

MINUTES

The **Rogers Planning Commission** met for a *regular session* in the Council Chambers of the Maurice H. Kolman Building on Tuesday, March 6, 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:

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

OTHER OFFICIALS PRESENT:

City Clerk Peggy David, City Attorney Ben Lipscomb, Assistant City Planner Candy Anderson, Senior Planner Derrel Smith, Water Utilities Engineer Mark Johnson, Project Manager Johnie Long, Fire Marshall Travis Hollis and Assistant Fire Marshall Bill Rumsey, Councilmen Bob Goodwin and Larry Daniel.

ACTION ON MINUTES:

(February 20, 2007)

Approved.

Motion by Freitag, second by Myers to approve the minutes of the meeting of February 20, 2007 as submitted.

Voice vote: Unanimous - Yes. ***Motion carried.***

REPORTS OF BOARDS AND STANDING COMMITTEES:

Derrel Smith reported that the Airport Commission's informational report has been distributed to the Planning Commissioners.

Motion by Thrasher, second by Gosserand to move New Business Item #3 to the Consent Agenda.

Voice vote: Unanimous. ***Motion carried.***

Motion by Myers, second by White to move New Business Items #1, #2, #4, #5, & #7 to the Consent Agenda with the stipulation that on Item #7 a single entrance driveway is approved rather than the double entrance as shown and requested.

Voice vote: Unanimous. ***Motion carried.***

CONSENT AGENDA:**LSDP, Yacht Club Expansion**

1. Any street with a slope greater than 9% must be heavy-duty concrete with a rough surface.
2. Provide a copy of the approval letter from Benton County.
3. Developer to contact the U.S. Postmaster at 401 No. 8th St. to schedule type of mail delivery.
4. 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.
5. The vertical curve from Sta. 7+00 to Sta. 8+50 must be increased in length so as to flatten the overall elevation.
6. The two vertical curves from Sta. 13+83.73 to Sta 15+17.23 need to be combined in order to make a smoother transition and to remove the “hump” out of the proposed street.
7. Due to limited cover over the storm pipes, we recommend that all pipes be RCP.
8. Any street with a slope greater than 9% must be heavy-duty concrete with a rough surface.
9. The length of the rocked construction entrance must be either 20% of the lot depth or a maximum of 100’
10. The owner/developer will be responsible for any upstream or downstream flooding as a direct result of this development.

LSDP, Subway on Highway 71B

1. Drainage improvements must be completed and certified by the engineer of record, Freeland, Kauffman & Fredeen, 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 City Council acceptance of the final plat/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 6' in width, 6' behind the curb and ramped at all curb cuts to meet ADA and AHTD specifications. Sidewalks must be installed along Highway 71B or a letter of credit posted prior to issuance of a Certificate of Occupancy. Sidewalks must match any existing sidewalks in the area and include truncated domes at the handicap ramps.
6. Sidewalks along 7th St. must be 5' in width, 5' behind the curb and ramped at all curb cuts to meet ADA and AHTD specifications. Sidewalks must be installed or a letter of credit posted prior to issuance of a Certificate of Occupancy. Sidewalks must match any existing sidewalks in the area and include truncated domes at the handicap ramps..
7. Developer to contact the U.S. Postmaster at 401 No. 8th St. to schedule type of mail delivery.
8. The proposed trash dumpster must be screened with a solid-type screening consistent with the architectural style of the building.
9. 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.
10. All parking lots and drives must be hard surfaced.
11. All mechanical, electrical and air conditioning equipment must be screened from public view.
12. Provide the city planner with a copy of the approval from AHTD to discharge storm water into their system.
13. Provide the city planner with a copy of the AHTD approval letter for curb cuts and sidewalks.
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.

(Agenda Item #1)

Request by Verizon Wireless Tennessee Partnership d/b/a Verizon wireless for a waiver from the Large Scale review Process to co-locate its antennas on an existing 301' tower at 1905 So. Dixieland Road. The existing tower is owned by The City of Rogers, in the A-1 (Agricultural) zoning District

(Agenda Item #2)

LSDP for a community pool & bathhouse in Creekwood Subdivision on the south side of Garrett Road. NOTE: All technical review comments have been provided to the engineer. Grading has been revised per staff comments

(Agenda Item #3)

Revised Preliminary Plat for Garrett Road on the south side of Garrett Road in the RSF (Single-family) zoning district

Changes based on Arkansas Game & Fish review:

