

**PLANNING COMMISSION & BOARD OF ZONING ADJUSTMENT  
MINUTES  
CREEKMORE PARK COMMUNITY CENTER  
5:30 P.M.  
MAY 10, 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 April 12, 2011, Planning Commission meeting. Motion was made by Commissioner Lorenz, seconded by Commissioner Salamone and carried unanimously to approve the minutes as written.

Mr. Wally Bailey spoke on the procedures.

Chairman Griffin welcomed the two (2) new recently appointed Commissioners, Ms. Vicki Newton and Mr. Rett Howard.

Mr. Griffin noted that since item #1 on the agenda is a companion item to item #10, they would hear these items together and start the agenda with item #2.

**2. Rezoning #9-5-11; A request by Thomas Robertson, Jr., agent, for a zone change from Commercial Light (C-2) to Residential Multifamily Medium Density (RM-3) by Extension located at 1526 North 34<sup>th</sup> Street.**

Ms. Maggie Rice read the staff report indicating that the purpose of the rezoning request is to allow the zoning to accurately reflect how the property has developed and the rezoning would also allow for the property to be altered, expanded or sold.

Mr. Thomas Robertson, 315 North 7<sup>th</sup> 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 rezoning request. The vote was 9 in favor and 0 opposed.

**3. Rezoning #10-5-11; A request by Casey Hargrave, agent, for a zone change from Industrial Light (I-1) to Commercial-6 by Extension located at 1110 South "A" Street. (companion item to item #14)**

**14. Variance #11-5-11; A request by Casey Hargrave, agent, for a variance from 42,000 square feet to 7,000 square feet minimum lot area located at 1110 South "A" Street. (companion item to item #3)**

Ms. Maggie Rice read the staff reports indicating that the purpose of these requests is to allow the property to be utilized as a mixed use development, including a professional office and residence. Ms. Rice stated that the property is within the Central Business Improvement District (CBID) and the CBID has expressed support of this rezoning.

Mr. Casey Hargrave, 3217 Independence, was present to speak on behalf of these requests.

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

**RECESS PLANNING COMMISSION  
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- 14. Variance #11-5-11; A request by Casey Hargrave, agent, for a variance from 42,000 square feet to 7,000 square feet minimum lot area located at 1110 South “A” Street. (companion item to item #3)**

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

Chairman Griffin noted that he felt this was a good use of the property and fits well in the downtown district.

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- 3. Rezoning #10-5-11; A request by Casey Hargrave, agent, for a zone change from Industrial Light (I-1) to Commercial-6 by Extension located at 1110 South “A” Street. (companion item to item #14)**

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

- 4. Master Land Use Plan Amendment from Residential Detached to General Commercial located at 6550 Rogers Avenue. (companion item to items #5 & #6)**

- 5. Rezoning #12-5-11; A request by Tim Whitten for a zone change from Residential Multifamily Medium Density (RM-3) to Commercial Heavy (C-5) by Extension located at 6550 Rogers Avenue. (companion item to items #4 & #6)**

- 6. C.U. #12-5-11; A request by Tim Whitten for a conditional use for a restaurant with outdoor dining located at 6550 Rogers Avenue. (companion item to items #4 & #5)**

Ms. Brenda Andrews read the staff reports indicating that the purpose of these requests is to facilitate the commercial development of a restaurant with outdoor dining. Ms. Andrews noted that the outdoor dining patio is to be constructed at the north (front) side

of the proposed restaurant. Ms. Andrews also noted that perimeter landscaping and a 4 foot high screening fence is being proposed behind the retaining wall which separates the development from the residential neighborhood to the south. Ms. Andrews also stated that ingress and egress into the site would only be from Rogers Avenue and no access is being proposed from South 65<sup>th</sup> Street.

Mr. Curt Jones, 500 W. Main, Russellville, AR, 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 separately.

**4. Master Land Use Plan Amendment from Residential Detached to General Commercial located at 6550 Rogers Avenue. (companion item to items #5 & #6)**

Motion was made by Commissioner Parks, seconded by Commissioner Lorenz and carried unanimously to amend the request to make approval subject to the property not having street access to South 65<sup>th</sup> Street.

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

**5. Rezoning #12-5-11; A request by Tim Whitten for a zone change from Residential Multifamily Medium Density (RM-3) to Commercial Heavy (C-5) by Extension located at 6550 Rogers Avenue. (companion item to items #4 & #6)**

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

- Any changes to the development plan or a new development plan must be resubmitted to the Planning Commission for their review and approval.

