

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

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

Chairman Griffin called for the vote on the minutes from the August 9, 2011, Planning Commission meeting. Motion was made by Commissioner Howard, seconded by Commissioner Lorenz and carried unanimously to approve the minutes as written.

Mr. Wally Bailey spoke on the procedures.

Chairman Griffin noted that items #3, #4, #5 and #6 on the agenda have been requested by the applicants to be tabled. He stated that these items would be discussed prior to hearing the remaining items on the agenda.

- 3. Master Land Use Plan Amendment from Residential Attached to General Commercial located at 1520 South “U” Street. (companion item to items #4 & #5)**
- 4. Rezoning #26-9-11; A request by Scott Branton, agent, for a zone change from Commercial-4-P (C-4-P) to Commercial Heavy (C-5) by Extension located at 1520 South “U” Street. (companion item to items #3 & #5)**
- 5. Development Plan Approval for a self-storage facility located at 1520 South “U” Street. (companion item to items #3 & #4)**

Mr. Wally Bailey noted that after reviewing these requests, it was determined that a variance would also be required. Therefore, staff is recommending these items be tabled until a variance application can be submitted at the Commission’s next month’s meeting. Mr. Bailey stated that the applicant is agreeable to the tabling of these items.

Motion was then made by Commissioner Howard, seconded by Commissioner Lorenz and carried unanimously to table these items until the October Planning Commission meeting. Chairman Griffin called for the vote to table these items.

- 3. Master Land Use Plan Amendment from Residential Attached to General Commercial located at 1520 South “U” Street. (companion item to items #4 & #5)**

The vote to table the Master Land Use Plan Amendment was approved by a vote of 8 in favor and 0 opposed.

4. **Rezoning #26-9-11; A request by Scott Branton, agent, for a zone change from Commercial-4-P (C-4-P) to Commercial Heavy (C-5) by Extension located at 1520 South “U” Street. (companion item to items #3 & #5)**

The vote to table the rezoning request was approved by a vote of 8 in favor and 0 opposed.

5. **Development Plan Approval for a self-storage facility located at 1520 South “U” Street. (companion item to items #3 & #4)**

The vote to table the development plan was approved by a vote of 8 in favor and 0 opposed.

6. **Rezoning #27-9-11; A request by Bobby Aldridge, agent, for a zone change from Open-1 and C-5-Special to Commercial Employment Mixed Use (CEMU) by Classification located at 4100-4570 Cliff Drive.**

Mr. Wally Bailey stated that the applicant is requesting this item be tabled in order to allow additional meetings with the neighborhood and staff.

Mr. Doug George, #6 Old Greenwood Lane, requested that the Commission hear this request. Mr. George stated that he did not trust the developers of this property due to what happened on the previous Kelley property development. Mr. and Mrs. George both noted the damage that has occurred to their property from the previous development, i.e., cracked floors and walls, swimming pool and damage to their alarm system due to rodents chewing on the wiring.

Mr. Kyle Parker, 4701 Cliff Drive, addressed the Commission. Mr. Parker stated that he was going to be out of a town for a couple of weeks and wanted to make sure that he would be provided ample time to attend additional meetings with the developers.

Following a discussion by the Commission, Chairman Griffin called for a vote to table the rezoning request until the October 11th Planning Commission meeting. The vote was 8 in favor and 0 opposed.

1. **Amendments to the Unified Development Ordinance (restaurant with outdoor dining I-1 zoning district)**

Mr. Wally Bailey read the staff report indicating the reason for this amendment is due to a request to operate a restaurant with outdoor dining within the Industrial Light (I-1) zoning district which currently the code prohibits. Mr. Bailey stated that staff agrees that allowing a restaurant with outdoor dining as a conditional use in the I-1 zone would be comparable to the following uses already allowed by right or conditional use: 1) Restaurant (P); 2) Restaurant with drive-in service (P); and 3) Restaurant with drive through service (P).

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

Chairman Griffin then called for the vote on the UDO Amendments. The vote was 8 in favor and 0 opposed.

