

**PLANNING COMMISSION & BOARD OF ZONING ADJUSTMENT
MINUTES
CREEKMORE PARK COMMUNITY CENTER
5:30 P.M.
DECEMBER 13, 2011**

On roll call, the following Commissioners were present: Steve Griffin, Walton Maurras, Salvatore Salamone, Vicki Newton, Rett Howard, Marshall Sharpe, Jennifer Parks, John Huffman and Mike Lorenz.

Chairman Griffin called for the vote on the minutes from the November 8, 2011, Planning Commission meeting. Motion was made by Commissioner Sharpe, seconded by Commissioner Parks and carried unanimously to approve the minutes as written.

Mr. Wally Bailey spoke on the procedures.

1. Final Plat – Cobble Hill Hideaway – Lots 1-6 – Mickle-Wagner-Coleman

Ms. Brenda Andrews read the staff report indicating that this plat is for single family homes within a private, gated development. Ms. Andrews noted that in October of 2011 two (2) subdivision variances for required secondary access and maximum average daily trips were reviewed and approved. Ms. Andrews stated that staff is recommending approval of the final plat and the Protective Covenants and Bill of Assurance for the private subdivision.

No one was present to speak in opposition to this item.

Chairman Griffin called for the vote on the final plat. The vote was 8 in favor, 0 opposed and 1 abstention (Griffin). The plat was approved subject to all required approvals of the plat and the affixing of all required signatures on the original tracing and other copies and associated documents prior to the plat being filed with the county recorder.

- 2. Master Land Use Plan Amendment from Unclassified to General Commercial located at 8210 S. Zero, 8220 S. Zero and 8201 Huntington Circle. (companion item to item #3)**
- 3. Zoning #35-12-11; A request by Galen Hunter, agent for:**
- A. A zone change from Not Zoned to Commercial Heavy (C-5) by Extension located at 8210 S. Zero, 8220 S. Zero and 8201 Huntington Circle. (companion item to item #2 & #3B)**
 - B. A request to defer the requirement for a development plan at 8210 S. Zero, 8220 S. Zero and 8201 Huntington Circle. (companion item to item #2 & #3A)**

Ms. Maggie Rice read the staff report indicating that the purpose of these requests is to permit future construction of a convenience store with gasoline sales and other retail uses. Ms. Rice stated that this property is considered a gateway into Chaffee Crossing and is within the Massard/Zero Overlay. Ms. Rice noted that without a development plan, staff cannot ensure that the project meets the UDO design regulations and the Massard/Zero Overlay District regulations and serves as an attractive entrance for Chaffee Crossing. Ms. Rice also stated that the Engineering Department states upon development a traffic impact study may be required and drainage/stormwater management, including water quantity and quality, must be addressed in accordance with the current design standards.

Ms. Rice noted that planning staff is recommending the Planning Commission defer action on the rezoning request until a development plan is submitted but should the Planning Commission agree with the request, staff has the following comments:

1. The development plan shall be subject to Planning Commission approval prior to the issuance of any building permits.
2. Amend the request to a Commercial Moderate (C-3) zone instead of the requested Commercial Heavy (C-5) zoning district.

Mr. Galen Hunter, 6400 Riley Park Drive, was present to speak on behalf of these requests. Mr. Hunter stated that development is a year or two (2) off and his client is not prepared to submit a development plan that he would be locked into. He stated that the client is requesting a Commercial-5 zoning classification on this property in order to be consistent with the surrounding property.

Comissioner Maurras questioned the applicant as to their opposition to a Commercial-3 zoning designation since the property to the east is zoned Commercial-3. Mr. Hunter stated property zoned Commercial-5 is more valuable due to the number of uses allowed in a C-5 zone.

No one was present to speak in opposition to these requests.

Following a discussion by the Commission, Chairman Griffin called for the vote on these items separately.

- 2. Master Land Use Plan Amendment from Unclassified to General Commercial located at 8210 S. Zero, 8220 S. Zero and 8201 Huntington Circle. (companion item to items #3)**

Chairman Griffin called for the vote on the Master Land Use Plan Amendment. The vote was 9 in favor and 0 opposed.

- 3. Zoning #35-12-11; A request by Galen Hunter, agent for:**

A. A zone change from Not Zoned to Commercial Heavy (C-5) by Extension located at 8210 S. Zero, 8220 S. Zero and 8201 Huntington Circle. (companion item to item #2)

B. A request to defer the requirement for a development plan at 8210 S. Zero, 8220 S. Zero and 8201 Huntington Circle. (companion item to item #2 & #3A)

Mr. Galen Hunter requested that these items be tabled until next month's Planning Commission meeting rather than accept a Commercial-3 zoning designation for these properties.

