# CITY OF HOT SPRINGS PLANNING COMMISSION THURSDAY MARCH 13, 2014 REGULAR MEETING MINUTES

Invocation – Those in attendance were invited to participate in the invocation led by Commissioner Charles Smith.

Pledge of Allegiance – Those in attendance were led in the Pledge of Allegiance by Commissioner Richard McGrew.

Call to Order – Chairman Larry Raney, welcomed guests and called the meeting to order at 6:03 p.m.

Roll Call of Planning Commission Members -

Present: Chairman Larry Raney, Vice-Chairman Richard McGrew, Commissioner Charles Smith, Commissioner Melvin Fecher, Commissioner Kenneth Anderson, and Commissioner Chauncey Taylor.

Not Present: Commissioner John Mory, Commissioner Helen Oliver and Commissioner John Lewis.

Minutes of the February 13, 2014 Planning Commission meeting were considered and approved. Motion by Commissioner Taylor, second from Commissioner Anderson; **ADOPTED** by unanimous voice vote.

Approval of Agenda — Chairman Larry Raney asked for a motion to approve tonight's Planning Commission agenda. Motion by Commissioner Anderson, second from Commissioner McGrew to approve the agenda with the one item on the consent agenda; **ADOPTED** by unanimous voice vote.

## **CONSENT AGENDA**

Chairman Larry Raney stated that item #1 was on the consent agenda and he asked Director Sellman to present the item to the commission. Director Sellman presented item #1 and read the recommendations for approval and the recommended conditions into the record;

1. PS-14-0022 –Garvan Park Subdivision – Preliminary subdivision plat review for an eight (8) lot single family residential subdivision located on Arkridge Road, between Twin Oaks Drive and Restful Ridge). – Arkridge Road and Restful Ridge – Un-Zoned – Planning Area.

## **Recommendation and Conditions of Approval**

Approve the preliminary plat and development plan for the Garvan Park Subdivision as submitted with the following conditions, because the submittal demonstrates compliance with H.S.C. § 16-4-46.

- 1. All construction and construction activity is to be accomplished in strict accordance with the approved preliminary plat and development plan, these conditions of approval and all applicable technical codes and specifications, including the Arkansas Fire Prevention Code, whether or not submitted for staff review or Planning Commission approval; and
- 2. Grant the requested 7.5' side yard setback variance for the eight (8) lots within this proposed subdivision; and
- 3. Full and continuous compliance with all applicable stormwater permitting and water quality regulations, including a retention and detention plan, if required; and
- 4. The Planning Director shall be authorized to sign the preliminary plat listing these conditions of approval and the development plan, and work shall not proceed until the preliminary plat has been so executed; and
- 5. All streets, alleys and common elements, if any, shall be privately owned and shall be maintained by the residence of the subdivision; and
- 6. No permits will be issued and the sale of lots shall not occur until a final plat meeting the requirements of H.S.C. § 16-4-44 has been approved by the Planning Director and filed for record with Garland County Circuit Clerk and an original copy of the filed plat returned to the Planning Department office; and
- 7. Approval of this preliminary plat and development plan is valid until March 13, 2016 and prior to this date the developer may request in writing an extension of up to one year.

Chairman Larry Raney asked for a motion to approve item #1 on tonight's Planning Commission consent agenda with the findings and recommendations of the staff. Motion by Commissioner Anderson, second from Commissioner McGrew to approve the consent agenda; **ADOPTED** by unanimous voice vote.

#### **NEW BUSINESS**

**2.** IZ-14-0020 —Higdon Ferry Enclaves Initial Zoning Designation Consideration — Initial zoning recommendation for lands subject to island annexation by the Board of Directors. — Outside City Limits - Un-Zoned Planning Area.

Chairman Larry Raney asked Director Sellman to introduce Item #2. Director Sellman stated Item #2 (IZ-14-0030) is a request by the City of Hot Springs to assign initial zoning twenty five separate ownerships which comprise approximately 128 acres known as the Higdon Ferry Enclaves annexation. Director Sellman stated the Board of Directors has already voted to annex these properties and the zoning code allows for Planning Commission to consider initial zoning as the request of the Board of Directors. Director Sellman stated the recommended zoning classification for all of the properties in this annexation is C-4 (Regional Commercial/Open Display District).

Chairman Raney asked for a motion and second to bring the matter to the floor for discussion. Motion for approval with the findings and recommendations of the staff by Commissioner Smith, Second by Commissioner Anderson.