2. Preliminary Plat – Free Ferry Development – Sivell Engineering

Ms. Brenda Andrews read the staff report indicating that the purpose of this request is to allow for the construction of a six-lot subdivision.

Mr. Brandon Woodrome, the developer of this project, 7319 Rye Hill Road East, was present to speak on behalf of the preliminary plat. Mr. Woodrome stated that he will construct a detention pond and make other improvements to prevent any additional water runoff from the Ferry Ferry Road site where he will construct the six homes.

Mr. Ron & Jean Boitel addressed the Commission relative to drainage concerns. They noted that for several years their yard has flooded because of runoff from the duplexes along Fern Street behind them and because the City of Fort Smith raised Free Ferry by about 10 inches when it rebuilt and repaved that street. They stated that the higher street made water drainage across it impossible. They noted that they were not opposed to Mr. Woodrome's developing the vacant property next door but are worried that it will exacerbate the yard flooding at their residence. Mr. Boitel also expressed his concerns about the earthen drainage and the pond filling in. Mr. Woodrome advised Mr. Boitel that an association of the property owners within the six-lot subdivision would be responsible for maintaining the earthen culvert and pond.

Ms. Beverly Stites Jones, who along with her brother owns rental property across Free Ferry Road, said she had concerns similar to the Boitels and also has experienced overflow and yard flooding from a city drainage easement and pipe near their land.

Mr. Stan Snodgrass, Director of Engineering for the City of Fort Smith, advised the Commission that he had reviewed the preliminary plat and drainage plan and the proposed detention pond along the west boundary will intercept runoff from the west and will mitigate the increased runoff from the site to the pre-development level. He also stated that an earthen swale proposed along the east boundary will accommodate runoff in this area.

The planning commissioners commented that based on the information provided to them, this development is meeting the City drainage standards with their proposed plans. The existing drainage problems that were discussed by the residents appear to be a larger problem and would need to be addressed by the City.

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

- The developer must agree to meet all franchise and City utility easement requirements.
- The preliminary and final plat must comply with the City's Subdivision Design and Improvement Standards and the Standard Specifications for Public Works Construction.

Chairman Griffin then called for the vote on the preliminary plat as amended. The vote was 8 in favor and 0 opposed.

- 7. Master Land Use Plan Amendment from ETJ Light Industrial to ETJ Industrial located at 5225 Planters Road. (companion item to item #8)**
- 8. Rezoning #28-9-11; A request by Gerdau-Fort Smith Mill for a zone change from ETJ Open-1 to ETJ Industrial-2 by Classification located at 5225 Planters Road. (companion item to item #7)**

Ms. Maggie Rice read the staff reports indicating that the purpose of these requests is to facilitate the construction of a truck tarping station.

Mr. Andy Brown was present to speak on behalf of these requests.

Commissioner Maurras asked for a description of a truck tarping station. Mr. Brown stated that it is a covered truck scale adjacent to the existing scale with a walk up platform in order to be able to cover the trucks.

Commissioner Maurras questioned why there is a need to rezone the entire 169 acres when this truck station will occupy less than one-half acre.

Mr. Brown stated that although the company has no future development plans at this time they are requesting to rezone their entire property so as not to have to come back before the Commission for any future development.

Mr. Earl Reed, 7610 Red Pine Drive, addressed the Commission with his concerns relative to a buffer zone for noise and wildlife.

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

- 7. Master Land Use Plan Amendment from ETJ Light Industrial to ETJ Industrial located at 5225 Planters Road. (companion item to item #8)**

Motion was made by Commissioner Maurras, seconded by Commissioner Howard and carried unanimously to amend this request to make approval subject to the following:

- Submittal of a development plan for Planning Commission review prior to any proposed development within 300 feet for the northern boundary of the property.

Chairman Griffin then called for the vote on the Master Land Use Plan as amended. The vote was 8 in favor and 0 opposed.

