

**PLANNING COMMISSION & BOARD OF ZONING ADJUSTMENT
MINUTES
CREEKMORE PARK COMMUNITY CENTER
5:30 P.M.
JUNE 14, 2011**

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

Chairman Griffin then called for the vote on the minutes from the May 4, 2011, special meeting and the May 10, 2011, regular Planning Commission meeting. Motion was made by Commissioner Salamone, seconded by Commissioner Parks and carried unanimously to approve the minutes as written.

Mr. Wally Bailey spoke on the procedures.

Chairman Griffin noted that agenda item #17 would be reviewed first by the Planning Commission.

17. Conditional Use #15-6-11; A request by William Medlock for a conditional use for a daycare home with one (1) employee located at 6413 Parkfront Drive.

Mr. Bailey stated that the applicant has requested the withdrawal of this application. Mr. Bailey noted that since this request had been advertised and letters mailed to the surrounding property owners, it must remain on the agenda so the Planning Commission can formally approve the withdrawal of the request.

No one was present to speak on this item.

Chairman Griffin then called for the vote to approve the withdrawal of the application. The vote was 9 in favor and 0 opposed.

1. Text Amendment to the Unified Development Ordinance to allow limousine service as a conditional use in the Commercial Downtown (C-6) zoning district.

Mr. Wally Bailey stated that a request had been received to operate a limousine service in the C-6 zoning district which the code currently prohibits. He noted that staff is recommending this use be approved as a conditional use in the C-6 zone. Mr. Bailey stated that this use would be comparable to the bus station and terminal, courier and messenger service, mail services and rail transportation already allowed by right or conditional use. Mr. Bailey also advised the Commission that the Central Business Improvement District supports this request.

There was no one present to speak in opposition to this item.

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

2. Rezoning #15-6-11; A request by the City of Fort Smith for a zone change from Residential Multi-Family Medium Density (RM-3) to Residential Single Family High Density (RS-4) by Classification located at 3751 Park Avenue.

Ms. Maggie Rice read the staff report indicating that the purpose of this rezoning request is to limit development to single family dwellings. Ms. Rice noted that in 1992, the city purchased the property along with a larger tract that included 12 lots located to the north of the proposed rezoning area. She stated that the city constructed a detention pond on the northern tract with the remainder of the property left undeveloped and currently assigned as surplus property. She noted that upon approval of the rezoning, the City Engineering Department will have the property appraised and market it for sale.

Ms. Rice stated that a neighborhood meeting was held on May 17th with two (2) surrounding property owners in attendance who expressed no objections to the proposed rezoning.

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

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

3. Rezoning #16-6-11; A request by the City of Fort Smith for a zone change from Commercial Heavy (C-5) to Residential Multi-Family Medium Density (RM-3) by Extension located at 2301, 2307, 2309, 2313, 2317, 2321 and 2325 North 28th Street.

Ms. Maggie Rice read the staff report indicating that the purpose of this rezoning request is a corrective rezoning to reflect how the area has developed. Ms. Rice stated that the request for a residential zone was initiated after a discussion with the Arkansas Valley Habitat for Humanity which owns Lot 8 at the corner of North 28th Street and Warner Street. Ms. Rice noted that Habitat for Humanity had acquired the property and wanted to build a single family home on the lot but could not obtain a building permit until the property is zoned for residential uses. Ms. Rice also noted that the remaining lots, which are developed, cannot be altered or expanded with the current Commercial-5 zoning. Therefore, the Planning staff prepared a rezoning plan to change the zoning on all the lots in this block. The Master Land Use Plan already identifies this property as Residential Detached (single family).

Ms. Rice stated that a neighborhood meeting was held on June 6th at the Elm Grove Community Center with one (1) surrounding property owner attending who voiced no objections to the proposed rezoning.

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

- 4. Rezoning #17-6-11; A request by GaeVon Hoover for a zone change from Residential Single Family Duplex Low/Medium Density (RSD-2) to Residential Single Family Medium Density (RS-2) by Extension located at 3201-3415 Leigh's Hollow Place, 3301 South "S" Street, 3400, 3408, 3518, 3520, 3600, 3610, 3618, 3624, 3710, 3716 South "O" Street and 1600, 1604, 1614, 1616, 1714, 1716, 1800, 1810, 1820, 1906 Hendricks Boulevard.**

Ms. Maggie Rice read the staff report indicating that the purpose of the rezoning request is to limit development to single family dwellings. Ms. Rice stated that a neighborhood meeting was held and a dozen property owners, all in support, attended the meeting.

