

PLANNING COMMISSION MEETING TRANSCRIPT

THURSDAY, NOVEMBER 13, 2008

The regular meeting of the Planning Commission was held on Thursday, November 13, 2008, at 6:00 p.m. in the Board Chambers at the Hot Springs Municipal Building, 133 Convention Boulevard, with Chairman Gary Threadgill calling the meeting to order at 6:00 p.m.

Chairman Threadgill: Alright at this time, I'd like to welcome everybody to the Planning Commission meeting. We'll start off the meeting with an invocation given by Wanda Thorp and a Pledge of Allegiance given by David Campbell. Please stand.

Invocation

Pledge of Allegiance

Chairman Threadgill: Alright at this time, I'd like to call the November 13th Planning Commission meeting to order. Call the roll, please.

Roll Call

Present: Commissioner Lauri Ames, Commissioner David Campbell, Commissioner John Mory, Commissioner Wanda Thorp, Commissioner James Clopton, Commissioner Larry Raney [arrived after the meeting was in progress], Commissioner Gary Threadgill

Absent:

Approval of Minutes

Chairman Threadgill: Alright at this time, I'll entertain a motion to approve the previous minutes.

Commissioner Clopton: So moved.

Chairman Threadgill: I have a motion. Do I have a second?

Commissioner Ames: Second.

Chairman Threadgill: I have a motion and a second. All in favor? <ayes> Opposed? <none>

Approval of Agenda

Chairman Threadgill: Alright I need a motion to consider the agenda as-is tonight.

Commissioner Mory: So moved.

Chairman Threadgill: Wait one second. We have Item No. 10 I believe that was pulled.

Planning Director Kathy Sellman: Yes, it was. The item for the Carpenter Dam rezoning has been withdrawn and also not just strictly on the agenda, but there may be people in the audience who are interested in the RV park that has been on the agenda several times, that is not on tonight's agenda in case there's anyone here for the RV park.

Chairman Threadgill: Alright if you're here for the recreational vehicle park, it's not on tonight, nor is the Shady Grove or Carpenter Dam...

Director Sellman: Carpenter Dam.

Chairman Threadgill: ...rezoning. Alright? With that being said, I'll entertain a motion to approve the minutes.

Commissioner Mory: So moved.

Chairman Threadgill: Alright a motion ...

Commissioner Mory: The minutes?

Commissioner Ames: Second.

Commissioner Campbell: Agenda.

Commissioner Mory: The agenda.

Chairman Threadgill: The agenda, excuse me, and a second. All in favor? <ayes> Opposed? <none> Alright, we'll start off with old business, Item No. 1.

OLD BUSINESS

- 1. Conditional Use (CU-08-0103) – New Beginning Christian Ministries – conditional**

use request for religious facility – 323 East Grand – District 2 – C-2

Director Sellman: Item No. 1 is New Beginning Christian Ministries. This is a request for conditional use approval to have a religious facility operate at 323 East Grand Avenue. It's zoned C-2. The Comprehensive Plan Classification is linear commercial corridor. It's located in Board District 2 and the recommendation is to approve.

Chairman Threadgill: Alright. I'll need a motion to bring it to the floor for discussion.

Commissioner Campbell: So moved.

Chairman Threadgill: I have a motion by Commissioner Campbell and a second by ...

Commissioner Clopton: Second.

Chairman Threadgill: ...Commissioner Clopton. Alright, is the applicant present? Come forward and give us your name and address for the record, sir.

Mr. Britt Johnson: I'm the attorney for New Beginning Christian Ministries, and therefore want to be their representative today. Of course to my left, I'm sure you know Pastor Smith.

Chairman Threadgill: Alright, do I have any questions to the applicant or his attorney from the Planning Commission? None? Alright, at this time, you may be seated. We'll call up and see if we have anyone from the audience, then we'll call you back.

Mr. Johnson: Thank you.

Chairman Threadgill: Is there anyone else in the audience that has anything to say for or against this item? Again, anyone else in the audience with anything for or against this item?

Male Speaker: I'm a member of New Beginning Christian Ministries ...

Chairman Threadgill: Please come up to the microphone and give us your name and address for the record.

104 Chelle: I'm a member of New Beginning Ministries. I'm for this facility.

Chairman Threadgill: And your name, sir?

Mr. Eli Russell.

Chairman Threadgill: Alright, Mr. Russell, and you're for it?

Mr. Russell: Yes.

Chairman Threadgill: Alright, sir. Thank you. Is there anyone else in the audience? Name and address for the record please.

Mr. Michael Davis: I'm a member of New Beginning – 304 Pleasant Street – and I'm for it too.

Chairman Threadgill: Alright. Real quick, how many people in the audience is for this? That will save us time from all of you coming up. <laughter> Alright. Thank you. Is there anyone in the audience against this item? Alright, seeing none, would you like to come back and have something to say to the Commission or ...? You don't have to.

Mr. Johnson: Oh, okay. Well, if you don't have any questions, I don't have a whole lot to add. I do want to thank the staff, particularly Mr. Jeff Griffin. He has been very helpful in correspondence and communications that I've had with him, so I would like to thank him as well as you all so much for your help.

Chairman Threadgill: Alright, Commissioner Campbell?

Commissioner Campbell: Yeah, do you have a time frame on the improvements to the property?

Mr. Johnson: Do you have a particular one in mind? You're probably thinking about the parking lot, right?

Commissioner Campbell: Yes and the curb cuts.

Mr. Johnson: And the curb cuts. Now it's my understanding – Mr. Malone is here by the way – but it's my understanding that the curb cut ...has that been taken care of Pastor Smith? The curb cut? Okay. Well they will be taken care of. The church has listed ...Jeff, I saw that correspondence from Spa Construction up there. Can you take that back and do you also have the one from Fanning Construction? You don't have that one? Okay. I faxed you that one, but anyway Fanning Construction is going to take care of the curb cut it's my understanding and Spa Construction will be taking care of the actual parking lot. To your question, Commissioner Campbell, we're looking at about six months at least to get all of that taken care of. Of course in the meantime, they've been given permission, the church's been given permission to use the parking lots by some of the surrounding businesses. I think Jeff has those as well. But that's the time frame that we're looking at. You can see the cost on, at least the estimated cost for the Spa

Construction is up there. Jeff, I don't know if you want to scroll back there or not, but ...

Commissioner Campbell: What was the estimated cost on the concrete work? We didn't have that in our packet.

Mr. Johnson: Do you remember what that was, Pastor Smith?

Pastor Smith: <Unintelligible>?

Commissioner Campbell: Yeah. The curb cuts. The concrete.

Mr. Johnson: I don't think that he put, yeah, I don't think he put an estimate in the price, I mean in his letter that he sent to me. It was more so just the fact, you know, just to show that the church was being diligent about getting this done. But I don't think, yeah, he doesn't have an estimated cost from Fanning Construction.

Commissioner Campbell: Would you have any problem with a requirement for bonding this work to be done?

Mr. Johnson: Would you have a problem with that? <laughter>

Pastor Smith: Yes, with us being a new church, yes I would because we just started out <unintelligible>. We haven't been going that long enough to get a bond <unintelligible>. You know we're going to try to get it between six months, but for us just to say "yeah, this is what we're going to do" with us being a new church, we're going try our best to get this done.

Commissioner Campbell: Okay. I have a question ...

Chairman Threadgill: I have one question. You mind, real quick? We've been going through this since let's see January, February, March, April, May I think it started in here by the notes I have. One of the conditions that the Planning Commission placed on the conditional use was that it not be utilized until you met all the requirements. Since then, every ...apparently every chance you've had, you've used the building which was against the wishes of the Commission. Then you turn around and placed a tent which again is the same, it's an illegal use. So we've been, you know, we've been operational now for at least four or five months. I just can't understand why you need another six months. You know, why do we keep prolonging this?

Mr. Johnson: Well I don't think we're ...I'd say ever since May, the church has been trying to comply to my understanding and from reading your minutes and the correspondence with staff. They've complied or they are complying every day with a new requirement for the structure

itself. It's my understanding that the most pressing and probably the last issue to be dealt with was the parking lot. Just last week, they installed what was it? Your bathrooms?

Pastor Smith?: Doors.

Mr. Johnson: Doors. Yes.

Pastor Smith: We did six doors for \$600 apiece, plus exit signs. We had to do the inside for ...

Chairman Threadgill: But still again, when the Planning Commission ...when you came to the Planning Commission the first time, the request was made that you not occupy the building till you received a CO. Like I say, you've occupied it every chance or every time you've had a service, you've used it which is strictly against what the Planning Commission had asked you to do. Now you're wanting to continue operating the building and go another six months without your parking. You know, I'm just having a problem. My opinion we need to post a bond of assurance to make sure that the parking lot is installed and that we just don't keep prolonging it for another six months and then come back and request another six months. If the bond is posted, I see no problem with the staff allowing a CO. Would there be a problem issuing a CO if they have a ...?

Director Sellman: The issuance of the CO, which is a Certificate of Occupancy which makes it lawful for the use to occur within the building, part of the sign-off for that will be that all of the conditions have been met. The conditions you're saying will not have been met until six months, probably, have gone by. What is done in order to expedite your occupancy of the building is for you to provide by whatever means you can some security to the City that those improvements that are conditions of your approval will be done. That amount of money or letter of credit or bond would be something that would be sufficient to assure that that work will be completed. So, there are a variety of methods that you can use to accomplish that. That would be conditioned before you can get your Certificate of Occupancy.

