

**PLANNING COMMISSION & BOARD OF ZONING ADJUSTMENT
MINUTES
CREEKMORE PARK COMMUNITY CENTER
5:30 P.M.
NOVEMBER 8, 2011**

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

Chairman Griffin called for the vote on the minutes from the October 11, 2011, Planning Commission meeting. Motion was made by Commissioner Howard, seconded by Commissioner Parks and carried unanimously to approve the minutes as written.

Mr. Wally Bailey spoke on the procedures.

1. UDO Amendments – Land Use Matrix

Ms. Maggie Rice read the staff report indicating that a request had been received to operate a sewing machine store (sales and service) within the Commercial Light (C-2) zoning district. Ms. Rice stated that currently the code prohibits a sewing machine store (sales and service) in a C-2 zone but staff agrees that this type of use as a permitted use would be comparable to the uses already allowed by right or conditional use, i.e, computer and software shop, an electronics and appliance sales and service (new merchandise) and a camera, photographic supplies and service.

No one was present to speak in opposition to the proposed amendment.

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

2. Master Land Use Plan Amendment from Commercial Neighborhood to Residential Attached located at 5615 Euper Lane. (companion item to items #3A & #3B)

3. Rezoning #32-11-11; A request by Brett Abbott, agent, for:

A. A zone change from Commercial-5-Special (C-5-SPL) and Transitional (T) to Residential Multi-Family Medium Density (RM-3) by Classification located at 5615 Euper Lane. (companion item to items #2 & #3B)

B. A request to defer the requirement for a development plan at 5615 Euper Lane. (companion item to items #2 & #3A)

Mr. Wally Bailey read the staff reports indicating the purpose of these requests is to allow the construction of a 20 unit multi-family development.

Mr. Bailey stated that a neighborhood meeting was held on Friday, October 21st at 2:00 p.m. on site with several surrounding property owners attending the meeting in opposition to the requests. Mr. Bailey noted that historically the zoning in this area has not allowed multi-family developments and under the previously existing regulations, the Transitional-2 zoning restricted residential development to single family and duplex dwellings. Mr. Bailey stated that multi-family developments can serve as satisfactory buffers between commercial and residential development but that is hard to determine without a development plan.

Mr. Bailey noted that the Utilities Department notes a fire hydrant will need to be installed in accordance with current subdivision development guidelines and the Operations Department has noted that drainage improvements will be required with the development of this property.

Mr. Brett Abbott with Tim Risley & Associates, was present to speak on behalf of these requests.

The following persons spoke in opposition to these requests citing their concerns relative to it being a spot zoning, safety and traffic concerns and it being a use that is not compatible with the surrounding area:

Mr. Rodney Ghan, 5831 Euper Lane; Dr. Mark Willis, 5604 Ellsworth Road; Mr. Scott James, 5604 Euper Lane and Mr. Larry Clark, 5500 Euper Lane.

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

2. Master Land Use Plan Amendment from Commercial Neighborhood to Residential Attached located at 5615 Euper Lane. (companion item to items #3A & #3B)

Chairman Griffin called for the vote on the Master Land Use Plan Amendment. The vote was 8 opposed and 1 abstention (Howard).

3. Rezoning#32-11-11; A request by Brett Abbott, agent, for:

A. A zone change from Commercial-5-Special (C-5-SPL) and Transitional (T) to Residential Multi-Family medium Density (RM-3) by Classification located at 5615 Euper Lane. (companion item to items #2 & #3B)

Chairman Griffin called for the vote on the rezoning request. The vote was 8 opposed and 1 abstention (Howard).

B. A request to defer the requirement for a development plan at 5615 Euper Lane. (companion item to items #2 & #3A)

There was no vote taken on this request due to the denial of the rezoning application.

