

MINUTES

The **Rogers Planning Commission** met for a *regular session* in the Council Chambers of the Maurice H. Kolman Building on Tuesday, January 5, 2010 at 4:30 P.M. The meeting was called to order by Chairman Don Spann. Those in attendance were led in the Pledge of Allegiance.

MEMBERS PRESENT:

Commissioners Chad Campbell, James Gosserand, Susan Mills, Mark Myers, Ron Shelby, Mike Shupe, Don Spann, David Thrasher and Jim White.

OTHER OFFICIALS PRESENT:

Director of Planning and Transportation Steve Glass, City Planner Derrel Smith, Assistant City Planner Lori Stone, Deputy City Attorney Jim Clark, Water Utility Engineer Mark Johnson, Main Street Director Kerry Jensen, Building and Inspections Director Mike Rouse, Administrative Assistant Donna Johnston, and Council Member Larry Daniel.

ACTION ON MINUTES:

(December 15, 2009)

Commissioner Mills asked that line one of paragraph eight on page 7270 be changed to say Rose responded and that line one of paragraph nine on page 7270 be changed to say Rose said.

APPROVED.

Motion by Myers, second by Shupe to approve the minutes of December 15, 2009 as corrected. Voice Vote: Unanimous.

Motion carried.

**REPORTS OF BOARDS AND
STANDING COMMITTEES:**

City Planner Smith reminded the Commissioners a Public Hearing is scheduled for February 2, 2010 at 3:00 PM for the Master Street Plan and Master Trail Plan.

OLD BUSINESS:

(Agenda Item #1)
Request by Lisa Rose for a
Conditional Use Permit to
Operate a Commercial Wedding
Venue at 88 Creekwood Hill
Road in the R-SF (Residential
Single-Family) Zoning District.

Lisa Rose represented this conditional use permit request. Rose said she had provided the Commissioners a handout showing some conditions she would like to add to the conditional use permit request. Rose said she felt this would clarify issues voiced at the last meeting. Chairman Spann asked Ms. Rose if Mr. Smith was aware of these changes. Rose said yes.

Commissioner Shelby said the City has a noise ordinance. Shelby said he needs to make sure what Ms. Rose is proposing is not in conflict with the noise ordinance. Rose stated she did some research after the last meeting as well as emailing the Police Department, Mayor Womack, and the City Attorney's Office. She stated she had a copy of the noise ordinance. Shelby said as long as there are no complaints, there is no violation of the ordinance. Commissioner White said he concurred. Rose said that is what the Chief of Police had also told her. Shelby said he is not comfortable writing something into the conditional use permit that might not comply with the City's noise ordinance. Shelby said he also saw the use of the private drive as a gentlemen's agreement with the property owners—not a commitment to the City. Shelby asked Deputy City Attorney Clark if there were any issues with what Ms. Rose is proposing that this Commission needed to be concerned with. Clark said the Commission can not write conditions into a conditional use permit that would violate City ordinances.

Commissioner Campbell stated at the last meeting there were discussions about a Lake Atalanta sign. Campbell said he has driven out there and one has been put in place.

City Planner Smith said the Street Department placed the sign.

Commissioner Shupe stated he would like to recognize Mr. Dick Smith if he has a desire to say anything at today's meeting. Mr. Smith said he wanted to clarify one point. It was suggested that the neighbors have agreed to whatever has been submitted in reference to the noise. Smith said he did not think this was accurate. Smith said he has not said anything about the noise. It has not been an issue we have raised or have been particular concerned with. Smith said the piece we are in agreement with is the drive. Our concern has always been that the driveway not be used for commercial purposes. Smith said he had written a letter concerning the drive and hoped that each Planning Commission member received a copy of that letter. Smith said they pay taxes on this driveway, it was placed and improved with their money and they are responsible for the maintenance on this drive. Commissioner White asked Mr. Smith to clarify that his feelings had nothing to do with the weddings, but just the use of the private drive for commercial means. Ms. Rose does have residential access as a property owner. Smith said yes.