Chairman Threadgill: Alright, Commissioner Campbell, I didn't mean to cut you off. Go ahead.

Commissioner Campbell: No, that's fine. Is the bond required or do we have the ability to condition it with a bond?

Director Sellman: I'm not sure I understand your question.

Commissioner Campbell: Is a bond required by the City for this work?

Director Sellman: The bond is the method by which we can allow a longer period of time, yes.

Commissioner Campbell: We have that ability?

Director Sellman: Yes. Yes.

Chairman Threadgill: That's the only way they can get a CO is if a bond is issued. Otherwise, it's back to the same thing that we've had. They're not supposed to be utilizing the building, but they've already showed us for the last four months that they're going to use the building no matter what. So ...

Mr. Johnson: Well that's not necessarily true. They have not been back in the building ...

Chairman Threadgill interjects: Well the use of the tent is still the same issue. It's an illegal use of the property.

Mr. Johnson: I think there might have been some confusion with that then, but they have not been back in the building. They have not. As to your bond, how much are you proposing and secondly does the City have any means that it wants to assist in getting the bond?

Chairman Threadgill: Well right now usually a bond is placed on the amount of the cost which would be the blacktopping and the curb cut.

Mr. Johnson: Say it again.

Chairman Threadgill: Is that correct?

Director Sellman: Yes, it would be based on the cost of doing the improvement that you still have to do, and that is...

Mr. Johnson: It would enforce that, yeah.

Director Sellman: ...the rehab costs and the concrete work. Yes.

Mr. Johnson: It goes toward whatever needs to be done, so ...You know if the parking lot is \$10,000, you need to put <unintelligible> towards the bond. <Unintelligible discussion with his client.> Do we get to come up with a proposal for that because if that's conditioned on getting back in the building then that's obviously a pressing issue that has to be addressed right now, because it's November and they can't be having church under the tent for months to come? <laughter>

Chairman Threadgill: Well actually they can't use the tent anyway.

Mr. Johnson: Well they can't be outside period for months to come. They'd like to be in their structure.

Chairman Threadgill: What would happen is if the Commission approves it, then they would place one of the conditions as that bond be placed and you could not use the building until that bond is in place and the City has authorized that it meets all the other conditions that you were already supposed to meet – like the doors and the ADA and stuff like that for the handicapped. But I'm ...

Director Sellman: It sounds like you're well on your way to meeting those other conditions.

Chairman Threadgill: Yeah.

Director Sellman: The sequence of events that would occur is the Planning Commission would make their decision to approve or not approve your project and that would occur tonight. Then in requesting the Certificate of Occupancy from the City, if you are not prepared to do the improvements as required, then we can work through with you what method you can use to provide that assurance. There are a number of methods that you can use and those are listed in our Code. We can go over those with you, but it does not have to be settled tonight if that's what you're asking.

Mr. Johnson: Okay. That makes sense. <laughter>

Director Sellman: But you won't get a Certificate of Occupancy until it's been worked out. That's the bottom line.

Mr. Johnson: Who do they need to work this out with? Jeff again or ...?

Director Sellman: Yes, you can work with Jeff and the Chief Building Official.

Mr. Johnson: So they will be allowed some assistance with the bond?

Director Sellman: What does that mean?

Mr. Johnson: Some financial...

Chairman Threadgill: The City won't pay it. <laughter>

Director Sellman: No, we are not going to pay for it. No.

Mr. Johnson: You can't assist them with it?

Director Sellman: No.

Mr. Johnson: Well how soon do they need to have that?

Director Sellman: Well they need to have it before they will get their Certificate of Occupancy.

Chairman Threadgill: How quick do they want in the building?

Director Sellman: So that's ...

Mr. Johnson: They want to be in the building yesterday. <laughter>

Chairman Threadgill: Oh, yesterday. Yesterday they needed a bond. That's before they ...

Mr. Johnson: I don't think they knew they needed a bond though.

Pastor Smith: No.

Mr. Johnson: This has never been addressed, ever, ever, has ever been brought up.

Chairman Threadgill: Okay.

Mr. Johnson: And I've read your minutes.

Chairman Threadgill: Well this, this ...since in the past, please hold it down. Since in the past, you know, we haven't had compliance. This has been going on for some time. We've had a lot of misunderstandings. It's just to the interest of this Commission to request that a bond of assurance be placed on this before the CO is issued.

Mr. Johnson: Well can I be clear that this is not some form of retaliation for not complying ...

Chairman Threadgill: I'm not ...

Director Sellman: From what?

Mr. Johnson: Pardon me?

Director Sellman: From what?

Chairman Threadgill: No.

Director Sellman: Retaliation for what?

Mr. Johnson: Retaliation ...well Commissioner ...is it Threadgill?

Chairman Threadgill: Threadgill, yes.

Mr. Johnson: Commissioner Threadgill is saying that they haven't complied and that they've been using the structure since May and I'm saying that that's not true. He keeps bringing up what's in the past, in the past mind you, in the past. Okay?

Director Sellman interjects: All that's before us tonight is whether the use is to be approved or not.

Mr. Johnson: That's fine, but I'm asking ...

Director Sellman: One of the conditions is...I'm not done either.

Mr. Johnson: I'm asking for a clarification.

Director Sellman: I'm not even finished.

Mr. Johnson: I wasn't finished either.

Director Sellman: Okay.

Mr. Johnson: Thank you. I'm asking for clarification and to make sure that this is not a retaliation because this is the first time that the bond has been brought up. That's all I'm saying. Now what were you saying?

Director Sellman: May I answer?

Mr. Johnson: Go ahead. Yes.

Director Sellman: The bond was brought up when it became clear that you could not complete the conditional of approval. Typically there's no discussion of bond because the development in

question completes the conditions. The bond is a method for you to occupy the building sooner, before you do the paving.

Mr. Johnson: Well I also thought that the conditions of getting the permission from the neighboring businesses, that was also something that could be presented to you as a condition to get into the building sooner as well.

Director Sellman: It can. If we have those leases in hand, then that is a way for you to go for the six months. But what I'm attempting to say to you is this, it is not the Planning Commission that needs to work this out and it does not need to happen here. If you would like to have the Planning Commission take a vote on your project so that we can move on, we can do that. Then we'll work with you on accomplishing the parking requirement.

Mr. Johnson: So we're supposed to be working with Jeff, right? <laughter>

Director Sellman: Work with Jeff. You can work with me. It just needs to be documented. That's all.

Mr. Johnson: Well I think we are documenting things.

Director Sellman: If that's the case, then we're ready to go.

Mr. Johnson: Do you have the permission from the neighboring businesses that are allowing for parking?

Director Sellman: Do we have that documentation, Mr. Griffin?

Mr. Johnson: Yes.

Mr. Griffin: <Unintelligible due to being away from the microphone.>

Mr. Johnson: Jeff, come on. Help me out here, bro.

Chairman Threadgill: One of the issues I have is that on your parking from what I've understood, it's from the auto dealer or the parts dealer and the Laundromat across the highway. One of the regulations that we have to abide by is the health, welfare, and safety of the public. Now to me, it's a safety issue having people running back and forth across a major highway, especially when there's no cross walks in the direct area. So, you know, I'm not up to give up the use for parking lots across the street. I mean that's just, to me that's, that's not adequate and like I say, back to the bond issue, if you could come up with the City somehow and issue some sort of bond, then I

would vote to approve and personally I would vote to approve it. But I'm going to have to see some sort of bond of assurance over the use of the parking facility across the highway. Commissioner Campbell, did you have something you had <unintelligible>?

Commissioner Campbell: The only thing I just would like to react to your statement about retaliation. The bond is something that's used throughout the City and throughout projects that projects that are not right off of the bat and that are down the road. It's not just something that's thrown out at your organization.

Pastor Smith: But what I'm <unintelligible> to understand is we are the new church. It's not like we have a whole bunch of money to put up on a bond. I mean, we just started. You have to take that under consideration too. We just started our ministry. We're trying to get it off the ground. Like I say, I didn't know it was a violation putting a tent up. Didn't nobody never tell me. I didn't know that. The reason I put the tent up and didn't go back in the building because we were putting the doors up in the building, working on the building, and Mike Scott came down and saw us doing all the work inside. But we didn't know that was a violation putting the tent up on your own property and have a church <unintelligible>. I didn't know that was a violation. But we are a new church. We are trying to work, do what ya'll ask us to do, but ya'll have got to help us also being a new church. I mean we don't have a whole bunch of money to be putting up for no bond because we just started. We're ready to do what ya'll ask us to do.

Chairman Threadgill: Commissioner Ames?

Commissioner Ames: I mean I think the thing to keep in mind is that we as a body here will vote to approve or not the project and part of our conditions are the parking. Then at that point, it's out of our hands. Because it's going to take some time for you to be able to accomplish that, we want you ...we want you if we move forward with this project, we want you to get in there as soon as possible. That's where we want you to get your Certificate of Occupancy and to do that, you're going to need to work with the Chief Building Official and the Planning Department to come up with some way to bond that if you can't do that right now. We want to get you in there and this is really the way to do it after you leave us tonight.

Chairman Threadgill: Commissioner Campbell?

Commissioner Campbell: I would like to add to it that your site plan now looks workable. It does. This one ...

Commissioner Ames: Very much.

Commissioner Campbell: ...is very much workable over the last one, so I do appreciate the

work of your engineer. That's all I have.

Chairman Threadgill: Anyone else have any questions to the applicant?