8. Rezoning #28-9-11; A request by Gerdau – Fort Smith Mill for a zone change from ETJ Open-1 to ETJ Industrial-2 by Classification located at 5225 Planters Road. (companion item to item #7)

Motion was made by Commissioner Maurras, seconded by Commissioner Howard and carried unanimously to amend this request to make approval subject to the following:

- Submittal of a development plan for Planning Commission review prior to any proposed development within 300 feet for the northern boundary of the property.

Chairman Griffin then called for the vote on the rezoning request as amended. The vote was 8 in favor and 0 opposed.

9. Rezoning #29-9-11; A request by Van Lee, agent, for a zone change from Residential Multi-Family Medium Density (RM-3) to Transitional (T) by Extension located at 8411 South 28th Street. (companion item to item #10)

10. Conditional Use #26-9-11; A request by Van Lee, agent, for a conditional use for an addition to the Fianna Hills Nursing and Rehab Facility located at 8411 South 28th Street. (companion item to item #9)

Ms. Brenda Andrews read the staff reports indicating that the purpose of these requests is to allow for a 22 bed addition to the current facility, which is classified as a legal non-conforming use in an RM-3 zone. Ms. Andrews stated that a neighborhood meeting was held on Thursday, September 1st at 5:00 p.m. at the Miller Branch of the Fort Smith Public Library with twelve persons in attendance of which six were neighbors. Ms. Andrews noted that concerns were expressed relative to yard flooding, surface drainage issues and potential flooding. Ms. Andrews stated that Mr. Robert Allen, the owner of several properties on Grinnell Avenue, is concerned about drainage issues and has submitted a letter requesting the Planning Commission delay any vote on the project for 60 days in order to allow time for his engineer to conduct an environmental impact study relative to the drainage.

Mr. Van Lee, 3019 Dallas Drive, was present to speak on behalf of these requests.

Mr. Robert Allen, 6821 South “V” Street and Ms. Jackie Baker, 10405 Castleton, spoke in opposition to these requests citing their concerns relative to drainage issues.

The planning commissioners commented that based on the information provided to them, this development is meeting the City drainage standards with their proposed plans. The

existing drainage problems that were discussed by the residents appear to be a larger problem and would need to be addressed by the City.

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

9. Rezoning #29-9-11; A request by Van Lee, agent, for a zone change from Residential Multi-Family Medium Density (RM-3) to Transitional (T) by Extension located at 8411 South 28th Street. (companion item to item #10)

Chairman Griffin called for the vote on the rezoning request. The vote was 8 in favor and 0 opposed.

10. Conditional Use #26-9-11; A request by Van Lee, agent, for a conditional use for an addition to the Fianna Hills Nursing and Rehab Facility located at 8411 South 28th Street. (companion item to item #9)

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

- Approval of the rezoning application by the City Board of Directors.
- Modification of the detention facility will be required to maintain capacity of the facility. Construction plans and data must be submitted to the City Engineering Department for review and approval.
- Any significant deviations from the submitted plan will require a resubmittal and approval by the Planning Commission.

Chairman Griffin then called for the vote on the conditional use request as amended. The vote was 8 in favor and 0 opposed.

11. Conditional Use #24-9-11; A request by Kevin Roberts, agent, for a conditional use for an outside dining patio located at 3801 Planters Road.

Ms. Maggie Rice read the staff report indicating that the purpose of the conditional use request is to allow for the construction of an outdoor dining area to be on the east side of the restaurant. Ms. Rice noted that the dining area will consist of an uncovered area with tables and umbrellas. Ms. Rice indicated that a neighborhood meeting was held on September 1st at 9:00 a.m. at the location of the restaurant with no neighbors in attendance.

Mr. Kevin Roberts was present to speak on behalf of this request.

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

Chairman Griffin called for the vote on the conditional use request. The vote was 8 in favor and 0 opposed.

12. Conditional Use #25-9-11; A request by Glenn Thompson, agent, for a conditional use for a new worship center (New Life Church of God in Christ) located at 1808 North Greenwood Avenue.

