

**PLANNING COMMISSION & BOARD OF ZONING ADJUSTMENT
MINUTES
CREEKMORE PARK COMMUNITY CENTER
5:30 P.M.
APRIL 12, 2011**

On roll call, the following Commissioners were present: Steve Griffin, Mike Lorenz, Walton Maurras, Keith Lau, Marshall Sharpe, Jennifer Parks, Salvatore Salamone and John Huffman. Commissioner Travis Stephens was absent.

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

Mr. Wally Bailey spoke on the procedures.

- 1. Final Plat – Massard Business Park – Lot 1 – Mickle-Wagner-Coleman (companion item to items #7, #8 and #9)**

- 7. Master Land Use Plan Amendment from Open Space, Office Research, Light Industrial and Residential Detached to General Commercial located at 8201 and 8225 South Zero. (companion item to items #8 & #9)**

- 8. Rezoning #8-4-11; A request by Mickle-Wagner-Coleman, agent, for a zone change from Industrial Light (I-1) to Commercial Heavy (C-5) by Extension located at 8201 and 8225 South Zero. (companion item to items #7 & #9)**

- 9. Development Plan Approval of a commercial development located at 8225 South Zero (companion item to items #7 & #8)**

Ms. Brenda Andrews read the staff reports indicating that the purpose of these requests is to allow for commercial and retail development compatible to the surrounding areas. She noted that Massard Business Park, Lots 1-13 preliminary plat was reviewed and approved by the Planning Commission last month and a development plan for a proposed bank on Lot 1 is also a companion item to these requests.

Ms. Andrews stated that a neighborhood meeting was held on Thursday, March 24, 2011, at 5:30 p.m. at Benefit Bank, 8300 Phoenix Avenue. Ms. Andrews noted that the meeting was attended by an adjacent property owner and an interested person who expressed no concerns regarding the proposed development.

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 these requests.

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

1. Final Plat – Massard Business Parks – Lot 1 – Mickle-Wagner-Coleman (companion items to items #7, #8 & #9)

Motion was made by Commissioner Lorenz, seconded by Commissioner Parks and carried unanimously to approve the final plat subject to all required approvals of the plat and the affixing of all required signatures on the original tracing and other copies and associated documents prior to the plat being filed with the county recorder.

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

7. Master Land Use Plan Amendment from Reserved, Open, Office Research, General Commercial & Residential Detached to General Commercial located at 8201 and 8225 South Zero. (companion item to items #8 & #9)

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

8. Rezoning #8-4-11; A request by Mickle-Wagner-Coleman, agent, for a zone change from Industrial Light (I-1) to Commercial Heavy (C-5) by Extension located at 8201 and 8225 South Zero. (companion item to items #7 & #9)

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

9. Development Plan Approval of a commercial development located at 8225 South Zero. (companion item to items #7 & #8)

Chairman Griffin called for the vote on the development plan. Motion was made by Commissioner Lorenz, seconded by Commissioner Sharpe and carried unanimously to amend this request to make approval subject to approval of the Master Land Use Plan Amendment and rezoning application and submittal of a final development plan that complies with all UDO requirements.

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

Before going forward with the next item on the agenda Chairman Griffin noted that this would be Commissioner Lau's last meeting and expressed his appreciation to him for his years of service to the community. Commissioner Lau stated that he had enjoyed his terms on the Commission and hopefully could serve the City in another capacity later on.

Mr. Bailey thanked Commissioner Lau for his six (6) years of service on the Commission and thanked him for his needed input during the development of the City of Fort Smith's Unified Development Ordinance.

2. Amendments to the Unified Development Ordinance (Fencing)

Mr. Wally Bailey stated that currently the code prohibits chain link fencing material to be used on any commercial site in any location for any purpose. He noted that many commercial sites use chain link fencing for security purposes and that staff believed it was not the intent of the UDO to place a total prohibition on chain link fencing. He also noted that paragraph nine (9) of the same code section (Section 27-602-4 (C)-Transitional and Commercial Building Design Standards) has some missing language and the amendment would add some language to clarify the requirement for the fencing between commercial and residential properties.