Female Speaker: I'd like to say something.

Chairman Threadgill: Your name please. Name and address for the record.

Ms. Sarah Smith: I'm to co-pastor of New Beginning Christian Ministry. How much money are you talking about?

Chairman Threadgill: Pardon me?

Ms. Smith: How much bond were you talking about?

Chairman Threadgill: Usually what the bond is issued is what would it be? The cost of the asphalt and the cost of the curb cut? Hold on just a second. Is that ...alright.

Commissioner Mory: I think it's important to explain that the bond does not cost the amount of money that the asphalt and everything does. It's a percentage of it and it's usually a very small percentage. All you're doing at that point is you're guaranteeing the City that you're going to do the work and that the City is not giving approval just based on a word. Unfortunately, that's not something that we can operate off of any longer. We have to have, the City has to have some kind of assurance, some written assurance, that the work will be done within a certain time frame and that's the purpose of the bond.

Ms. Smith: Well, what I want to know, we're saying six months. Like we said, we've been outside all this time so we really don't have a whole lot of anything. To just ...we want to do, like the pastor said, we want to do what you ask us to do, but we don't want to give you the money and say in six months and then we don't have it done so in six months if it's not done, then what?

Commissioner Mory: Well what you're doing when you buy the bond, essentially is you're buying the City an insurance policy. Let's just say six months is a time of the bond and the work's not done in six months, then the City can call in that bond and the company that you bought the bond from will be responsible for completing the work. They will come back after you for the money.

Ms. Smith: So meaning the <unintelligible> will be done regardless of whether they're paid or not?

Commissioner Mory: Right ...well the work would have to be done. It will be the responsibility of the bonding company at that point in time to do the work.

Ms. Smith: But that's what I'm saying, they would have to go ahead and have it done in that six months and then it's up to them to get the money from us.

Commissioner Mory: Right.

Ms. Smith: I thought so.

Commissioner Mory: Right. That's the purpose of the bond.

Chairman Threadgill: Alright, do we have any other questions from the Commissioners?
Commissioner Mory?

Commissioner Mory: I have a couple. On the paperwork that's in our packet about the parking off-site, we have permission. But like you said, they're across the street and this, that, and the other; and also we have general permission in the fact that they can park some cars some time, but we really don't have any idea of how many cars and for how long. That is, just from the standpoint of precedence, that's a concerning issue to me.

Chairman Threadgill: Alright. Staff?

Director Sellman: Yeah, we require a lease that is for a period, I believe the Code requires a lease for a minimum of five years that demonstrates how many vehicles, what time, where they're going to be. Mr. Griffin, do we have such leases?

Mr. Griffin: No, ma'am.

Mr. Johnson: I have a question. Why is a lease agreement required when the application says a lease agreement or permission from the property owner of the off-site parking? They decided to go with the latter. They got permission for off-site parking.

Director Sellman: They need to document that. Do we have that?

Mr. Johnson: Director Sellman, I think Jeff has posted that several times. I've referred to that several times.

Director Sellman: I'm sorry. I cannot see that from here.

Mr. Johnson: Okay, well I've referred to that several times and if you can't see it, it's right there. <laughter> So, anyway...is that an absolute requirement or is the application incorrect?

Director Sellman: I am sorry. I cannot read that. It is not in my packet. If it is, I can't find it.

Mr. Johnson: Okay, that's ...that's ...

Director Sellman: Would you like to read it?

Mr. Johnson: Oh, that's fine. That's fine. That's fine.

Chairman Threadgill: Jeff, do you have it? Is it in our packet?

Director Sellman: I don't have it.

Mr. Johnson: The point ...thank you, Jeff. The point is, they're there. The point is the permission has been granted. Now whether you can read it or not, I don't think that's an issue.

Chairman Threadgill: Is that it?

Male Speaker: There's three of them. One from ...

Director Sellman: Okay, they're bound in a group. I see them. I'm sorry.

Chairman Threadgill: Hold up. Hold up.

Director Sellman: It is the responsibility of the Planning Commission to determine whether this meets their standard.

Chairman Threadgill: That's the comment I made just a little bit ago. In my findings, this is not the standards of health, safety, and welfare – having people running back and forth across a major four lane highway. I just can't see it happening. I'm not going to say yes and turn around and see somebody accidentally ran over because of my stupidity. It's not going to happen. I'm not going to approve it that way. You know, I just can't ...That's why I'm saying I've got to have some sort of bonding issue or something other than that.

Director Sellman: The Planning Commission's responsibility is to assess the project's compliance with the standards for a conditional use for this.

Chairman Threadgill: Uhh, huh. Any other questions from the Commissioners? Alright, I'll close the public portion.

Mr. Johnson: He has a question.

Chairman Threadgill: Go ahead.

Pastor Smith: You say you ...people that cross the street <unintelligible> all day long every day going to different businesses and going to different things. We have two services a week – Wednesday night and Sunday. We get out about 1:30 or 2:00. All these people are grown people. I think they got the ability to cross the road right across the street to go to a church, sir, and then come back across the road to their car. I don't think they are that handicapped. I don't really think. People cross the street every day all day going to stores and everywhere else, so I don't think that's a reasonable excuse for you to say you're opposed to that because people cross the street all day long from barber shops to stores to everywhere else. And all of these people – you see these row of people? I'm sure they've got ability enough not to get hit by cars.

Chairman Threadgill: Okay. Alright. Commissioner Mory, did you have something?

Commissioner Mory: I was just going to reiterate we still have no idea of how many parking spaces have been allotted.

Chairman Threadgill: Hold the conversations down, please. I can't ...say again, Commissioner Mory.

Commissioner Mory: We still have no idea how many parking spaces have been allotted.

Chairman Threadgill: I know. Commissioner Campbell?

Commissioner Campbell: You have <unintelligible>. Just for your ...you're talking about across the street?

Commissioner Mory: Well, <unintelligible> either one has had a parking permit for?

Commissioner Campbell: Yeah. Just for your information in driving by there on ...during their meeting services, there is ample room over there from what I saw was parked over there. So there is ample room because they have the one up there on the corner. They also have the Carrigan Funeral Home right down there, so there's lots of parking places there.

Chairman Threadgill: Any other questions? None? Alright, in that case, I'll close the public

portion. Do I have any questions or comments from the Commissioners? Commissioner Clopton?

Commissioner Clopton: I understand ...if I understand everything that's taken place correctly, if we approve this subject to the recommendations of staff, that would automatically require them to provide either the completed project before they get a Certificate of Occupancy or they would have to provide some sort of bond of assurance for the completion of the project. Is that correct?

Chairman Threadgill: Staff?

Director Sellman: There needs to be some way of demonstrating that parking off-street will be available.

Commissioner Clopton: My question was whether or not if we approve this subject to the existing staff recommendations, isn't that an automatic thing before they can get a Certificate of Occupancy?

Director Sellman: My recollection of the staff report is that it talks about the on-site parking. Is there a recommendation regarding off-street parking, Mr. Griffin?

Mr. Griffin: No, there was no recommendation other than the finding that if a parking lot was installed as demonstrated on the site plan, the site would comply with the applicable Hot Springs Code regulations.

Director Sellman: So it would be an affirmative responsibility of the Planning Commission to designate that the off-site parking as proposed would meet that requirement.

Commissioner Clopton: I'm not talking about off-site ...I'm not talking about the off-street parking. I'm talking about the bonding and the assurance that the parking lot is going to be completed. They could not get a Certificate of Occupancy without (1) completing the project or (2) providing a bond to the City for the completion of the project, whether or not anything was included in the motion to approve or deny.

Director Sellman: Absent the addition of an approval for parking off-site per these letters that have been proposed, yes, that's correct.

Commissioner Clopton: Thank you.

Chairman Threadgill: Any other questions from the Commissioners? Alright, seeing none, I'll entertain a motion.

Commissioner Campbell: Mr. Chairman, I would make a motion that we approve this project. Approve it with the temporary off-street parking that they have and that the parking lot shall be bonded prior to a CO being issued. If I hear that, if I'm right, the building cannot be used or the property cannot be used until that bond or the parking lot one is in place. Right?

Director Sellman: I'd like to consult the Code before answering that question.

Chairman Threadgill: Go ahead. Oh, I've got it.

Director Sellman: Thanks.

Chairman Threadgill: One thing – it sounds like, my question is are you willing to allow us to park across the street? Is that part of your motion if staff deems it fit?

Commissioner Campbell: Yeah. Yeah.

Chairman Threadgill: That would be part of your recommendation is the three off-premise parking lots would be suitable for bonding?

Commissioner Campbell: No, no. No. No, no. The three off-street, off-site parking lots should be used until the parking lot is built. Also, requesting that a bond be put in place for the parking lot and the concrete work on the curb cut.

Chairman Threadgill: Well there's your double standard. You're telling them that they have to apply two different items. They have to post a bond and have ample parking on a different location. You can't do both. We have to do one or the other.

Director Sellman: Right. One provides the alternative to the other.

Commissioner Campbell: I will ...

Director Sellman: It defines that the off-site parking is acceptable, then you have eliminated the requirement to provide a bond during that period of time because it is an alternative.

Commissioner Campbell: I see what you're saying. Alright, I will restate my motion. I make a motion that we accept this project, this conditional use, with a condition that the parking lot is completed or a bond in place before the building CO is issued, which means that the building or property cannot be used until that bond is in place or that parking lot is there.

Chairman Threadgill: Okay, does he need to specify that it be a bond and not assurance of additional parking?