Ms. GaeVon Hoover, 1716 Hendricks, was present to speak on behalf of the rezoning request. Ms. Hoover stated that she had met with approximately 80% of the homeowners in this area who were all in support of the zoning change. Mr. Hoover also expressed her appreciation to Ms. Rice and the Planning staff for their assistance.

Mr. Dennis Rupp, 1601 Hendricks, addressed the Commission for clarification on the proposed zoning classification. Mr. Rupp was advised that the zoning classification has to do with lot size and the number of structures allowed based on the lot size. Mr. Rupp was also advised that this zoning classification would only allow for the construction of single family homes.

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

- 5. Preliminary Plat – Southfield Heights Villas – Morrison-Shipley (companion item to items #6, #7, #8 & #9)**
- 6. A request by Travis Brisendine for a Master Land Use Plan Amendment from Residential Attached to Residential Detached located at 9000 Texas Road. (companion item to items #5, #7, #8 & #9)**
- 7. Rezoning #18-16-11; A request by Travis Brisendine, agent, for a zone change from R-3-SF-SPL and R-3-MF-SPL to RS-4 by Classification located at 9000 Texas Road. (companion item to items #5, #6, #8 & #9)**
- 8. A request by Travis Brisendine for development plan approval for a residential development located at 9000 Texas Road. (companion item to items #5, #6, #7 & #9)**
- 9. Subdivision Variance #1-6-11; A request by Travis Brisendine, agent, for a subdivision variance from 1,000 feet to 1,300 feet maximum block length located at 9000 Texas Road. (companion item to items #5, #6, #7 & #8)**

Mr. Wally Bailey read the staff reports indicating that the purpose of these requests is to facilitate a proposed 17.4 acre 84 lot single-family subdivision to be constructed in two phases located on the east side of Texas Road approximately ¾ miles south of Cavanaugh Road and immediately south of Southfield Heights residential subdivision. Mr. Bailey stated that the proposed subdivision is an extension of the existing Southfield Heights subdivision.

Mr. Bailey noted that there is an existing wellhead located between Lots 55 and 56 and the Arkansas Fire Prevention Code requires that no homes be built within 100 feet of an existing gas well. Mr. Bailey stated that as a result of this requirement, Lots 29, 30, 31, 55 and 56 will not be developed until such time the gas well is abandoned. Mr. Bailey also noted that approval of the subdivision variance would allow a block length of 1,300 feet for the proposed single family subdivision rather than the required 1,000 feet.

Mr. Travis Brisendine of Morrison-Shipley was present to speak on behalf of these requests.

Mr. George Combs, 2100 Carlton Place and Ms. Carolyn Ledbetter, 8609 Vickery Lane, addressed the Commission with their concerns relative to drainage, sidewalks and water pressure.

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

5. Preliminary Plat – Southfield Heights Villas – Morrison-Shipley (companion item to items #6, #7, #8 & #9)

Chairman Griffin called for the vote on the preliminary plat. Motion was made by Commissioner Maurras, seconded by Commissioner Huffman and carried unanimously to amend this request to make approval subject to the following:

- Approval of the Master Land Use Plan Amendment and the rezoning application by the City Board of Directors.
- The developer agreeing to meet all franchise and City utility easement requirements and compliance 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 9 in favor and 0 opposed.

6. A request by Travis Brisendine for a Master Land Use Plan Amendment from Residential Attached to Residential Detached located at 9000 Texas Road. (companion item to items #5, #7, #8 & #9)

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

- 7. Rezoning #18-6-11; A request by Travis Brisendine, agent, for a zone change from R-3-SF-SPL and R-3-MF-SPL to RS-4 by Classification located at 9000 Texas Road. (companion item to items #5, #6, #8 & #9)**

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

- 9. Subdivision Variance #1-6-11; A request by Travis Brisendine, agent, for a subdivision variance from 1,000 feet to 1,300 feet maximum block length located at 9000 Texas Road. (companion item to items #5, #6, #7 & #8)**

Chairman Griffin called for the vote on the subdivision variance. The vote was 9 in favor and 0 opposed.