No one was in attendance to either speak in favor or opposition to these amendments.

Chairman Griffin then called for the vote on the amendments to the Unified Development Ordinance. The vote was 8 in favor and 0 opposed.

3. Rezoning #6-4-11; A request by Larry Boggs, agent, for a zone change from Commercial Light (C-2) to Commercial Heavy (C-5) by Extension located at 4613, 4615, 4617 Jenny Lind Road.

Ms. Maggie Rice read the staff report indicating that the purpose of the rezoning request is to allow the applicant to have more opportunities when leasing the existing buildings.

Ms. Rice stated that a neighborhood meeting was held at 10:00 a.m. on April 4th at the site with several neighbors voicing their concerns relative to the existing wood privacy fence, loud music coming from one of the businesses and possible businesses that could locate there if the rezoning is approved. Ms. Rice noted that the proposed zoning is an extension of a larger area zoned Commercial-5 which consists of a mini-storage business, convenience store and a retail sales establishment. Ms. Rice stated that the proposed C-5 zoning does not appear to present any significant issues or changes in the overall land uses in this area.

Mr. Larry Boggs was present to speak on behalf of this request. Mr. Boggs stated that the concerns relative to noise had been addressed and resolved.

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 8 in favor and 0 opposed.

4. Master Land Use Plan Amendment from Residential Detached to Neighborhood Commercial located at 6300 Cliff Drive. (companion item to items #5, #6 & #16).

5. **Rezoning #7-4-11; A request by Mickle-Wagner-Coleman, agent, for a zone change from Residential Multi-Family Medium Density (RM-3) to Commercial Light (C-2) by Classification located at 6300 Cliff Drive. (companion item to items #4, #6 & #16)**
6. **Development Plan Approval of a parking lot located at 6300 Cliff Drive. (companion item to items #4, #5 & #16)**
16. **Variance #6-4-11; A request by Mickle-Wagner-Coleman, agent, for a variance from a major collector to residential collector street classification required for street access at 6300 Cliff Drive. (companion item to items #4, #5 & #6)**

It was noted that these items would be discussed together but would be voted on separately.

Mr. Bailey read the staff reports indicating that the purpose of these requests is to facilitate the development of a 1.4 acre site for a proposed 35 space parking lot to serve an existing office building. Mr. Bailey noted that staff finds the property's location and topography incongruous with residential development. He stated that only 40% of the property, or the 110 feet adjacent to Cliff Drive, is proposed in the rezoning request with the remainder of the property to remain residential.

Mr. Pat Mickle with 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 items separately.

4. **Master Land Use Plan Amendment from Residential Detached to Neighborhood Commercial located at 6300 Cliff Drive. (companion item to items #5, #6 & #16)**

Motion was made by Commissioner Lorenz, seconded by Commissioner Maurras and carried unanimously to amend this request to make approval subject to prohibiting ingress or egress off Country Club Avenue except for maintenance purposes.

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

5. **Rezoning #7-4-11; A request by Mickle-Wagner-Coleman, agent, for a zone change from Residential Multi-Family Medium Density (RM-3) to Commercial Light (C-2) by Classification located at 6300 Cliff Drive. (companion item to items #4, #6 & #16)**

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 Master Land Use Plan Amendment and variance applications being approved and a final development plan being submitted.
- Prohibiting ingress or egress off Country Club Avenue except for maintenance purposes.

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

6. Development Plan Approval of a parking lot located at 6300 Cliff Drive. (companion item to items #4, #5 & #16)

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 master land use plan amendment and rezoning applications being approved and a final development plan being submitted.
- Prohibiting ingress or egress off Country Club Avenue except for maintenance purposes.