Motion was made by Commissioner Howard, seconded by Commissioner Parks and carried with a vote of 8 in favor and 1 opposed (Maurras) to table these requests until the January 2012 Planning Commission meeting.

4. Conditional Use #31-12-11; A request by Terry Carpenter, agent, for a conditional use for a church located at 2201 Fianna Oaks Drive.

Ms. Maggie Rice read the staff report indicating that the purpose of this request is to allow for the construction of a church. Ms. Rice stated that a neighborhood meeting was held on Wednesday, November 30th at 2:00 p.m. at 2201 Fianna Oaks Drive with questions being addressed relative to drainage, traffic and parking.

Mr. Terry Carpenter was present to speak on behalf of this request.

No one was present to speak in opposition to the request.

Following a discussion by the Commission, motion was made by Commissioner Parks, seconded by Commissioner Lorenz and carried unanimously to amend this request to make approval subject to the following:

- Approval is based on the plans submitted with the conditional use application.
- A final landscaping plan submitted with construction plans for building permit review shall identify botanical names, sizes when planted, quantities, as well as an irrigation plan. The final landscaping plan will be reviewed by planning staff prior to issuance of the building permit to ensure compliance with all landscaping requirements in Section 27-602-3 of the Unified Development Ordinance.
- If a trash receptacle is proposed, construction plans for building permit review shall provide details for a trash receptacle that is completely screened from adjoining properties and street right-of-way.

- Construction plans for building permit review shall provide exterior elevation details for the proposed 12' x 18' storage building in compliance with the Transitional and Commercial Building Design Standards in Section 27-602-4(C).
- The development must comply with all city codes and standards for development and construction.
- Submittal of a sign permit application for staff review and permitting.

Chairman Griffin then called for the vote on the conditional use request as amended. The vote was 9 in favor and 0 opposed.

5. Conditional Use #32-12-11; A request by Al Prieur, agent, for a conditional use for a church located at 4624 Kelley Highway.

Ms. Brenda Andrews read the staff report indicating that the purpose of this request is to allow for the renovation of the existing structure into a church. Ms. Andrews stated that a neighborhood meeting was held on Wednesday, November 30th at 2:30 p.m. at 4624 Kelley Highway with no concerns being expressed.

Mr. Al Prieur was present to speak on behalf of this request.

No one was present to speak in opposition to the request.

Following a discussion by the Commission, motion was made by Commissioner Lorenz, seconded by Commissioner Parks and carried unanimously to amend this request to make approval subject to the following:

- Restripe all existing parking spaces and designate three accessible spaces.
- Install bumper blocks on parking spaces adjacent to Kelley Highway and North 47th Street.
- If any new parking lots are proposed, plans shall be submitted for building permit review.
- If a trash receptacle is proposed, construction plans for building permit review shall be submitted that provide details for a trash receptacle that is completely screened from adjoining properties and street right-of-way.
- Submittal of a sign permit application for all proposed signage.

Chairman Griffin then called for the vote on the conditional use request as amended. The vote was 9 in favor and 0 opposed.

6. Conditional Use #33-12-11; A request by Janice Koster, agent, for a conditional use for a community food service located at 2801 McKinley.

Ms. Brenda Andrews read the staff report indicating that the purpose of this request is to allow the utilization of an existing building as a community food services facility. Ms. Andrews stated that the applicant is proposing to store food at the facility for mobile distribution to qualified individuals and families. Ms. Andrews noted that a neighborhood meeting was held on Friday, December, 2nd at 10:00 a.m. at the site with one neighboring property owner in attendance with no objections or concerns voiced at the meeting.

Ms. Janice Koster, 2107A Plum Creek, Alma, AR, was present to speak on behalf of this request. Ms. Koster indicated that they would be working with churches in distributing food, as well as household goods such as clothing and cleaning supplies.

Mr. Bailey informed Ms. Koster that community food services facilities can distribute only food, clothing and bedding but not cleaning supplies.

Mr. Ted Clemons, Director of River Valley Regional Food Bank, was present to speak in opposition to this request. Mr. Clemons stated that he feels this is going to be a duplication of services.

Commissioner Maurras stated that he does not feel it is the Planning Commission's purpose to limit duplications of any services.

Following a discussion by the Commission, motion was made by Commissioner Maurras, seconded by Commissioner Howard and carried unanimously to amend this request to make approval subject to the following:

- Due to the limited parking spaces, no on-site food distribution to clients is permitted.
- Any new site lighting shall not produce glare, light trespass and/or unnecessary skyglow as stated in Section 27-602-5 of the Unified Development Ordinance.
- If trash service is required on site, a screened dumpster enclosure as stated in Section 27-602-4 (C) (4) of the Unified Development Ordinance will be required.

