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ROGERS PLANNING COMMISSION MINUTES

The Rogers Planning Commission met for a public meeting at Rogers City Hall at 301 W. Chestnut Street on March 5, 2024 at 5:30 P.M. The meeting was called to order by Chairman Ed McClure followed by the Pledge of Allegiance.

ROLL CALL

Commissioners attending: Jorge Andrade, Samantha Best, Derek Burnett, Hannah Cicioni, Steve Lane, Ed McClure, Mark Myers, Mandel Samuels, and John Schmelzle.

ACTION ON MINUTES

Motion by Cicioni, Second by Andrade, to approve the February 20, 2024, Planning Commission meeting minutes as presented.

Voice Vote: 8 – Yes, 1 – Abstained (Samuels) Motion carried.

APPROVED.

PUBLIC FORUM

REPORTS

DECLARATION OF ABSTENTION

McClure asked that any Commissioners needing to abstain on agenda items state so and not participate in discussion or vote on the item. None abstained.

CONSENT AGENDA

1. LSDP: The District Mixed Use Phase 2

A proposal to construct 277,974 square feet of first-floor building area at 4303 S. JB Hunt Drive in the U-COM (Uptown Commercial Mixed Use) zoning district.

2. LSDP: Family Storage 2

A proposal to construct 45,968 square feet of building area for warehousing and storage at 1250 W. Commons Drive in the I-1 (Light Industrial) zoning district.

Motion by Lane, Second by Cicioni, to approve the Consent Agenda.

Voice Vote: Unanimous – Yes. Motion carried.

APPROVED.

PUBLIC HEARINGS

1. RZN: David Vega

A request by David Vega to rezone 2305 S. Dixieland Road from the A-1 (Agricultural) zoning district to the NR (Neighborhood Residential) zoning district.

Planner Christina Moore noted the site is directly across the street from the Rogers High School at the corner of S. Dixieland Road and W. Perry Road. This site is designated to be neighborhood growth designation per the Comprehensive Growth Map and the requested zoning is allowed. The applicant is also renovating an existing structure which is in a floodplain and requires the building be brought into compliance with Flood Damage Prevention code. Staff recommends referral to Zoning Review Committee since there are other zoning options allowed in the neighborhood growth designation.

David Vega represented the request.

The Chairman opened the public hearing for comments. There were none.
The public hearing was declared closed.

Motion by Schmelzle, Second by Myers, to refer the request to Zoning Review Committee.

Voice Vote: Unanimous – Yes. Motion carried.

APPROVED.

2. RZN: Jack Hales Construction Company

A request by Jack Hales Construction Company to rezone 103 W. Laura Street from the A-1 (Agricultural) zoning district to the NR (Neighborhood Residential) zoning district.

Planner Christina Moore noted this site is located near W. Price Lane in between S. 8th and S. 1st Streets. This site is designated to be neighborhood growth designation per the CGM and the requested zoning is allowed. Staff recommends referral to Zoning Review Committee since there are other zoning options allowed in the neighborhood growth designation.

Jason Ingalls with Expedient Civil Engineering represented the request.

The Chairman opened the public hearing for comments. There were none.
The public hearing was declared closed.

Motion by Myers, Second by Lane, to refer the request to Zoning Review Committee.

Voice Vote: Unanimous – Yes. Motion carried.

APPROVED.

3. RZN/DCP: Dixieland & Olive Multifamily

A request by JP Specialty LLC for Dixieland & Olive Multifamily to rezone 55.25 acres near the NW corner of N. Dixieland Road & W. Olive Street from the A-1, R-DP & RSF-5 (Agricultural, Residential Duplex Patio Home, & Residential Single Family-5 units per acre) zoning districts to

the RMF-15B (Residential Multifamily, 15 units per acre, rentals) zoning district with a Density Concept Plan.

