa Heard, Chairman

ATTEST:



Debra Johnson
Assistant City Secretary

**REGULAR MEETING OF
CANTON PLANNING & ZONING COMMISSION
5:30 P.M., MONDAY, FEBRUARY 8, 2010**

CITY HALL, 290 E. TYLER STREET, CANTON, TEXAS

MINUTES

The Canton Planning & Zoning Commission met at the above-named date and time in the City Hall Council Chambers. Commission members present were Elisa Heard, Lynn Etheridge, Mike Phillips, Don Spence and Brad Williams. City Manager Andy McCuiston, Building Inspector Coy Prather, City Attorney Richard Davis and Assistant City Secretary Debra Johnson were also in attendance. Discussion and action were as follows:

1. CALL TO ORDER – Elisa Heard called the meeting to order at 5:45 p.m. and declared a quorum present.
2. APPROVAL OF MINUTES OF THE JANUARY 14, 2010, MEETING – The minutes of the January 14, 2010, meeting were unanimously approved upon motion by Lynn Etheridge and second by Brad Williams.
3. PUBLIC HEARING AND CONSIDER ORDINANCE AMENDING THE CANTON ZONING ORDINANCE REGULATING SEXUALLY-ORIENTED BUSINESSES IN THE CITY OF CANTON, TEXAS – Elisa Heard opened a public hearing at 6:43 p.m. regarding amendment of the Canton Zoning Ordinance regulating sexually-oriented business in the City of Canton. Richard Davis explained that, at his suggestion, a committee had been formed to develop this ordinance. He said the more input into the development of the ordinance, the better the ordinance would stand up, if challenged. The committee had reviewed case law and ordinances from other cities, as well as other information obtained from the United State's Attorney General. The current ordinance limited SOB's to industrial park zoning. The new ordinance kept that same restriction. He stated it was unconstitutional for a city to attempt to keep out a certain type of business. Case law said a city could look at the secondary effects of such a business, such as the effect on property values in the area and on the crime rate. The committee was not formed as an attempt by the city to draw those type businesses into the community. Coy Prather advised them regarding the type of lighting that should be required. Other aspects they reviewed were limiting the location of the businesses, how close together the businesses were situated, hours of operation and signage. The studies showed when these type businesses were congregated in one area, there was a multiple adverse effect. Other items considered were distances from schools, churches, daycares etc. This was an advisory committee only. Brad Williams said he felt the ordinance was very thorough. He asked if surrounding property owners were opposed, if the business could be kept out of the area. Mr. Davis answered neighbors did not have a right to quash freedom of speech. Elisa Heard said she felt the ordinance was very thorough. Mr. Davis said Page 18 of the ordinance addressed signage. He said "obscene" was the community standard when looking at whether or not a sign was in violation. Mr. Davis said the committee had decided allowing such businesses in industrial zoning would have the least effect on surrounding property. The public hearing was closed at 6:50 p.m. Brad Williams made a motion to recommend adoption of the amendment to the Canton Zoning Ordinance regulating sexually-oriented businesses in the City of Canton. Mike Phillips seconded and all voted in favor.

4. CONSIDER UTILIZATION OF IMPACT FEES FOR THE CITY OF CANTON – This item was taken out of order at 5:47 p.m. Mr. McCuiston said the Planning & Zoning Commission had been appointed as the Impact Fee Committee by Council. The Council eliminated impact fees altogether. The fees collected had to be designated for specific projects as set out in the study done by Gary Burton Engineering. Staff's recommendation was to use the funds for the East Outfall Project which had an unexpected increased expense of \$250,000 due to the fact TxDOT was requiring them to bore under Interstate 20 to extend the pipe to the sewer plant. The Impact Fee Committee would be dissolved after the funds were spent. Mr. Burton was present to communicate the basis for the study and to answer any questions.

Richard Davis entered the meeting at 5:55 p.m.