Chairman Raney asked Planning Director Sellman to present the staff report and provide a brief description of the request. Director Sellman presented the staff report and findings to the commission. Director Sellman stated the annexing ordinance will be in effect on April 4, 2014. Director Sellman stated the newly annexed lands are going to be located in both Board District #4 and #5. Director Sellman stated properties within the Higdon Ferry Enclaves are partially developed and most gain access from Higdon Ferry Road along with Twin Points, Section Line Director Sellman stated the findings are the Board of Directors and Temperance Hill. requested Planning Commission to recommend a permanent zone and notice to surrounding properties was provided. Director Sellman stated C-4 Regional Commercial / Open Display zoning with Regional Commercial Center Future Land Use Plan Map designation is consistent and compatible with the subject property's location, with existing nonresidential uses and implements an approved city plan and is consistent with the objectives of the zoning code. Director Sellman stated the recommendation is that Planning Commission recommend that the Board of Directors adopt an Ordinance approving initial zoning on 128 acres annexed on March 4, 2014, along Higdon Ferry Road Road from Dr. Martin Luther King, Jr. Expressway south along Higdon ferry Road to approximately 1600 feet north of an intersection with Central Avenue to C-4 Regional Commercial / Open Display, representing all land parcels in the Higdon Ferry Enclaves Ordinance Annexation, and amending the Future Land Use Plan Map to designate the area Regional Commercial. Director Sellman stated the alternative would be to not recommend C-4 (Regional Commercial/Open Display District) zoning, leaving the temporary R-1 (Rural Residential) zoning in place and thereby rendering existing uses nonconforming.

Chairman Raney stated this brought us to the public portion of the item and asked if the applicant was present. Director Sellman stated the city was the applicant, the staff report stated the city's position on the matter and she had nothing further to add. Chairman Raney asked if there was anyone who signed up to speak to this matter and Stauder stated no. Chairman Raney then closed the public portion of the hearing and opened the item up to commission discussion and there was none. Chairman Raney then asked Stauder to call the roll on the motion to approve with the recommendation and findings of the staff.

Roll Call Vote on Motion to Approve; APPROVED:

AYES: Chairman Larry Raney, Vice-Chairman Richard McGrew, Commissioner Charles Smith, Commissioner Melvin Fecher, Commissioner Kenneth Anderson and Commissioner Chauncey Taylor NAYES: None

ABSENT: Commissioner John Mory, Commissioner Helen Oliver, and Commissioner John Lewis.

**3.** IZ-14-0003 — Bayshore, Lighthouse, Treehouse Annexation Initial Zoning Designation Consideration - Initial zoning designation consideration for approximately 31.80 of land subject to a voluntary annexation petition located in the Grand Point Dr. and Bayshore vicinity. —Grand Point, Bayshore Cove Vicinity - Outside City Limits - Un-Zoned Planning Area.

Chairman Raney asked for a motion and second to bring the matter to the floor for discussion. Motion for approval with the findings and recommendations of the staff by Commissioner Taylor, Second by Commissioner Anderson.

Chairman Larry Raney asked Director Sellman to introduce Item #3. Director Sellman stated Item #3 (IZ-14-0003) is a request initial zoning to P.D. (Planned Development) for properties known collectively known as Bayshore, Lighthouse and Treehouse located generally north and northeast of Lake Hamilton in the vicinity of Grand Point Drive and Bayshore Cove. Director Sellman stated the applicant Mr. Tim Reynolds petitioned Garland County Judge Rick Davis on behalf of 164 separate ownership parcels comprising approximately 31.80 acres for annexation to the City of Hot Springs. Director Sellman stated Garland County Judge Rick Davis approved petition CC-14-06 and the decree of annexation was certified on February 18, 2014. Director Sellman stated the findings is the requested initial zoning to P-D (Planned Development) does not present immediate potential negative impacts to the existing adjacent single family detached residential development because residential development not now either recorded, approved or developed requires Planning Commission approval of a specific PD Site Plan and development plan. Director Sellman stated the fact that adjacent and nearby properties are improved or partially improved with detached and attached homes and in a pattern of densities ranging from rural to 15 or more dwellings per acre complicates impact analysis and makes the recommendation for any zone other than P.D. (Planned Development) difficult.

Director Sellman stated desired PD (Planned Development) zoning is consistent with a Comprehensive Plan Future Land Use Map designation of Residential Medium/High. Should the Future land Use Map be so amended, the assignment of PD demonstrates compatibility with surrounding development per H.S.C. § 16-2-11(e)(1) and the standard for such an initial zoning is met. Director Sellman stated that recommendation is that Planning Commission recommend that the Board of Directors zone the subject property PD (Planned Development) and amend the future land use designation to Residential Medium/High because the application demonstrates compliance with H.S.C. § 16-2-11(e)(1) and future development beyond what

now is either recorded, approved or built is subject to local, state, and federal requirements in effect at the time of development.