Planner Nicholas Little stated the requested zoning designation is an allowed district in the neighborhood growth designation. The proposed density is higher than the base allowed density per the CGM, thus, the DCP requirement. The DCP proposal seems to meet all underlying RMF zoning requirements with the exception of the building height of the apartment buildings. The ridge of the roof appears to be taller than the allowed 35-foot height maximum in R-MF. A detailed wetland study was included within the applicant submittal. The study shows significant wetland area covering roughly eight or nine acres of the northern portion of the property. Staff has not received any documentation from the Army Corps of Engineers or the regulators of wetlands, determining whether or not these wetlands are deemed jurisdictional. The proposed development design shows several multifamily and townhome buildings within this wetland area. After the staff reports were published, the applicant stated their intent to work with the Corps of Engineers to pay for mitigation. The determination of these wetlands could potentially affect the design of the site. Up until today the applicants have not provided staff with proof that the neighbor notifications were mailed out by the mailing deadline which was to 2/19/24. The applicant stated that they placed the sent-out mailers on 2/19, which was President's Day a federal holiday in which USPS locations are closed. The only way staff can verify that the mailers were sent out at the correct time is by using the postmark date, which is stamped on return receipts for certified mailers by the post office signifying the date in which they were processed. No public comment has been received by staff to date on this project. Because of the applicant's intent to mitigate the wetland staff is no longer recommended to table because of the wetland determination but to table the project due to notification error.

Bill Watkins represented the request and stated the DCP is a culmination of two years' worth of work between the applicant and staff. Each meeting resulted in various considerable changes to the plan. Watkins pointed out that the south part of the property is entirely in the floodplain and will remain untouched and natural. One waiver is requested and was discussed with staff for a fee in lieu of detention since it's right next to the floodplain and the runoff would be shifted off into the floodplain.

Watkins said that staff received a certification form signed by Will Kellstrom under oath that states in fact all mailings were delivered into the possession of the post office on 2/19. He said he looked up the definition of mailed in the Arkansas code and the only thing he came up with was Arkansas Code Annotated 14-14-106 which deals with county government and it defines mail as "deposit of the notice properly addressed in the United States mail, with postage paid" which was done.

The Chairman opened the public hearing for comments. There were none.
The public hearing was declared closed.

Commissioner Samuels asked if staff was concerned about the height. Little stated that it is not much of a concern for staff since it is a DCP which they can kind of create their own rules in that regard.

Schmelzle asked John Pesek, Senior Staff Attorney, what his position on the mailing error was. Pesek stated that the code does say 15 days but it does not specify as to what constitutes as a mail date. An affidavit was provided that would be compliant with the 15 days so it is up to the commission if they choose to accept it.

Motion by Schmelzle, Second by Myers, to refer the request to Zoning Review Committee.

Voice Vote: Unanimous – Yes. Motion carried.

APPROVED.

CALL FOR RECESS

The meeting recessed at 5:49 p.m. due to technical issues.

CALL TO ORDER

The meeting was called back to order at 5:53 p.m.

4. CUP: Fuzzy Bones Dog Grooming

A request by April Lemming for Fuzzy Bones Dog Grooming, LLC for a Conditional Use Permit to allow the use “Animal Grooming & Animal Boarding” at 2501 N. 14th Place in the C-2 (Highway Commercial) zoning district.

Planner Zachery Birdsong noted the site is located at the northeast corner of West Hudson Road and North 14th Place. The applicant is requesting to obtain a conditional use permit for Animal Grooming and Animal Boarding at this location. The requested use is conditional in C-2 zoning and C-2 is a permitted zone within the Access Corridor Growth Designation. The proposed use is mostly compatible with the surrounding context. There are single family residences located along the northern boundary of this property. The applicant states that there is an existing privacy fence along the north property line and that they plan to use noise dampening panels throughout the business. This use would not set a precedent contrary to the city land use plan and all conditional use considerations are met. Staff is recommending consideration with the condition that only indoor boarding be allowed and that outdoor activities are only allowed in accordance with the noise ordinance.

April Lemming represented the request.

