

MINUTES

The **Rogers Planning Commission** met for a *regular session* in the Council Chambers of the Maurice H. Kolman Building on Tuesday, March 20, 2007 at 4:30 P.M. The meeting was called to order by Chairman Dan Brown. Those in attendance were led in the Pledge of Allegiance.

MEMBERS PRESENT:

Dan Brown, Chad Campbell, Rhonda Freitag, James Gosserand, Mark Myers, Ron Shelby, Mike Shupe, David Thrasher, and Jim White.

OTHER OFFICIALS PRESENT:

Director of Planning and Transportation Steve Glass, City Planner Derrel Smith, Project Manager Johnie Long, Assistant City Planner Candy Anderson, Deputy City Attorney Chris Griffin, Water Utility Engineer Mark Johnson, Assistant Fire Marshal Bill Rumsey, Main Street Director Marge Wolf, Administrative Assistant Donna Johnson, Council Members Larry Daniel, Bob Goodwin, and Betsy Reithemeyer.

ACTION ON MINUTES:

(March 6, 2007)

APPROVED.

Motion by Freitag, second by Thrasher to approve the minutes of the March 6, 2007 meeting as submitted.

Voice Vote: Unanimous. **Motion carried.**

**REPORTS OF BOARDS AND
STANDING COMMITTEES:**

City Planner Derrel Smith provided a copy of the tower ordinance. Smith stated when this was written, we felt it was clear, however, we received calls that indicated the first paragraph was not clear to everyone. Smith said we would like to change the first paragraph to say “before you submit for a cell tower, you must obtain conditional use permit first”. We have changed the action from 45 days to 60 days. There are also some wording changes in a few other places for clarification. Your copy is marked to reflect these changes.

Deputy City Attorney Chris Griffin said these changes should help everyone. Once we get your recommendation, the changes will move to City Council for their approval.

Commissioner Thrasher asked if Staff had talked to any of the cellular tower companies concerning making these changes. City Planner Smith said we are working with one of the tower companies who are currently submitting their application. They are ok with the changes. Griffin stated we did not foresee a problem in the interpretation when this went to City Council. It was after the ordinance was approved, an attorney working for the cell tower company questioned some of the wording concerning the application submittal.

APPROVED.

Motion by Thrasher, second by Myers to recommend these changes to the tower ordinance to City Council for approval. Roll Call Vote: Unanimous. **Motion carried.**

CONSENT AGENDA:

Large Scale Committee and Staff have met and recommends moving the Large Scale Development Plan for Metro Park (item 3, new business) to the consent agenda.

LSDP, Ruth's Chris Steakhouse

1. Drainage improvements must be completed and certified by the engineer of record, McClelland Consulting Engineers, with all ditches and basins solid-sodded, concrete-lined, or underground conduit installed prior to issuance of a Certificate of Occupancy. Erosion control methods must be used during construction.
2. Construction debris must be cleared from all stormwater structures and verified by a site inspection from the Planning Department prior to issuance of a Certificate of Occupancy.
3. All signs will require separate permits.

4. **Any alcohol sales will require a Conditional Use Permit from the Planning Commission.**
5. Landscaping must be installed and a three-year guarantee submitted on plant replacement or a letter of credit posted prior to issuance of a Certificate of Occupancy. Minimum size of shrubs is five gallons, for shade trees it is 2 ½" B & B, and for ornamental trees it is 1 ½" B & B.
6. Sidewalks must be 6' in width and ramped at all curb cuts to meet ADA and AHTD specifications and installed along Pinnacle Hills Parkway or a letter of credit posted prior to issuance of a Certificate of Occupancy. Sidewalks must match any existing sidewalks in the area, include truncated domes at the handicap ramps and be located a minimum of 6' feet behind the curb.
7. Sidewalks must be 5' in width along the private drive and ramped at all curb cuts to meet ADA and AHTD specifications or a letter of credit posted prior to issuance of a Certificate of Occupancy. Sidewalks must match any existing sidewalks in the area, include truncated domes at the handicap ramps and be located a minimum of 5' feet behind the curb.
8. Street signs and stop signs must be in place and installed by the developer prior to issuance of a Certificate of Occupancy. The cost of the sign and the installation will be at the developer's expense.
9. Developer to contact the U.S. Postmaster at 401 North 8th Street to schedule type of mail delivery.
10. The proposed trash dumpster must be screened with a solid-type screening consistent with the architectural style of the building.
11. The person financially responsible for the project must obtain a grading permit including a copy of the NOI, a copy of the Stormwater Pollution Prevention Plan, and a copy of the Grading and Erosion Control Plan.
12. All parking lots and drives must be hard surfaced.
13. All mechanical, electrical and air conditioning equipment must be screened from public view.
14. The entire facility must comply with the requirements of the Americans with Disabilities Act of 1990.