- 8. A request by Travis Brisendine for development plan approval for a residential development located at 9000 Texas Road. (companion item to items #5, #6, #7 & #9)**

Chairman Griffin called for the vote on the development plan. The vote was 9 in favor and 0 opposed.

- 10. Rezoning #19-6-11; A request by Kelly Underwood for a zone change from Residential Single Family Duplex Low/Medium Density (RSD-2) to Residential Single Family High Density (RS-4) by Classification located at 5200, 5204, 5208, 5212, 5216 & 5220 Free Ferry Road. (companion item to items #11, #12 & #22)**

- 11. A request by Kelly Underwood for development plan approval for a residential development located at 5200, 5204, 5208, 5212, 5216 & 5220 Free Ferry Road. (companion item to items #10, #12 & #22)**

- 12. Subdivision Variance #2-6-11; A request by Kelly Underwood for a subdivision variance from Article 27, Section 503-10 (c) located at 5200, 5204, 5208, 5212, 5216 & 5220 Free Ferry Road. (companion item to items #10, #11 & #22)**

- 22. Variance #15-6-11; A request by Kelly Underwood for a variance from 20 feet to 13.5 feet front yard setback located at 5212, 5216 & 5220 Free Ferry. (companion item to items #10, #11 & #12)**

Mr. Wally Bailey gave an overall briefing on all of these requests but noted that they would need to be voted on separately.

Mr. Bailey stated that the purpose of these requests is to allow for the development of single family dwellings on lots smaller than required by the RSD-2 zoning districts. Mr. Bailey stated that on October 14, 2008, the Planning Commission approved the

preliminary plat of Free Ferry Park, Lots 1-7. Mr. Bailey noted that the plat created six lots with a 22' circular private drive. However, the owner did not submit a final plat for review by the Planning Commission and the plat's two-year effective period for the approval expired. Mr. Bailey also noted that on the same date, the Board of Zoning Adjustment approved a zoning variance to allow Lots 3 and 6 of the preliminary plat to be smaller than the required 10,500 square feet. Mr. Bailey stated that the owner now wishes to develop the property with a new layout with an RS-4 zoning district. Mr. Bailey also stated that the proposed six lots are larger than the 5,000 square feet minimum lot area required by the RS-4 zoning with lots ranging in size from 7,492 square feet to 12,022 square feet. Mr. Bailey noted that the UDO's requirement that private drives be constructed in accordance with standards for public streets was a primary factor in the owner requesting the RS-4 zone. With the RS-4's smaller side and rear setbacks and approval of the companion front yard setback and subdivision variance applications it would enable the developer to comply with the UDO's requirement regarding public streets.

Mr. Bailey stated that the subdivision variance is being requested in order to allow a T-shaped turnaround instead of a cul-de-sac. Mr. Bailey noted that the proposed T-shaped turnaround is 20' x 120' with a 28' turning radius and the required cul-de-sacs is required to have a turnaround radius of not less than 50 feet at the property and not less than 40 feet at the curb line or edge of the pavement. Mr. Bailey noted that the applicant stated that there is an existing 36" water main and the required 50' street right-of-way (25' on both sides of the center of the street) render a cul-de-sac infeasible due to the fact that it would intrude further into the buildable area. Mr. Bailey stated that although the subdivision design and improvement standards require cul-de-sacs to provide adequate and safe turnaround for motorists and emergency vehicles, a T-shaped turnaround is permitted by the Arkansas State Fire Code and this proposed turnaround would meet the requirements of the Arkansas State Fire Code.

Mr. Scott Branton, 5311 South 28th Street, was present to speak on behalf of these requests.

Mr. Ronald Boitel, 5318 Free Ferry, and Mr. Mike Butler, 8806 Meandering Way, owner of property located on Fern Street, addressed the Commission relative to drainage concerns. Mr. Butler also asked whether this single family zoning would create a precedent. He owns property on Fern and wants to be able to develop as duplexes.