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

**6. Conditional Use #12-5-11; A request by Tim Whitten for a conditional use for a restaurant with outdoor dining located at 6550 Rogers Avenue. (companion item to items #4 & #5)**

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

- Trash containers (dumpster) must be completely screened with a permanent opaque screen fence.
- Area and security lighting shall be designed and installed so as not to create any adverse affects on surrounding residential development. This will require all exterior building lights and parking lot lighting to have shielded light fixtures which are directed downward to avoid light glare onto adjoining properties and roadways.
- Any new signs will require separate permits.
- A building permit application shall be reviewed and approved by all required city departments. The approval of the conditional use does not relieve the applicant from complying with all applicable development codes, ordinances and standards.
- The property shall not have street access to South 65<sup>th</sup> Street.
- The proposed 4 foot screening fence at the rear (south) portion of the property must be upgraded to a 6 foot fence to meet the screening requirement from residentially zone or developed property.
- Trees are to be planted every 30 feet along the length of the retaining wall adjacent to South 65<sup>th</sup> Street.
- Any changes to the development plan or a new development plan must be resubmitted to the Planning Commission for their review and approval.

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

**7. Rezoning #11-5-11; A request by the City of Fort Smith for a zone change from Industrial Moderate (I-2) to Residential Multifamily High Density (RM-4) by Extension located at 1301, 1307, 1311, 1315, 1317 and 1323 North 5<sup>th</sup> Street.**

Ms. Maggie Rice read the staff report indicating that the purpose of the rezoning request is to provide a corrective rezoning to reflect how the area has developed. Ms. Rice noted that this rezoning would also allow for property owners to alter or expand their use.

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.

- 8. **Rezoning #13-5-11; A request by Mickle-Wagner-Coleman, agent, for a zone change from Unzoned to Residential Multifamily Medium Density (RM-3) by Classification located at 9000 Massard Road. (companion item to items #9 & #16)**
- 9. **Development Plan Approval of a Multi-Family Development located at 9000 Massard Road. (companion item to items #8 & #16)**
- 16. **Variance #13-5-11; A request by Mickle-Wagner-Coleman, agent, for a variance from 300 feet to 200.6 feet minimum distance between driveways located at 9000 Massard Road. (companion item to items #8 & #9)**

Ms. Brenda Andrews read the staff reports indicating that the purpose of these requests are to facilitate the development of a 5.00 acre site with a 76 unit multi-family development consisting of four (4) 4 plex buildings; three (3) 8 plex buildings and three (3) 12 plex buildings with all units being two-story and containing two bedrooms. Ms. Andrews noted that the Fort Chaffee Redevelopment Authority has authorized the sale of this property and is supportive of the proposed requests.

Mr. Randy Coleman of Mickle-Wagner-Coleman 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 requests.

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

- 16. **Variance #13-5-11; A request by Mickle-Wagner-Coleman, agent, for a variance from 300 feet to 200.6 feet minimum distance between driveways located at 9000 Massard Road. (companion item to items #8 & #9)**

The variance request was approved by the Planning Commission by a vote of 9 in favor and 0 opposed.

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

- 8. **Rezoning #13-5-11; A request by Mickle-Wagner-Coleman, agent, for a zone change from Unzoned to Residential Multi-Family Medium Density (RM-3) by Classification located at 9000 Massard Road. (companion item to items #9 & #16)**

The rezoning request was approved by the Planning Commission by a vote of 9 in favor and 0 opposed.

**9. Development Plan Approval of a Multi-Family Development located at 9000 Massard Road. (companion item to items #8 & #16)**

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

- Any changes to the development plan or a new development plan must be resubmitted to the Planning Commission for their review and approval.

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

**1. Preliminary Plat – Maynard Crossing – Lots 1-4 – Mickle-Wagner-Coleman (companion item to item #10)**

**10. A request by Mickle-Wagner-Coleman, agent, for:**

**(A) A zone change from Unzoned to Commercial-3 by Classification located at 9101 Chad Colley Boulevard. (companion item to item #1)**

**(B) A request to postpone the requirement for a development plan at 9101 Chad Colley Boulevard. (companion item to item #1)**

Mr. Wally Bailey read the staff reports indicating that the purpose of these requests are to facilitate a retail and commercial development. Mr. Bailey stated that the Fort Chaffee Redevelopment Authority has authorized the sale of this property and is supportive of these requests. Mr. Bailey also stated that with the rezoning application is a request from Mr. Coleman of Mickle-Wagner-Coleman to submit a development plan for Planning Commission consideration at a future time when specific land uses and site design are developed. Mr. Bailey noted that staff is recommending approval of the requested rezoning with the condition that a development plan be submitted and approved by the Planning Commission prior to the issuance of any building permits.

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 the vote on these requests.

**1. Preliminary Plat – Maynard Crossing – Lots 1-4 – Mickle-Wagner-Coleman (companion item to item #10)**

Motion was made by Commissioner Parks, seconded by Commissioner Howard and carried unanimously to amend the plat to make approval subject to 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.

**10. A request by Mickle-Wagner-Coleman, agent, for:**

**(A) A zone change from Unzoned to Commercial-3 by Classification located at 9101 Chad Colley Boulevard. (companion item to item #1)**

**(B) A request to postpone the requirement for a development plan at 9101 Chad Colley Boulevard. (companion item to item #1)**

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

- A development plan must be submitted to the Planning Commission for review and approval prior to the issuance of any building permits.
- Future land uses changes by the Fort Chaffee Redevelopment Authority. The land use amendment should be completed before the Board of Directors review this rezoning request.

