

**MINUTES**

The **Rogers Planning Commission** met in *regular session* in the City Council Chambers of the Maurice H. Kolman Building on Tuesday, December 1, 2009 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, Don Spann, David Thrasher, and Jim White. Mike Shupe was absent.

**OTHER OFFICIALS PRESENT:**

Director of Planning and Transportation Steve Glass, City Planner Derrel Smith, Assistant City Planners Candy Anderson and Lori Stone, Project Manager Lance Jobe, Deputy City Attorney Jim Clark, Administrative Assistant Donna Johnston, Assistant Fire Marshal Bill Rumsey, Building and Inspections Director Mike Rouse, and Council Member Larry Daniel.

**ACTION ON MINUTES:**

(November 17, 2009)

**APPROVED.**

Motion by White, second by Myers to approve the minutes of November 17, 2009 as submitted. Voice Vote: Unanimous.  
**Motion carried.**

**REPORTS OF BOARDS AND  
STANDING COMMITTEES:**

None.

**CONSENT AGENDA:**

**LSDP, Academy Sports**

1. Drainage improvements must be completed and certified by the engineer of record, Adams Engineering and Crafton, Tull, Sparks & Associates 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. Provide the Building Official and City Planner with compaction tests for all ponds and fill areas.
4. Provide a soils report signed and sealed by a professional engineer with the building permit application.
5. All signs will require separate permits.
6. 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.
7. Interior sidewalks are the responsibility of the lot owner and must be installed prior to issuance of a Certificate of Occupancy.
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 8<sup>th</sup> Street to schedule type of mail delivery.
10. An easement dedication plat must be recorded prior to issuance of a Certificate of Occupancy.
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 copy of the Notice of Termination with ADEQ must be provided in order to receive a Certificate of Occupancy.
14. 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'.
15. A truck wash down area must be shown on the plans. A typical detail will be provided by the Planning Department and must be shown on a detail sheet.

16. All parking lots and drives must be hard surfaced.
17. All mechanical, electrical and air conditioning equipment must be screened from public view.
18. The entire facility must comply with the requirements of the Americans with Disabilities Act of 1990.
19. 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.**
20. The owner/developer will be responsible for any upstream or downstream flooding as a direct result of this development.
21. Provide the City Planner with a copy of the final site plan and utility plan on compact disk formatted for AutoCAD 2004 prior to issuance of a Certificate of Occupancy.

**APPROVED.**

Motion by White, second by Myers to approve the consent agenda consisting of the LSDP for Academy Sports subject to the conditions listed. Voice Vote: Unanimous. **Motion carried.**

**PUBLIC HEARINGS:**

(Agenda Item #1)

Request by Billie Cooper for a Conditional Use Permit to Allow Residential Use at 2929 West Walnut in the C-2 (Highway Commercial) Zoning District.

Ms. Cooper represented this request. Ms. Cooper stated the house has been up for sale and she has not been able to sell the property. Ms. Cooper said she needs to sell and be able to move for health reasons. City Planner Smith said the Cooper's lived at this location before this property was zoned to C-2 and were grandfathered when the zone changed.

Annette Gore, Re/Max Realtors, stated she is the realtor for this piece of property. Gore stated this is actually two living areas—one on top and one on bottom. The bottom has not been used for office in several years.

No one spoke in opposition to this conditional use request.

The Public Hearing was declared closed.

**APPROVED.**

Motion by Myers, second by White to grant this conditional use permit with no time constraints. Voice Vote: Unanimous.

**Motion carried.**

(Agenda Item #2)

Request by David Arlon Coker to Rezone 618 West Poplar from R-O (Residential Office) to the O (Office) Zoning District.

Mr. Coker stated he was requesting this rezone to put in a beauty salon at this location and live permanently upstairs above the salon.

Discussions were held on why Mr. Coker was requesting the O (Office) zoning district.

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

The Public Hearing was declared closed.

**APPROVED.**

Motion by Myers, second by Thrasher to recommend this rezoning request to City Council for approval. Roll Call Vote: Yes – Campbell, Gosserand, Mills, Myers, Shelby, Spann, Thrasher, and White.

**Motion carried.**

(Agenda Item #3)

Request by Megan Imler for a Conditional use Permit to have a Home Day Care at 2611 West Easy Street in the RSF-5 (Residential Single-Family) Zoning District.

Mrs. Imler stated she would like to operate this home daycare with six children, one of which was her own. Mrs. Imler provided pictures of the parking space available at her residence. Commissioner Mills asked if the Imler's parked their cars in the garage. Mrs. Imler said her car stayed in the garage. Her husband's car is parked outside; however, her husband leaves for work prior to the children arriving.

Commissioner Myers asked if the back lawn was fenced. Mrs. Imler said yes and provided pictures of the fencing around her backyard.

Chairman Spann asked Mrs. Imler her hours of operation. Mrs. Imler said 7:00 A.M. to 5:30 P.M. Monday through Friday.

Myers asked if there were restrictive covenants in the neighborhood. Mrs. Imler said there was a covenant concerning an in-home business; however, there are several covenants already broken in her neighborhood.