It was noted that the drainage concerns would be forwarded to the City of Fort Smith Engineering Department for their review. The Commissioners indicated they wanted a report from the Engineering Department and project engineer how the drainage issues would be solved when the plat was submitted.

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

- 10. Rezoning #19-6-11; A request by Kelly Underwood for a zone change from Residential Single Family Duplex Low/Medium Density (RSD-2) to Residential Single Family High Density (RS-4) by Classification located at 5200, 5204, 5208, 5212, 5216 & 5220 Free Ferry Road. (companion item to items #11, #12 & #22)**

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

- 11. A request by Kelly Underwood for development plan approval for a residential development located at 5200, 5204, 5208, 5212, 5216 & 5220 Free Ferry Road. (companion item to items #10, #12 & #22)**

Chairman Griffin called for the vote on the development plan. The vote was 9 in favor and 0 opposed.

- 12. Subdivision Variance #2-6-11; A request by Kelly Underwood for a subdivision variance from Article 27 Section 503-10 (c) located at 5200, 5204, 5208, 5212, 5216 & 5220 Free Ferry Road. (companion item to items #10, #11 & #22)**

Chairman Griffin called for the vote on the subdivision variance. The vote was 9 in favor and 0 opposed.

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- 22. Variance #15-6-11; A request by Kelly Underwood for a variance from 20 feet to 13.5 feet front yard setback located at 5212, 5216 & 5220 Free Ferry. (companion item to items #10, #11 & #12)**

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

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- 13. Rezoning #20-6-11; A request by Randy Coleman, agent, for a zone change from Unzoned to Industrial Moderate (I-2) by Classification located at 11802 Roberts Boulevard. (companion item to item #14)**
- 14. Conditional Use #18-6-11; A request by Randy Coleman, agent, for a conditional use for a petroleum distribution facility located at 11802 Roberts Boulevard. (companion item to items #13)**

Mr. Wally Bailey read the staff reports indicating that the purpose of these requests is to allow the property to be utilized as a petroleum distribution facility. Mr. Bailey stated

that the Fort Chaffee Redevelopment Authority has authorized the sale of this property and is supportive of the proposed rezoning request.

Mr. Randy Coleman, Mickle-Wagner-Coleman, was present to speak on behalf of these requests.

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

Chairman Griffin then called for a vote on these items separately.

13. Rezoning #20-6-11; A request by Randy Coleman, agent, for a zone change from Unzoned to Industrial Moderate (I-2) by Classification located at 11802 Roberts Boulevard. (companion item to item #14)

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

14. Conditional Use #18-6-11; A request by Randy Coleman, agent, for a conditional use for a petroleum distribution facility located at 11802 Roberts Boulevard. (companion item to item #13)

Chairman Griffin called for the vote on the conditional use request. Motion was made by Commissioner Maurras, 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.
- Provide landscaping plan detailing the planting materials for the perimeter landscape buffer along Roberts Boulevard.
- Any new signs will require separate permits.
- A building permit application shall be reviewed and approved by all required city departments. Documentation will include a detailed site plan with Material Safety Data Sheets (MSDS) for fire department review. The approval of this conditional use does not relieve the applicant of complying with applicable development codes, ordinances and standards.
- Right-of-way dedication for Roberts Boulevard is required.
- Development restrictions will apply due to a major portion of the property being within a regulatory floodway/floodplain.
- Traffic Impact Analysis and access management in accordance with the UDO will be reviewed during building permit review.

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

15. Conditional Use #13-5-11:

(A) A request by Randy Coleman, agent, for a conditional use for a private park located at 1715 North 13th Street. (tabled from May)

(B) Approval for a remote parking agreement associated with the private park located at 1715 North 13th Street.

Mr. Wally Bailey read the staff reports indicating that the purpose of the conditional use request is to allow the property adjacent to Martin Luther King Park to be utilized as a private park. Mr. Bailey stated that the private park has been in use for a number of years but will be adding a 24' sound stage, upper and lower level stage and a 10' table. Mr. Bailey noted that the existing facilities at the park include a store front and deck, several decks, horseshoe pits, a fish pond/fountain, concession stand and picnic tables. Mr. Bailey also noted that there will be no ingress or egress into the site and that park visitors will utilize the parking area at the Martin Luther King Park ball field at the corner of North "O" Street and North 13 Street.

