

**PLANNING COMMISSION & BOARD OF ZONING ADJUSTMENT
MINUTES
ROSE ROOM
CREEKMORE PARK COMMUNITY CENTER
5:30 P.M.
JANUARY 11, 2011**

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

Chairman Griffin then called for the vote on the minutes from the December 14, 2010, Planning Commission meeting. Commissioner Sharpe noted a correction to the minutes. He noted a change to page #3, item #4, paragraph #4. This paragraph was corrected to read as follows:

Commissioner Sharpe noted that the drawing submitted from Architecture Plus for this project indicated an address of 7501 Rogers rather than 7601 Rogers.

Chairman Griffin then called for the vote on the minutes as corrected. Motion was made by Commissioner Lau, seconded by Commissioner Parks and carried unanimously to approve the minutes as corrected.

Mr. Wally Bailey spoke on the procedures.

Mr. Bailey then read the consent agenda items and noted that unless a member of the audience or a Planning Commissioner request an item be pulled from the consent agenda and heard separately, these items would be voted on as one item.

1. CONSENT AGENDA

- A. Minor Plat – Saint Francis Crest – Lot 22 – Replat – Mickle-Wagner-Coleman**
- B. Conditional Use #23-12-10; A request by Glenn Thompson, agent, for a conditional use for a worship center located at 1808 North Greenwood. (tabled from December)**
- C. Conditional Use #1-1-11; A request by Travis Brisendine, agent, for a conditional use for parking lot expansions located at UA Fort Smith,**
- D. Conditional Use #2-1-11; A request by Chris Leeper, agent, for a conditional use for a drive-thru window at an existing liquor store located at 3501 Grand Avenue.**

A member of the audience requested that Consent Agenda Item #1C be pulled and heard separately.

Commissioner Maurras recused himself from voting on Item #1A.

Chairman Griffin then called for the vote on Consent Agenda Items #1A, #1B and #1D. Motion was then made by Commissioner Lau, seconded by Commissioner Lorenz and carried unanimously to amend these requests to make approval subject to staff comments and recommendations. Chairman Griffin then called for the vote on these items as amended. The vote was 7 in favor and 0 opposed on Items #1B & #1D and 6 in favor, 0 opposed and 1 abstention (Maurras) on Item #1A.

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

8. Variance #1-1-11; A request by Lance Beaty for the following variances located at 4600 Towson Avenue (Phoenix Center):

- A. Lot 4 – From 254 square feet to 504 square feet maximum size of a sign.**
- B. Lot 9 – From 99 square feet to 394 square feet maximum size of a sign.**

Mr. Bailey stated that the applicant is requesting this item be tabled until the next Planning Commission meeting in order to allow the applicant to attend the meeting and be more appropriately prepared to address any questions that may arise relative to this request.

Chairman Griffin called for a voice vote to table the variance request until the February Planning Commission meeting. The vote was unanimous to table the variance request.

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

1C. Conditional Use #1-1-11; A request by Travis Brisendine, agent, for a conditional use for parking lot expansions located at UA Fort Smith.

Mr. Wally Bailey read the staff report indicating that the purpose of this conditional use request is to allow for the construction of four new parking lots within the present campus boundaries with a total of 610 new parking spaces. He noted that all parking lots would be screened with the required perimeter landscaping adjacent to roadways and will also have interior landscaping within the parking lots.

Mr. Bailey stated that a neighborhood meeting was held on January 4, 2011, at 5:30 p.m. at the Weidman Center of the Pendergraft Health Sciences Center to discuss the project with six (6) property owners in attendance.

Mr. Ernest Cialone, 439 North Waldron, was present to question whether the existing fence would remain and continue to be maintained.

Mr. Brisendine stated that he did not anticipate relocating the existing fence but would know more when survey has been completed.

Commissioner Sharpe questioned Mr. Brisendine as to why Mr. Frank Smith was not shown on the property owner notification list. Mr. Brisendine stated that it was simply an oversight.