Director Sellman: Uhh...

Chairman Threadgill: That's where we are right now <unintelligible>.

Director Sellman: You need to make that determination – how you want to go.

Chairman Threadgill: Alright, what if, real quick here, we do a double motion? I make a request that we allow them to park across the street. If everyone here agrees to that, that will be their bonding. If everybody does not, then a bond of assurance will have to be posted. Would that solve the problem?

Director Sellman: It would, but I'm looking at the Code here and it does say that possession of that must be demonstrated either by deed or a long-term lease.

Chairman Threadgill: And right now, they do not have that.

Mr. Johnson: That goes back to my question. Is the application incorrect or misstated or what?

Director Sellman: What application is that?

Mr. Johnson: I'm talking about the City of Hot Springs Application for Home Occupation or a Conditional Use.

Director Sellman: Well I will repeat it from the Code: "Such spaces shall be in the same possession of the zoning lot occupied by the building or use to which the parking facilities are accessory. Such possession may either be by deed or long-term lease for a minimum period of five years. Continuation of the subject use upon termination of the remote parking lease is conditional upon provision of remote parking meeting the requirements of this section." That is the language of the Code.

Mr. Johnson: Well, I'm reading the language of the application. It says "If off-site parking is provided, include a lease agreement or permission from the property owner of the off-site parking." I even spoke to Jeff about this. Is he not familiar with the Code? Because he said nothing about a lease agreement being absolutely required.

Director Sellman: All I can do is read to you what the language of the Code says.

Mr. Johnson: Okay, alright. Well that's a problem. That's a problem.

Chairman Threadgill: Under the City's Code ...

Mr. Johnson: I understand what the Code is.

Chairman Threadgill: ...we have to abide by the law. That's our part that we have to abide by. It states you must have a lease.

Mr. Johnson: I understand. I understand. I understand, but you also have ...

Chairman Threadgill: The application might be a misprint. I don't know.

Mr. Johnson: That's fine. I doubt it. <laughter>

Chairman Threadgill: I don't have the authority to waiver the ordinance. I mean that's part of the ...

Mr. Johnson: Well we know that. We know that.

Chairman Threadgill: I'm not trying to be hard core here. I'm just trying to work out a way that we can resolve this.

Mr. Johnson: Well we certainly hope so. We certainly hope so. But again, this is the first time this bond issue has been brought up. And here they've been going around knocking on people's doors, asking to get parking permission, thinking they're trying to satisfy your requirement, and they present it to you and you throw it back at them and you come up with some other, in my opinion, arbitrary and capricious excuse.

Chairman Threadgill: Alright, folks, hold it down please.

Pastor Smith: So ya'll can't give us an opportunity for us to meet for awhile with all these young people and these young babies we got in our church till we get the job done that ya'll ask. We've done done everything ya'll told us and asked us to do as far as the inside. All we ask is for a chance – to park across the street until we get the parking completed. If ya'll would just give us that opportunity.

Chairman Threadgill: Alright.

Pastor Smith: That's all we ask. Please.

Chairman Threadgill: Well, I've already closed the public portion. Commissioner Clopton?

Commissioner Clopton: Let me approach this maybe from a different direction and see if there's some way that we can meet a compromise. Is it possible to allow them to use the existing cross-street parking for a limited period of time to give them an opportunity to complete the other part of the project and end their occupancy permit at such time if it is not completed?

Chairman Threadgill: Well right now, they don't show a <unintelligible>.

Commissioner Clopton: <Unintelligible> or a bond provided?

Director Sellman: It would appear to be an option. If you wish, because it is a temporary situation, to establish a lesser standard of documentation, that's a possibility too. I don't think anyone is trying to pick on this particular use and despite what we have heard here tonight, this is an opportunity to find you an alternative method for getting into your building.

Pastor Smith: And ma'am, we appreciate that because...

Chairman Threadgill: Okay, hold up. Hold up. We're getting out of control here. I've already closed the public portion. This is questions and comments from the Commissioners. You have one? Use your microphone please, sir.

Commissioner Campbell: I will withdraw my motion and let someone else make the motion.

Commissioner Clopton: Mr. Chairman?

Chairman Threadgill: Commissioner Clopton?

Commissioner Clopton: I move that we allow ...that we approve the project, allow the existing permission for cross-street parking to be used for a period of not more than six months from tonight's meeting, and that at the end of that six months, they will have the project completed according to the plan submitted subject to any requirements by the staff.

Chairman Threadgill: That a motion?

Commissioner Clopton: That's a motion.

Chairman Threadgill: Do I have a second?

Commissioner Mory: Second.

Commissioner Ames: I have a question first.

Chairman Threadgill: Question.

Commissioner Ames: Would that, if we approve it in that way, would that be enough for them to get a Certificate of Occupancy soon? From six months?

Director Sellman: So long as the other conditions of that <unintelligible due to two people speaking at once>. Yes.

Commissioner Ames: Okay.

Chairman Threadgill: But with that being said, you have nothing binding that in six months it's not paved then they don't carry on. Commissioner Mory?

Commissioner Mory: That relates to my question. It was kind of two-fold. What assurance do we have at the end of six months and secondly, what enforcement is there at the end of six months if they already have a permanent Certificate of Occupancy? Can that be revoked because of this condition?

Director Sellman: The Certificate of Occupancy will not be revoked for failure to meet the requirements of the conditional use, but that is sufficient to invoke a rehearing of the item at Planning Commission for determination.

Chairman Threadgill: Which at that time you would either set another set of standards and tell them they've got six more months or post another bond or whatever.

Commissioner Ames: Not another bond. There wouldn't be one at this point.

Chairman Threadgill: Well a bond <unintelligible>.

Commissioner Ames: You would come to a rehearing.

Chairman Threadgill: Right.

Commissioner Raney: Question.

Chairman Threadgill: Commissioner Raney?

Commissioner Raney: Further clarification of Kathy's remark, if you have another hearing, at that hearing could you determine to revoke the CO?

Director Sellman: That is an option. Yes.

Chairman Threadgill: Alright, I have a motion by Commissioner Clopton and a second by Commissioner Mory. Any other discussion?

Commissioner Thorp: Explain the vote. If you vote "yes," what are you saying?

Chairman Threadgill: You vote "yes," you approve it with the use of the parking across the street. Any further questions? Call the roll, please.

Commissioner Ames – yes; Commissioner Campbell – yes; Commissioner Clopton – yes; Commissioner Mory – yes; Commissioner Thorp – yes; Commissioner Raney – I abstain because I was not here for the total presentation. I don't think for me to vote would be fair to the applicant not having the benefit of the total conversation; Commissioner Threadgill – no. Due to grounds I think it would be an unsafe act to allow people walking back and forth across the interstate or highway.

Chairman Threadgill: Alright, the item passes. You have your six months to establish some type of parking.

Commissioner Raney: May I ask a question at this point?

Mr. Johnson: In the meantime, they can go back in the building?

Chairman Threadgill: Not until they get a CO. You've still got to come down to staff and get a CO. Commissioner Raney?

Commissioner Raney: That's what I wanted to do. I wanted to make sure they understood what we just did and what ...

Chairman Threadgill: You still have to get your occupancy CO from staff tomorrow or whenever they deem fit that it's ready.

Director Sellman: Yes. Mmm, huh,

Mr. Johnson: Get with Jeff tomorrow? Can we do it tomorrow?

Chairman Threadgill: Get with Jeff tomorrow and he'll tell you what you have to do to be able to pick it up. Alright.

Commissioner Mory: Thank you. <applause>

Chairman Threadgill: Hold it down, please. We'll hold up here for a couple of minutes and let the room clear. <Break in the meeting> Alright, we need to clear the room. I still have a meeting going and we're waiting for everybody to clear out so I can continue please. Take it out in the hallway. <Break in the meeting> Alright I'm going to call the meeting back to order and we're going to end up or start off with Item No. 2 of old business.

2. Miscellaneous (MISC-08-0183) – Crazy Dan's – would like yard sales 10 times per year – 105 East Grand – District 2 – C-2

Director Sellman: Item No. 2 is Crazy Dan's. This is a request for Planning Commission approval for outside storage for the purpose of operating yard sales at commercial establishment at 105 East Grand. The zoning is C-2. The Comprehensive Plan Classification is linear commercial corridor. It's located in Board District 2. The recommendation ...

Chairman Threadgill: Alright. Sorry.

Director Sellman: ...if you want to know <laughter> is for approval with seven conditions.

Chairman Threadgill: Thank you. I need a motion to bring the floor, the item to the floor for discussion.

Commissioner Campbell: So moved.

Commissioner Thorp: Second.

Chairman Threadgill: I have a motion and a second. Is the applicant present? Please come forward and give us your name and address for the record, sir.

Mr. Daniel Kimpton, 173 Holy Spirit Loop, Hot Springs

Chairman Threadgill: Alright. Do I have any questions from the Commissioners? Commissioner Campbell?

Commissioner Campbell: I'd like to know what you're going to do down there.

Mr. Kimpton: We're going to sell junk. <laughter> <Unintelligible>

Commissioner Campbell: How do you advertise it?

Mr. Kimpton: On the parking lot.

Commissioner Campbell: You don't advertise it in the paper? Do you advertise it as a garage sale?

Mr. Kimpton: Uhh, huh. We've done them down there, but I didn't know I wasn't supposed to. They come to me and then I tried to comply with what they said, so...