- The development shifted north 100 feet away from the creek
- 2 small sediment/filtration ponds were added to capture the first 1/2 –inch stormwater
- The total lot count dropped by 4 lots
- Greenspace increased by approx. 3 acres

Because of the above changes the following is being requested to maximize development:

- Reduce side setbacks to 7.5 feet
- Stagger front setbacks to either 20 or 25 feet to eliminate the repetitive front façade alignment

(Agenda Item #4)

Request by Hearst-Argyle Television, Inc. for a waiver from the Large Scale review process to relocate a television tower behind 2809 Ajax Ave. in The Peaks PUD

(Agenda Item #5)

Request by Shirley's Flowers for a waiver from the Large Scale review process for an 850 s.f. cooler/office addition at 128 No. 13th St. in the C-2 (Highway Commercial) zoning district

(Agenda Item #7)

LSDP, Sonic Restaurant

1. Drainage improvements must be completed and certified by the engineer of record, Morrison, Shipley, with all 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 6' 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 min. of 6' feet behind the curb.
6. The developer must obtain an off-site drainage easement for all areas of discharge prior to the first inspection by the Rogers Street Department.
7. 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 No. 8th St. 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. Identify all trees 6" or greater in diameter that will be removed.
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. Provide the city planner with a copy of the approval from AHTD to discharge storm water into their system prior to the first inspection by the Rogers Street Department.
15. Provide the city planner with a copy of the AHTD approval letter for curb cuts and sidewalks prior to the first inspection by the Rogers Street Department.
16. The entire facility must comply with the requirements of the Americans with Disabilities Act of 1990.
17. 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.
18. The owner/developer will be responsible for any upstream or downstream flooding as a direct result of this development.
19. 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:

- The “Building Setback Reduction Plat” must be recorded
- If the site is .81 ac., the land area is 35,284 s.f.; correct all affected calculations
- Revise grading plan so parking stalls are ADA compliant

THE FOLLOWING WAIVER IS DENIED:

- The 2 entrance drives do not meet the required separation distance from each other or the drive across the street

Consent Agenda Approved

Motion by Myers, second by Freitag to approve the items on the Consent Agenda. Voice vote: Unanimous – Yes. ***Motion carried.***

PUBLIC HEARINGS:

(Agenda Item #1)

Request by the Benton Co. Charter School Organization, Inc. on behalf of the Northwest Academy of Fine Arts for a Conditional Use Permit to operate a Charter High School with accessory uses for pre-K classrooms, adult ESL classes and Sunday day care for the Immanuel Baptist Church until their new facility is completed. The address for this site is 506 W. Poplar, in the N-R (Neighborhood Residential) zoning district

Mechel Wall, 2708 Kathy Lane, requested the conditional use permit on behalf of the Benton County Charter School Organization to operate a Charter High School at the Immanuel Baptist Church location.

Wall said the Arkansas Department of Education has issued a charter for the High School for five years. Because of the charter, the building has been obtained and architecture plans are in place for the renovation of the building which will be an asset to the city.

Wall said a meeting was held with the area residents and an agreement has been prepared between the school and the residents.

There were no comments from anyone in the audience either for or against the rezoning request.

Howard Slinkard, speaking for the neighborhood, stated the school would be an asset to the downtown area to create some

activity, as opposed to a dark building or another less desirable use. The school has agreed to work with us and the memorandum of understanding that Ms. Wall mentioned was created so that the neighborhood could have some consideration for any future uses of this facility.

The Public Hearing was declared closed.

Commissioner Thrasher commented for the record. “For everyone who has been on this commission for many years knows that I have always had a great deal of respect for those residents of that area for what they have done with the downtown area and continue to do. It is great that they have come to an understanding. I would note that this is a conditional use permit and could be revoked if there are any complaints. Keep up the good work!”

Approved.

Motion by White, second by Myers to approve the conditional use permit as requested for an indefinite period of time. Voice vote: Unanimous - Yes. **Motion carried.**

(Public Hearing #2)

Request by Centre Pointe Properties, LLC and Patsy Simmons Limited Partnership to rezone approx. 58.84 ac. on the north side of Pleasant Grove Road from C-2 (Highway Commercial) to the CU/C-2 (Condominium Unit/Highway Commercial) zoning district

Steven Beam, of Crafton, Tull, Sparks and Associates, presented the rezoning request from C-2 to CU-C2 zone to allow for horizontal property regime.

There were no comments from anyone in the audience either for or against the rezoning request.

The Public Hearing was declared closed.