Ms. Heard requested a copy of the law stating impact fees could not be reimbursed. Mr. Prather said his understanding was if the money had not been used within a five year period, the projects were reviewed. He said a political subdivision shall refund the money at the request of the owner if existing services were not available or construction was not done within ten years. The refund could not be given prior to the expiration of ten years. Mr. Prather said none of the owners had asked for a refund. Ms. Heard said she wanted to make sure those individuals were not penalized because they built in the period of time the City had those fees. Mr. Prather noted there were several projects still to be done from the list. Ms. Heard asked who was responsible for collecting the impact fees and why only \$3,000 of the \$86,000 owed by the Bridwell Center was collected. Mr. Prather explained the contractor for Bridwell was overseeing the project and agreed to pay the impact fees as meters were installed, which was allowed by the ordinance. However, as the meters went in, the fees were not collected. One contractor left the job, then another, and collection of the impact fees slipped through the cracks. Ms. Heard said all fees should have been paid before a green tag was issued. Mr. Prather said the contractors knew the fees should be paid as the meters were installed. Part of the reason the first contractor left was the impact fees owed. Ms. Heard asked if other facilities that went in were responsible for bringing in their own utilities. Mr. Prather said it was dependent on the infrastructure and what services were available. He added the Bridwell Center did not have a Certificate of Occupancy. They had shelled out the shopping center and gotten a temporary CO. The local electric company connected service without a green tag. Mike Phillips asked if there was a chance the City would collect the \$86,000 owed by the Bridwell Center. Mr. Prather said no new meters would be hooked up until the fees were paid. A bill had been sent. Ms. Heard said Brookshires received a \$240,000 credit for bringing in their own utilities. Mr. Prather said Brookshires took the utilities past their business so the lines would be available across Hwy. 64 for that area. He said the ordinance allowed trade offs. Brookshires added an extra manhole and other work. The City gained \$10,000 in the agreement with Brookshires. Mr. McCuiston said the accounting showed Brookshires paid the impact fees and the City paid the utilities. Ms. Heard said normal development costs included bringing utilities to the site. Mr. Prather said there was not an ordinance stating a business had to extend utilities out so many feet. Ms. Heard said Section 19 of the ordinance stated if the funds were not used within ten years, they could be refunded. The City had five years to use the funds. Gary Burton recommended the East Outfall because the added expense of boring under Interstate 20 was an unexpected cost. He said a 24" sewer line would be installed. Phase II of the East Outfall would start at the point where Phase I ended and extend out to the sewer plant. Mr. McCuiston said Phase I was done because of all the businesses added to that area which the sewer line could not accommodate. Mr. Burton said the line was upgraded from an 8" to 15" in Phase I. He explained the whole East Outfall project would cost over