Chairman Threadgill: Alright. Any other questions or comments from the Commissioners? Commissioner Clopton?

Commissioner Clopton: Quick question. All the merchandise that you're selling will be used?

Mr. Kimpton: Yes, sir.

Commissioner Clopton: Second-hand? No new merchandise of any kind?

Mr. Kimpton: Do what?

Commissioner Clopton: No new merchandise of any kind?

Mr. Kimpton: No.

Chairman Threadgill: Commissioner Campbell?

Commissioner Campbell: Our staff report says that you buy this from storage buildings?

Mr. Kimpton: Storage buildings. People that don't pay their rent.

Commissioner Campbell: For resale?

Mr. Kimpton: Uhh, huh. We just mainly do it in this time of year because our business is slow at the car lot. It gives us a little extra income.

Commissioner Campbell: How many times a year do you plan on doing it?

Mr. Kimpton: I told them eight to 10 times. We usually don't have them that many times. Like I said, we probably have them four or five times a year, but I just gave myself room there.

Commissioner Campbell: Okay.

Chairman Threadgill: Any other questions? I have one to staff. Under the City ordinance, is it not yard sales are only allowed four times a year?

Director Sellman: Right. That's why this is coming to you as a request to have sales outside.

This is a commercial area. He may call it a garage sale. It doesn't strictly speaking meet the requirements to be a garage sale because he's not residential. So this is the request that you have before you. This is similar to some of the antique stores that have come before you and requested to display merchandise on tables outside, in front of their business.

Chairman Threadgill: So this would be more a request for outside display?

Director Sellman: This is a request for outside display and sale. Right.

Chairman Threadgill: Alright, how will that go as a second business seeing that this is actually a auto business now requesting a second business?

Director Sellman: The other business is the primary use on the site. This is secondary.

Chairman Threadgill: Alright. Signage.

Director Sellman: He will be required ...

Chairman Threadgill interjects: Is additional signage allowed?

Director Sellman: If he has additional signs, they must receive permits as any sign would and that is a condition of this.

Mr. Kimpton: That's No. 4?

Director Sellman: Mmm, huh.

Chairman Threadgill: Even as, I'm saying, even as a yard sale sign?

Director Sellman: Whatever it is he calls it, the sign itself is going to have to meet the Sign Code requirements. Yes.

Chairman Threadgill: That's what I wanted to make sure. You understand that?

Mr. Kimpton: I don't need to have a sign out, but they told me that today already.

Chairman Threadgill: Alright. Any other questions or comments from the Commissioners? None? Alright, sir, you may be seated.

Mr. Kimpton: Thank you.

Chairman Threadgill: Is there anyone in the audience with anything to say for or against this item? Again, anyone in the audience with anything to say for or against this item? Commissioner Campbell?

Commissioner Campbell: I just have one of the applicant. Could you come back up, please? I'm

sorry. One of our recommendations is that you paint your spot on the parking lot. Do you have any problem with doing that?

Mr. Kimpton: No. I've already talked to them today and they said it was fine. That's no problem.

Commissioner Campbell: You are going to do that?

Mr. Kimpton: I've already gone out there and made sure I have enough room today after I went down to Jeff.

Commissioner Campbell: Okay. That's all I have.

Mr. Kimpton: And one of them was supposed to be a handicapped too he said.

Chairman Threadgill: Alright. I'll close the public portion. No other comments from the Commissioners? Commissioner Clopton?

Commissioner Clopton: Yes. I have a question. I'm having a little difficulty with it in that to me it's not comparable with an antique store requesting an outside display, because that's a store that has an in-store business and building. They're operating out of the building and they put a few items out on the sidewalk. The sidewalk has to meet all the requirements. We've turned people down for that reason that the sidewalk was either too narrow or inadequate. This seems to be an outdoor business, period. It doesn't even seem to me to fall into the classification of a flea market. Most flea markets have indoor booths where most of the merchandise is displayed. So I have a little problem with where you categorize it. Where do you find the means by which this is an item that can be approved?

Director Sellman: Well this is certainly an unusual request. The recommendation for approval does not include any permission for the applicant to store items outside. I mean these items can be out during the period of the sale, but at other times will be removed completely from that outdoor area. So I agree, it's a kind of an out-there request but given the surrounding commercial operations in the area, it does not seem inconsistent with that.

Commissioner Clopton: Nevertheless it seems like we may be setting a precedent for future requests of any kind of a commercial business to do an "outside garage sale" in any area. That bothers me just a little.

Director Sellman: It's certainly something to consider. Yes.

Chairman Threadgill: Any other questions from the Commissioners? That was one of the concerns I have. One, not as much as the outside display use, but the storage of the material when it's not in use. You know, where are we going to put it? Are we going to put it in the existing business and have you know sales inside during the rest of the week as a regular business? You know, 10 times a year it's going to be sold outside, the rest of the year it's going to be sold inside? I'm looking at two different businesses. Where do we go?

Director Sellman: Some of those are questions you might want to ask the applicant as well.

Chairman Threadgill: Commissioner Mory?

Commissioner Mory: I have a question also just about the frequency. I mean I understand the applicant's statements, but as far as what we are requiring him to comply with, there's nothing to say that he couldn't do one six days a week 52 weeks a year.

Chairman Threadgill: <Unintelligible>

Commissioner Mory: According to what we have here as far as staff's conditions. I would feel a little more comfortable if we had something in there about 10 times a year – I mean some kind of number.

Mr. Kimpton: It says would like to have yard sales on this site on <unintelligible> weekends...

Chairman Threadgill interjects: Hold on, sir.

Mr. Kimpton: I'm sorry.

Commissioner Mory: I mean as far as in the staff's ...If we approve it with these staff recommendations, we don't have a number of ...we don't have any temporary status in these staff recommendations the way I read it.

Chairman Threadgill: Right. That would be one of the deals that we as a Commission would deal with – setting the standards. You could set what days a month. I mean, you know, you'd have to work ...kind of ask him what he'd like to do, but get it more explicit. What are we going to do on the off days? Are we going to sell in the business? That's my major concern. You know, are we going to run a full business? One, I'm not sure how the auto salvage ever got to where it's at now. But that's ...it's there and apparently staff found no problems with it, so ...but then allowing another business to go in there which would be a rummage store more or less. I don't know if we would have the room, you know, the parking. I would consider it a separate business needing additional parking. I mean I'm not sure where we'd go with it. So I'm not happy with the ideal. Commissioner Campbell?

Commissioner Campbell: The only thing I would say about it is <unintelligible> that really belong, to me, they belong in a flea market. This has every connotation and looks of a garage sale, yard sale, the way it was set up when I saw it. It, in that, it violates our yard sale ordinance. I couldn't vote for it.

Chairman Threadgill: Alright. Any other comments from the Commissioners? Alright, I'm going to give you a minute to respond to the questions that were asked.

Mr. Kimpton: It says in here 10 weekends out of the year. I mean where do you come up with six days a week or whatever?

Commissioner Mory: Well I was just ...I'm looking at what your application states and everything like that doesn't show up as far as what's going to be a binding requirement if we approve it. The staff's conditions are the only things that actually become a requirement. I understand what you're saying. I understand your <unintelligible> ...

Mr. Kimpton interjects: I was saying, because they asked me to specifically say that and they said that I might even tell you that I would call when I was going to have one. Setting it a certain day of the month, you can't do that because of the weather.

Commissioner Mory: Right. Exactly. No I understand what you're saying. I'm just trying to give the City a little bit of an enforcement leg there and that's all I'm trying to do. I understand what you ...I understand exactly what you've come forward with. It's just that doesn't get conveyed into our conditions. But all we've got to do is add another condition. I just wanted to make the other Commissioners aware of my thoughts there.

Mr. Kimpton: And on your storage of the stuff, it's not even stored on the premises period. It's there for the weekend and then that's it. It gets boxed up and it either goes to auction or it's in a storage facility. I've got a storage facility rented. It's U-Store It on Winans.

Chairman Threadgill: Alright. Any other questions you'd like to be answered? Commissioner Clopton?

Commissioner Clopton: Well I might make a comment. I might make a comment with regard to his statement about where it's going to be stored. We have no assurance in anything that we have written here that it could not be stored on the premises.

Chairman Threadgill: Alright. Again I'm still in the same respects as Commissioner Campbell that this is an unusual request for a yard sale, which is beyond the limitations of four times a year. And again, it's getting more into a flea market issue or a ...you know, it's just ...in my opinion, it's not something that's readily feasible for me to understand, you know, why we're doing this. In my opinion, if we allow this, we're opening the doors for everybody in the City to open up a yard sale on any business in town.

Mr. Kimpton: They're on every lot in town you go on the weekend anyway. I'm asking for permission.

Chairman Threadgill: That's a different issue, sir. Those are ...Any other comments? Alright. Seeing none, I'll entertain a motion. <none> Alright. Again ...

Commissioner Campbell: To bring it to the floor, I will make a motion on it, sir. We have to make our motions in the affirmative. The affirmative motion would be to approve it with the seven plus two more conditions. One of those conditions be that it be limited to 10 weekends per year. The next condition would be that there would be no on-site storage of the items once the sale is over with that week.

Chairman Threadgill: Okay on the application, it says 10 times a year. You're giving them 20 times.

Commissioner Campbell: 10 times.

Chairman Threadgill: Am I correct in that? 10 times is 10 days, not 10 weekends.

Director Sellman: At this point, you're creating the condition. You can limit it as you wish.