- 4. Master Land Use Plan Amendment from Mixed Use Residential to General Commercial located at 6300 Massard. (companion item to items #5A & #5B)**
- 5. Rezoning #33-11-11; A request by Damon Wright, agent, for:**
 - A. A zone change from Residential Multi-Family Medium Density (RM-3) to Commercial Heavy (C-5) by Classification located at 6300 Massard. (companion item to items #4 & #5B)**
 - B. A request to defer the requirement for a development plan at 6300 Massard. (companion item to items #4 & #5A)**

Ms. Maggie Rice read the staff reports indicating that the purpose of these requests is to permit the construction of mini-storages. Ms. Rice stated that this property was part of a 66.93 acre tract that was annexed by the City on June 6, 2006 and was previously classified as Industrial Light when it was located in the Extraterritorial Jurisdiction area. She noted that the Planning Commission placed Commercial Heavy Special C zoning on the property in June of 2008 to facilitate a mini-storage development as part of a mixed use area in combination with the multi-family development to the south and in July 2011, the Planning Commission approved a rezoning request to Residential Multi-Family Medium Density for a multi-family development.

Ms. Rice noted that a neighborhood meeting was held with no surrounding property owners in attendance.

Ms. Rice stated that the applicant is also requesting a deferral from the development plan and since this property is considered a gateway into Chaffee Crossing and is within the Massard/Zero Overlay, without a development plan, staff cannot ensure that the project meets the UDO design regulations and serves as an attractive entrance for Chaffee Crossing.

Mr. Damon Wright, 3307 Old Greenwood Road, was present to speak on behalf of these requests. Mr. Wright indicating that they would meet all requirements of the UDO and did not want to go to the expense of a development plan until they got feedback as to the likelihood of the project being approved.

The Commission expressed their concerns relative to changing the zoning on the property prior to the City and Commission seeing and approving a development plan and some concerns were noted relative to whether this type of development would be a good fit for the gateway into Chaffee Crossing.

Following a discussion by the Commission, motion was made by Commissioner Parks, seconded by Commissioner Sharpe and carried unanimously to table this item for a period of sixty (60) days.

- 6. Master Land Use Plan Amendment from Commercial Neighborhood to Residential Attached located at 1801-1813 North “N” Street. (companion item to item #7)**
- 7. Rezoning #34-11-11; A request by Pat Mickle, agent, for a zone change from Industrial Light (I-1) to Residential Multi-Family High Density (RM-4) by Extension located at 1801-1813 North “N” Street. (companion item to item #6)**

Ms. Maggie Rice read the staff reports indicating that the purpose of these requests is to allow for the development of four duplexes on four lots. Ms. Rice stated that a neighborhood meeting was held on October 27th at 5:30 p.m. at Blaylock Heating and Air with eight surrounding property owners attending the meeting. Questions were addressed relative to traffic, drainage and property values. Ms. Rice noted that the proposed project is consistent with established zoning to the south of the proposed zoning site and the proposed duplex development is a suitable land use for this location and will act as a transition between the commercial development to the north and the single family residences to the south and east.

Mr. Pat Mickle was present to speak on behalf of these request.

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

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

- 6. Master Land Use Plan Amendment from Commercial Neighborhood to Residential Attached located at 1801-1813 North “N” Street. (companion item to item #7)**

Chairman Griffin called for the vote on the Master Land Use Plan Amendment. The vote was 8 in favor and 1 abstention (Howard).

- 7. Rezoning #34-11-11; A request by Pat Mickle, agent, for a zone change from Industrial Light (I-1) to Residential Multi-Family High Density (RM-4) by Extension located at 1801-1813 North “N” Street. (companion item to item #6)**

Chairman Griffin called for the vote on the rezoning request. The vote was 8 in favor and 1 abstention (Howard).

- 8. Conditional Use #29-11-11; A request by Kazuo Curry, agent, for a conditional use for a sign contractor shop located at 3124 Midland Boulevard.**

Ms. Maggie Rice read the staff report indicating that the purpose of this request is to allow for the reuse of the vacant building for a sign contractor business. Ms. Rice stated that if the conditional use is approved, the structure would be utilized as is with no structural changes. Ms. Rice noted that a neighborhood meeting was held on Friday,

October 28th at 5:30 p.m. at 3124 Midland Boulevard with no neighboring property owners in attendance.