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

- Engineering Department approval of a Traffic Impact statement or analysis.
- All landscaping, screening and buffering must comply with the minimum design requirements of the Unified Development Ordinance.
- All lighting must meet the minimum requirements of the Unified Development Ordinance. All lighting must be directed, shielded or designed to prevent trespass and glare onto the adjoining properties.

Chairman Griffin then called for the vote on the conditional use request as amended. The vote was 6 in favor, 0 opposed and 1 abstention (Maurras).

- 2. Minor Plat – Schulte Property – Tract G – Lots 3A thru 3E – Brixey Engineering**
- 3. Subdivision Variance #1-1-11; A request by Ron Brixey for a subdivision variance from Section 27-504-3 of the Fort Smith Subdivision Regulations, which require private access easements to comply with all standards for public streets and utilities located at 1617-1623 Osage Street.**

Ms. Brenda Andrews read the staff reports indicating that the purpose of these requests is to permit the replat of Schulte Property Tract G, Lot 3 into five lots with a private access and utility easement that does not meet the standards for a public street as required by the Subdivision Design and Improvements Standards. Ms. Andrews noted that the site is currently platted as one lot and developed with four duplexes with a fifth duplex proposed in the southwest area of the site. Ms. Andrews stated that approval of the variance would allow the owner to replat the property into five (5) lots and to potentially sell the lots individually.

Ms. Andrews stated that the proposed subdivision of Schulte Property, Tract G, Lot 3 into five lots requires the private access and utility easement to comply with the City's Subdivision Design and Improvement Standards for a public street. These requirements would include a curb and gutter street with a pavement width of 27 feet and a cul-de-sac. Ms. Andrews noted that the applicant has indicated that these requirements would adversely affect the maneuvering areas of the existing parking areas. Ms. Andrews stated

that the request was reviewed by all appropriate city departments, including police, fire, engineering, operations and utilities and the engineering department. She stated that the Engineering Department commented that the variance was acceptable on the condition that a maintenance agreement be established by the property owners as required by the City's Subdivision Design and Improvement Standards. It was also noted that the owner understands that the City will not be responsible for the maintenance of the private access and utility easement and has placed a note specifying this information on the proposed plat.

Mr. Ron Brixey, 5223 E. Hwy. 45, was present to speak on behalf of these requests.

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

Commissioner Maurras expressed his concerns relative to setting a precedent with the approval of these requests for other owners to come in and request their property be subdivided in order to construct additional duplexes.

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

- 3. Subdivision Variance #1-1-11; A request by Ron Brixey for a subdivision variance from Section 27-504-3 of the Fort Smith Subdivision Regulations, which require private access easements to comply with all standards for public streets and utilities located at 1617-1623 Osage Street.**

Motion was made by Commissioner Lau, seconded by Commissioner Lorenz and carried by a vote of 5 in favor and 2 opposed (Maurras, Parks) to amend this request to make approval subject to the following condition:

- A revised title of the Deed and Easement to: Private Access Maintenance Agreement – Schulte Property, Tract G, Lots 3A-3E and a signed and filed copy of the maintenance agreement to be provided to the City of Fort Smith.

Chairman Griffin then called for the vote on the subdivision variance as amended. The vote was 4 in favor and 3 opposed (Maurras, Parks, Huffman).

- 2. Minor Plat – Schulte Property – Tract G – Lots 3A thru 3E – Brixey Engineering**

Chairman Griffin called for the vote on the minor plat. The vote was 5 in favor and 2 opposed (Maurras, Parks)

- 4. Rezoning #1-1-11; A request by Drew Harmon, agent, for a zone change from Extra Territorial Jurisdiction Open-1 (ETJ O-1) to Extra Territorial Jurisdiction Industrial Light (ETJ I-1) by Extension located at 6614, 6315, 6411, 6511, 6601, 6607, 6214, 6706, 6404, 6504 and 6637 Old Harrison Lane and 12417 and 12525 Highway 71 South.**