Commissioner Myers said he feels the Commission needs to keep focused on their charge for land use and the conditional use permit. Myers said he is comfortable with talking about hours of operation, number of people limited to a function, etc. The access to the private drive is a private matter between the owners of that easement and is outside our scope. Myers told Ms. Rose this is a conditional use and you will be at the mercies of your neighbors to not file a complaint.

Motion by Shelby, second by Shupe to approve this conditional use permit request for a period of one year for wedding receptions only contingent upon no access to the function occurring off the private drive, Creekwood Hill Road, and all functions will be required to abide by the City's noise ordinance and end at 10:00 P.M.

Before voting, discussions were held on Ms. Rose's request to end functions at 10:00 P.M. with all persons off premise by 11:00 P.M. Commissioner Spann stated he still had an issue with the live music until 10:00 P.M. Spann said the City ordinance was read at the last meeting and it clearly states the time is 8:00 P.M. in a residential zone. Shelby said his motion says as long as Ms. Rose does not violate the noise ordinance and ends her events at 10:00 P.M., she complies with the conditional use permit.

Deputy City Attorney Clark said he did not think the City ordinance was ambiguous concerning noise. It is pretty clear that the time limit in residential areas is 8:00 P.M. and it is pretty clear Ms. Rose's property is zoned residential, single-family. The 8:00 P.M. time applies to noise. You can give her the conditional use permit which allows her to operate until 10:00 P.M. She just can't have noise beyond 8:00 P.M. It was determined Shelby's motion was correctly stated.

Clark asked that a roll call vote be taken on this motion.

APPROVED.

Roll Call Vote: Yes – Campbell, Gosserand, Mills, Myers, Shelby, Shupe, Thrasher, and White. No – Spann. **Motion carried.**

PUBLIC HEARINGS:

(Agenda Item #1)

Request by Hudson Plaza, LLC to Rezone Approximately 10.02 Acres at 1225 West Hudson from R-O (Residential Office) to the C-2 (Highway Commercial) Zoning District.

Bill Watkins represented this rezoning request. Watkins said this property is the only property in this area that is not C-2. It is part of an original 14 acre R-O tract. Four acres will remain R-O and create a buffer to the north between the C-2 zone and neighboring R-SF. Traffic to be created by this use of the property should be much less than what would be created if this was all office. Watkins said the intention is for this property to contain one or two consignment type stores. There will not be any outdoor display as that would be a violation of City codes in C-2. Watkins said the structures there now will not change. They are just creating a new use for the existing buildings. Watkins said there is a child care facility in part of one of the buildings. This facility will not lose any parking area.

Commissioner Shelby asked if the parking configurations would change in anyway. Watkins said there would be no physical change.

Commissioner Myers asked if the C-2 zone included all the structures. Watkins said it includes all the buildings.

Commissioner Campbell asked Mr. Watkins to clarify this being a 10 acre tract of a 14 acre piece. Watkins said it is two tax parcels, but one legal description.

James Burkeen, 1212 Rolling Oaks, stated he had property behind this property and he has no problem with the rezoning.

No one spoke in opposition to this rezoning request.

The Public Hearing was declared closed.

APPROVED.

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

Chairman Spann stated our last business of the day is the adoption of the 2010 Planning Commission officers and committees as listed below:

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|---------------|---------------|
| Chairman | Jim White |
| Vice Chairman | Chad Campbell |
| Secretary: | Susan Mills |

Large Scale Committee:

Don Spann, Chairman
Ron Shelby
Mark Myers
Susan Mills
Jim White

Subdivision Review Committee:

David Thrasher, Chairman
Mike Shupe
Chad Campbell
James Gosserand

Jim White, as Chairman of the Planning Commission, will also serve on the Board of Adjustments in 2010.

There being no further business the meeting was adjourned at 4:55 P.M.

ATTEST

APPROVED

Chad Campbell, Secretary

Don Spann, Chairman