\$1 million. It was being done in phases to spread out the cost. Mr. McCuistion said CEDC was funding the project for \$300,000 per year. There would be four phases. Mr. Burton said the sewer line flowed at almost full. The project was part of the capital improvement plan for the City. He said the money from the impact fees would be used to bore under the interstate. In wet weather the line backed up due to the significant amount of infiltration. Mr. McCuistion said during First Monday and when it rained, the charts were off the scale and it was difficult to treat all the water. Ms. Heard said there was no question the project needed to be done. She did not want to spend the impact fee money to do it. Mr. Phillips said he would like to see the owners get back their money. Ms. Heard said she felt they were being asked to hurry and spend all the money tonight. Ms. Williams asked if the individuals who paid impact fees had received services. Mr. Prather said the East Outfall project would benefit Mill Creek. He added impact fees were very complicated. They were collected because of the impact the business would have on the system. No one who has paid a fee has asked for a refund. The Bridwell Center has not paid its fees. This purpose of this committee was not to decide on refunds. It was an advisory committee. Ms. Heard asked if the Aduddel or John Norman projects had been a drain on the community. Mr. Prather said the funds had to be used for projects in the study by the engineers. Ms. Heard said five or six people had been penalized. The impact fee was not the answer. Mr. Prather said impact fees were for cities with rapid growth. Growth for Canton had slowed. As a result, Council reviewed the fees and decided they were no longer necessary. The City did not know that would happen at the time the fees were collected. Ms. Heard said they were only making a recommendation to Council and they needed to make a motion on whether or not they wanted to recommend a project and spend the money. Lynn Etheridge stated she was concerned about the Bridwell Center. She felt there would be a shopping center that would be left half done and that would hurt the town. If they voted on the money to be used and it was never collected, the project would be short the necessary funds. Donald Spence asked if the businesses that paid impact fees paid for their own installation of utilities. Mr. Prather said they did on site. Ms. Heard added those businesses also paid for building permits. Mr. Prather said it was common for cities with impact fees for the owner to pay for the infrastructure on their site. He called twenty cities to check their fees and costs. Forney had high impact fees and really high permit fees. Ms. Etheridge said people had asked her whether Brookshires actually paid an impact fee. Ms. Heard said they probably carried it as a developmental cost. Mr. McCuistion said his recommendation would be to take all the impact fees collected and apply it to the East Outfall project. Mr. Spence said as far as the committee was concerned the money was there and their task was to recommend a project. It was not under their control whether or not to use the money. Ms. Heard said they could decide to use it anywhere or not use it. Mr. Burton said he had a contractor waiting for the weather to clear before starting on the East Outfall project. He said the project would have to be scaled back because of the extra cost of the bore. The bore would have to be bid out separately. It was already designed. Ms. Heard asked why a project that would benefit Mill Creek was chosen. Mr. Prather explained it was the one the engineer felt was the most necessary. Mr. Prather agreed with the recommendation. He said Mr. Burton knew the infrastructure and what needed to be done. Mr. Burton said this project was shovel ready. Ms. Etheridge asked whether or not all options had been exhausted. Ms. Heard felt they had not but said she would entertain a motion. Ms. Etheridge said she did not know how Brookshires could be refunded. Mr. Spence said they had no control over the funds themselves except what project they could fund. He said this project was ready to go and needed additional funding. Ms. Heard said no one said the funds had to be spent. She felt the question should be whether or not the money should be refunded. Ms. Etheridge said Mr. Prather advised them at the last meeting a refund could not be given. Mr. Prather explained it would have to be upon request of the

owner. Richard Davis said there were two methods under which the money could be refunded. One was if the money had not been spent in ten years and a refund was requested by the owner. The second was if the City refused to give them services, which had not occurred. Ms. Etheridge asked what if the money just sat there for ten years. Mr. Prather said Council might appoint another committee to take action. Ms. Heard said a City should operate in good faith. The impact fees were a mistake and individuals were being penalized. Mr. Davis said they could not change the law even if the facts were bad. Mr. Prather said the City's ordinance followed the state law. You could not just give back the money. He talked to Plano who had done away with impact fees. They were not returning the money they had collected. He said the City had to tell the Attorney General's Office how the plan was followed and the fees were used. They could not do that if they refunded the money. Mr. Spence said they were charged with administrative requirements. Ms. Heard said they had not followed the ordinance on the annual reports. Mr. McCuiston said he would draft the letter for the committee and have it signed by the Mayor. Ms. Etheridge said it came down to the fact that some of them were not comfortable. Ms. Heard said Section 19 gave them wiggle room to not spend the money. Mr. McCuiston said the impact fees were kept in a separate restricted fund. Ms. Heard said she knew the City needed the money but hated to use it on the backs of five or six people. She said the way the City should expand was to raise taxes and all share the burden. She asked if the City was prepared to sue Bridwell Center for the impact fees. Mr. Prather said they did not plan to sue but would not connect any more water meters until the fee was paid. To not hook up more meters was not good for Bridwell Center or for the City. He hoped something could be worked out. Ms. Heard asked if he felt the owner of the Bridwell Center would sue the City and not pay the fee. Lynn Etheridge felt the owner would sue. Mr. McCuiston said Bridwell Center did not have a defensible position. The owner knew about the impact fees, and had given the contractor authorization to deal with the City. One contractor left because of the fees. He said if this committee did not make a motion regarding the fees, he would speak with Council and they would, perhaps, appoint another committee. Mike Phillips said he felt Council should make the decision on how to spend the funds. Ms. Heard said a motion could be made not to recommend spending the money and Council could decide. It was about what message the committee wanted to send and how they would defend their position. The options were to make a motion and vote, table the item or just fail to act at all. Ms. Heard said she did not want to table the item. Mr. Williams said he agreed about the refund. Mr. Spence said they still had the fees that were collected. Mike Phillips made a motion to recommend to Council nothing be done with the collected impact fees. Brad Williams seconded. All voted in favor.