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

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

16. Variance #6-4-11; A request by Mickle-Wagner-Coleman, agent, for a variance from a major collector to residential collector street classification required for street access at 6300 Cliff Drive. (companion item to items #4, #5 & 16)

Chairman Griffin called for the vote on the variance request. The vote was 8 in favor and 0 opposed. Chairman Griffin noted that his approval of the variance was due to the topography of the land and the fact that he felt the variance request would not be detrimental to the adjoining properties.

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

10. Conditional Use #7-4-11; A request by Michael Johnson, agent, for a conditional use for additions to Chaffin Junior High School located at 3025 Massard Road.

Ms. Maggie Rice read the staff report indicating that the purpose of this request is to allow for the construction of additions, renovations and conversions to Chaffin Junior High School. Ms. Rice noted that a neighborhood meeting was held at 2:00 p.m. on April 8, 2011, at the Chaffin Junior High School Library with no neighbors in attendance.

Ms. Erica Bartels with Architecture Plus was present to speak on behalf of this request.

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

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

- The exterior façade of the proposed building additions will match the color and building material of the existing school.
- A final landscaping plan and inspection must be approved by the Planning Department before the issuance of the Final Certificate of Occupancy. The height and diameter of the proposed trees and shrubs must be provided with the final landscaping plan.
- Any new outdoor lighting of the building exterior, new parking lot and covered play area shall be shielded and directed downward to avoid light glare onto adjoining properties.
- Approval is based on the submitted plans. No deviations from this will be accepted other than to specify the height and diameter of the proposed landscaping.

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 #9-4-11; A request by Larry Turner, agent, for a conditional use for a church located at 3536 Grinnell Avenue.

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 4,000 square foot church, parking lot (35 spaces), interior landscaping and perimeter landscaping. Ms. Rice noted that a neighborhood meeting was held on April 2nd at the Fort Smith Public Library-Miller Branch located at 8701 South 28th Street with eight (8) congregation members and no neighboring property owners in attendance.

Mr. Larry Turner was present to speak on behalf of this request.

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

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

- Approval is based on the submitted plans.
- The landscaping plan must specify the types of trees or shrubs to be used at the time development (construction) plan submittal. The final landscaping plan will be reviewed by planning staff prior to issuance of the building permit to ensure compliance with all landscaping requirements in Section 27-602-3 of the Unified Development Ordinance (UDO).
- No area for a screened trash enclosure has been indicated. If a trash dumpster or receptacle will be used, it will be required to be screened. The screening requirement shall be an opaque screened enclosure equal to the height of the dumpster or trash receptacles.
- Compliance with all City codes and standards for development and construction.
- A 4 to 6 foot height opaque screening fence or dense landscaping is required at the west of the parking spaces that face the residential properties west of this site.
- Outdoor lighting of the building and parking area is required to be directed downward and shielded (e.g., shoebox light fixture) to avoid light glare onto adjoining properties or roadways.

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

12. Conditional Use #10-4-11; A request by Scott Hathaway, agent, for a conditional use for a church located at 4615 South 16th Street. (companion item to item #18)

18. Variance #8-4-11; A request by Scott Hathaway, agent, for a variance to utilize an off-site parking lot at 1519 Phoenix Avenue for 50% of the required parking for a proposed church located at 4615 South 16th Street. (companion item to item #12)

Ms. Brenda Andrews read the staff report indicating that the purpose of these requests is to allow for the interior remodel of an existing building into a church. Ms. Andrews stated that the Life Springs Church is anticipating a maximum church congregation membership of 100 people which would require 25 parking spaces. She noted that the property currently has 13 existing parking spaces on site with 12 additional spaces being proposed across the street at the Paw Spa site to the west. Ms. Andrews stated that a companion variance request is to allow for more than 25% of the church parking spaces to be utilized off-site with a shared parking agreement between the church and the Paw Spa site for overflow parking.