Chairman Threadgill: I mean he's requesting 10 times a year. Is that 10 weekends, 10 weeks, 10 months out of the year?

Director Sellman: I don't think we queried on that.

Chairman Threadgill: Okay.

Commissioner Campbell: Let the applicant answer that please.

Chairman Threadgill: Would the applicant come forward please? On the request, it states from the staff's ...it says I would like yard sales 10 times per year. Is that 10 weekends, 10 <unintelligible>?

Mr. Kimpton: It's 10 weekends. It's even on this introduction deal right here. I'm sorry that I didn't write weekends on there.

Chairman Threadgill: Okay, so that's actually ...

Mr. Kimpton: Friday and Saturday is what we normally have them on.

Commissioner Campbell: Okay.

Chairman Threadgill: Alright.

Commissioner Campbell: Motion stands then as I stated it.

Chairman Threadgill: Alright. Do I have a second?

Commissioner Mory: Second and I have a question.

Chairman Threadgill: Alright. Discussion?

Commissioner Mory: Do we need to add the word "calendar" for calendar year in that?

Director Sellman: That would be helpful.

Commissioner Mory: I want to suggest that.

Commissioner Campbell: I would add that.

Chairman Threadgill: Alright, I have a motion by Commissioner Clopton and a second by Commissioner Mory. Call the roll, please.

Commissioner Campbell: Campbell.

Chairman Threadgill: Or Commissioner Campbell. Sorry. Motion by Commissioner Campbell and the second by Commissioner Mory.

Commissioner Thorp: What's the vote then?

Chairman Threadgill: If you vote "yes," you allow him to have the yard sales 10 times ...10 weekends out of a calendar year with the seven conditions recommended by staff and then the two additional recommendations made by Commissioner Campbell. Call the roll, please.

Commissioner Campbell – no; Commissioner Clopton – no; Commissioner Mory – no; Commissioner Raney – no; Commissioner Ames – yes; Commissioner Thorp – no; Commissioner Threadgill – no.

Chairman Threadgill: Item fails.

Director Sellman: Do you wish to make a finding in support of the "no" vote?

Chairman Threadgill: Commissioner Campbell?

Commissioner Campbell: My "no" vote would be that it appears to be simply a yard sale and that it violates the yard sale ordinance.

Chairman Threadgill: Alright.

Commissioner Campbell: That being §17-4-1 I believe.

Chairman Threadgill: Alright again, item fails. We'll move on to Item 3 of old business.

3. Site Plan Approval (SPA-08-0107) – Eagle Rock Condominiums – Article II site plan review for four buildings, 20 residential units in the County – Spring Street at Eagle Rock – County – ET

Director Sellman: Item 3 is Eagle Rock Condominiums. This is a site plan approval request for Article II review of a proposal for four buildings containing 20 residential units in the unincorporated area of the County. This is on Spring Street at Eagle Rock. There is no zoning. It's within the City's extraterritorial jurisdiction. The Comprehensive Plan Classification is suburban residential. The recommendation I believe is for denial.

Chairman Threadgill: Alright. I need a motion to bring the item to the floor for discussion.

Commissioner Clopton: So moved.

Chairman Threadgill: I have a motion from Commissioner Clopton ...

Commissioner Thorp: Second.

Chairman Threadgill: ...and a second from Commissioner Thorp. Is the applicant present? Please come forward and give us your name and address for the record, sir.

Mr. Terry Toler, 123 Hidden Eagle Terrace, Hot Springs: I'm the owner and developer.

Chairman Threadgill: Alright, sir. Do I have any questions to the applicant from the Commissioners? Commissioner Campbell?

Commissioner Campbell: Yes, I do. You've been asked for the outline of the flood plain and the elevation of the floor slabs. Why have those not been provided?

Mr. Toler: Well, I hired ATOKA, Jason Temple, to do that base point elevation back in July. He has been meeting with Denny four or five times over the last few months to clarify that. The first time he did the base point elevation, he did it with the road as the drainage area out under the 100 year flood plain. So when he submitted that to Denny in August, Denny said that the base point elevation, that the road itself, needed to be above the 100 year flood plain. So he went back and he redid all of those calculations and submitted that to Denny this past Tuesday. So it's been somewhat of a delay.

Commissioner Campbell: Okay. On your site plan, why does it not show the swimming pool on the site plan?

Mr. Toler: Well Milton is the one that prepared the site plan and he's just waiting <unintelligible>. He also wants base point elevations to be shown on the site plan. Milton is waiting for Denny, I mean for Jason to provide him with the base flood elevations and then he'll resubmit that with the swimming pool, showing the swimming pool on the site plan.

Chairman Threadgill: Alright. If I might then, comment to staff. Is this application ready for us?

Director Sellman: Uh, no.

Chairman Threadgill: Okay.

Mr. Toler: I would ...

Chairman Threadgill: Go ahead.

Mr. Toler: When the staff first made the recommendation back in May when we first looked at

this, they recommended that it be approved with a condition that the base flood elevation be finished and approved and all of that before construction would begin and that's where I would ask the Planning Commission to come back to and that is that's the only item that we have open at this point. If you could approve it with that condition, then that would be helpful and save us having to resubmit it; or secondarily, give us another 30 to 60 days for ...I believe the base flood elevation has now met all of Denny's requirements.

Chairman Threadgill: Well my comment is this Planning Commission approves a packet, a complete packet, and that we do not have. Under Article II, you're requesting us to show ...to approve a site plan that has a structure definitely built on it called a pool that's not on the plans to be approved. The flood elevations are not on the plans that we have, which means that you didn't get the information in time for DRC to review it. So therefore, we don't have a complete packet, which means we don't have the ability to approve something that we don't know what's there. You know when you drive out and the first thing you see is a swimming pool here and it's plainly not on the packet that we have, then I have a problem approving the site plan. So any other questions or comments from the Commissioners? Commissioner Clopton?

Commissioner Clopton: Excuse me. Did I understand you to request additional time?

Mr. Toler: Yes, sir.

Commissioner Clopton: Thank you.

Chairman Threadgill: If I might, what ...what ...we've tabled this twice now? What is the standard on tabling?

Female Speaker: I believe so.

Director Sellman: If it is at Planning Commission's direction, then you are limited to twice.

Chairman Threadgill: So we have had two tables already and they're still not in compliance. So the decision therefore would be to either approve or to deny.

Mr. Toler: Could she clarify that? Did you say at the Commission's ...?

Director Sellman: The Code language is "The Planning Commission may defer action on a preliminary plat or an Article II site plan (same section) no more than twice before taking on the request." If it is at the request of the applicant, that may put you in a different situation.

Chairman Threadgill: Well to me, I feel that this is the second time. I mean if we're going to two, you know, then every time the applicant doesn't like the outcome, he says "Oh, can I table?" That's why I think we have the standard of two times, you know, the allowance.

Director Sellman: It's your decision to make.

Chairman Threadgill: Yeah. That's my comment on that decision. Do I have any other

questions or comments from the Commissioners? None? Alright, sir, you may be seated. Is there anyone in the audience with anything to say for or against this item? Please come forward and give us your name and address, sir.

Mr. Keith Hood, 345 Eagle Rock Circle: I'm against this application or the approval of it. This is not how the development was marketed in the first place with these condominiums at the entrance. It was marketed a whole different way. Those of us who invested in this in the beginning were sold one thing and now given another. There's a lot of misinformation in the community about this parcel that's up front to different people and different ways. I have a letter from the Arkansas, the State Health Board regarding the pool. Their recommendation is regarding how the pool is being used. Can I hand that out to you?

Chairman Threadgill: Yes. Go ahead and hand it over to Mr. Raney.

Mr. Hood: The reason I brought this was because there is a ...from the very beginning of this coming before the Planning Commission, there's been this back and forth between this Planning Commission being used as a scape goat to ...and those of us who are against the condominiums being <unintelligible>. The reason the pool cannot be used there is because we're against the condominiums, but the Planning Commission hasn't approved the condominiums, so therefore the bathing facilities cannot be finished because it's all tied together. So not only has Mr. Toler, but Chuck McCallister has said this personally to other members that in a meeting this is a ...something that is of confusion to several people – myself included since I'm at the brunt of being opposed to this. The confusion is that we have caused our neighbors to not be able to actually use the pool. So the clarification I'm asking from you is if you didn't know about the pool, then you did not stop the pool from being used; therefore those of us who are against the condominiums did not stop the pool from being used. According to this letter from the Arkansas Health Department, the only regulation on the pool is that bathing prep facilities are constructed. As soon as those are constructed, the pool can be used.

Chairman Threadgill: Okay. Hold it right there. Where did you get this?

Mr. Hood: That's from Becky Benz from the Arkansas Environment, Health Department.

Chairman Threadgill: You have a signed copy by her?

Mr. Hood: I do not.

Chairman Threadgill: Okay. I'm not going to accept a copy that's just ran off the printer without a written signature to verify. So ...alright.

Mr. Hood: Okay. So we are speaking against it. Yeah, there are just several things that do not add up with this. It was marketed the wrong way and there are several other things that are not met with those of us who are in the process of a lawsuit as well as four or five other businesses in town doing the same.

Chairman Threadgill: Alright. Anyone else in the audience with anything to say for or against

this item? Again, anyone else in the audience with anything to say for or against this item? Okay again, I'd like to make a mention that this is not hand-signed. I'd like to not make it as part of the packet. It can be submitted into the book without our <unintelligible> authorization if it's alright with the rest of you. So be it.

Several members: So be it.