5. ADJOURN – There being no further business to discuss, the meeting was adjourned at 6:50 p.m. upon motion by Brad Williams and second by Mike Phillips.

Approved the _____ day of May, 2010.

Elisa Heard, Chairman

ATTEST:

Debra Johnson
Assistant City Secretary

**REGULAR MEETING OF
CANTON PLANNING & ZONING COMMISSION
5:30 P.M., MONDAY, MAY 10, 2010**

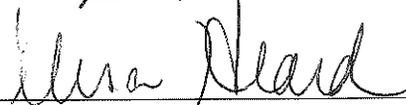
CITY HALL, 290 E. TYLER STREET, CANTON, TEXAS

MINUTES

The Canton Planning & Zoning Commission met at the above-named date and time in the City Hall Council Chambers. Commission members present were Elisa Heard, Lynn Etheridge, Mike Phillips, Don Spence and Brad Williams. Building Inspector Coy Prather and Assistant City Secretary Debra Johnson were also in attendance. Discussion and action were as follows:

1. CALL TO ORDER – Elisa Heard called the meeting to order at 5:32 p.m. and declared a quorum present.
2. APPROVAL OF MINUTES OF THE FEBRUARY 8, 2010, MEETING – The minutes of the February 8, 2010, meeting were unanimously approved upon motion by Mike Phillips and second by Donald Spence.
3. PUBLIC HEARING AND CONSIDER REQUEST FOR ZONING CHANGE FROM RURAL AGRICULTURAL (RA) TO GENERAL BUSINESS DISTRICT (B-2) AT 24780 HWY 64E, CANTON, TEXAS, OWNED BY ROSS AND MARY MARIS AND CURRENTLY UNDER CONSIDERATION FOR ANNEXATION BY THE CITY COUNCIL – Debra Johnson reported letters were sent to five neighboring property owners and no responses were received. The property had been annexed into the City as Rural Agricultural and the owners wanted to change the zoning to suit the business located there. The B-2 zoning would comply with the Future Land Use Plan. Brad Williams noted several different businesses had been at this location. Mike Phillips made a motion to recommend to Council that the zoning change from Rural Agricultural (RA) to General Business District (B-2) at 24780 Hwy 64E, Canton, Texas, owned by Ross and Mary Maris be granted. Brad Williams seconded and all voted in favor.
4. ADJOURN – There being no further business to discuss, the meeting was adjourned at 5:37 p.m. upon motion by Lynn Etheridge and second by Brad Williams.

Approved the 12th day of July, 2010.



Elisa Heard, Chairman

ATTEST:



Debra Johnson
Assistant City Secretary

**REGULAR MEETING OF
CANTON PLANNING & ZONING COMMISSION
5:30 P.M., MONDAY, JULY 12, 2010**

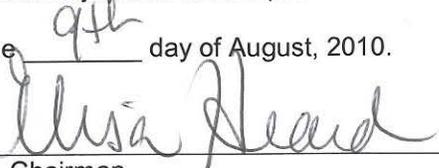
CITY HALL, 290 E. TYLER STREET, CANTON, TEXAS

MINUTES

The Canton Planning & Zoning Commission met at the above-named date and time in the City Hall Council Chambers. Commission members present were Elisa Heard, Lynn Etheridge and Mike Phillips. Members Don Spence and Brad Williams were absent. Building Inspector Coy Prather and Assistant City Secretary Debra Johnson were also in attendance. Discussion and action were as follows:

