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Meeting Minutes
City Planning Commission
May 9, 2006

CITY PLANNING COMMISSION MINUTES
MAY 9, 2006

On roll call, the following Commissioners were present: Steve Griffin, Joe Davis, Keith Lau, Reverend Don Hutchings, Mary Lou Pointon, Howell Schmidt, Jennifer Parks and Peggy Weidman. Commissioner Tom Cannava was absent.

ELECTION OF OFFICERS

Motion was made by Commissioner Davis, seconded by Commissioner Lau and carried unanimously to nominate Steve Griffin as Chairman.

Motion was made by Commissioner Lau, seconded by Commissioner Hutchings and carried unanimously to nominate Joe Davis as Vice-Chairman.

Motion was made by Commissioner Parks, seconded by Commissioner Lau and carried unanimously to nominate Mary Lou Pointon as Secretary.

Chairman Griffin then called for the vote on the minutes from the April 11, 2006, Planning Commission meeting. Motion was made by Commissioner Hutchings, seconded by Commissioner Davis and carried unanimously to approve the minutes as written.

Mr. Garry Cathcart spoke on the procedures.

1. CONSENT AGENDA

A. Preliminary Plat - Fort Smith Pavilion - Lots 1-8 - Morrison-Shiple

B. Final Plat - Fort Smith Pavilion - Lots 1-8 - Morrison-Shiple

C. Final Plat - Walnut Park Estates - Satterfield

D. Final Plat - Sparks Regional Medical Center - Lots 1 & 2 - Hawkins-Weir

E. Preliminary Plat - North Pointe, Phase I & II - Lots 1-77 - Hawkins-Weir

F. Final Plat - Cayman Estates - Hoffman-Prieur

G. Preliminary Plat - Breen's Addition, Block 1, Lots 4A-8A - Brixey Engineering

H. Final Plat - Breen's Addition, Block 1, Lots 4A-8A - Brixey Engineering

I. Final Plat - South Meadows, Phase III - Morrison-Shiple

J. Conditional Use #13-5-06; A request by Chip Johnson, agent, for a conditional use for a multi-purpose building for Southside High School located at 4100 South Gary.

K. Conditional Use #14-5-06; A request by Don Lehman, agent, for a conditional use for a parking lot located at 800 North 40th Street to 900 North 40th Street.

L. Home Occupation #3-5-06; A request by Joseph Longley for a home occupation for a lawn maintenance business located at 600 North 20th Street.

M. Home Occupation #4-5-06; A request by Bob Burns for a home occupation for

a handyman and light construction business located at 4106 Southridge Estates.

Mr. Garry Cathcart read the consent agenda. He noted that unless a member of the audience or a Planning Commissioner requests an item be pulled from the consent agenda and heard separately, the consent agenda would be voted on as one item.

A member of the audience requested item #1K be pulled from the consent agenda and heard separately.

Chairman Griffin then called for the vote on consent agenda items #1A, #1B, #1C, #1D, #1E, #1F, #1G, #1H, #1I, #1J, #1L, #1M. Motion was made by Commissioner Hutchings, seconded by Commissioner Davis and carried unanimously to amend the consent agenda to make approval subject to all staff comments and recommendations. Chairman Griffin then called for the vote on the consent agenda as amended. The vote was 8 in favor and 0 opposed.

1. K. Conditional Use #14-5-06; A request by Don Lehman, agent, for a conditional use for a parking lot located at 800 North 40th Street to 900 North 40th Street.

Mr. Garry Cathcart read the staff report indicating that the purpose of this conditional use request is for site plan approval of a new, 176 space, parking lot, with three (3) driveways providing access to North 40th Street and additional driveways along the east side of the site providing access to an alley adjacent to the residential development.

Mr. Don Lehman with Grand Avenue Baptist Church was present to speak on behalf of this request and address any concerns relative to this request. He noted that cars would be in the parking lot mainly only on Sunday and very rarely in the evenings. He also noted that no trash bins would be placed on this property and landscaping (red tip or similar type of plant that would grow dense and fast) would be provided as a buffer.

No one spoke opposing this request.

Following a discussion by the Commission, Chairman Griffin called for the vote on this conditional use request. Motion was made by Commissioner Hutchings, seconded by Commissioner Weidman, and carried unanimously to amend this request to make approval subject to the following conditions:

* Area and security lighting to be designed and installed so as not to create any adverse impact on surrounding residential properties.