Chairman Raney opened the public portion of the hearing and asked the applicant if he was present at the meeting.

#### Speakers:

Mr. Ray Owen, Jr.- Office at 209 Hobson Avenue and residence is 110 Leigh Circle- Mr. Owen represented the applicant Mr. Tim Reynolds. Mr. Owen stated he agree completely with the staff recommendation and findings as asked that the commission approve the request as presented by staff.

Chairman Raney then closed the public portion of the hearing and opened the item up to commission discussion and there was none. Chairman Raney then asked Stauder to call the roll on the motion to approve with the recommendation and findings of the staff.

Roll Call Vote on Motion to Approve; APPROVED:

AYES: Chairman Larry Raney, Vice-Chairman Richard McGrew, Commissioner Charles Smith, Commissioner Melvin Fecher, Commissioner Kenneth Anderson and Commissioner Chauncey Taylor NAYES: None

ABSENT: Commissioner John Mory, Commissioner Helen Oliver, and Commissioner John Lewis.

**4.** OA-14-0012 — Temporary Signs — An ordinance exempting temporary signs from regulations until October 1, 2014-City Wide

Chairman Larry Raney asked Director Sellman to introduce Item #4. Director Sellman stated Item #4 (OA-14-0012) is Hot Springs code section 16-5-12 "signs excluded from regulation" and this item is a request to amend that to add a subsection "t" "temporary signs and banners until October 1, 2014. Director Sellman stated that such temporary signs and banners shall be removed within three days of that date. Director Sellman stated all signs subject to this exclusion still shall comply with the provision in the code items #1 thru #6. Director Sellman stated District #6 Director Mr. Randy Fale pursuant to Hot Springs Code section H.S.C. § 16-2-11 (a)(2)(a) request Planning Commission consideration of regulatory text alternatives during a temporary sign enforcement moratorium to end on October 1, 2014. Director Sellman then stated this request would move the temporary sign requirements would be moved from where they are in the code and move to the portion of the code where they would not be regulated for a period ending on October 1, 2014. Director Sellman stated this was specifically at the request of the Hot Springs new car dealers, but has been something that has been brought to the board's attention and planning commission's attention several times over the past couple

of years. Director Sellman stated a recommending ordinance was included in your packet for this item and stated she wanted to read the conditions into the record. Director Sellman read the following six conditions into the record:

- 1. Signs, including temporary signs, still shall comply with HSC requirements for Sec. 16-5-24 Subsections (a) through (b)(4), (c)(3), (c)(5), (c)(6), and (d) through (k)(3); Sec. 16-5-25 Sign Maintenance; and Article IV, Outdoor Advertising.
- 2. Temporary Signs will be limited to "on-site" location and therefore cannot be used "off-site."
- 3. Third party advertisement will not be permitted.
- 4. Signs must be maintained in good repair and obsolete advertisement must be removed.
- 5. The enforcement moratorium is proposed to expire on October 1, 2014.
- 6. Any person who purchases, erects or maintains any sign during the moratorium period in contravention of the existing Sign Code will do so understanding the risk of being subject to enforcement at the termination of the moratorium established hereby;

Director Sellman then stated some of the new car dealers were in the room tonight and she looked forward to working with them on a new code.

Chairman Raney asked for a motion and second to bring the matter to the floor for discussion. Motion for approval with the findings and conditions of the staff by Commissioner Smith, Second by Commissioner Anderson.

Chairman Raney opened the public portion of the hearing.

Chairman Raney asked if there was anything else Director Sellman wanted to add and she stated that during the period you might approve this when temporary signs were not being regulated it provides an opportunity for Planning Commission to see what would occur if there were no regulations on temporary signs.

## Speakers:

Mr. Paul Riser- 4201 Central Avenue Riser Ford- Mr. Riser stated he was a member of the new car dealers. Mr. Riser stated on behalf of the new car dealers they support this ordinance amendment and appreciate the planning commission's consideration of this request.

Chairman Raney then closed the public portion of the hearing and opened the item up to commission discussion. Commissioner Smith asked if this ordinance would only pertain to new car dealers and Director Sellman stated no as it would apply city wide. Chairman Raney asked if any temporary sign could be grandfather in if erected during the moratorium after the October 1, 2014 end of the ordinance and Director Sellman stated no. Commissioner McGrew stated he had concerns over potentially changing an ordinance for a special interest group. Director Sellman stated this request was brought forward by the new car dealers and Director Fale sponsored the request. Director Sellman restated the ordinance was for a six month

moratorium on temporary signs city wide and not just for the new car dealers. There was some additional commission discussion regarding this matter.

Chairman Raney then asked Stauder to call the roll on the motion to approve with the recommendation and the six conditions of the staff.