1. CALL TO ORDER – Elisa Heard called the meeting to order at 5:41 p.m. and declared a quorum present.
2. APPROVAL OF MINUTES OF THE MAY 10, 2010, MEETING – Upon motion by Lynn Etheridge and a second by Mike Phillips, the minutes of the May 10, 2010, meeting were unanimously approved.
3. PUBLIC HEARING AND CONSIDER REQUEST FOR ZONING CHANGE FROM RURAL AGRICULTURAL (RA) TO GENERAL BUSINESS DISTRICT (B-2) AT 17375 HIGHWAY 19 SOUTH, CANTON, TEXAS, OWNED BY VAN ZANDT CROSSROADS, INC. – Coy Prather explained the property was annexed into the City as Rural Agricultural. It was never rezoned, but a church was built on the property. Churches are not allowed in Rural Agricultural zoning. The owners wished to rezone the property to General Business District (B-2), which allowed churches. The church wished to bring portable buildings onto the property and needed the property rezoned before they could move forward. The Future Land Use Plan showed this property as mixed-use nonresidential. The property was located on Highway 19 South across from a dental office and where a nursing home was being constructed. Dick Patterson, the church's representative, said the portable buildings would be located behind the church and not visible from the road. Mike Phillips made a motion to recommend the change in zoning from Rural Agricultural (RA) to General Business District (B-2) on the property located at 17375 Highway 19 South, Canton, Texas. Debra Johnson reported three letters were sent to neighboring property owners. One favorable response was received. After a brief discussion regarding the location of the portable buildings, Lynn Etheridge seconded and all voted in favor.
4. ADJOURN – There being no further business to discuss, Lynn Etheridge made a motion to adjourn the meeting. Mike Phillips seconded. The meeting was adjourned at 5:46 p.m.

Approved the 9th day of August, 2010.



Elisa Heard, Chairman

ATTEST:



Debra Johnson
Assistant City Secretary

**REGULAR MEETING OF
CANTON PLANNING & ZONING COMMISSION
5:30 P.M., MONDAY, AUGUST 9, 2010**

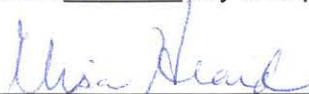
CITY HALL, 290 E. TYLER STREET, CANTON, TEXAS

MINUTES

The Canton Planning & Zoning Commission met at the above-named date and time in the City Hall Council Chambers. Commission members present were Elisa Heard, Lynn Etheridge, Mike Phillips and Don Spence. Member Brad Williams was absent. Building Inspector Coy Prather and Assistant City Secretary Debra Johnson were also in attendance. Discussion and action were as follows:

1. ✓ CALL TO ORDER – Elisa Heard called the meeting to order at 5:35 p.m. and declared a quorum present.
2. ✓ APPROVAL OF MINUTES OF THE JULY 12, 2010, MEETING – Upon motion by Lynn Etheridge and a second by Don Spence, the minutes of the July 12, 2010, meeting were unanimously approved.
3. PRESUBMISSION CONFERENCE REGARDING A PLAT OF PROPERTY CONTAINING 1.639 ACRES SITUATED IN THE Q.C. NUGENT SURVEY, ABSTRACT NO. 618, CANTON, TEXAS, AND OWNED BY DARRELL MIZE TO BE KNOWN AS LOT 1, BLOCK 1, DENNY'S ADDITION, PURSUANT TO ORDINANCE NO. 2008-19 (SUBDIVISION REGULATIONS) – Coy Prather indicated the area to be platted. He introduced Edward Arshook, the engineer for the project. Mr. Arshook explained the 1.6 acres was out of an eight-acre tract. Thirty feet of the tract would be dedicated as a road. Mr. Prather explained the City had no control over the county road which ran alongside this tract as far as maintenance.
4. REVIEW OF SITE PLAN OF PROPERTY CONTAINING 1.639 ACRES SITUATED IN THE Q.C. NUGENT SURVEY, ABSTRACT NO. 618, CANTON, TEXAS, AND OWNED BY DARRELL MIZE - Mr. Arshook said the fire hydrant would be able to cover the restaurant. The owner would also comply with the new storm drainage ordinance. A detention pond was not necessary unless the tract was over five acres. Debra Johnson stated the Future Land Use Plan showed this as a potential retail area. Mr. Prather said the landscaping plan would be submitted when permits were pulled. Mr. Arshook said the owner would also comply with the City's landscaping ordinance. They hoped to start building by October. All members indicated their approval of the site plan as proposed.
5. ADJOURN – There being no further business to discuss, Donald Spence made a motion to adjourn the meeting. Lynn Etheridge seconded. The meeting was adjourned at 5:50 p.m.