* All signs shall require separate permits and sign locations shall be noted on the final site plan.

* Any trash containers placed on the site to be screened and gated with a wooden or masonry privacy fence. Screened trash container locations to be shown on the final site plan.

* A 6' tall wooden or masonry, opaque, privacy fence or landscaping to be installed along the full length of the alley frontage. All screen fencing or landscaping to be noted on the final site plan.

Chairman Griffin then called for the vote on this conditional use request as amended. The vote was 7 in favor, 0 opposed and 1 abstention (Davis).

2. Discussion of Meeting Time Change

Chairman Griffin asked for discussion and input relative to possibly changing the Planning Commission meeting time back to 1:30 p.m. rather than the current 5:30 p.m. time.

Chairman Griffin stated that he had reviewed attendance records for meetings held at 1:30 p.m. as opposed to the meetings held at 5:30 p.m. He noted there was not a large difference in attendance; however, he noted that the Planning Commission meetings should be held at a time that is more convenient to citizens

rather than what is more convenient for the Commissioners.

Commissioner Davis noted that he felt the 5:30 p.m. meetings would be more convenient to the citizens due to the fact that it is difficult for some people to get off work, in some instances, for an entire afternoon.

Chairman Griffin asked for a show of hands from persons in the audience as to how many would prefer afternoon meetings as opposed to evening meetings. Approximately 6+ persons raised their hands. He then asked for a show of hands of those present who would prefer evening meetings as opposed to afternoon meetings. Approximately 15+ persons raised their hands.

The Commission then decided to take no vote on changing the meeting time from 5:30 p.m.

3. Amendments to the following Fort Smith Zoning and Subdivision Codes:

1. Section 23-12 (Public Notification for Proposed Subdivisions)
2. Section 23-103 (c) (Mutual Access/Utility and Fire Easements)
3. Section 23-133 (Private Drives)
4. Sections 27-121, 27-122, 27-123, 27-124, 27-125, 27-126, 27-127, 27-128, 27-129, 27-130, 27-131, 27-133 (Residential Districts)

Mr. Garry Cathcart noted that the Planning staff in the land development regulations is proposing some type of notification to surrounding property owners when property is being subdivided or replatted. He also stated that mutual access easements and private drives would require Planning Commission approval. Mr. Cathcart also noted that in some of the residential zones the minimum lot width would be measured at the building line and this is being rewritten to state that the minimum lot widths would be measured at the property line. He stated that these amendments are a result of the subdividing of property located on North 52nd Street and have been requested by the Board of Directors.

Chairman Griffin asked for input from the audience relative to these amendments.

Mr. David Harris, 2025 South "V" Street addressed the Commission. He noted his comments are relative to the private drives. He stated that at some point in the future, the subdivisions with private drives and gates may become the responsibility of the City to maintain and he felt all private drives should be built to City standards. He noted his other concern was relative to lot setbacks. He stated that he felt the lot should be sized with the setback. With a private drive, the actual lot line is figured to the center of the street not to the right-of-way line. Mr. Cathcart stated that the City of Fort Smith is currently working with the HNTB consultants in rewriting the City's subdivision regulations and it is being suggested that these private streets be built to city standards; however, it was not included in these amendments. He also noted that they are requesting the building setback to be 50 feet from the center of the street which would normally be a 25 feet setback after you take out the right-of-way.

Commissioner Lau questioned if he were to make a motion to table this item indefinitely would it still go the Board of Directors. Chairman Griffin noted that following the study session with the Planning Commission and Board of Directors relative to this issue he was more perplexed about these issues after he got out of the meeting than he was when he went into the meeting. He noted that he felt possibly everyone was overreacting a little bit to a situation that negatively impacted a group of people. Chairman Griffin noted that Wally Bailey did a good job in doing what the Board of Directors had requested of him but by the same token, he stated that he did not feel that flagpole lots are necessarily a negative. He stated that he was not comfortable with the idea of public notification within 300 feet. He noted his concerns relative to the additional staff time this would create, as well as the Planning Commission having to review every lot requested to be subdivided. He felt things currently being done, i.e. the changing of the subdivision ordinances, would address some of these issues and concerns.

Commissioner Davis noted his agreement with Chairman Griffin's comments relative to this issue. He noted he is not comfortable approving this the way it is now. He, therefore, noted his support in tabling this item.

Commissioner Lau then made a motion to table item #3 (1, 2, 3 & 4) indefinitely, seconded by Commissioner Davis and carried unanimously. Chairman Griffin then called for a vote of the Commission to table this item indefinitely. The vote was 8 in favor and 0 opposed.