15. All water and sewer plans must be approved by the Rogers Water Utility Department prior to construction. THIS IS A SEPARATE REVIEW PROCESS AND A PRE-CONSTRUCTION MEETING WILL BE REQUIRED.
16. The owner/developer will be responsible for any upstream or downstream flooding as a direct result of this development.
17. Provide the City Planner with a copy of the site plan and utility plan on compact disk formatted for AutoCAD 2004 prior to issuance of a Certificate of Occupancy.

LSDP, Metro Park Retail

1. Drainage improvements must be completed and certified by the engineer of record, Sand Creek Engineering, with all ditches and basins solid-sodded, concrete-lined, or underground conduit installed prior to issuance of a Certificate of Occupancy. Erosion control methods must be used during construction.
2. Construction debris must be cleared from all stormwater structures and verified by a site inspection from the Planning Department prior to issuance of a Certificate of Occupancy.
3. All signs will require separate permits.
4. Landscaping must be installed and a three-year guarantee submitted on plant replacement or a letter of credit posted prior to issuance of a Certificate of Occupancy. Minimum size of shrubs is five gallons, for shade trees it is 2 ½" B & B, and for ornamental trees it is 1 ½" B & B.
5. Sidewalks must be 5' in width and ramped at all curb cuts to meet ADA and AHTD specifications and installed the full width of the property or a letter of credit posted prior to issuance of a Certificate of Occupancy. Sidewalks must match any existing sidewalks in the area, include truncated domes at the handicap ramps and be located a minimum of 3' feet behind the curb (previously approved).
6. Interior sidewalks are the responsibility of the lot owner and must be installed prior to issuance of a Certificate of Occupancy.
7. Street signs and stop signs must be in place and installed by the developer prior to issuance of a Certificate of Occupancy. The cost of the sign and the installation will be at the developer's expense.
8. Developer to contact the U.S. Postmaster at 401 North 8th Street to schedule type of mail delivery.

9. The proposed trash dumpster must be screened with a solid-type screening consistent with the architectural style of the building.
10. The person financially responsible for the project must obtain a grading permit including a copy of the NOI, a copy of the Stormwater Pollution Prevention Plan, and a copy of the Grading and Erosion Control Plan.
11. All parking lots and drives must be hard surfaced.
12. All mechanical, electrical and air conditioning equipment must be screened from public view.
13. The entire facility must comply with the requirements of the Americans with Disabilities Act of 1990.
14. All water and sewer plans must be approved by the Rogers Water Utility Department prior to construction. THIS IS A SEPARATE REVIEW PROCESS AND A PRE-CONSTRUCTION MEETING WILL BE REQUIRED.
15. The owner/developer will be responsible for any upstream or downstream flooding as a direct result of this development.
16. Provide the City Planner with a copy of the site plan and utility plan on compact disk formatted for AutoCAD 2004 prior to issuance of a Certificate of Occupancy.

THE FOLLOWING PLAN REVISIONS ARE REQUIRED PRIOR TO ISSUANCE OF A GRADING PERMIT:

- Revise grading plan to match the profiles.
- Revise the 36” storm pipe in the ROW to be RCP.
- Match crowns on all storm pipes, not flow lines.
- Add a “Do Not Enter” sign to the one-way drive on the north end of the site.

APPROVED.

Motion by Freitag, second by Gosserand to approve the LSDP for Ruth’s Chris Steakhouse and Metro Park Retail.
Voice Vote: Unanimous. **Motion carried.**

PUBLIC HEARINGS:

(Agenda Item #1)
Request by La Mas Mexicana, LLC to Rezone Property at 1504 West Persimmon Street from

Teresa Petty, Keller Williams Realty, represented this rezoning request. Ms.

RMF-18B (Residential Multi-Family) to the R-O (Residential Office) Zoning District.

Petty stated her clients are in the process of buying an AM/FM radio station in Southwest City, Missouri. This property would be used for the radio station office. One bedroom would be made into a recording station, however, no broadcasting would come out of the building.

Commissioner Shupe asked if they would be adding anything to the existing building. Ms. Petty said no.

Commissioner Shelby stated this is a large parcel. Are you rezoning the whole parcel? Petty said yes. Petty said later we may come back with a request to add a booster tower in the back yard. The tower would be no taller than a small flag pole.