Chairman Griffin then called for the vote on the conditional use request as amended. The vote was 6 in favor and 3 opposed (Huffman, Newton, Lorenz).

7. Conditional Use #34-12-11; A request by Robert Secrest, agent, for a conditional use for a lodge or fraternal organization located at 5222 South 31st Street.

Ms. Maggie Rice read the staff report indicating that the purpose of this conditional use request is to allow for the reuse of the vacant structure into a lodge or fraternal organization for the American Veteran Club. Ms. Rice stated that the structure would be utilized as is with no structural changes.

Mr. Robert Secrest, 6707 Sturgenn Road, Hackett, AR, was present to speak on behalf of this request.

No one was present to speak in opposition to the request.

Chairman Griffin then called for the vote on the conditional use request. Motion was made by Commissioner Lorenz, seconded by Commissioner Parks and carried unanimously to amend this request to make approval subject to the following:

- Bumper blocks shall be installed to delineate parking spaces as shown on the site plan.
- Driveway approach shall be installed to current codes.
- If trash service is required on site, a screened dumpster enclosure as stated in Section 27-602-4 (C) (4) of the Unified Development Ordinance will be required.
- Any new site lighting shall not produce glare, light trespass and/or unnecessary skyglow as stated in Section 27-602-5 of the Unified Development Ordinance.
- Any new signage will require separate permits.

Chairman Griffin then called for the vote on the conditional use request as amended. The vote was 8 in favor and 0 opposed. Commissioner Howard was absent at the time of the vote.

8. Home Occupation #6-12-11; A request by Daniel Chasteen for a home occupation for a painting and handyman business located at 1714 Jenny Lind Road.

Ms. Maggie Rice read the staff report indicating that the purpose of this request is to allow the operation of a painting and handyman business from the applicant's residence. Ms. Rice stated that the application indicates that the business will be conducted Monday through Friday from 8:00 a.m. to 5:00 p.m. with no customers coming to the residence. She noted that all work will be done at the customer's property.

Mr. Daniel Chasteen, 1714 Jenny Lind Road, was present to speak on behalf of this request.

No one was present to speak in opposition to the request.

Following a discussion by the Commission relative to parking concerns, motion was made by Commissioner Parks, seconded by Commissioner Lorenz and carried unanimously to amend this request to make approval subject to the following:

- All vehicles shall be parked in compliance with the Fort Smith Parking Regulations.
- The business license cannot be transferred to another residence without a new Home Occupation Application.
- No commercial trash container will be placed at the residence.
- Any refuse created by a job must be disposed of at the job site or other approved location and not returned to the residence at 1714 Jenny Lind Road.

Chairman Griffin then called for the vote on the home occupation request as amended. The vote was 7 in favor and 2 opposed. (Howard, Sharpe)

9. Home Occupation #7-12-11; A request by James Green for a home occupation for a lawn care business located at 1013 Vicksburg.

Ms. Maggie Rice read the staff report indicating that the purpose of the home occupation request is to allow the applicant to operate a lawn care service from his residence. Ms. Rice stated that the application indicates the business will be conducted Monday through Saturday from 7:00 a.m. to 7:00 p.m. with no customers coming to the residence.

Mr. James Green, 1013 Vicksburg, was present to speak on behalf of this request.

No one was present to speak in opposition to the request.

Following a discussion by the Commission, motion was made by Commissioner Parks, seconded by Commissioner Howard and carried unanimously to amend this request to make approval subject to the following:

- All vehicles shall be parked in compliance with the Fort Smith Parking Regulations.
- The business license cannot be transferred to another residence without a new Home Occupation Application.
- No commercial trash container will be placed at the residence.
- Any refuse created by a job must be disposed of at the job site or other approved location and not returned to the residence at 1013 Vicksburg Street.

Chairman Griffin then called for the vote on the home occupation request. The vote was 9 in favor and 0 opposed.

10. Home Occupation #8-12-11; A request by Denny Wise for a home occupation for an air brushing business located at 4525 Young Street.

Ms. Brenda Andrews read the staff report indicating that the purpose of this request is to allow the applicant to operate an air brush painting service from his residence. Ms. Andrews stated that the application indicates the business will be conducted Monday through Saturday from 8:00 a.m. to 7:00 p.m. Ms. Andrews noted that the staff report indicates that no customers will be coming to Mr. Wise's residence and that all work will be done at Mr. Wise's residence.