Approved

Motion by Myers, second by White to recommend to the City Council the approval of the rezoning as requested. Roll call: Unanimous - Yes. **Motion carried.**

(Public Hearing #3)

Request by Centre Pointe Properties, LLC and Patsy Simmons Limited Partnership for a Conditional Use Permit to allow a residential use in the CU/C-2 (Condominium Unit/Highway Commercial) zoning district. Site is approx. 58.84 ac. and located on the north side of Pleasant Grove Road

Steven Beam, of Crafton, Tull, Sparks and Associates, presented the conditional use permit to allow residential use in the CU-C2 zone.

Beam said the residential would probably be located on the second and third floors of the complex.

There were no comments from anyone in the audience either for or against the conditional use permit request.

The Public Hearing was declared closed.

Motion by Myers, second by White to approve the conditional use permit for the residential application within the CU-C2 as requested, subject to the approval by the City Council of the rezoning.

Roll call: Unanimous - Yes. ***Motion carried.***

Approved

(Agenda Item #4)

Request by Maria Sandoval to rezone approx. 0.47 ac. at 3108 West New Hope Road from A-1 (Agricultural) to the R-O (Residential Office) zoning district

Bill Watkins, representing the property owner Maria Sandoval, presented the rezoning request.

Watkins said this area is one of those situations of “what else could it be zoned?”. This property contains about a ½ acres with a house, and the adjacent property has been zoned R-O.

Watkins said if this rezoning is approved, the owner would be coming back to request a conditional use permit to operate a sewing shop.

Bob Smith, 1810 Prestwick Place, representing the neighbors of Prestwick Place stated he is not for it or against it, but

expressed that the R-O zone is what the residents is looking for, The neighbors would request that the property be fixed up where it will be an asset to the neighborhood.

Smith asked that when this comes back to the Planning Commission for the conditional use permit the landscaping barriers and parking requirements be considered.

Jerry Danehower, 1603 W. Oak Street, said he is a property owner to the west and representing Jamestown Development who is the developer of the nursing home adjacent to this property.

Danehower said neither he or Jamestown Development have a problem with the R-O zone, but Jamestown was required to do a lot of landscaping and would like to see that trend continued.

Danehower said the R-O is the highest and best use.

There were no other comments either for or against the rezoning.

The Public Hearing was declared closed.

Commissioner Myers stated this zone fits within the package that we worked on and provides buffers for the neighbors. The issues that were brought up will be considered when the conditional use permit request is made.

Approved.

Motion by Myers, second by Gosserand to recommend approval to the City Council the rezoning from A-1 to R-O as requested. Roll call: Unanimous. ***Motion carried.***

(Agenda Item #5)

Request by CRI to rezone approx. 2.34 ac. In Tract D of Barrington Centre Subdivision from A-1 (Agricultural) to the R-O (Residential Office) zoning district

Bill Watkins presented the rezoning request.

Watkins said this is the northern sliver of the tract of Barrington Center and is currently a detention basin and parking lot and zoned A-1. The basin and parking lot will be removed and moved to the north and a two-story building will be built.

Watkins said, “When the two existing buildings were built there was controversy between the Whispering Timbers neighbors about the height of the building. There will be no variance requested for more than two stories. This is one of those properties that is a “what the heck are we going to do?” because of it’s location next to I-540 and the residential neighborhood.

Speaking in opposition to the rezoning was Mike Kranz, 1104 N. Dove Drive, who said this would require that the retention pond would be removed which would affect their drainage for the subdivision. “Has there been a drainage study done to take care of that issue?”

Chairman Brown responded, “The only issue that is considered today is the highest and best use of the land. If it is rezoned, then the drainage will be address as the project proceeds. The drainage study would be required to replace the stormwater detention with some other means of detaining the stormwater with possibly underground detention.

Kranz also stated there been talk of opening up Mockingbird directly to that parking lot as an outlet.

Commissioner White said, “Mr. Kranz, I live one block east of you. I have lived there since 1987. This issue is near and dear to me

and one of the reasons that I asked to be on the Planning Commission. Mr. Brown is right; the issue today is the highest and best use of the property. The drainage will be addressed as the project goes through the Large Scale Development committee, which is the committee that I sit on. I guarantee you that I feel confident the city and engineers of record will do what is necessary to deal with that drainage. The issue of Mockingbird was brought up once before. That is not an option, it is a residential street. I'm only one commissioner, but that is not the answer, but that is just my opinion. We've got a big mess out there, but Mockingbird is not the answer."