Commissioner White asked why the booster tower would be needed if no broadcasting was done at this location. Petty said the tower would just help the signal from Southwest City get down to the Fayetteville area. Broadcasting would originate in Southwest City, Missouri.

Commissioner Shupe asked about access to this property as Persimmon is a very narrow street. Petty said they will need four to six spaces of parking for employees. There will not be traffic coming to the business.

No one spoke in favor of this rezoning request.

Tony Lundquist stated he owns property from 1414 to 1420 Persimmon. He stated he was not necessarily against this, however, the notices came out with no information as to when, where, time, and place the public hearing would be held. Lundquist also stated he did not feel the intent of the rezone was in the notice. Lundquist said he was

asking the Commissioners to table this request until proper notification has been made. He also questioned whether the whole parcel was being rezoned or just the area of the house. Brown said the rezone is for the whole parcel.

The Public Hearing was declared closed.

Chairman Brown asked if certified mail cards had been received. Ms. Petty said she had them with her, and provided those to Staff. After review of the notices, Deputy City Attorney Chris Griffin stated the required information was not provided in the letters making the letter not meet the notification requirements. City Planner Smith said ten residents had called and were provided this information. The certified letters did indicate the requested rezoning for this property.

Commissioner White said the majority of the property in this area is residential. He stated he also had some concerns with putting a tower at this location.

Commissioner Myers asked if a conditional use could be issued for this property or would it have to be rezoned to meet the needs of the applicant. Staff said it would need to be rezoned.

Commissioner Thrasher said we have to look at every possible use for a R-O because once this is zoned R-O, something else could eventually be there. In my mind, R-O does not fit this area. I feel if we can not act upon this request today because of the certified letters not meeting the requirements, we still need to provide some guidance to the applicant. Commissioner White agreed and stated he thought rezoning

the whole parcel R-O would be too much R-O.

Myers said in seeking the highest and best use, I do not see how this tract really needs to be RMF-18B.

Deputy City Attorney Griffin said since the requirements of notification were not met, the applicant needs to request this item be withdrawn from today's agenda, then this Commission would have to make the motion and vote on the withdrawal. The applicant could then decide what they want to do before bringing this request back at another time.

Ms. Petty said she followed the information that was given to her. Griffin said there should have been two separate requirements for processing this application.

Chairman Brown told Petty Staff would be glad to assist her in making the next application to make sure everything was done to meet the requirements. Petty stated her clients were willing to withdraw this request and resubmit at a later date.

Commissioner Shelby stated he would like to give the applicant some guidance for the reapplication. If it stays RMF-18B, it will probably never get developed.

Petty stated the property is very narrow. It would be hard to put any kind of multi-family units in there. I don't think my clients are interested in selling any of the property. Petty asked if it would be easier if her clients just asked to rezone the portion of the property where the house is sitting. Brown said that would be a possibility.

WITHDRAWN.

Motion by Campbell, second by Myers to honor the applicant’s request to withdraw this rezoning request.

Voice Vote: Unanimous. **Motion carried.**

Chairman Brown said the property is 123’ wide. If we used 66’ for drive and parking, that would leave 57’. You would need 20’ for rear setbacks and 8 or 10’ for front setbacks. It would seem conceivable to me this would work for R-O.

Planning and Transportation Director Steve Glass stated it would be possible to put duplexes at the back of the property if you had a drive on the east side. Commissioner Shelby said he was not fond of that because it would look like barracks. I would be more inclined to accept R-O than a row of barracks.

(Agenda Item #2)

Request by La Mas Mexicana, LLC for a Conditional Use Permit to Allow a Broadcast Studio at 1504 West Persimmon Street in the future R-O (Residential Office) Zoning District.

Teresa Petty, Keller Williams Realty, represented this conditional use request.

Chairman Brown said since this application is based on the previous rezone, we need to ask the applicant if they would like to withdraw this conditional use request.

Ms. Petty said her clients would also like to withdraw this conditional use request.

WITHDRAWN.

Motion by Campbell, second by Gosserand to honor the applicant’s request to withdraw this conditional use request.

Voice Vote: Unanimous. **Motion carried.**

(Agenda Item #3)

Request by Brock Stone Company for a Conditional Use Permit to Allow Open Display in the C-2 (Highway Commercial) Zoning District and to Allow the Use of an

Robert Brock represented this conditional use request. He stated this was a 3 ½ acre lot. An existing gravel parking lot is on this property. Brock stated they would like to

Existing Gravel Parking Lot at 113 Stave Mill Road.

move their operations from the County to the City for a higher traffic location and future growth for our business, a retail rock display for natural stone.