The Planning Commissioners expressed some concerns relative to the shared parking agreement if they were to lose their lease on the Paw Spa site. It was noted that if they were to lose their lease for the additional parking spaces, the church would have to limit their occupancy.

Mr. Scott Hathaway 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 separately.

12. Conditional Use #10-4-11; A request by Scott Hathaway, agent, for a conditional use for a church located at 4615 South 16th Street. (companion item to item #18)

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

- Maintain parking spaces that would comply with Section 27-601-2 whether on-site or off-site with an approved parking agreement. Approved occupant load of the building will be based on the number of parking spaces and fire code requirements.
- The gravel planter areas indicated on the survey will be required to be maintained with landscaping. Landscaping installed will utilize approved tree, shrub or groundcover species per the design guidelines of the UDO.
- If the exterior of the building is renovated, the design shall comply with the design guidelines.

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
RECONVENE BOARD OF ZONING ADJUSTMENT**

18. Variance #8-4-11; A request by Scott Hathaway, agent, for a variance to utilize an off-site parking lot at 1519 Phoenix Avenue for 50% of the required parking for a proposed church located at 4615 South 16th Street. (companion item to item #12)

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

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

13. Home Occupation #1-4-11; A request by William Thomas for a home occupation for a landscaping and lawn care business located at 4517 Virginia Avenue.

Ms. Maggie Rice read the staff report indicating that the purpose of the home occupation request is to allow the applicant to operate a landscaping and lawn care business from his residence. Ms. Rice noted that the applicant's application indicates his business will be conducted from 9:00 a.m. to 5:00 p.m., Monday through Sunday and that he will utilize a GMC Suburban and an 8' trailer for the business which will be stored in the back yard. She also stated that storage of all other equipment will be in an existing utility room (11' x 6').

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

- Compliance with Section 27-338-4F (Home Occupation Requirements)
- All vehicles shall be parked in compliance with the Fort Smith Parking Regulations. Currently there is a gate between the church property and the rear yard which allows access to park the trailer behind the residence. If this access is not allowed in the future, the trailer shall be stored off site, with the location approved by the Planning Department.
- No commercial trash container will be placed at the residence.
- Any refuse created by a job must be disposed of at the job site or other approved location and not returned to the residence at 4517 Virginia Avenue.
- The business license cannot be transferred to another residence without a new Home Occupation application.

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

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

14. Variance #4-4-11; A request by Roger Winton, agent, for a variance from 7.5 feet to 3 feet interior side yard setback located at 1511 Hendricks Boulevard.

Ms. Maggie Rice read the staff report indicating that the purpose of this variance request is to allow an addition to the side and rear of the structure and maintaining the building line along the front of the residence. Ms. Rice noted that the proposed addition would be attached to an existing garage to the rear of the property.

Ms. Rice stated that a neighborhood meeting was held at 5:00 p.m. on March 10th at the property. The three neighbors in attendance had no objections to the project. She noted, however, that one complaint has been received from a neighbor about the house being in terrible condition and another complaint was received objecting to the 3 foot setback. Ms. Rice stated that the applicant proposes to add a garage to the existing house along with a new bedroom, bath and laundry room and stated that the entire residence would be modernized to have a more neighborhood friendly appearance.

Mr. Roger Winton was present to speak on behalf of this request.

Ms. Stephanie Hyman, 1515 Hendricks, was present to voice her opposition to this variance request. Ms. Hyman stated that she was opposed to any variance including a 5 foot setback versus a 3 foot setback.

Following a discussion by the Commission, motion was made by Commissioner Lau, seconded by Commissioner Lorenz and carried unanimously to amend this request to a 5 foot instead of the requested 3 foot interior side yard setback.

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

15. Variance #5-4-11; A request by Barbara Garner, agent, for a variance from 5 feet to 0 feet interior side yard setback located at 1616-1706 Lexington Avenue.

Ms. Brenda Andrews read the staff report indicating that the purpose of this variance request is to allow six decks to remain that were constructed to the property lines and adjoined to the adjacent unit.

