

MINUTES

The **Rogers Planning Commission** met for a *regular session* in the Council Chambers of the Maurice H. Kolman Building on Tuesday, April 5, 2011 at 4:30 P.M. The meeting was called to order by Chairman Chad Campbell. 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.

OTHERS OFFICIALS PRESENT:

City Planner Derrel Smith, Assistant City Planners Candy Anderson and Lori Stone, Project Manager Lance Jobe, Deputy City Attorney Jim Clark, Water Utility Engineer Mark Johnson, Inspections Director Mike Rouse, Main Street Director Kerry Jensen, Council Member Marge Wolf.

ACTION ON MINUTES:

(March 15, 2011)

APPROVED.

Motion by Mills, second by Spann to approve the minutes of the March 15, 2011 meeting as submitted.

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

**REPORTS OF BOARDS AND
STANDING COMMITTEES:**

City Planner Smith provided each of the Commissioners a flyer concerning the regional development conference to be held May 6, 2011 in Springdale. Smith stated this will be the first year all the major cities have been involved. Smith said if you plan to attend let him know, and the City will take care of your reservations.

Smith turned the meeting over to Deputy City Attorney Clark who would discuss a recent Supreme Court ruling on public hearings and conditional use permits. Clark said this ruling involved the City of Jonesboro and involved the standard for reviewing approval and/or denial of a conditional use permit. Clark said in the

past a conditional use permit has been treated as a legislative act and if it had any reasonable basis, it would be upheld by a court. The Supreme Court in this case said granting or denying a conditional use permit is not a legislative act; therefore, if it is challenged the Circuit Court will hear all the evidence and decide on its own whether the planning commission should have granted or denied the conditional use permit. Clark said this will give the Circuit Court a lot more authority over conditional use permits. Clark said this could make it harder for planning commissions to decide on these requests. Clark said any planning commission appeal would still go to city council and if the applicant did not agree with planning commission or city council ruling, they would have the right to sue through the Circuit Court and have a trial over the merits of the case.

Commissioner White asked if there was any mention as to where the burden would fall. Deputy City Attorney Clark said no. The case has been remanded to the lower court for them to decide. Clark said a conditional use is not adopting an ordinance, a legislative act, but is carrying out an ordinance, a judicial act. Clark said the ordinance provides when the conditional use should be permitted and interprets the guidelines in granting or denying a conditional use permit. Clark said he had visited with City Planner Smith and Staff and this Commission probably needs to make more conditional use permits as right and less conditional in the City's zoning ordinances. Clark said they will know more when the case goes back to Jonesboro. Smith said he would forward a copy of the case to the Commissioners.

CONSENT AGENDA:

Commissioner Mills stated Large Scale Committee has met and recommends moving the large scale development plan for Morris Eye Clinic at 3706 Southern Hills Blvd. to the consent agenda. Mills stated the engineer has resolved the drainage issues that led to the matter being tabled at the last meeting. Staff revisions have been met. Large Scale Committee is recommending the Commission grant the waiver to have the drive less than 250' from the existing drive to the south.

APPROVED.

Motion by Mills, second by Shelby to move Item #2 under Old Business, Morris Eye Clinic, to the consent agenda subject to the conditions listed below:

LSDP, Morris Eye Clinic

1. Drainage improvements must be completed and certified by the engineer of record, Gray Rock Consulting, Inc., 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. In accordance with the plat for Southern Hills Business Park each lot is subject to an assessment to the City of Rogers for funding a traffic signal at Pleasant Grove Road. The per lot assessment is \$4,600 and is due prior to issuance of a Certificate of Occupancy.
4. This property is located in the Cave Springs Recharge Area. Best Management practices must be included in the plans and used during construction. Erosion control must be maintained until the development is built out.
5. Provide a soils report signed and sealed by a professional engineer to be included with the building permit application.
6. All signs will require separate permits.

7. 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.
8. Interior sidewalks are the responsibility of the lot owner and must be installed prior to issuance of a Certificate of Occupancy.
9. Addresses for lots in commercial subdivisions will be required prior to Planning Commission approval.
10. Developer to contact the U.S. Postmaster at 401 North 8th Street to schedule type of mail delivery.
11. Engineer to schedule a pre-construction meeting with the Rogers Planning Department prior to issuance of a grading permit. All Phase 1 erosion control must be installed prior to the pre-construction meeting and a reduced set of construction plans (11” x 17”) will be required.
12. 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.
13. A perimeter buffer strip shall be temporarily maintained around the disturbed area. The minimum width for the buffer strip is 25’ with a maximum width of 40’.
14. All parking lots and drives must be hard surfaced.
15. All mechanical, electrical and air conditioning equipment must be screened from public view.
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 final site plan and utility plan on compact disk formatted for AutoCAD 2009 prior to issuance of a Certificate of Occupancy.