4. Amendment to the Master Land Use Plan from Residential Attached to Commercial Neighborhood located at 912 North 47th Street. (companion item to item #5)

5. Rezoning #12-5-06; A request by Ricky Hill, agent, for a zone change from Residential-3-Multi-Family to Commercial-2 by Extension located at 912 North 47th Street. (companion item to item #4)

Mr. Garry Cathcart stated that since these are companion items he would discuss them together but they would need to be voted on separately. Mr. Cathcart stated that the proposed Master Land Use Plan amendment and rezoning request is for the purpose of constructing a new restaurant (Subway) at this location.

Mr. Ricky Hill was present to speak on behalf of these requests. He also submitted a signed letter from the property owners to the south and west of this proposed development in support of these requests.

No one was present to speak in opposition to this request.

Following a discussion by the Commission, Chairman Griffin called for the vote on these requests.

4. Amendment to the Master Land Use Plan from Residential Attached to Commercial Neighborhood located at 912 North 47th Street. (companion item to item #5).

Chairman Griffin called for the vote on this request. The vote was 8 in favor and 0 opposed.

5. Rezoning #12-5-06; A request by Ricky Hill, agent, for a zone change from Residential-3-Multi-Family to Commercial-2 by Extension located at 912 North 47th Street. (companion item to item #4)

Motion was made by Commissioner Hutchings, seconded by Commissioner Schmidt and carried unanimously to amend this request to make approval subject to site/development plan approval by the Planning Commission prior to the issuance of a building permit.

Chairman Griffin then called for the vote on this request as amended. The vote was 8 in favor and 0 opposed.

6. Rezoning #13-5-06; A request by William Cole, agent, for a zone change from Residential-3-Multi-Family to Transitional-2 by Classification located at 5415 Kelley Highway & 2500 North 54th Street.

Mr. Garry Cathcart read the staff report indicating that the purpose of this rezoning request is so that it may be leased to a business.

Mr. William Cole was present to speak on behalf of this request.

No one was present to speak in opposition to this request.

Following a discussion by the Commission, motion was made by Commissioner Lau, seconded by Commissioner Davis and carried unanimously to amend this request to make approval subject to site/development plan approval by the Planning Commission prior to the issuance of a building permit.

Chairman Griffin then called for the vote on this rezoning request as amended. The vote was 8 in favor and 0 opposed.

7. Amendment to the Master Land Use Plan from Commercial Neighborhood and Residential Detached to Mixed-Use Residential located at 1017-1021 South

Waldron Road. (companion item to item #8)

8. Rezoning #14-5-06; A request by Pat Mickle, agent, for a zone change from Residential-2-Single-Family-Duplex to Transitional-1 by Classification located at 1017 & 1021 South Waldron Road. (companion item to item #7)

Mr. Garry Cathcart noted that since these items were companion items he would discuss these issues together but they would need to be voted on separately.

Mr. Cathcart stated that the proposed amendment to the Master Land Use Plan is to change the land use classification from Commercial Neighborhood and Residential Detached to Mixed-Use Residential on property known as 1017-1021 South Waldron Road. He stated that the property consists of 2.36 acres and the property owner is wanting to develop the property with offices, residential condominiums and apartments. Mr. Cathcart stated that the purpose of the rezoning request is to facilitate the development of a 16 unit apartment complex with office area above and a four (4) unit condominium.

Mr. Pat Mickle was present to speak on behalf of this request. Mr. Mickle noted that Mr. Jimmy Didier would be the developer of this property. He noted that this property has 393 feet of frontage on Waldron Road with an office complex to the north and houses that front along Free Ferry Road and back up to this property on the north. He stated that two (2) of these residential houses actually touch this property. Mr. Mickle stated that the plan is to build along the front part of this property which contains a total of 3.1 acres, but development will only be on 2.4 acres. Mr. Mickle stated that they are proposing two (2) structures, one (1) structure that will be residential/condominiums on the south end (4 condominiums - owner occupied structures with approximately 2,000 sq. ft. at a cost of approximately \$200,000 each with 2 car garages underneath on the bottom level of the structure and the other structure on the northern half of the property will be a combination apartments and office structure, with the office to be on the third floor and apartments on the lower two floors. The office property will be accessed from the Waldron Road side. The top width of the structure will not be all office. The residential units will be accessed from the eastern side of the structure. Mr. Mickle stated that he had attempted to talk to as many adjoining neighbors as possible. He noted that the comments he had received were mixed with various concerns.