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

**11. Conditional Use #11-5-11; A request by Michael Lamm for a conditional use for a church located at 2823 A Towson Avenue.**

Ms. Brenda Andrews read the staff report indicating that the purpose of the conditional use request is to allow for the interior remodel of an existing 3,661 square foot building into a church. Ms. Andrews stated that the church is initially proposing a congregation of 15-20 members which would require 5 parking spaces and the site plan provided indicates a total of 23 existing parking spaces on the site which are useable.

Mr. Julio Gomez, the pastor of the church, 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 Huffman, seconded by Commissioner Lorenz and carried unanimously to amend this request to make approval subject to the following:

- Based on the parking information provided, the occupancy will be limited to 92 persons.

- The four (4) parking spaces within the Towson Avenue right-of-way shall be eliminated to avoid site visibility obstructions.
- The option was given of either providing 8-10 above ground planters along Towson Avenue within the property lines at the west side of the building or cut the concrete and provide ground plantings in this space.

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

**12. Conditional Use #13-5-11; A request by Mickle-Wagner-Coleman, agent, for a non-public (private) park located at 1715 North 13<sup>th</sup> Street.**

Mr. Wally Bailey read the staff report indicating that the purpose of the conditional use request is to allow for the use of a private park adjacent to Martin Luther King 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 camper with a store front and deck, several decks, horseshoe decks, horseshoe pits, a fish pond/foundation, concession stand and picnic tables. Mr. Bailey indicated that a neighborhood meeting was held on April 25, 2011, at 5:30 p.m. at the Elm Grove Community Center with no neighboring property owners in attendance.

Mr. Bailey stated that a parking agreement would need to be executed between the private park owner and the Director of Parks and Recreation and approved by the City Board of Directors to utilize Martin Luther King Park for parking.

Commissioner Maurras questioned the definition of a private park and what activities would be allowed. He also questioned sanitation facilities requirements.

Mr. Randy Coleman who was present to speak on behalf of this request stated that sanitation facilities would be in the form of temporary facilities.

Mr. James Jones, 1730 North "H" Street, spoke in support of this request.

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

Following a discussion by the Commission, Commissioner Maurras stated that he felt this request is an undefined use and cannot be controlled by the City and, therefore, should be tabled in order to allow staff more time to review.

Commissioner Howard stated that he felt this was a good thing for the neighborhood and would hate to see it go away.

Motion was then made by Commissioner Maurras, seconded by Commissioner Parks and carried unanimously to table this item for thirty (30) days.

**13. An appeal by Sixto Aguilar to reinstate a home occupation license for ice cream sales located at 3710 Young Street.**

Ms. Maggie Rice read the staff report indicating that the purpose of this request is to allow the continuance of an ice cream sales business from the residence. Ms. Rice stated that based on a complaint, a field inspection was made and it was found that there were three (3) ice cream vans along with one large storage truck in the rear yard of this location. Ms. Rice noted that the original home occupation approval allowed only one (1) ice cream van.

Mr. Sixto Aguilar, 3710 Young Street, was present to speak on behalf of this request.

Commissioner Sharpe stated that when driving by the site, he noticed several freezers, as well as quite a bit of debris on the property which needs to be removed.

Mr. Bailey stated that staff would visit with the applicant to discuss the issues raised by Commissioner Sharpe.

The applicant questioned who had complained about his business. Mr. Wally Bailey stated that it was not a complaint from a neighbor but rather from a competitor who was trying to obtain a business license to operate more than one ice cream sales vehicle.

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

Motion was then 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.
- No commercial trash container will be placed at the residence.
- Any waste or empty packaging associated with the ice cream sales business must be disposed of at an approved site and not returned to the residence at 3710 Young Street.
- The business license cannot be transferred to another residence without a new Home Occupation application.
- The business shall be limited to one (1) business vehicle at the residence.

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

**15. Variance #12-5-11; A request by John Canterbury for a variance from commercial building standards concerning exterior building materials located at 1700 Rogers Avenue.**

Mr. Wally Bailey read the staff report indicating that the purpose of this variance request is to allow the construction of a 15,352 square foot commercial building with metal siding on the rear façade. Mr. Bailey stated that the proposed building would be 14' in height and screened from the adjacent properties by a 6' tall privacy fence located above a 30" tall retaining wall with an effective height of 8.5'. Mr. Bailey noted that the hardship cited by the applicant is the added cost to the project that would be created by the use of at least 51% high-quality exterior materials on each façade as required by the Unified Development Ordinance.

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

Mr. David Harris, 2025 South "V" Street, addressed the Commission with his concerns relative to allowing the use of metal buildings.

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

- A minimum 6' tall privacy fence will be installed on a retaining wall along the south property line. Per the application, the total height of the wall and fence will be 9 feet.
- 100% of the west side of the building shall be constructed with the same high quality materials as the front of the structure.

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

**Meeting Adjourned!**