Commissioner Mills asked if the number of children could be limited with the conditional use. Myers said yes. Mrs. Imler reminded the Commissioners she is only asking for a total of six children.

Audrey and Pennie Core, 1105 North 27<sup>th</sup>, stated they lived on the corner of 27<sup>th</sup> and Easy. Pennie stated they have known Josh and Megan ever since they moved into the neighborhood. They are a blessing to the neighborhood. Pennie stated they do not feel this in-home business would bring chaos to the neighborhood.

Ron Papworth, 2809 West Easy Street, stated he goes by this house every day when he enters the trail system and has never seen any kind of problem at this location. Papworth said he did not think any increased traffic would present a problem for the neighbors.

Dan West, no address given, said he did not think this business would create any traffic problems. The traffic in this area moves slow and everyone adheres to the traffic signs in the neighborhood.

Rebecca Arnold, no address given, stated she was a daycare parent and had never had an issue with traffic or parking when dropping off her child.

No one spoke in opposition to this conditional use request.

The Public Hearing was declared closed.

Commissioner White reminded Mrs. Imler the permit for the home daycare is conditional. Any complaints or problems could cause the permit to be revoked.

Motion by White to approve the conditional use permit for six children for a period of one year.

Discussions were held on whether the hours of operation needed to be made a part of the conditional use permit.

White amended his motion to add the hours of operation from 6:30 A.M. to 6:00 P.M. Monday through Friday. This motion was seconded by Myers. Voice Vote: Unanimous. **Motion carried.**

Assistant City Planner Anderson asked the Commission if it was their intent to have Mrs. Imler come back next year and request another conditional use permit for her in-home daycare business. White said no and asked that his previous motion and vote be expunged.

Motion by Thrasher, second by Campbell to expunge the previous vote on this conditional use permit request. Voice Vote: Unanimous. **Motion carried.**

**APPROVED.**

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

for six children from 6:30 A.M. to 6:00 P.M. Monday through Friday for an indefinite period of time. Voice Vote: Unanimous. **Motion carried.**

(Agenda Item #4)

Request by Southeast Poultry for a Conditional Use Permit to Operate a Food/Grain Processing Facility at 2200 Town West Drive in the I-1 (Light Industrial) Zoning District.

Mr. Otwell represented this conditional use permit request. Otwell said this will be a de-boning plant and will have no live chickens. Otwell stated this building is 25 to 30 years old and its only use has been a processing facility. Otwell said the building has been vacant about five years. It sets on 5 ½ acres and has 45,000 sq. ft.

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

The Public Hearing was declared closed.

Commissioner Shelby asked if food processing was by right in any of our zones. City Planner Smith said he did not think so. They left food processing to conditional to be able to control where this type of facility could be located.

**APPROVED.**

Motion by Thrasher, second by Myers to grant this conditional use permit as requested. Voice Vote: Unanimous. **Motion carried.**

(Agenda Item #5)

Request by Ray Eagle to Rezone 402 West Hudson from I-1 (Light Industrial) to the C-2 (Highway Commercial) Zoning District.

Mr. Eagle represented this rezoning request. Eagle said his warehouse has virtually been empty for two years. He stated he and his wife have been unable to lease out the space. Eagle said his wife would like to open her own antique mall and flea market in this location. To do this, they will need to rezone this property to C-2. Eagle said all the property around their property is currently C-2.

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

The Public Hearing was declared closed.

**APPROVED.**

Motion by White, second by Mills to recommend this rezoning request to City Council for approval. Roll Call Vote: Yes – Campbell, Gosserand, Mills, Myers, Shelby, Spann, Thrasher, and White. **Motion carried.**

**NEW BUSINESS:**

(Agenda Item #1)

LSDP, Promenade Point II, South of Walgreens on Promenade Blvd. in the C-2 (Highway Commercial) Zoning District.

Chad Beardslee, Crafton, Tull, Sparks & Associates, represented this large scale development plan. Beardslee said there are still some issues we need to iron out before requesting approval of this plan. Beardslee said they are requesting this large scale development plan be tabled until the December 15, 2009 Planning Commission meeting.

**TABLED.**

Motion by Shelby, second by Myers to table this large scale development plan. Voice Vote: Unanimous. **Motion carried.**

Commissioner Campbell stated he would like to make a comment prior to adjourning today's meeting. Campbell said it seems at the last three or four meetings we have had requests or comments that people have purchased property and did not know the zoning or was told something different than what the zoning actually was. Campbell asked if the City was in any legal jeopardy when something like this occurs. Deputy City Attorney Clark said absolutely not. When someone buys property, they are charged with the responsibility of finding out how that property is zoned. All they have to do is call or come to the City

Planning Office for that information. It is unfortunate that sometimes things get plugged for something they are not, but the City has no control over that. Our zoning map is filed for record. It is for public information. Clark said buyers have to be aware of what they are buying and what that property can be used for.

Commissioner Shelby said the City's GIS website is a great tool for finding out that information.

There being no further business the meeting was adjourned at 5:10 P.M.

**ATTEST**

**APPROVED**

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Chad Campbell, Secretary

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Don Spann, Chairman