Approved the 13th day of September, 2010.



Elisa Heard, Chairman

ATTEST:



Debra Johnson
Assistant City Secretary

**REGULAR MEETING OF
CANTON PLANNING & ZONING COMMISSION
5:30 P.M., MONDAY, SEPTEMBER 13, 2010**

CITY HALL, 290 E. TYLER STREET, CANTON, TEXAS

MINUTES

The Canton Planning & Zoning Commission met at the above-named date and time in the City Hall Council Chambers. Commission members present were Elisa Heard, Lynn Etheridge, Mike Phillips and Brad Williams. Member Don Spence was absent. Building Inspector Coy Prather and Assistant City Secretary Debra Johnson were also in attendance. Discussion and action were as follows:

1. CALL TO ORDER – Elisa Heard called the meeting to order at 5:30 p.m. and declared a quorum present.
2. APPROVAL OF MINUTES OF THE AUGUST 9, 2010, MEETING – The minutes of the August 9, 2010, meeting were unanimously approved upon motion by Lynn Etheridge and second by Mike Phillips.
3. DISCUSS AND CONSIDER PROPOSED AMENDMENT TO CITY OF CANTON 2004 COMPREHENSIVE PLAN REGARDING FUTURE LAND USE ON THAT 10+ ACRE TRACT OF LAND LOCATED ON HWY 243 @ LAZY U, CITY OF CANTON – Vicki Chambless, 1718 Lazy U, stated she and her husband were against a portion of the property being zoning commercial. It was a residential area with a varied array of residents from small children to senior citizens. Due to existing traffic concerns, they just had to put up signs about children playing in the area. Having the property zoned commercial would only make traffic worse. A commercial business would also obstruct the view turning onto Highway 243 from Lazy U. It would increase the city's maintenance of the roads. She was also concerned it would adversely affect their property values. She asked whether or not the City was going to require a study to be done on the affect of the zoning change to property values. She felt the rezoning would change the integrity of the area and requested this property remain commercial free. Joe Carter, representative of the Bobo Estate on behalf of his mother who was the executrix, said he just wanted to have the front portion of the property rezoned along Highway 243 so the estate could sell the land. The property was located in the floodplain. Coy Prather explained he had informed Mr. Carter rezoning the property could be considered spot zoning. He read the definition of spot zoning. He said courts almost never upheld spot zoning cases. The Comprehensive Plan designated the area in question as residential. Mr. Carter said there was no proposed use of the property. He was just looking to see what could be done with the property. Mr. Prather said the zoning ordinance was drafted by ETCOG years ago and did not give a lot of leeway for overlay districts. He added the future owners of the property would be able to have any type business allowed under B-2 zoning. Elisa Heard asked if there was a hardship or compelling reason the property should be rezoned. Mr. Carter said he did not see any hardship. He said he asked Mr. Prather to move forward with the rezoning request to get the feedback from the neighborhood. Mr. Prather said the City reviewed the Comprehensive Plan every five years and changes could be made in the future. Lee Montgomery from St. Justin's Church wanted to register opposition to the zoning change. It would give total leeway to any future owner of the property. He would like to see a business plan first. Mr. Carter said he could not get a business plan from someone until the property was zoned as commercial. Elisa Heard suggested he get the property under contract and ask them to