Mr. Mike Butler, 8806 Meandering Way, addressed the Commission. He stated that he owns property across street on Fern and Waldron Road and would like to develop his property as something similar to what is being proposed for this development.

Mr. Daniel Korkames, 1010 Elm Street, spoke for not only himself but also Mr. Jimmy Reese, Ed Zimma, Gary King and Diane Layman, all property owners along Ferry Ferry Road, with various concerns relative to elevations and buffering from the existing single family homes, trash dumpsters and screening. Ms. Ila Little-Avant, 5410 Ferry Ferry Road, also expressed her concerns relative to disruptions during construction.

Following a discussion by the Commission, Chairman Griffin called for the vote on these items.

7. Amendment to the Master Land Use Plan from Commercial Neighborhood and Residential Detached to Mixed-Use Residential located at 1017-1021 South Waldron Road. (companion item to item #8)

The vote was 8 in favor and 0 opposed.

8. Rezoning #14-5-06; A request by Pat Mickle, agent, for a zone change from Residential-2-Single-Family-Duplex to Transitional-1 by Classification located at 1017 & 1021 South Waldron Road. (companion item to item #7).

Motion was made by Commissioner Lau, seconded by Commissioner Hutchings and carried unanimously to amend this request to make approval subject to site/development plan approval by the Planning Commission prior to the issuance of a building permit.

Chairman Griffin then called for the vote on this rezoning request as amended.

The vote was 8 in favor and 0 opposed.

9. Amendment to the Master Land Use Plan from Mixed-Use Employment to General Commercial located at 4001 Phoenix Avenue.

Mr. Garry Cathcart read the staff report indicating that this is a request to change the Land Use Classification from Mixed-Use Employment to General Commercial. He noted that this property consists of two (2) separate tracts of land which are 2.69 and 1.36 acres in size and are located on the north and east side of the property. This 4.05 acres is part of a larger development proposal that has a total acreage of 52 acres. Mr. Cathcart stated that the owner is working with a retail developer that wants to develop a large retail center.

Mr. Neal Morrison with Morrison-Shipleigh Engineers was present to speak on behalf of this request.

No one was present to speak in opposition.

Chairman Griffin then called for the vote on this amendment. The vote was 8 in favor and 0 opposed.

10. Remote Parking Agreement - Electric Cowboy located at 6107 South 31st Street and World Class Fitness located at 6206 South 31st Street.

Mr. Garry Cathcart read the staff report indicating that a proposed remote parking agreement had been received in conjunction with a building permit application for a building addition for health club use and an area to be remodeled as a beauty salon. Mr. Cathcart stated that the site plan noted a 25' by 90' addition to the northwestern corner of the existing structure. The beauty salon is a remodel of the existing interior space with no additional square footage. Minimum parking for the health club as calculated per square footage is 118 spaces which includes the proposed building addition. The site plan reflects a total of 74 spaces available on-site. He noted that the additional 44 spaces must be provided by either acquiring additional on-site lot area or locating the additional spaces at an off-site location. Mr. Cathcart stated that the applicant had approval to use off-site parking from the "Electric Cowboy" located directly across South 31st Street from the health club.

Mr. Tony Leraris was present to speak on behalf of this request.

No one was present to speak in opposition.

Chairman Griffin then called for the vote on this remote parking agreement. The vote was 8 in favor and 0 opposed.

11. Subdivision Variance #1-5-06; A request by the City of Fort Smith for a subdivision variance waiving the requirement for the construction of a cul-de-sac at the end of a street on North "I" Street West of North 2nd Street.

Mr. Garry Cathcart noted that Article III, Section 23-128 of the Fort Smith Subdivision Regulations does not allow dead-end streets except where they relate to the extension of the street in the development of adjoining land. Therefore, he stated that the City of Fort Smith is requesting that a dead-end street be allowed with the closing of a portion of North "I" Street.

Mr. Ron Selby and Mr. Jack Grober addressed the Commission relative to this request but neither expressed any opposition. Mr. Grober stated that this should have been done 30 years ago.

Following a discussion by the Commission, Chairman Griffin called for the vote on this subdivision variance request. The vote was 8 in favor and 0 opposed.