Ms. Brenda Andrews read the staff report indicating that the purpose of the conditional use request is to allow for the construction of a new church and an associated parking lot. Ms. Andrews noted that at the December 2010 meeting a conditional use was approved for a church at this location. The building has been enlarged from 6,000 to 7,200 square feet, relocated further to the rear of the property and all of the parking has been relocated to the front of the property. Ms. Andrews stated that when the plans were submitted for a building permit, staff determined that there was a substantial change to the plan from what was approved and that the new plan would require Planning Commission approval. Ms. Andrews noted that a neighborhood meeting was held on August 29, 2011 at 7 p.m. at the existing New Life Church of God in Christ with eleven (11) church members in attendance at the meeting.

Mr. Glenn Thompson, 520 Shadow Lane, Van Buren, AR, 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 Howard, seconded by Commissioner Lorenz, and carried unanimously to amend this request to make approval subject to the following:

- Compliance with all City codes and standards for development and construction whether or not specifically shown on the site plan.

Chairman Griffin then called for the vote on the conditional use request as amended. The vote was 8 in favor and 0 opposed.

**RECESS PLANNING COMMISSION
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13. Variance #25-9-11; A request by Richard Robertson for a variance for a time extension to operate a seasonal business from 120 days to 176 days located at 2001 South Zero Street.

14. Variance #26-9-11; A request by Richard Robertson for a variance for a time extension to operate a seasonal business from 120 days to 176 days located at 4900 Rogers Avenue.

Ms. Maggie Rice read the staff report indicating that the purpose of the variance request is to allow the seasonal business to operate 176 days rather than the 120 days. Ms. Rice noted that the Board of Zoning Adjustment has previously granted two variances for time extension of sno-cone operations.

Mr. Richard Robertson, 7411 Holly Avenue, was present to speak on behalf of the request.

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

Commissioner Maurras suggested amending the ordinance to allow for a seasonal business to operate for 180 days rather than requiring them to submit a variance to the Commission.

Mr. Wally Bailey stated that staff would bring an amendment to the Commission for a time frame of 180 days rather than 120 days.

Chairman Griffin then called for the vote on these variance request.

13. Variance #25-9-11; A request by Richard Robertson for a variance for a time extension to operate a seasonal business from 120 days to 176 days located at 2201 South Zero Street.

This variance was approved by a vote of 8 in favor and 0 opposed.

14. Variance #16-9-11; A request by Richard Robertson for a variance for a time extension to operate a seasonal business from 120 days to 176 days located at 4900 Rogers Avenue.

This variance was approved by a vote of 8 in favor and 0 opposed.

15. Variance #27-9-11; A request by Rick Griffin for a variance to allow queuing space on public right-of-way and to allow a passing aisle with a minimum width of 11 feet located at 415 Garrison Avenue-Suite A.

Ms. Brenda Andrews read the staff report indicating that the purpose of the variance request is to facilitate a restaurant located inside a convenience store under construction on this site to have a drive-through window adjacent to an alley. Ms. Andrews stated that the proposal was reviewed by all appropriate departments and no objections were raised. She noted that the engineering and street departments recommend that a portion of the alley be designated as one-way traffic to direct the drive-through window traffic southward to Garrison Avenue. Ms. Andrews also indicated that if traffic issues become a problem, the engineering department also recommends installation of signs indicating right-turn only when exiting the alley onto Garrison Avenue.

Mr. Rick Griffin 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 Howard, seconded by Commissioner Sharpe and carried unanimously to amend this request to make approval subject to the following:

- A portion of the alley to be designated as one-way traffic to require the drive-through traffic southward toward Garrison Avenue to be determined by City departments, including Police, Street and Engineering.
- The City will install safety and traffic signage associated with the one-way alley maneuvering.

Chairman Griffin then called for the vote on the variance request as amended. The vote was 8 in favor and 0 opposed.

16. Variance #28-9-11; A request by Al Prieur, agent, for a variance from 50 feet to 20 feet front yard setback; from 20 feet to 10 feet rear yard setback and a waiver from perimeter landscaping located at 1515 North 4th Street.