Commissioner Shelby asked if there were any paved areas around this location. Brock said no. It is an empty field. Brock said we have a temporary office at the present time. We hope to eventually build an office if the business does well.

Commissioner Thrasher asked what kind of temporary office they were using. Brock said a 32' motor home.

Commissioner Myers said, as a general rule, the requirements for this would be paved parking for office and customer parking. I am not fond of the waiver, but I do understand the situation you are in. Myers said he would be more inclined to have the gravel area screened from public view. Myers asked if the Commission needed to issue a temporary trailer permit. Deputy City Attorney Griffin said he had that concern also.

Mr. Brock said when he started this request, he talked with the Planning Office about moving our portable building located in the County. Assistant City Planner Anderson said it might be easier to ask for a permit to use a portable building for a year than it would be to move the portable building.

Commissioner Myers said we have tried to be pretty uniform in requiring these parking lots to be paved.

Commissioner Shupe stated he could only think of one situation where we allowed a gravel parking area, and it is located off Hudson Road behind a bunch of buildings.

This location is our north entrance into the City making the outdoor display a concern to me.

Commissioner White asked if the display area would all be stone. Mr. Brock said yes.

City Planner Smith said when Mr. Brock came to us, we told him he needed to get the conditional use permit first to make sure that was granted before he tried to get a temporary permit for the temporary structure.

Commissioner Myer said he had no problem with the conditional use for the stone, but he did have a problem with the waiver for the gravel parking lot.

Commissioner Campbell asked if the customers were commercial or residential. Brock said both. The gravel parking lot is ideal for trailer turnaround. Some of the equipment that comes into the area would tear up the asphalt over time. Myers stated the rock company in Springdale does have a gravel place for display, but he believed they did have asphalt for customer parking and turnaround.

White said the situation Commissioner Shupe was referring to allowed gravel to stay behind their buildings, but all the other areas were required to be paved. White said he wasn't questioning the gravel where the rock would be stored, but gravel parking is another matter.

Commissioner Thrasher said he would like to see a drawing that shows where the rock will be displayed, where parking will be designated, what area would be paved, and where Mr. Brock planned to put the

temporary structure before he could vote for the conditional use permit.

No one spoke in favor or against this conditional use permit request.

The Public Hearing was declared closed.

Commissioner Myers asked if the conditional use could be combined with the temporary trailer and/or structure. City Planner Smith said you can make the requirements you want on the conditional use permit. Chairman Brown said trailer permits are temporary for only six months. Myers said he would like to see this tabled today and for Mr. Brock to come back with drawings showing where the open display will be located, photos of what he will be displaying, where the paved parking will be located, and where the temporary trailer would be located.

Commissioner Thrasher asked if the applicant tables today, will the 45 days to rehear the conditional use permit be in effect. Deputy City Attorney Griffin said the 45 days does not apply to conditional use permits.

Mr. Brock said he could provide the information the Commissioners had requested and requested the request be tabled.

Thrasher reminded Brock parking lots have to be designed for heavy fire trucks to meet the City's ordinances.

TABLED.

Motion by Myers, second by Campbell to table this conditional use request.

Voice Vote: Unanimous. **Motion carried.**

(Agenda Item #4)

Request by Hazel L. Cope to Rezone
Approximately 2 Acres at 900 South 45th
Street from A-1 (Agricultural) to the R-O
(Residential Office) Zoning District.

Jerry Danehower, Rogers Board of Realtors, represented this rezoning request. He stated this rezone is requested for a future Rogers Board of Realtors office. We had a neighborhood meeting with 13 people attending. We have also visited with the three adjacent neighbors to the south. The office will be built residential style, single story, with possibly a high pitch roof for storage. Presently, we have three employees with only one of these being full time. We will have traffic in and out of the office as we serve over 1,100 realtors. The MLS is no longer operated out of the Board of Realtors office. We have applied for a non-profit status with the IRS. The office will have a large room for meetings. Our Board is very active in this community. When the site and building plans are completed, we plan to again visit with the neighbors to present our plans.

Commissioner Campbell asked Mr. Danehower about the feedback they had received from the neighbors. Danehower said the feedback received was good. The neighbors did ask us to cut down all the dead trees on the property as these have been falling on their fences necessitating fence repairs.

No one spoke in favor or in opposition to this rezoning request.

The Public Hearing was declared closed.

Commission White said this is the kind of buffer we look for.

APPROVED.