Mr. Kazuo Curry 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 Howard, seconded by Commissioner Parks and carried unanimously to amend this request to make approval subject to the following:

- All parking spaces located along Midland Boulevard frontage shall be marked.
- All storage of signs and parts shall be inside of the building and not in the area to the sides or rear of the building unless an opaque privacy fence is constructed to shield the area from view.

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

9. Conditional Use #30-11-11; A request by Ron Brixey, agent, for a conditional use for: (companion item to item #13)

A. A contractor shop and storage yard located at 5901 Hwy. 271 South.

B. Subdivision Plat – Bartel Addition – Lots 1A, 2A & 3 – Private Access Easement

13. Variance #40-11-11; A request by Ron Brixey, agent, for a variance from 200 feet to 43 feet separation between driveways located at 5901 Hwy. 271 South. (companion item to items #9A & #9B)

Mr. Wally Bailey read the staff reports indicating that the purpose of these requests is to allow for the construction of an open pole barn to be used to store materials for the owners business (cable work for Cox Communications) and to allow for a proposed driveway approach to have a separation distance of 43 feet between it and an existing driveway. Mr. Bailey stated that the driveway approach would facilitate the development of a contractor's shop and storage yard. Mr. Bailey noted that the request has been reviewed by all appropriate city departments and there are no objections to the variance. He also noted that an asphalt driveway exists on this site at the location of the proposed driveway approach.

Mr. Ron Brixey was present to speak on behalf of these requests.

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

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

9. Conditional Use #30-11-11; A request by Ron Brixey, agent, for a conditional use for: (companion item to item #13)

A. A contractor shop and storage yard located at 5901 Hwy. 271 South.

Motion was made by Commissioner Parks, seconded by Commissioner Lorenz and carried unanimously to amend the request to make approval subject to the following:

- The shared drive proposed for Bartel Addition Lot 1A be omitted from the site plan and from the proposed plat for Bartel Addition, Lots 1A, 2A & 3.
- All traffic shall enter and exit onto US Highway 271 and not onto Brazil Avenue.
- Access to the proposed Lot 1A be closed with a physical barrier (such as bumper blocks or gate)
- A gate shall be installed and kept closed except when a vehicle is entering or exiting the storage yard.
- All materials and equipment shall be stored inside the fenced enclosure.

Chairman Griffin then called for the vote on this request as amended. The vote was 8 in favor and 1 opposed (Howard)

B. Subdivision Plat – Bartel Addition – Lots 1A, 2A & 3 – Private Access Easement

Chairman Griffin called for the vote on this request. The vote was 7 opposed and 2 in favor (Newton, Huffman)

**RECESS PLANNING COMMISSION
CONVENE BOARD OF ZONING ADJUSTMENT**

13. Variance #40-11-11; A request by Ron Brixey, agent, for a variance from 200 feet to 43 feet separation between driveways located at 5901 Hwy. 271 South. (companion item to items #9A & #9B)

Chairman Griffin called for the vote on this variance request. The vote was 7 in favor and 2 opposed (Howard, Maurras)

**RECESS BOARD OF ZONING ADJUSTMENT
RECONVENE PLANNING COMMISSION**

10. Home Occupation #5-11-11; A request by Soutchay Vongphith for a home occupation for a beauty salon located at 4001 North 54th Street.

Ms. Maggie Rice read the staff report indicating that the purpose of this home occupation request is to allow the applicant to operate a beauty salon business from her residence. Ms. Rice stated that her application indicates the business will be conducted one day a week on Monday from 10:00 a.m. to 5:00 p.m. with all customers being by appointment only.