Kranz also stated the some of the neighbors have expressed concern for the two-story building and requested that the building be limited to one-story for privacy.

White responded, "Zoning comes about by ordinance, the R-O zone allows a two-story building. Unfortunately that is one of the trade-offs we have with the R-O. The trade-off for R-O is much better for the neighbors. Your point is well taken."

Kranz presented a petition signed by 7 residents of Whispering Timbers opposing the rezoning.

Kathleen Davis, 902 N. Dove Drive, spoke against the rezoning and said, "I live behind the four-story building. My property values have gone down. They can see into my back yard and into my pool. I worry about the neighbors with the two story building with the same thing happening. The trash situation has not changed. They still empty the trash containers at two or three o'clock in the morning you can hear the trash being picked up. The other noise is the street sweeper once a week at ten or eleven o'clock

at night. Those are the two issues that have not changed.”

There were no other comments from anyone in the audience either for or against the rezoning.

Watkins noted that the opening-up of Mockingbird idea is not anything that he is aware of and not within his client’s plans. The Large Scale Development plan will be submitted for that triangular piece of property and all city requirements will be in compliance.

Commissioner Thrasher complimented Commissioner White’s comments and noted that the R-O zone is appropriate.

Approved.

Motion by Thrasher, second by Myer to recommend approval to the City Council the rezoning as requested.

Roll call: Unanimous – Yes. ***Motion carried.***

Commissioner Gosserand asked if there was some remedy for Ms. Davis’ noise complaints with the property management.

David said she has tried, but they won’t return her call when they find out it is her calling.

City Attorney Ben Lipscomb noted that the noise issue with the trash is dealt in the contract with the trash hauler and other complaints should be addressed to Code Enforcement.

(Agenda Item #6)
Request by Ty Williams to rezone 425 Spring St. from R-DP (Residential Duplex-Patio) to the R-AH (Residential Affordable Housing) zoning district

Ty Williams, owner of the property, said he also owns 520 Spring Street, 525 Spring Street and 513 Spring Street.

Williams said, “I have a vested interest in Spring Street. It is one of the oldest streets in Rogers. This house dates to 1885 to 1890. When I bought these three properties, I spent \$7000 for the removal of trash. The Code Enforcement Officer personally complimented my clean-up and said that previously citations had been issued to previous owners. The house has been restored to original. This property is zoned R-DP but the R-AH zone would allow for a lot-split and addition of a cottage. It will be a significant improvement for the neighborhood.”

There were no comments from anyone in the audience either for or against the rezoning request.

Commissioner Thrasher noted this would be spot zoning. “Is there any other zone that would accomplish what he wants to do? Wouldn’t the R-AH zone allow mobile homes?”

Senior Planner Derrel Smith said this was originally zoned R-2 under the old zoning code. The R-AH allows for modular homes on a permanently attached foundation with other requirements.

Assistant City Planner Candy Anderson explained that because of the size of the lot and setback requirements with the lot configuration, the only zone that would allow for Mr. Williams to do what he wanted was the R-AH zone.

Anderson said the areas on Crescent and Electric Street have been zoned to R-AH and there an area to the south zoned R-AH.

Commissioner Myers said, “The R-AH is for modular homes, not mobile homes, on a fixed foundation. It is supposed to look like it was built there.”

Thrasher said, “My comments were just to look at alternatives to rezoning. It sounds like what he is doing is good for the neighborhood. I think it will catch on with the neighbors.”

Approved.

Motion by White, second by Myers to recommend approval to the City Council the rezoning as requested.

Roll call: Unanimous – Yes. ***Motion carried.***

NEW BUSINESS:

(Agenda Item #6)

Request for a 6-month time extension for commencement of development for The Persimmon Duplexes at 1505 W. Persimmon St.

Erin Rushing, of CEI Engineering, requested the extension for the Large Scale Development.

Rushing said the owner is trying the sell the property as it is designed.

Chairman Brown said the policy is that two extensions can be granted.

Approved.

Motion by White, second by Myers to approve the 6-month time extension for the Large Scale Development Plan as requested.

Voice vote: Unanimous. – Yes. ***Motion carried.***

Commissioner White introduced the new Assistant Fire Marshall Bill Rumsey.

There being no further business, motion by White, second by Freitag to adjourn the meeting. Meeting adjourned at 5:23 P.M.

ATTEST

APPROVED

Chad Campbell, Secretary

Dan Brown, Chairman