RECESS PLANNING COMMISSION CONVENE BOARD OF ZONING ADJUSTMENT

12. Variance #19-5-06; A request by Ron Brixey, agent, for a variance from Section 27-318 (loading facilities) located at 4201 Wheeler Avenue.

Mr. Garry Cathcart read the staff report indicating that the purpose of this variance request is to allow the proposed loading dock to be limited to dimensions permitting only vans and box trucks as opposed to the requirement of a 120' setback between the street and a loading dock as well as a 50' diameter maneuvering area which were established to provide for the maneuvering and parking of full-size trucks and trailers without the utilization of public streets or rights-of-way.

Mr. Kenneth Ross with Project Management, the general contractor of this project, was present to speak on behalf of this request. The owner of this property, Mr. Don Jordan, was also present to speak on behalf of this request.

Mr. Emmett Bradshaw and Ted Callahan were present to speak in opposition to this request. They expressed their concerns relative to his encroachment over to their properties, safety and drainage issues.

Following a discussion by the Commission, Chairman Griffin called for the vote on this variance request. The vote was 6 opposed and 2 in favor (Weidman, Lau). The variance was denied due to the fact that the applicant had not demonstrated a hardship based on Arkansas law and the Fort Smith Zoning Ordinance as well as the fact that the Commission felt this property is overdeveloped.

13. Variance #20-5-06; A request by Norman Nelson for a variance from 25 feet to 8 feet front yard setback; from 7.5 feet to 0 feet interior side yard setback and from 10 feet to 3 feet minimum distance between structures located at 5200 Poplar.

Mr. Garry Cathcart read the staff report indicating that the purpose of this variance request is to allow a carport which was installed without a permit to remain. Mr. Cathcart noted that the applicant states his hardship as being the condition of his health and not to any unique circumstances relating to his property. Mr. Cathcart stated that the character of the neighborhood would not be adversely affected by approval of the variances and building fire and life-safety codes would not be compromised.

Mr. & Mrs. Norman Nelson, 5200 Poplar, were present to speak on behalf of this request. Mr. Nelson requested his application be amended to reflect the front yard setback to be 25 feet to 20 feet rather than the requested 25 feet to 8 feet.

No one was present to speak in opposition to this request.

The Commission noted several existing carports in this area which encroach into the setbacks. Commissioners Davis, Lau and Pointon all felt that the age of the area needed to be taken into consideration as well using common sense in granting these types of variances.

Following a discussion by the Commission, Chairman Griffin called for the vote on this variance request. The vote was 7 in favor and 1 opposed (Hutchings).

14. Variance #21-5-06; A request by Rick Johnson, agent, for a variance from minimum requirements for fence screening material located at 902 South 6th Street.

Mr. Garry Cathcart read the staff report indicating that the applicant is requesting this variance to allow screen fencing to be constructed of chain link and a "mesh" opaquing material rather than the required eight foot high opaque screening.

Mr. Rick Johnson was present to speak on behalf of this request.

It was noted that letters had been received from Mr. Dan Udouj with Riverside Furniture, T. J. Smith Box Company and Craig Box Corporation requesting that the material approved to be used be one that will not have a negative visual impact for the surrounding properties, be of high quality and some time of assurance that the landowner will maintain the fence so as not to create an eyesore for the area. Mr. Eddy Craig with Craig Box Corporation was present and addressed the Commission relative to the above noted concerns.

Following a discussion by the Commission, Chairman Griffin then called for the vote on this variance request. The vote was 7 in favor and 1 opposed (Schmidt).

15. Variance #23-5-06; A request by Greg Shipley, agent, for a variance from 100 feet to 40.12 feet minimum lot frontage located at 4001 Phoenix Avenue.

Mr. Garry Cathcart read the staff report indicating that the purpose of this variance request is to permit a Commercial-5-Special-B zoned lot to be platted to a 40.12 foot frontage instead of the required 100 foot frontage. Mr. Cathcart noted that the reduction for the minimum lot frontage width is for Lot 1, Fort Smith Pavilion (proposed) only. The hardship described by the applicant is the Target Corporation requires that their tract be contiguous with public street right-of-way. In this development, the Target tract is not contiguous with Phoenix Avenue so it is proposed to create continuity, via a flag lot, with proposed Pavilion Drive.

Mr. Neal Morrison with Morrison-Shipley Engineers, was present to speak on behalf of this request.

No one was present to speak in opposition to this request.

Chairman Griffin then called for the vote on this variance request. The vote was 8 in favor and 0 opposed.

Meeting Adjourned!