Ms. Maggie Rice read the staff report indicating that the purpose of this rezoning request is to correct the zoning to match the development in the area. Ms. Rice stated that the property was developed prior to the implementation of the ETJ land use plan and the ETJ zoning ordinance. She stated that in 2003 all properties in the ETJ were given an Open-1 zoning district as a placeholder until development occurs that required a zoning change and existing land uses were permitted to continue as nonconforming uses. Ms. Rice noted that the property included in the rezoning is part of the Southridge Industrial Park subdivision which was filed in 1999. She stated that the subdivisions to the north in Riley Farms were filed in two different phases, one in 1998 and another in 2001. Ms. Rice stated that this proposed rezoning is to allow the zoning to match the development on the project. She stated that the ETJ Master Land Use Plan classifies Old Harrison Lane as ETJ Industrial Light with the existing developments on Old Harrison Lane matching the proposed rezoning.

Mr. Bailey noted that when the ETJ was first established, there were no zoning districts except for the ETJ Open-1. The industrial districts were developed later. Mr. Bailey also noted that the subdivision is currently developed except for four (4) lots.

Ms. Rice noted that a neighborhood meeting was held on Tuesday, January 4, 2011, with several property owners attending the meeting and expressing concerns relative to this proposed zoning.

Ms. Rice advised the Commission that staff recommended approval of this request based on the subdivision existing prior to the ETJ and the fact that this rezoning is the lightest industrial zone allowed in the ETJ and it is in compliance with the existing ETJ Land Use Plan.

Mr. Drew Harmon, 19 Court Street, was present to speak on behalf of this request. Mr. Harmon noted that this property is already developed and this request is being brought to the Commission simply to rezone the property to match how it is currently developed.

Chairman Griffin asked for a show of hands of all persons in attendance who are in opposition to this rezoning request. Approximately 15 persons indicated they were there in opposition.

The following persons spoke in opposition to this request citing their concerns relative to devaluation of their property, noise and drainage issues, as well as the possible future detrimental uses that would be associated with the Industrial Light zoning classification: Mr. Jerry Boyd, 6504 Southfield Drive, Robert Embry, 6404 Southfield Drive, Nina Abernathy, 6508 Southfield Drive, Doug Morris, 6400 Southfield Drive and James Marschewski, 12310 Stonechase.

Mr. Joe Gaines with Gaines Construction Company noted that this development existed prior to the development of Riley Farms. Mr. Gaines also noted that at one time there was a 15 foot buffer between the Riley Farms development which has since been cleared.

Mr. James Hill, 12417 Hwy. 71, advised the Commission that he was told that this area would remain Industrial Light when the ETJ was implemented.

Following a discussion by the Commission, Chairman Griffin called for the vote on the rezoning request. The vote was 4 in favor, 2 opposed (Sharpe, Huffman) and 1 abstention (Maurras). This item was denied because it failed to receive the required five (5) yes votes.

- 5. Master Land Use Plan Amendment from Low Density Residential to Residential Detached, Residential Attached and Commercial Neighborhood located at 12905 Rye Hill Road. (companion item to items #6 & #7)**
- 6. Rezoning #2-1-11; A request by Bobby Aldridge, agent, for a zone change from Extra Territorial Jurisdiction Open-1 (ETJ O-1) to RS-3, RS-4, RS-5, RM-3, RSD-3 & C-2 by Extension and Classification located at 12905 Rye Hill Road. (companion item to items #5 & #7)**
- 7. Development Plan – Mixed Use Residential and Commercial Development – 12905 Rye Hill Road – Bobby Aldridge, Agent. (companion item to items #5 & #6)**

Mr. Wally Bailey read the staff reports indicating that the purpose of these requests is to facilitate the annexation and development of a proposed 327 acre residential subdivision known as Middleton Farms. Mr. Bailey stated that the subdivision has four phases with approximately 820 lots and the developer anticipates that the development will be a long-term development that will be constructed over a period of 10-20 years.

Mr. Bailey noted that a neighborhood meeting was held on July 22 and December 16 at the Rye Hill Baptist Church with eight property owners attending the July meeting and five property owners attending the December meeting. Mr. Bobby Aldridge and Mr. Pat Mickle with Mickle-Wagner-Coleman presented maps showing the proposed location of the subdivision as well as the proposed master land use classifications, zoning and development plan. The developer's intent to annex the subdivision into the Fort Smith city limits was also discussed.