Ms. Andrews stated that a neighborhood meeting was held at 12:00 p.m. on March 24th at 900 Atlanta Street with no neighbors in attendance. She noted that a complaint from one of the neighbors had been received relative to concerns about fire and other emergency services being able to access the buildings.

Ms. Andrews noted that the building department reports that the decks were not shown on the plans and had not been constructed at the time of the final inspection. At the time of final inspection, there was a small deck approximately 2' x 3' at each side door with just enough room to step out and close the door. The building inspector noticed the decks about a month later. She also noted that the fire department has concerns relative to the possibility of fire spread between units with the decks connecting together.

Ms. Andrews stated that a variance was approved in May of 2010 for a front yard setback from 25' to 10' and the site plan used to obtain the building permits did not show the proposed decks.

Mr. Steven Spradlin, 900 Atlanta, was present to speak on behalf of this request. Mr. Spradlin stated that he did not intentionally violate any ordinance.

Commissioner Maurras expressed his concerns relative to fire hazards.

Mr. Dale Frazier, 1500 South "P" Street, was present to speak in opposition to this request. Mr. Frazier stated that he lives across the street and expressed his concerns relative to emergency vehicles being able to get through.

Following a discussion by the Commission, Chairman Griffin then called for the vote on the variance request. The vote was 6 opposed and 2 in favor (Lorenz, Lau).

17. Variance #7-4-11; A request by Jamie Booe, agent, for a variance from the commercial building standards concerning fencing and exterior building materials at 6500 Autopark Drive.

Mr. Wally Bailey read the staff report indicating that the purpose of this variance request is to allow the proposed Smith Nissan, Cadillac, Chevrolet dealership chain link fencing material to be black vinyl coated and to allow the rear (west) building elevation to have more than 51% non-high quality materials (metal panels).

Mr. Jamie Booe was present to speak on behalf of this request.

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

Mr. Scott Hathaway addressed the Commission and noted that churches have to comply with the 51% UDO requirement and encouraged the Commission to continue with this requirement.

Following a discussion by the Commission, Chairman Griffin called for the vote on the variance request. The vote was 8 in favor and 0 opposed.

19. Variance #9-4-11; A request by Van Hale, agent, for a variance from the commercial building standards of the Phoenix Avenue Overlay District concerning exterior building materials at 6612 Phoenix Avenue.

Mr. Wally Bailey read the staff report indicating that the purpose of the variance request is to allow the construction of a 50' x 99' (4,950 square feet) building with 100% metal siding as the exterior material.

Mr. Bailey noted that the proposed building would be 20' in height and located behind an existing building on the same property that is approximately 28' feet in height. Mr.

Bailey also noted that the applicant states that the proposed building would be partially shielded from the right-of-way view by the existing taller building and that an existing 6 foot high privacy fence on the south and west sides of the property would further shield the building from adjacent properties.

Mr. Bailey stated that although unrelated to the variance request, staff has observed an unscreened dumpster next to the existing building and the Phoenix Overlay District. He stated that the UDO requires all trash receptacles be completely screened from adjoining properties and street right-of-way. Therefore, Mr. Bailey noted that regardless of the decision on the variance, the owner must submit a plan for screening the dumpster.

Mr. Greg Whitsitt was present to speak on behalf of this request.

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

Mr. Van Hale, 320 O'Bryan Lane, Van Buren, Arkansas, the engineer for this project was present to speak on behalf of this request.

Following a discussion by the Commission, Chairman Griffin then called for the vote on the variance request. Motion was made by Commissioner Parks, seconded by Commissioner Sharpe and carried unanimously to amend this request to make approval subject to the planting of trees that shall be in compliance with the UDO standards as a screening buffer along the south property line. Chairman Griffin then called for the vote on the variance request as amended. The vote was 8 in favor and 0 opposed.

Meeting Adjourned!