Mr. Denny Wise, 4525 Young Street, was present to speak on behalf of this request.

No one was present to speak in opposition to the request.

Chairman Griffin then called for the vote on the home occupation request. Motion was made by Commissioner Sharpe, seconded by Commissioner Lorenz and carried unanimously to amend this request to make approval subject to the following and also to correct page #10B to state that all work will be done at Mr. Wise's residence:

- All vehicles shall be parked in compliance with the Fort Smith Parking Regulations.
- The business license cannot be transferred to another residence without a new Home Occupation Application.
- No commercial trash container will be placed at the residence.

Chairman Griffin then called for the vote on the home occupation request as amended. The vote as 9 in favor and 0 opposed.

11. Variance #42-12-11; A request by Roger Winton, agent, for a variance from 20 feet to 14.3 feet front yard setback; from 15 feet to 5 feet exterior side yard setback; from 30 feet to 5.3 feet interior side yard setback; from 30 feet to 13.1 feet interior side yard setback and a variance from the landscape requirements located at 1701 South "S" Street.

Ms. Brenda Andrews read the staff report indicating that the purpose of the variance request is to reflect the actual front and exterior side yard setbacks for an existing duplex and to allow the duplex and a proposed single family unit to develop into a multi-family development with less than the minimum required interior setbacks and have less than the minimum required perimeter landscaping and parking lot screening.

Ms. Andrews stated that a neighborhood meeting was held on December 6th at 6:30 p.m. at the site with no property owners in attendance. Ms. Andrews noted that staff did not attend the meeting because written notice of the neighborhood meeting was not received by the planning department until December 7th. Ms. Andrews noted that the duplex was completed in August 2011. She stated that city inspectors verified the setbacks based on the property pins and the contractor's string lines in place at the time of inspection. She also clarified that the city staff did not discover that the property pins had been incorrectly placed until after the contractor requested a Certificate of Occupancy for the duplex and submitted preliminary plans for a single-family unit on the property. Ms. Andrews also noted that following the discovery of the errors, a survey prepared by Anderson Surveying confirmed that the front setback was 14.3 feet and the exterior side yard setback was 7.7 feet from the face of the duplex. After the duplex was complete, the property owner proposed a single family dwelling on the property. Ms. Andrews stated that the addition of a single family dwelling on the property constitutes a multi-family development and because a single family residence is located immediately east of the existing duplex, a 30 foot interior side yard setback is required for a multi-family development.

Ms. Andrews also stated that the applicant is requesting a variance from the landscaping requirements. She noted the plan submitted shows perimeter landscaping consisting of one (1) tree and ten (10) shrubs on South 'S' Street and three (3) trees and eighteen (18) shrubs on South 17th Street and based on the UDO's requirement of one (1) tree and ten (10) shrubs for every 50 linear feet of frontage, a total of 30 shrubs are required adjacent to South 17th Street. Ms. Andrews also noted that in addition to perimeter landscaping, parking lot screening is also required for parking lots with five (5) or more parking spaces and the plan does not show parking lot screening.

Ms. Andrews stated that the plan also does not provide the required minimum parking spaces. The plan indicates a total of five (5) parking spaces and a total of six (6) parking spaces are required for the duplex and the proposed single family dwelling. She noted that if the variances are approved to allow the single family unit, an additional parking space must be provided and if it cannot be provided, the applicant must submit a variance application and receive approval from the Board of Zoning Adjustment to allow the development to occur with only five (5) parking spaces. It was also noted that multi-family developments are also required to completely screen trash receptacles with a permanent opaque screen fence and no trash receptacle is shown on the plan.

Ms. Andrews stated that the applicant has indicated that without the requested variances he would be unable to construct the third unit.

Ms. Andrews advised the Commission that if they approve this variance request staff is recommending that the applicant submit a revised site plan showing the six (6) parking spaces and a screen trash receptacle or submit a variance for the Board of Zoning Adjustment consideration.

Commissioner Lorenz questioned who is responsible for making sure the pins are placed in the right location. Mr. Bailey stated that to obtain a building permit for a single family and duplex construction, you do not have to submit a survey. It is the contractor or owner's responsibility to establish the correct property lines.

Mr. Bailey stated that right now this is a legal non-conforming structure and if the variances are granted it becomes an approved structure.

Mr. Roger Winton, 1715 South 23rd, was present to speak on behalf of this request.

No one was present to speak in opposition to the request.

Following a discussion by the Commission, Chairman Griffin called for the vote on this variance request. The vote was 9 opposed and 0 in favor.

Meeting Adjourned!