Roll Call Vote on Motion to Approve; **APPROVED**:

AYES: Chairman Larry Raney, Commissioner Charles Smith, Commissioner Melvin Fecher, Commissioner Kenneth Anderson and Commissioner Chauncey Taylor

NAYES: Vice-Chairman Richard McGrew

ABSENT: Commissioner John Mory, Commissioner Helen Oliver, and Commissioner John Lewis.

**5.** RES-14-0032 – Planning Commission By-Laws Amendment – Consider amendments to the Planning Commission By-Laws.

Chairman Larry Raney asked Director Sellman to introduce Item #5. Director Sellman stated Item #5 (RES-14-0032) is a proposal by Planning Commission at our last meeting to find a way to fix this problem we had on the February 14, 2014 agenda where a 4-2 vote to recommend approving a rezone request resulted in a failure to recommend approval. Director Sellman stated this is a resolution to amend the by-laws to clarify standards and procedures for zone change and any other ordinance-based requests.

Chairman Raney asked for a motion and second to bring the matter to the floor for discussion. Motion for approval to amend the by-laws with the findings and recommendations of the staff by Commissioner Anderson, Second by Commissioner McGrew.

Chairman Raney asked Planning Director Sellman to present the staff report and findings. Director Sellman stated the proposed change would be to add a section to the by-laws that if due to the absence of one or more members of the commission and any motion required for the adoption of any proposed land use plans and any other such comprehensive plans authorized by A.C.A. § 14-56-414 or required to recommend any proposed ordinances and regulations for the Board of Directors including but not limited to all re-zoning applications and proposed code revisions when put to a vote fails to receive five or more votes, either for or against, said motion shall be deemed to have received neither approval or denial and shall without further order of the planning commission be continued from regular meeting to regular meeting and voted on once at each such meeting until such time as it shall receive either five votes for or against. Director Sellman stated the finding is Planning Commission shall adopt rules (bylaws) and the rules currently adopted fail to provide equitable consideration for an applicant should Planning Commissioners not be 100% in attendance. Director Sellman stated

the recommendation is consider proposed new bylaws, consider amendments and adopt new

bylaws consistent with Hot Springs Code, Title 16, Chapter 1. Director Sellman stated we recently had a zoning change application had had a majority vote of the present commission with four votes, but failed to receive the five necessary votes to be approved according to the current by-laws because it was an ordinance item. Director Sellman stated the Board of Directors has the same requirement so it is consistent.

Being no person signed up to speak to this item Chairman Raney closed the public portion of the meeting and opened it up for commission discussion. Chairman Raney stated he understood what this proposed by-laws amendment is trying to do, but he believed the by-laws are fine the way they are. Chairman Raney stated it was his belief some action should be taken when the project is initially presented and not place items on the merry-go-round coming before the commission time and time again until such time that the commission takes action. Commissioner Taylor stated it has been his experience that it is best to tell the applicant up front how many votes it will require to actually be approved and give the applicant the option of deferring the matter to the next month's meeting. Commissioner Anderson stated he thought that would be a better way to handle this type of situation. After some additional discussion Chairman Raney asked Stauder to call the roll on the motion to approve and reminded the commission a yes vote is to approve the change and a no vote is to deny.

Roll Call Vote on Motion to Approve; **DENIED**:

AYES: None

NAYES: Chairman Larry Raney, Vice-Chairman Richard McGrew, Commissioner Charles Smith, Commissioner Melvin Fecher, Commissioner Kenneth Anderson and Commissioner Chauncey Taylor ABSENT: Commissioner John Mory, Commissioner Helen Oliver, and Commissioner John Lewis.

### **PLANNING DIRECTOR REPORT**

Director Sellman reminded the commission that one week from tonight on March 20, 2014 the commission would be holding a work session to discuss possible revisions to the sign code. Director Sellman stated the meeting was to begin at 5:00 pm and would run no later than 6:15 pm. Commissioner McGrew asked if the commission would be looking at the entire sign code and Director Sellman stated yes. Commissioner McGrew also asked if the sign companies would be included in this review process and Director Sellman stated they would be involved in the process. Director Sellman stated a new Planning Tech has been selected and hired and her name was Tricie Daves. Chairman Raney offered an apology for a comment he made at the end of last month's meeting where he made a comment of a political nature.

### **ADJOURNMENT**

With no further business before the commission Chairman Larry Raney asked for a motion to adjourn the meeting. A motion was made by Commissioner Lewis and seconded by

Commissioner McGrew to adjourn the meeting. The motion carried with a unanimous vote and the Planning Commission meeting was adjourned at 6:59 PM.

These minutes approved by Planning Commission April 10, 2014.

Larry Raney, Planning Commission Chairman