Motion by White, second by Shupe to recommend this rezoning request to City Council for approval. Myers disqualified. Roll Call Vote: Unanimous. **Motion carried.**

(Agenda Item #5)

Request by Joe Hewgley, Inc. to Rezone 904 West Olrich Street from N-R (Neighborhood Residential) to the R-O (Residential Office) Zoning District.

Joe Hewgley stated he was representing his father on this rezoning request. His petition is to rezone a residential duplex to an office. There is existing paved parking in front sufficient for four vehicles to park. Seven spaces would be required to meet the ordinance, and we will have room to create the additional spaces. We would need ingress and egress off Olrich Street to the additional parking spaces provided behind the building. Access would be on the east side of the building. If the Commission is only comfortable with the rezoning to put all the parking in the back, we could do that and landscape the front of the building. There is commercial around this parcel. We do not think this would be an incompatible use. Hewgley stated Staff has received a letter from an existing neighbor who may be making a similar request for some type of business/office. We are willing to make any modification to the building to meet certificate of occupancy requirements.

Commissioner Shelby asked if the present parking requires backing out onto the street. Hewgley said yes, however, if this rezoning is granted, he did not see a significant increase in traffic. Hewgley provided the Commissioners a sketch of the proposed parking and drives.

No one spoke in favor or in opposition to this rezoning request.

The Public Hearing was declared closed.

Commissioner Campbell asked Mr. Hewgley if he thought he could get the seven parking spaces in the back on the south side. Campbell said he would like to see all the parking in the back versus trying to back out onto Olrich. Hewgley said he understood these concerns. Hewgley said there is a slight rise on Olrich that impedes your view making backing out difficult. He said if the rezoning is contingent on putting all the parking

spaces in the back, his dad is prepared to do that. He would also landscape the existing front parking lot.

Commissioner Shelby said the amount of distance you show from the east property line to the building is adequate enough that you could put parking along the east side to the north/south property line in lieu of parking in the back. Shelby said he did agree parking needs to be removed from the front. Commissioner Shupe said he also agreed there should be no parking in the front, however, his issue is the traffic on Olrich Street and violating the residential all ready in this area. Shupe said he sees this as spot zoning. Chairman Brown said spot zoning is also a concern for him.

Commissioner Myers said he does not like to see a residential office put in a residential area. He stated he also sees this as spot zoning. The parking and ingress/egress issues can all be addressed after a decision is made to rezone this property.

Commissioner Thrasher stated this is a use I do not like to see at this location. He reminded Mr. Hewgley if this Commission does not recommend approval of this rezoning request, he could still take this request to City Council for their approval, however, if they should vote this rezoning request down, it could be over a year before a request for rezoning on this property could be heard by this Commission.

DENIED.

Motion by Myers, second by Campbell to recommend this rezoning request to City Council for approval.

Roll Call Vote: Unanimous. **Motion denied.**

Chairman Brown told Mr. Hewgley he could appeal this decision to City Council.

(Agenda Item #6)

Request by New Hope Investments, LLC to Consider a PUD (Planned Unit Development Plan) Concept Plan Containing 2.52 Acres of Commercial and 6.77 Acres of Residential. This Site is at the Northwest Quadrant of West New Hope Road and Highway 71B, Behind Bob Maloney Ford.

WITHDRAWN BY APPLICANT.

NEW BUSINESS:

(Agenda Item #1)

LSDP for Kum N’Go at the Northeast Corner of New Hope Road and Dixieland road in the C-3 Zoning District.

Jason Ingalls, Northstar Engineering, represented this large scale development plan. Ingalls stated it has come to his attention there are some issues with the drives. Since my client is not here, Ingalls said he would like to table this to the next meeting to allow him to get with Staff and work out the drive issues.

Large Scale Committee has met with Mr. Ingalls and Staff. Our recommendation would be to table this large scale development plan.

TABLED.

Motion by White, second by Myers to table this large scale development plan.

Voice Vote: Unanimous. **Motion carried.**

(Agenda Item #2)

LSDP, Lot 1A, Creekside Phase III on West New Hope Road and in the C-2 (Highway Commercial) Zoning District. Applicant has asked this be Tabled Pending Board of Adjustment Action on April 2, 2007.

Large Scale Committee has met and recommends tabling this large scale development plan.

TABLED.

Motion by White, second by Myers to table this Large scale development plan.

Roll Call Vote: Unanimous. **Motion carried.**

There being no further business, motion by Shupe, second by White to adjourn the meeting. Meeting adjourned at 5:30 P.M.

ATTEST

APPROVED

Chad Campbell, Secretary

Dan Brown, Chairman