Commissioner Maurras noted his concern relative to having the existing structures on the site inspected by the City building inspectors for safety.

Mr. Randy Coleman, Mickle-Wagner-Coleman, 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 the conditional use request items #15(A) and #15(B) separately noting that item #15(B) would need to be voted on prior to voting on item #15(A).

(B) Approval for a remote parking agreement associated with the private park located at 1715 North 13th Street.

The vote on this item was 9 in favor and 0 opposed.

(A) A request by Randy Coleman, agent, for a conditional use for a private park located at 1715 North 13th Street.

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

- Approval by the City Board of Directors and the applicant's compliance with the Agreement for Use of City Facilities that was recommended to the Board by the Parks Commission at their June 8, 2011, meeting.
- All existing and proposed decks, stages and fencing must be inspected and approved by the City Engineering Department to ensure compliance with all floodplain regulations for construction.
- A screened trash enclosure will be required for any trash dumpsters or trash receptacles utilized in the park. The screening requirement shall be an opaque screened enclosure equal to the height of the dumpster or trash receptacles and shall not be located in the floodway.
- Any outdoor lighting of the park grounds is required to be directed downward and shielded (e.g., shoebox light fixture) to avoid light glare onto adjoining properties or roadways.
- The storefront located in the northern corner of the property may remain, but shall be relocated to comply with setbacks.
- The proposed upper/lower level stage is located within the rear and side yard setbacks. This structure must be relocated to comply with setbacks.
- The proposed private park must comply with the City's Noise Ordinance.
- The applicant shall comply with the Guidelines for Operations of a Private Park.
- All existing and proposed structures must comply with all applicable development and construction codes, ordinances and standards. The buildings and structures must be inspected by the Building Safety Division.

Chairman Griffin then called for the vote on conditional use item #15(A) as amended. The vote was 9 in favor and 0 opposed.

16. Conditional Use #14-6-11; A request by Hugh & Tammy Nguyen for a conditional use for a business professional school (cosmetology) located at 3600 North "O" Street.

Ms. Maggie Rice read the staff report indicating that the purpose of the conditional use request is to utilize a 4,000 square foot facility as a cosmetology school for 25 students. Ms. Rice stated that this facility has 12 existing parking spaces, two (2) of which are handicapped spaces, existing landscaping on the site which consists of an existing elm and maple tree located on the southwest corner of the property and an existing 5' x 24' landscaped area at the front entrance of the property. Ms. Rice noted that a neighborhood meeting was held at the site on May 31st with no surrounding property owners in attendance.

Mr. Hugh Nguyen spoke 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 Parks, seconded by Commissioner Lorenz and carried unanimously to amend this request to make approval subject to the following:

- Landscaping will be installed at the northwest corner around the base of the existing sign location.
- A screened trash enclosure will be required for any trash dumpsters or trash receptacles. The screening requirement shall be an opaque screened enclosure equal to the height of the dumpster or trash receptacle.
- Any outdoor lighting is required to be directed downward and shielded (e.g., shoebox light fixture) to avoid light glare onto adjoining properties or roadways.
- Building to meet compliance for all building, electrical, plumbing, fire and life-safety codes.
- All signs require separate permits as required under Division 5 (Signs) of the Municipal Code of Fort Smith.

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

18. Conditional Use #16-6-11; A request by Mitzi Jones for a conditional use for a school addition (Fort Smith Montessori) located at 3908 Jenny Lind.

Ms. Maggie Rice read the staff report indicating that the purpose of the conditional use request is to allow for the construction of a new 1,272 square foot building addition (classroom, office and multi-purpose room) at the southwest rear side of the existing school. Ms. Rice noted that the applicant has indicated that the existing building and roof lines will be extended with similar architectural detail to the exterior wall to maintain a uniform appearance. Ms. Rice stated that a neighborhood meeting was held at the Montessori School on June 2nd with no surrounding property owners attending the meeting.

Mr. Scott Branton representing Montessori School was present to speak on behalf of the request.

Mr. William Rhames, 4001 South 18th Street, addressed the Commission with his concerns relative to drainage issues and an existing dumpster being left open and with no screening.