THE WAIVER TO HAVE THE DRIVE LESS THAN 250' FROM THE EXISTING DRIVE TO THE SOUTH IS GRANTED.

APPROVED.

Motion by White, second by Gosserand to approve the Consent Agenda. Disqualification by Shupe. Voice Vote: Unanimous. **Motion carried.**

OLD BUSINESS:

(Agenda Item #1)

A Request by Pinnacle Station for a Conditional Use Permit for a Private Club at 2000 Promenade Blvd. in the C2-CU (Highway Commercial-Condominium) Zoning District.

Mr. Steven Lair with Petromark in Harrison represented this conditional use permit request. Lair said they did have their ABC meeting and got approval for a private club.

Commissioner Gosserand asked if they had their liquor license in hand. Lair said they do not have it, but are expecting to have the permit in hand sometime next week.

Commissioner Myers asked the hours of operation for the private club. Lair said 5:00 PM to 11:00 PM on weekdays and 2:00 PM to 11:00 PM on Saturday and Sunday. Lair said ABC was pleased with our hours of operation and thought they were being responsible with the hours.

Chairman Campbell said at the last meeting Staff was asked to call Little Rock concerning this application. Assistant City Planner Anderson said they had talked to ABC and their decision was based on the comments they received from the Mayor and Police Chief. Anderson said Staff has worked out something where the Mayor's Office and Police Department will advise the Planning Department of private club requests they receive from ABC.

APPROVED.

Motion by White, second by Myers to approve this conditional use permit for an

indefinite period of time. Chairman Campbell asked for a Roll Call Vote. Yes – Campbell, Gosserand, Mills, Myers, Shupe, Thrasher, and White. No – Shelby and Spann. **Motion carried.**

Campbell advised Mr. Lair that even though the permit was for an indefinite period of time, the Commission has the right to address any issue at any time they choose.

(Item #2)
LSDP for Morris Eye Clinic at 3706 Southern Hills Blvd. in the C-2 (Highway Commercial) Zoning District.
MOVED TO THE CONSENT AGENDA

PUBLIC HEARINGS:

(Agenda Item #1)
A Request by Outside the Box for a Conditional Use Permit at 1225 West Hudson for Outdoor Display in the C-2 (Highway Commercial) Zoning District.

Deputy City Attorney Clark said this item has to be tabled because the applicant did not comply with the notice requirements of the ordinance. Clark said the applicant’s representatives have also left the meeting.

TABLED.

Motion by White, second by Shupe to table this conditional use request. Voice Vote: Unanimous. **Motion carried.**

NEW BUSINESS:

(Agenda Item #1)
Replat of Lots 15 and Lots 52-29, Garrett Road Subdivision on Garrett Road and Bellview Road.

Kevin Hall, CEI Engineering, represented this replat request. Hall said this is being done to move the east line out of the floodplain.

Commissioner Myers asked if the ownership would stay with the lots in front of it or would it go to the City as part of the floodway. Hall said the lots would go the City as part of the floodway and drainage easement.

Commissioner Thrasher said Subdivision Committee has reviewed the plats and recommends sending this replat to City Council for approval.

APPROVED.

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

(Agenda Item #2)

A Request by Coya Long for a Temporary Concession Trailer at the Northeast Corner of 21st Street and Elm Street in the C-2 (Highway Commercial) Zoning District.

Coya Long represented this temporary concession trailer request. Ms. Long stated this would be their fourth year at this location. Ms. Long stated she would like to have a six-month permit starting May 1.

APPROVED.

Motion by White, second by Myers to approve this conditional use request for a period of six months starting May 1, 2011. Voice Vote: Unanimous. **Motion carried.**

(Agenda Item #3)

A Request by Super Chill Shaved Ice for a Temporary Concession Trailer at the Frisco Station Mall in the C-2 (Highway Commercial) Zoning District.

Cole Mitchell represented this conditional use request. Mitchell stated they were also located at the Mall last year, and would be set up near the sign at Frisco Station Mall this year. Mitchell said he would like to open next week.

Commissioner Myers asked if the picnic tables and chairs were plastic or wood. Mitchell said wood.

APPROVED.

Motion by Myers, second by Shupe to approve this conditional use request for a period of six months starting April 11, 2011. Voice Vote: Unanimous. **Motion carried.**

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

ATTEST

APPROVED

James Gosserand, Secretary

Chad Campbell, Chairman