Chairman Threadgill: Do I have any questions or comments from anyone on the Commission? Commissioner Ames?

Commissioner Ames: I do have a question. I don't recall if I was at the June 24th meeting or not. I was just looking through the staff report to refresh my memory on the two times it's been to us. We tabled the matter the first time. But according to staff report, the second time this appeared, it was an application for a lot split?

Director Sellman: No. There was a <unintelligible>. There was a separate application and that was just something ...

Commissioner Ames: ...that was handled administratively and not covered by the Commission?

Director Sellman: Yeah.

Commissioner Ames: Okay. So it's been to the Commission one time with one table.

Commissioner Mory: No.

Commissioner Ames: No?

Chairman Threadgill: Twice?

Commissioner Ames: There was another time? Okay. I think I may have missed that meeting. <unintelligible>

Chairman Threadgill: Staff has the authority on ...

Commissioner Ames: That part?

Chairman Threadgill: ...a single lot split.

Commissioner Ames: I just didn't see mention of this second time that it appeared at Planning Commission. So, thank you.

Chairman Threadgill: Alright. Any other questions or comments from any of the Commissioners? None? I got one. Did I close the public portion?

Commissioner Campbell: I don't think so.

Chairman Threadgill: I don't think I did, did I? Is there anyone else in the audience with anything to say for or against this item? Alright, then I'll close the public portion. Again, any questions or final comments from the Commissioners? Seeing none, I'll entertain a motion.

Commissioner Clopton: Mr. Chairman?

Chairman Threadgill: Commissioner Clopton?

Commissioner Clopton: Since all motions are to be in the affirmative, I move that we approve subject to staff's conditions.

Chairman Threadgill: Alright, I have a motion by Commissioner Clopton to approve with staff's recommendations. Do I have a second?

Director Sellman: There are no staff recommendations. It was a denial. The recommendation was to ...

Chairman Threadgill: Staff's recommendation is to deny.

Director Sellman: But we're ...

Chairman Threadgill: You're doing an approval. We can't do that. Yeah. <laughter>

Director Sellman: You can attach ...yeah, you can attach <unintelligible>.

Commissioner Mory: <Unintelligible> point.

Commissioner Clopton: Strike <unintelligible>.

Chairman Threadgill: Okay. No staff's recommendations. You can't approve and deny. Thank you. Alright, do I have a second?

Commissioner Campbell: Second.

Chairman Threadgill: Thank you, Commissioner Ames. I have a second by Commissioner Campbell. Call the roll, please.

Director Sellman: Can I clarify?

Chairman Threadgill: Yes.

Director Sellman: Would that approval be subject to providing the base flood elevations and the information that was insufficient.

Commissioner Clopton: I so amend my motion.

Chairman Threadgill: Alright. We're going to back up. Commissioner Clopton has with recommendations that it be approved with flood plain and the other one.

Director Sellman: Site plan <unintelligible>.

Chairman Threadgill: <Unintelligible> right.

Commissioner Raney: I need some clarification on this because we're ...

Chairman Threadgill: We're jumping around.

Commissioner Raney: It's getting a little cloudy here. As I understand it, we're voting to ...or the motion is to go beyond the staff recommendation to deny and approve the project subject to the addition of the base elevation, flood plain elevation plan, and a correction on the drawing to include the swimming pool?

Chairman Threadgill: Yes, sir.

Commissioner Raney: Is that what we're voting for?

Chairman Threadgill: Yes, sir.

Commissioner Raney: If that's approved and those – if I interpret that correctly – if we vote the affirmative and he meets those two objectives, then this can go forward.

Chairman Threadgill: Correct.

Commissioner Raney: Thank you for the clarification.

Chairman Threadgill: The motion was made in the affirmative because it is an affirmative request.

Commissioner Raney: Right. I understand that.

Commissioner Thorp: If we vote "no," that's for denial.

Commissioner Raney: Correct.

Chairman Threadgill: Right. You vote "yes," you approve it with the two conditions. You vote "no," you deny it.

Commissioner Raney: Thank you very much.

Chairman Threadgill: Any other questions? Call the roll, please.

Commissioner Mory – no for reasons that staff says in the report; Commissioner Thorp – no, it’s an incomplete packet as well as what staff has said; Commissioner Raney – no, both for the fact that it’s an incomplete packet and I agree that there’s a reason we have only two tables and we ought to adhere to that; Commissioner Clopton – no for reasons previously stated; Commissioner Ames – no for reasons stated; Commissioner Campbell – no, it is an incomplete packet. There’s been plenty of time to get the information in. Commissioner Threadgill – no and I’ll repeat Commissioner Campbell.

Chairman Threadgill: Alright the item fails. We’ll move to Item No. 4, old business.

4. Rezoning (RZ-08-0184) – Carpenter Dam Rezone – rezone request for 31.65 acres from R-1 to C-3 – Lakeside inside – District 6 – R-1

Chairman Threadgill: Let’s see, Item No. 4 has <unintelligible> been pulled.

Director Sellman: Yes, Item No. 4 has been withdrawn by the applicant.

Chairman Threadgill: Carpenter Dam has been pulled, so we’ll go to Item No. 5.

Director Sellman: Are there people in the audience who came for Item No. 4?

Chairman Threadgill: Is there anyone here for Carpenter Dam development/rezoning? None? Alright. Move to Item No. 5. Item No. 4 has been pulled.

<END OF SIDE A OF TAPE>

NEW BUSINESS

5. Home Occupation Type B (HOB-08-0207) – A Touch of Heaven – Home Occupation Type B daycare – 216 Nevada Street – District 5 – R-3

<BEGINNING OF SIDE B OF TAPE>

Chairman Threadgill: Alright, we’ll go to Item No. 5, new business.

Director Sellman: Item No. 5 is a Touch of Heaven, a Home Occupation Type B request, to operate a daycare for 10 children at 216 Nevada Street. The zoning is R-3, single family residential. The Comprehensive Plan Classification is medium to high density residential. It’s located in District 5 and the recommendation is to approve with conditions.

Chairman Threadgill: Alright, I need a motion to bring the item to the floor for discussion.

Commissioner Mory: So moved.

Chairman Threadgill: I have a motion. Do I have a second?

Commissioners Thorp and Ames: Second.

Chairman Threadgill: I have a motion and a double second. Is the applicant present? Please come forward and give us your name and address for the record, ma'am.

Ms. Wanda Crew, 216 Nevada.

Chairman Threadgill: There you go. Alright, do I have any questions to the applicant from the Commissioners?

Commissioner Campbell: I have one please.

Chairman Threadgill: Commissioner Campbell?

Commissioner Campbell: Go ahead.

Chairman Threadgill: Commissioner Thorp?

Commissioner Thorp: Your fence needs repair.

Ms. Crew: Well there was just one board across the front area. I think it was two, but they've been repaired.

Commissioner Thorp: Okay. The pictures that we had it looked kind of like it needed some repairs, and I would like for you to have that done before.

Ms. Crew: It's already been done.

Commissioner Thorp: Okay.

Chairman Threadgill: Alright. Commissioner Campbell?

Commissioner Campbell: I was asking about the fence. From what I saw, it was every other board was missing all the way around.

Ms. Crew: No. It was ...a couple of them in the front had come loose and was ...fell down across the front of it.

Commissioner Campbell: Okay. Has that ...

Ms. Crew: Because even the lady from the childcare came out and went around it and she told me them two boards would need to be re ...put back in place.

Chairman Threadgill: Alright. Commissioner Campbell, more?

Commissioner Campbell: In staff ...yeah. This picture here, was staff's recommendations to rebuild that fence and make it solid? Jeff?

Mr. Griffin: The site plan as shown has an area dotted out to the side of the house that denotes where a fence will be. If the fence is not complete in that area shown on the site plan, then it will have to be either repaired or newly constructed so that there's at least a 6' privacy fence enclosing any outdoor area for the children.

Commissioner Campbell: Okay, my question to you, the fence in question on the bottom left, does that classify as a 6' privacy fence with those spaces between it?

Chairman Threadgill: The Code really doesn't classify. It just says it has to be 6' opaque screening if I'm not mistaken. That is considered opaque. It doesn't have to be a solid mass if I understand it right. Is that correct?

Director Sellman: That would be correct.

Chairman Threadgill: Alright. Any other ...

Commissioner Campbell: I have.

Chairman Threadgill: Any other questions or comments from the Commissioners? Alright, ma'am, you may be seated. Is there anyone in the audience with anything to say for or against this item? Again, anyone in the audience with anything for or against this item? Alright, I'll close the public portion. Do I have any questions or comments from the Commissioners? Alright, Mr. Griffin has just passed out a complaint by one applicant opposing, in opposition of the ...Let's see. Who is this?

Director Sellman: Cheryl Rogers and Roger Clark.

Chairman Threadgill: Rogers and Roger Clark...

Director Sellman: <Unintelligible>

Chairman Threadgill: ...has sent in a letter of oppos ...Yeah, thank you. Opposition. Is there any other questions or comments from any of the Commissioners? Again, anyone in the audience with anything to say for or against this item? Again, anyone in the audience with anything for or against this item? Seeing none, I'll close the public portion. Any questions or comments from the Commissioners? None? I'll entertain a motion. Commissioner Clopton?

Commissioner Clopton: I'm a little concerned with the <unintelligible due to cough in audience>. I'm a little concerned with the construction of the fence. Looking at some of the gaps in it, but perhaps it's not something that I should be that concerned with with young children around the fence. It may show that it looks like a leg or a foot or an arm could get caught between those boards pretty easily.