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

- A screened trash enclosure will be required for any trash dumpsters or trash receptacles. The screening requirement shall be an opaque screened enclosure equal to the height of the dumpster or trash receptacle.
- Any new outdoor lighting of the building exterior shall be shielded and directed downward to avoid light glare onto adjoining properties.
- The existing number of parking spaces (17) is adequate for the existing number of students and teachers (90 students & 11 teachers). Any further increase in student enrollment or teaching staff expansions will require additional parking. One (1) parking space per employee and one parking space per 20 students.
- Compliance with all applicable development codes, ordinances and standards.

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

19. Conditional Use #17-6-11; A request by James Young, agent, for a conditional use for a preschool located at 3118 Midland Boulevard.

Ms. Maggie Rice read the staff report indicating that the purpose of the conditional use request is to allow for the operation of a 4,620 square foot preschool center in an existing one-story metal building. Ms. Rice stated that the applicant has indicated that there will be 40 children and 4 employees with no outside play areas. Ms. Rice also stated that there are six (6) parking spaces being proposed, two of which are to be handicapped parking spaces with five (5) queuing spaces to be provided at the northeast side of the building for pick-up and drop-off of children. Ms. Rice also noted that there is no existing landscaping on the site and none is proposed.

Mr. James Young, 2221 South “N” Street, was present to speak on behalf of this request.

Mr. Ronny Burns, 4528 Park Avenue, was present to voice his support of the application.

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

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

- All queuing shall occur on private property to avoid any traffic problems on Midland Boulevard.
- A screened trash enclosure will be required for any trash dumpsters or trash receptacles. The screening requirement shall be an opaque screened enclosure equal to the height of the dumpster or trash receptacles.
- Any outdoor lighting is required to be directed downward and shielded (e.g., shoebox light fixture) to avoid light glare onto adjoining properties or roadways.
- The preschool business must comply with all Department of Human Services requirements.

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

20. Home Occupation #2-6-11; A request by Phonethip Siharath for a home occupation for a manicure business located at 2700 North 54th Street.

Ms. Maggie Rice read the staff report indicating that the purpose of the request is to allow the applicant to operate a manicure business from her residence between the hours of 9:00 a.m. to 5:00 p.m., Monday through Friday by appointment only. Ms. Rice noted that one complaint from a neighbor had been received stating opposition because of a decrease in property value, an increase in traffic and stated that it is already unsafe to turn from Birnie onto North 54th Street. Ms. Rice noted that the traffic safety issue had been forwarded to the Street Department for their review and was advised by them that they had not received any complaints regarding this location previously.

Ms. Phonethip Siharath, 2700 North 54th Street, was present to speak on behalf of this request.

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

Motion was then made by Commissioner Parks, seconded by Commissioner Newton 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 dumpster may be utilized at the residence.

- Customers shall not park in the street nor shall the applicant or any family members of the applicant park in the street in order to allow customers to park in the driveway.
- Remodeling to utilize the garage for the home business area shall be permitted and inspected for compliance with all applicable building and plumbing codes prior to the issuance of the business license.
- Approval of the business license shall be subject the applicant providing the city documentation from the Arkansas Cosmetology Board.

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

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21. Variance #14-6-11; A request by Shannon McWilliams, agent, for a variance from 10 feet to 0 feet rear yard setback located at 4112 Country Club Avenue.

Ms. Maggie Rice read the staff report indicating that the purpose of the variance request is to allow the construction of a stair to allow access to mechanical equipment being installed in the attic of the guest house that is under construction. Ms. Rice also noted that a generator has been installed in the setbacks. Ms. Rice stated that the applicant states that enforcement of the setback requirement creates a hardship due to placement of the electrical motor and the 3’ clearance requirement around the electrical motor for access.

Ms. Rice noted that a neighborhood meeting was held on June 7th at 5:00 p.m. on the site with no neighbors in attendance. Ms. Rice indicated that after a site visit, it was noted that there are no openings in the roof structure currently for access to the equipment and it is recommended that provisions be made to gain entry to the equipment from one of the other sides of the building and not from the proposed location.

Mr. Shannon McWilliams 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 the variance request. The vote was 0 in favor and 9 opposed. The variance request was denied due to the fact that no hardship was demonstrated as required by Arkansas Statute and City Ordinance.

Meeting Adjourned!