The Chairman opened the public hearing for comments.

- Stephen Nabors – concerned about noise.

The public hearing was declared closed.

Samuels asked the applicant if they intend to board outdoors. Lemming says that they only plan to board indoors and will have a maximum of nine dogs.

Lemming also notes that they will be building a fence on the east side of the building and that the kennel room is on the far side of the building away from the concerned neighbor.

Commissioners and applicant discuss the request.

Motion by Schmelzle, Second by Cicioni, to approve the request as presented.

Voice Vote: Unanimous – Yes. Motion carried.

APPROVED.

Samuels asked how many parking spaces were on the lot and asked if they would have 40-60 cars parked on site as stated in their application. Lemming said they would have about 40-60 cars coming and going but will only have about eight employee cars parked there all day.

Best stated she wanted to limit the number of dogs to nine.

Motion by Best, Second by Myers, to amend the previous motion and to approve the request as presented and only allow a number of nine dogs.

Voice Vote: Unanimous – Yes. Motion carried.

APPROVED.

5. CUP: Oz Farms

A request by Hunter Haynes for Oz Farms for a Conditional Use Permit to allow the use “Assembly, Ceremonies, and Weddings” at 3232 W. Oak in the A-1(Agricultural) zoning district.

Planner Nicholas Little noted this site is located in central Rogers, just north of the steep curve along W. Dogwood Street and S. Osage Road and provided background information about the subject property. The proposed use, “Assembly, Ceremonies, and Weddings” is conditional in A-1. However, the property is not zoned correctly, according to the Comprehensive Growth Map. The proposed use is not compatible with its surroundings and allowing this conditional use would set a precedent contrary to the City’s land use plan. The proposed use is not allowed, by right or conditionally, in any of the allowed zoning districts in the Neighborhood Growth Designation. The current zoning requirements are not being met and ingress and egress associated with the proposed use will create a traffic hazard, given the location of the unpermitted curb cut and driveway. The site is nearly completely covered in floodplain and even floodway closer to Osage Creek. Given the context and history of the property, and based off the analysis of the request, Staff recommends DENIAL of this CUP request.

Hunter Haynes represented the request. Haynes stated that he purchased the property to do exactly what he has done which is build an accessory structure in a floodplain with elevation certificates and he has done it in what he felt was the appropriate manner. In doing so he has been approached about using the space and does not see this as a commercial use. He has requested that the request be tabled so he can further review the staff report he received the day before.

The Chairman opened the public hearing for comments.

- Bill Stephens – concerned about the size and location of the accessory structure, noise and air pollution.
- Gina Stephens – concerned about the proposed venues impact on traffic safety in the neighborhood, noise and privacy.
- John Lawrence – cited concerns about flooding and the owner’s intentions.
- Doug Degn – concerned about noise, traffic, and developing in the floodplain.
- Ajay Sahu – against the request due to the precedent it would set and the potential for flood damage.
- Marty Millburn – expressed concerns about development in floodplain and the potential impact on the ecosystem.
- Joe Stair – cited concerns about the creek and potential environmental issues.
- Glen Kelley – represents a number of property owners near the subject property and addressed their concerns. Expressed that they are in opposition of commercial use in a residential neighborhood, and are concerned about increased traffic, noise, lights, and protecting the existing residential area.
- Deborah Woehr – concerned about the existing streets in the area and traffic safety.

The public hearing was declared closed.

Myers asked the applicant if he had an elevation certificate for the structures built. Haynes stated he had elevation certificates for the cabin and the barn.

Samuel asked the applicant what would change if the request was to be tabled. The applicant stated it would give them more time to do legal research and communicate with staff on other details or pull the request.

Commissioners and applicant further discussed the request.

Motion by Cicioni, Second by Best, to table the request.

Roll Call: 8 – Yes, 1 – No (Samuels) *Motion carried.*

TABLED.