Ms. Brenda Andrews read the staff report indicating that the purpose of the variance request is to allow the construction of a 11,900 square foot building addition with eight (8) loading docks. Ms. Andrews noted that the applicant has stated that the variances are necessary in order to construct an addition on the narrow tract that meets the capacity of the owner and allows trucks to utilize a drive-through area for maneuvering to and from the docks without encroaching the North 4th Street right-of-way. Ms. Andrews stated that the proposed addition will be located on the tract similarly to the existing building, which encroaches the front and rear setbacks and the variance from the 10' wide landscaping strip adjacent to North 4th Street is to allow room for the proposed truck drive-through area.

Mr. Al Prieur, P. O. Box 1689, Van Buren, Arkansas and Mr. Lee King, 3647 Carney Circle, Rudy, Arkansas, were present to speak on behalf of the request.

No one was present to speak in opposition.

Chairman Griffin then called for the vote on the variance request. The vote was 8 in favor and 0 opposed.

17. Variance #29-9-11; A request by Ricky Hill, agent, for a variance from 20 feet to 0 feet interior side yard setback for (Proposed Lots 9A & 9B) of Phoenix Village Mall Subdivision located at 4600 Towson Avenue.

Ms. Brenda Andrews read the staff report indicating that the purpose of the variance request is to facilitate the replat of the existing Lot 9 of the Phoenix Village Mall

Subdivision into Lot 9A and Lot 9B and allow a zero interior side yard setback for both lots. Ms. Andrews stated that an existing wall separates the building where a new lot line is proposed and the owner wishes to sell the building north of the common wall and retain the building south of the common wall.

Mr. Ricky Hill, P. O. Box 640, Alma, Arkansas, was present to speak on behalf of this request.

No one was present to speak in opposition.

Chairman Griffin then called for the vote on the variance request. The vote was 8 in favor and 0 opposed.

18. Variance #30-9-11; A request by Clear Channel for a variance from 300 square feet to 672 square feet maximum size of a sign located at 1294 I-540.

19. Variance #31-9-11; A request by Clear Channel for a variance from 300 square feet to 672 square feet maximum size of a sign located at 6498 I-540.

20. Variance #32-9-11; A request by Clear Channel for a variance from 300 square feet to 378 square feet maximum size of a sign located at 1898 Zero Street.

Mr. Wally Bailey read the staff reports indicating that the purpose of these requests is to allow for a new digital billboard to be constructed at the above locations. Mr. Bailey stated that the applicant is requesting to amend the maximum sign size at 1294 I-540 and 6498 I-540 to 378 square feet.

Mr. Michael Redd, 5401 Rogers Avenue-Suite 200, was present to speak on behalf of these requests.

Mr. Ron Pauley was present to speak in opposition to the sign being placed in front of his car lot.

Following a discussion by the Commission, Chairman Griffin called for the vote on the variance requests.

18. Variance #30-9-11; A request by Clear Channel for a variance from 300 square feet to 672 square feet maximum size of a sign located at 1294 I-540.

Motion was made by Commissioner Howard, seconded by Commissioner Lorenz and carried unanimously to amend this request to a maximum sign size of 378 square feet. Chairman Griffin then called for the vote on the variance request as amended. The vote was 8 in favor and 0 opposed.

19. Variance #31-9-11; A request by Clear Channel for a variance from 300 square feet to 672 square feet maximum size of a sign located at 6498 I-540.

Motion was made by Commissioner Maurras, seconded by Commissioner Howard and carried unanimously to amend this request to a maximum sign size of 378 square feet. Chairman Griffin then called for the vote on the variance request as amended. The vote was 8 in favor and 0 opposed.

20. Variance #32-9-11; A request by Clear Channel for a variance from 300 square feet to 378 square feet maximum size of a sign located at 1898 Zero Street.

Chairman Griffin called for the vote on the variance request. The vote was 7 in favor and 1 opposed (Maurras).

Meeting Adjourned!