get the property rezoned. Lynn Etheridge said the property could not be advertised as commercial if it was not zoned that way. Vicki Chambless said several homes faced the property and those homes would face a business if the zoning were changed. Mike Phillips made a motion to recommend denial of the proposed amendment to the City of Canton 2004 Comprehensive Plan regarding future land use on the 10+ acre tract of land located on Hwy. 243 at Lazy U. Brad Williams seconded. Mr. Williams said he was concerned about the spot zoning issue since only a portion of the tract would be rezoned. All voted in favor of denying the request except for Lynn Etheridge, who abstained.

4. DISCUSS AND CONSIDER ORDINANCE EFFECTING A ZONING CHANGE FROM RURAL AGRICULTURAL (RA) TO GENERAL BUSINESS DISTRICT (B-2) ON THE FRONT PORTION OF THE 10+ TRACT OF LAND LOCATED ON HWY 243 @ LAZY U IN THE CITY OF CANTON, TEXAS, CURRENTLY OWNED BY THE WESLEY BOBO ESTATE – Debra Johnson reported thirty-three letters were sent to adjoining property owners. Eleven negative responses were returned. Mike Phillips made a motion to recommend denial of the request for a zoning change from Rural Agricultural (RA) to General Business District (B-2) on the front portion of the 10+ acre tract of land located on Hwy. 243 at Lazy U in the City of Canton, Texas, currently owned by the Wesley Bobo Estate. Brad Williams seconded, and all voted in favor of denying the request, except for Lynn Etheridge who abstained.
5. ADJOURN – There being no further business to discuss, Elisa Heard adjourned the meeting at 5:52 p.m. upon motion by Mike Phillips and second by Brad Williams.

Approved the 8th day of November, 2010.

Elisa Heard, Chairman

ATTEST:

Debra Johnson
Assistant City Secretary

**REGULAR MEETING OF
CANTON PLANNING & ZONING COMMISSION
5:30 P.M., MONDAY, NOVEMBER 8, 2010**

CITY HALL, 290 E. TYLER STREET, CANTON, TEXAS

MINUTES

The Canton Planning & Zoning Commission met at the above-named date and time in the City Hall Council Chambers. Commission members present were Lynn Etheridge, Mike Phillips, Don Spence and Brad Williams. Member Elisa Heard was absent. Building Inspector David Smith and Assistant City Secretary Debra Johnson were also in attendance. Discussion and action were as follows:

1. CALL TO ORDER – Lynn Etheridge called the meeting to order at 5:32 p.m. and declared a quorum present.
2. APPROVAL OF MINUTES OF THE SEPTEMBER 13, 2010, MEETING – The minutes from the meeting on September 13, 2010, were unanimously approved upon motion by Mike Phillips and second by Brad Williams.
3. PUBLIC HEARING AND CONSIDER PROPOSED AMENDMENT TO CITY OF CANTON 1985 ZONING ORDINANCE REGARDING THE CONSTRUCTION OF MONUMENTS AND STATUES, ETC. WITHIN THE CITY OF CANTON – Debra Johnson explained the need for the revision to the ordinance and pointed out the proposed changes. A public hearing was opened regarding the amendment to the City of Canton's 1985 Zoning Ordinance regarding the construction of monuments and statues, etc. at 5:36 p.m. David Wilkerson said the overall site plan for the tract on which the cross would be located called for egress on Highway 64. Their master plan called for a 2000-seat auditorium on the property with four egresses. To date, all that had been approved by the Church was the cross. The church did not want to have parking for the cross alone. Don Spence said the ordinance was generic. He lived in Huntsville and people stopped all along the road to look at the statue of Houston. Mr. Wilkerson said they were not trying to cause a problem. They had a problem with the 3:1 ratio because they were very close to 300 feet from the houses on Nichols. Mr. Spence suggested leaving the language as it was and a variance to the setback could be brought up as needed. He felt there should be some clarification on the 3:1 ratio. Lynn Etheridge felt it would be hard to predict what might come up in the future. Mr. Spence suggested taking out "B" and changing "C" to "B". Mr. Wilkerson said permission from the FAA was required for any statue over 200 feet. David Smith explained the National Electric Code prohibited temporary lighting for more than ninety days. The public hearing was closed at 5:57 p.m. Brad Williams made a motion to recommend to Council approval of the amendment to the City of Canton 1985 Zoning Ordinance regarding the construction of monuments and statues, etc. within the City of Canton, with the change suggested by Mr. Spence deleting the setback paragraph. Mike Phillips seconded. Lynn Etheridge said it should be left for a specific use permit like the others. All voted in favor.
4. PUBLIC HEARING AND CONSIDER SPECIFIC USE PERMIT FOR THE ERECTION OF A 100' CROSS AT HWY 64 W, CANTON, TEXAS, CURRENTLY OWNED BY LAKESIDE BAPTIST CHURCH – Don Spence and Brad Williams announced they were members of Lakeside Baptist Church but had no financial interest there, other than making contributions. Lynn Etheridge opened the public hearing at 5:58 p.m. regarding the specific use permit for the erection of a 100' cross at Highway 64 W in the City of Canton,