CALL FOR RECESS

The regular session recessed at 6:59 p.m. for the following meetings:

- Zoning Review Committee
- Board of Adjustment

CALL TO ORDER

The meeting was called back to order at 7:25 p.m.

OLD BUSINESS

1. VAR: Meadows Development

A request by Meadows Development for a variance request from the Overlay District landscape requirements and front setback at 2339 S. 8th Street in the C-4 (Open Display Commercial) zoning district and the city’s Overlay District. *(Tabled at 2/20/24 meeting)*

Planner Zachery Birdsong stated this request was postponed at the last Planning Commission meeting due to lack of connectivity to the north. The applicant has now provided that and made some changes to the site layout. The applicant is requesting three variances from the Overlay District standards. The first request is to vary from the 75' Overlay District setback. The applicant is proposing a setback of 56' at the closest point the canopy falls to the property line. This is a reduction request of 19'. The second Overlay District variance request is to allow a reduction of the required bufferyard along South 8th from 25' to, at the least, 2.3'. As the parking shifts northeast, the 25' bufferyard does start to be met. The last requested Overlay District variance is to vary from the requirement to plant trees at 20' spacing within the 25' bufferyard along South 8th. Instead, the applicant proposes planting the required 15 trees within the site to the north. The applicant is now providing the required stub-out for cross-access to the north and has rearranged plantings. The applicant redesigned the site to bring the development as a whole more into compliance with code. Staff recommends approval of the requests.

Paul Sims with Swope Engineering and Mike Mitchell represented the request. Sims stated they took staff recommendation from the last meeting and have done what they can to the best of their ability to meet the requirements.

Motion by Lane, Second by Myers, to approve the request as presented.

Voice vote: Unanimous – Yes. Motion carried.

APPROVED.

NEW BUSINESS

1. All recommended items from committees.

Lane stated the Zoning Review Committee discussed the rezone requests for Vega, Hales, and Olive & Dixieland. Lane stated the committee found the requests for Vega and Hales to be appropriate and are recommending approval. There was some discussion around the potential for wetlands to be jurisdictional which would significantly change the DCP and however if that happened it would come back as a modification. Committee recommended approval of the rezone/DCP.

Motion by Lane, Second by Best, to recommend the David Vega rezone, Jack Hales rezone, and Olive & Dixieland rezone/DCP to City Council for approval.

Voice vote: Unanimous – Yes. Motion carried.

RECOMMENDED.

2. LSDP: Everett Infinity

A proposal to construct a 21,324-square foot building for vehicle/equipment sales and rentals near the SW corner of S. 47th Street and W. Poplar Street in the C-4 (Open Display Commercial) zoning district.

Planner Zachery Birdsong stated this development is located near the SW corner of S 47th Street and W Poplar Street. The proposal includes a 21,324 sf building for vehicle sales and rentals. BOA

approved the parking reduction variance requested at today's meeting. The proposal meets all requirements and staff is recommending approval.

Motion by Burnett, Second by Samuels, to approve the request as presented.

Voice vote: Unanimous – Yes. Motion carried.

APPROVED.

3. LSDP: Meadows Railyard

A proposal to construct 6,826 square feet of building area for a food truck court at 2339 S. 8th Street in the C-4 (Open Display Commercial) zoning district.

Planner Zachery Birdsong noted this development is located in southeast Rogers at 2339 South 8th Street. It is located at the northeast corner of S 8th Street and W Price Lane. The proposal encompasses 12 food truck spaces and a 6,826 square foot building for dining. A conditional use permit was approved at this location in 2019. The variances heard by today's commission were approved. The proposal meets all requirements and staff is recommending approval.

Motion by Schmelzle, Second by Myers, to approve the request as presented.

Voice vote: Unanimous – Yes. Motion carried.

APPROVED.

COMMISSIONERS' FINAL COMMENTS

ADJOURN

There being no further business, the Chairman adjourned the meeting at 7:34 p.m.

ATTEST:

APPROVED:

Samantha Best, Secretary

Ed McClure, Chairman