Mr. Bailey also noted that the planning department has received a petition signed with sixty-two (62) signatures of residents opposed to the proposed Commercial-2 and Residential Single Family Duplex Medium/High Density (RSD-3) zoning districts.

Mr. Bobby Aldridge with Mickle-Wagner-Coleman was present to speak on behalf of these requests. Mr. Aldridge stated that in addition to the City of Fort Smith's design standards in effect at the time of development and as an attempt to address concerns voiced from the property owners, they have developed several additional design criteria items for the commercial lot development. Mr. Aldridge also noted that the proposed Commercial-2 development would be one of the last things to be developed with this project.

Chairman Griffin asked for a show of hands of all persons in the audience who were opposed to these requests. There were approximately 20 persons in attendance opposing these requests.

The following persons spoke in opposition to these requests citing their concerns relative to the Commercial-2 and RSD-3 zoning classifications, i.e., devaluation of property, increased traffic, safety and crime concerns: Mr. James Wright, 8331 Howard Hill Road, Mr. Mike Ledford, 12106 Sycamore and Mr. Tony Crockett, 11014 Howard Hill Road.

Commissioner Parks noted that although she feels the development looks very nice, she cannot agree with the commercial and duplex development in this area.

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

5. Master Land Use Plan Amendment from Low Density Residential to Residential Detached, Residential Attached and Commercial Neighborhood located at 12905 Rye Hill Road. (companion item to items #6 & #7)

Motion was then made by Commissioner Lau, seconded by Commissioner Maurras and carried to amend this request to make approval subject to the annexation being approved by the City Board of Directors. Chairman Griffin then called for the vote on this request as amended. The vote was 6 in favor and 1 opposed (Parks).

6. Rezoning #2-1-11; A request by Bobby Aldridge, agent, for a zone change from Extra Territorial Jurisdiction Open-1 (ETJ O-1) to RS-3, RS-4, RS-5, RM-3, RSD-3 & C-2 by Extension and Classification located at 12905 Rye Hill Road. (companion item to items #5 & #7)

Motion was made by Commissioner Maurras to amend this request by deleting the RSD-3 zoning classification and substituting the RS-3 zoning classification and to include all staff comments and recommendations relative to this rezoning request. Motion was seconded by Commissioner Lorenz but failed by a vote of 3 in favor and 4 opposed. Commissioner Lau commented that he feels they have spent a lot of time developing the UDO to address issues specific to this development. He noted that they are providing buffers in the rear, west south and east of this development and feels the developer should be allowed to develop this site the way he wants to develop it. Commissioner Lau also stated that he felt multi-family development is an integral part of any master plan subdivision and provides a level of affordability to a neighborhood for those people who cannot afford nor wants to purchase a home but deserves the right to live in the neighborhoods. Motion was then made by Commissioner Lau, seconded by Commissioner Lorenz and carried unanimously to amend this request to make approval subject to the following:

- City Board of Directors approval of the property annexation petition.

- A development plan for the proposed Commercial-2 & RSD-3 site be submitted to the Planning Commission for review and approval prior to issuance of a building permit.
- In addition to the Fort Smith's design standards in effect at the time of development, the proposed Commercial-2 site will also be developed in accordance with the developer's proposed development standards.

Chairman Griffin then called for the vote on the rezoning request as amended. The vote was 5 in favor and 2 opposed (Parks, Sharpe).

7. Development Plan – Mixed Use Residential & Commercial Development – 12905 Rye Hill Road – Bobby Aldridge, Agent. (companion item to items #5 & #6)

Motion was made by Commissioner Lau, seconded by Commissioner Lorenz and carried unanimously to amend this request to make approval subject to the approval of the annexation, rezoning and master land use plan. Chairman Griffin then called for the vote on the development plan as amended. The vote was 6 in favor and 1 opposed (Parks).

Meeting Adjourned!