Texas. Debra Johnson announced 46 letters had been sent to neighboring property owners. Five letters had been returned and they were all in favor of granting the request. David Wilkerson stated the cross would be constructed when the funds were received to exceed the cost of the cross. The church decided it should be built within three years or the donations would be returned. Mr. Spence reminded Mr. Wilkerson that building permits should be applied for upon the approval of a specific use permit. The public hearing was closed at 6:05 p.m. Mike Phillips made a motion to recommend to Council that the specific use permit for the erection of a 100' cross at Hwy. 64 W, in Canton, Texas, be granted. Brad Williams seconded. All voted in favor.

5. REVIEW OF PLAT OF PROPERTY CONTAINING 4.86 ACRES SITUATED IN THE J. DOUTHIT SURVEY, ABSTRACT NO. 198, CANTON, TEXAS, AND OWNED BY CANTON HEALTHCARE LLC PURSUANT TO ORDINANCE NO. 2008-19 (SUBDIVISION REGULATIONS) – Larry Parker said he wanted to make sure the nursing home had a driveway permit. The water flow test had been furnished to the utility manager. Mr. Parker said the hydrant on Burnett Trail would be moved west and one would be added on Hwy. 19 immediately south of the new driveway. Mr. Smith added that a variance had been granted to reduce the length of the parking spaces from 20 to 18 feet. Larry Parker said employees would have access all around the building. Doors would be locked with an entry code. He said they had mulched the landscape extensively. The landscape plan would be submitted to the City. They would more than comply with the landscape ordinance. The drainage study had been done and would be submitted to the engineer the next day. He said they had built a number of facilities. There were no changes to the plat recommended.
6. REVIEW OF SITE PLAN OF PROPERTY CONTAINING 4.86 ACRES SITUATED AT BURNETT TRAIL AND HWY. 19S, IN THE J. DOUTHIT SURVEY, A-198, AND OWNED BY CANTON HEALTHCARE LLC. – The Board reviewed the site plan for the facility at Burnett Trail and Hwy. 19 S. They had no changes to suggest. Brad Williams made a motion to approve the site plan of the property containing 4.86 acres situated at Burnett Trail and Hwy. 19 S, in the J. Douthit Survey, A-198, and owned by Canton Healthcare LLC. Mike Phillips seconded. All voted in favor.
7. ADJOURN – There being no further business to discuss, Lynn Etheridge adjourned the meeting at 6:25 p.m. upon motion by Mike Phillips and second by Brad Williams.

Approved the _____ day of May, 2011.

Elisa Heard, Chairman

ATTEST:

Debra Johnson
Assistant City Secretary