Mr. Vongphith, 4001 North 54th Street, was present to speak on behalf of the 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 Parks, seconded by Commissioner Howard and carried unanimously to amend the request to make approval subject to the following:

- All vehicles shall be parked in compliance with the Fort Smith Parking Regulations.
- No commercial trash container will be placed at the residence.
- The business license cannot be transferred to another residence without a new Home Occupation application.
- A building permit for plumbing, electric and ventilation requirements will be required for the manicure and pedicure salon stations.

Chairman Griffin then called for the vote on the home occupation request as amended. The vote was 8 in favor and 1 opposed (Lorenz).

RECESS PLANNING COMMISSION RECONVENE BOARD OF ZONING ADJUSTMENT

11. Variance #37-11-11; A request by Nick Rodebush, agent, for a variance from 25 feet to 0 feet exterior side yard setback and from 10 feet to 5.9 feet rear yard setback located at 2701 South 23rd Street.

Ms. Maggie Rice read the staff report indicating that the purpose of this variance request is to allow for the construction of a carport to be added to the front of the existing garage. Ms. Rice stated that the carport would align with the side of the existing garage and extend out to the property line along the street and would match the existing garage. Ms. Rice noted that a neighborhood meeting was held on October 25th at 5:30 p.m. at 2701 South 23rd Street with one neighbor in attendance who was in favor of the variance. Ms. Rice stated that the intersection of South 23rd Street and Sunset Drive is an entrance into the Hillcrest Subdivision and this carport addition would be very visible turning onto Sunset Drive and out of character with the neighborhood. She did note, however, that

there are five (5) carports in the neighborhood that extend into the setbacks but not to the extent as proposed by this application.

Mr. Rodebush was present to speak on behalf of this request.

Commissioner Maurras thanked Mr. Rodebush for first making application for the variance prior to constructing the carport.

Mr. Ken Kupchick, #46 Hiland, addressed the Commission relative to his concerns of maintaining the integrity of this historic neighborhood.

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

12. Variance #38-11-11; A request by John Canterbury for a variance from an opaque 6 foot fence requirement to a landscape buffer located at 1700 Rogers Avenue.

Mr. Wally Bailey read the staff report indicating the purpose of this variance request is to allow the owner to screen the rear of the commercial building under construction (south property line) with a buffer of evergreen trees instead of a six-foot opaque fence. Mr. Bailey stated that on May 10, 2011, the Board of Zoning Adjustment approved a variance that allowed the owner to utilize 100% metal on the rear (south) exterior wall of the commercial building under construction. The variance was approved with two conditions: (1) along the south property line, a minimum 6' tall privacy fence will be installed on a 30" tall retaining wall with the fence and retaining wall having an effective screening height of 9'; and (2) 100% of the west side of the building would be constructed with the same high-quality materials as the front of the building. Mr. Bailey noted that as construction of the building has progressed, the owner feels that a landscape buffer would screen the rear of the building as effectively as a privacy fence but would be more complimentary to the site and overall landscaping plan proposed for the property. Mr. Bailey stated that the owner has suggested four evergreen options for the landscape buffer including Arborvitae, Leyland Cypress, Oakleaf Holly and Eleagnus and for the applicant's specific site, Oakleaf Holly and Arborvitae are the best choices due to their size at maturity. Mr. Bailey noted that the Oakleaf Holly would grow to approximately 18-20 feet tall and 8 feet wide while the Arborvitae would grow to 10-15 tall and 3-4 feet wide.

Mr. Bailey noted that staff received a phone call from Ms. Heather Parks at 323 South 17th Street, whose property abuts the applicant's site to the south. Ms. Parks stated that she would prefer a privacy fence because she has severe allergies to nature and is concerned about people antagonizing her dog.

Mr. John Canterbury, 9600 Bramble Brae, was present to speak on behalf of the 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:

- The landscape buffer shall be planted with either Oakleaf Holly or Arborvitae trees that are a minimum of five (5) feet tall at the time of planting.
- The trees shall be spaced 60” on center and planted in the area as shown on the site plan.
- The landscape buffer shall be maintained with an automatic underground irrigation system.

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

Meeting Adjourned!