Chairman Threadgill: Okay, if I might ...Jeff, you might be able to clarify that. Before the child facility can function, it has to go through a state approval. Am I correct?

Mr. Griffin: That is correct.

Chairman Threadgill: So they will come by and if the fence is not adequate with them, they will make the repairs be done before a permit is issued?

Mr. Griffin: Correct, if there's an outdoor area. My understanding is that they will evaluate the fence based off of their standards and I am not familiar with what those standards might be.

Chairman Threadgill: I'm just saying, they're going ...it's their benefit to check for the safety and welfare of the children before they issue the state permit?

Mr. Griffin: Yes, sir.

Chairman Threadgill: Alright. Does that satisfy you? Any other questions? None? Again, I'll entertain a motion.

Commissioner Clopton: Mr. Chairman, move to approve subject to staff's recommendations.

Chairman Threadgill: Alright, I have a motion to approve with staff's recommendations by Commissioner Clopton. Do I have a second?

Commissioner Ames: Second.

Chairman Threadgill: I have a second by Commissioner Ames. Call the roll, please.

Commissioner Campbell – yes; Commissioner Clopton – yes; Commissioner Mory – yes; Commissioner Raney – yes; Commissioner Ames – yes; Commissioner Thorp – yes; Commissioner Threadgill – yes.

Chairman Threadgill: Alright, we'll move to Item No. 6, new business.

6. Site Plan Approval (SPA-08-0202) – Lake Valley Community Church – multi-building site plan – 910 Shady Grove – County – ET

Director Sellman: Item No. 6 is a request by Lake Valley Community Church for site plan approval. This is a multiple building site plan. The project is located at 910 Shady Grove. The project is located in the City's extraterritorial jurisdiction in the unincorporated area of the County. Although there is a portion of the land that is within the City limits. That segment is not under consideration tonight. The Comprehensive Plan Classification is low density residential and the recommendation is for approval with numerous conditions.

Chairman Threadgill: Alright, I need a motion to bring it to the floor for discussion.

Commissioner Ames and Commissioner Raney: So moved.

Chairman Threadgill: I have a motion and a second. Is the applicant present? Please come forward and give us your name and address for the record, sir.

Mr. Bobby Cox, Shell & Cox Corporation, 1828 Higdon Ferry Road.

Chairman Threadgill: Alright. Do I have any questions to Mr. Cox? Commissioner Raney?

Commissioner Raney: You have a drawing that you submitted, there are ...it shows as private drive that comes off a cul-de-sac. I assume that the private – and it runs down the ...what would be the section below what's designated as the limit of construction for Phase I – I assume that portion of the road is not being built at this time. It will just be the cul-de-sac?

Mr. Cox: The road will be built to the cul-de-sac.

Chairman Threadgill: On the drawing, where does that road go?

Mr. Cox: At this time, it will end at the cul-de-sac. If future development is to take place, then it will come back before the Planning Commission for additional building uses.

Chairman Threadgill: Okay, so we're approving ...?

Director Sellman: We are approving the Northwest corner of the site only – the development of the duplexes.

Chairman Threadgill: So this will be a two-phased development?

Director Sellman: This will be a multiple phase development and all that's specifically being requested at this time is that section in the extreme Northwest corner. <Unintelligible> three duplexes.

Chairman Threadgill: Alright. Any other questions to the applicant from the Commissioners?

Commissioner Campbell: I have one.

Chairman Threadgill: Commissioner Campbell?

Commissioner Campbell: Has anyone asked about the realignment of the road while I was out?

Chairman Threadgill: No. No.

Commissioner Campbell: What about the realignment of the road that staff made the recommendation to realign your private drive in there?

Mr. Cox: We would comply with the conditions that we're required to comply with. The only issue that we would have if it's not on our property. We have to be able to have access. We do have access to the back of that. Maybe the City ...or well, that's not in the City. If there's a right-of-way or something to that nature ...We're happy to comply as long as it is within our means.

Commissioner Campbell: Okay. I guess of staff then, is this ...?

Director Sellman: It appears that there is right-of-way, prescriptive right-of-way, at that place. If there is not, then what would be required is to provide sufficient right-of-way from the West side of the property to cause that road to be able to be built just down far enough so that you could safely gain access.

Chairman Threadgill: Now would that be on the second phase or a third phase?

Director Sellman: It would be on this phase.

Chairman Threadgill: Okay.

Commissioner Campbell: Is that ...I don't know where the right-of-way is there. That used to be a street through there.

Director Sellman: Yes. I believe George Street.

Commissioner Campbell: Yes. Also, Canna Drive is not in too good a shape. Tatum is in worse shape as far as your people getting in and out. It looks to me like we need to consider having

you to upgrade Canna.

Mr. Cox: I would feel that that would be way beyond the scope of building three homes on the property would go past.

Chairman Threadgill: Commissioner <Unintelligible>.

Mr. Cox: Three duplexes.

Commissioner Raney: It shows four.

Commissioner Mory: It shows six.

Commissioner Raney: I'm sorry. Six, yeah.

Mr. Cox: At this time. I can look and see. We had to redo ...the architect did redraw the plan per how Jeff requested, so it could have increased to a couple more. I don't know the answer to that question. Sorry.

Commissioner Mory: That's okay. Our packet says six <unintelligible due to Mr. Cox replying>.

Mr. Cox: Okay. Sure. That's fine.

Chairman Threadgill: Alright. So what are we doing?

Commissioner Thorp: I'm not sure I understood

Chairman Threadgill: Four, six, two?

Director Sellman: Is the request for the six duplexes?

Mr. Cox: The request is ...yes. The request is as submitted.

Chairman Threadgill: There you go. Alright any other questions from the Commissioners?

Commissioner Thorp: I'm not sure I understood his answer about the road that Mr. Campbell spoke about.

Chairman Threadgill: He said at this time, just building three homes, he didn't think it was adequate.

Mr. Cox: Well the bottom line is it's a County road and I don't think that the church feels that it's a responsibility to improve probably in the neighborhood of a half a mile or a mile of road for the uses of these duplexes. There's numerous other houses on these roads and it would be an unfair and undo burden on Lake Valley Community Church to be required to pave a road.

Commissioner Campbell: This Commission has the authority ...

Chairman Threadgill: Commissioner Campbell?

Commissioner Campbell: This Commission has the ability to require that.

Mr. Cox: If ya'll require it, then I guess I'm just stating my opposition.

Chairman Threadgill: If I'm not mistaken, under the State's regulations, we have the right to have it brought up to minimum County standards.

Director Sellman: That is correct.

Chairman Threadgill: Alright, any other questions? Commissioner Thorp?

Commissioner Thorp: Are you familiar with this drawing of how <unintelligible> he has suggested that 90° be ...?

Mr. Cox: I am. Yes.

Commissioner Thorp: Okay.

Mr. Cox: I mean as long as we have the ability to do that, we're willing to comply with the conditions that were set forth. The only condition or actually the only denial that I'd like to speak to is the Fire Marshal did deny based upon no utility plan, which you actually just scrolled through the utility plan, and no width of the road which is stated in the plans and stated in the conditional use of the requirements. So I'm not sure the reasons for that denial from the Fire Marshal, but both of those are stated and approved in the conditions by staff members, specifically Utilities for where the fire hydrant was located, which is located on the plan. That was a condition that it was put there. In the conditions, it was stated that the road had to be 24' in width.

Chairman Threadgill: Alright if I might, under staff, we do have a – under Nate – we have a denial – denied site plan required to include driveway width and utilities. What's the ...has Nate come up with any changes on that or ...?

Director Sellman: Let me look at that.

Commissioner Campbell: DRC <unintelligible>.

Mr. Griffin: Chairman Threadgill, that's the issue that the Petitioner just spoke of – that the utility plan and the paving width is on the admitted site plan in place.

Director Sellman: Yes, that was my understanding.

Chairman Threadgill: And it's on our plan?

Director Sellman: It's on the revised plan.

Mr. Griffin: Yes.

Chairman Threadgill: We have no ...still on the DRC, I have no approval. Where? From the Fire Chief?

Commissioner Campbell: Yeah.

Chairman Threadgill: Where?

Commissioner Campbell: Right here, 10/30/2008, he approved it.

Chairman Threadgill: What page are you on? I got 10/30/2008, denied.

Commissioner Campbell: I'm sorry. I'm sorry.

Commissioner Thorp: It <unintelligible>.

Commissioner Campbell: Forget what I said.

Chairman Threadgill: Yes, sir.

Commissioner Campbell: I was in the wrong pew. I'm sorry.

Chairman Threadgill: That's what I was going by – what the DRC Review package says and on there I have a request to deny. I don't have an additional like we usually do in the down-dragging of this for approval. So, do you have anything from the Fire Chief saying he's good with it?

Mr. Griffin: I do not.

Chairman Threadgill: Okay. Commissioner Mory?

Commissioner Mory: Is it possible that the Fire Chief is looking for all that information on one plan or do we know...? The way this is, ya'll can take him in one set and then Engineering did the utility plans and the two aren't combined which is more typical. Is it possible that he didn't get the utility set?

Mr. Cox: It's not my responsibility to send it to any of the people. I mean I just turn it into the Planning Department and they issue copies to the different departments. The ...

Chairman Threadgill: Correct. He gets a complete packet at DRC.

Director Sellman: It's all in there.

Mr. Cox: I mean, yeah, the competence to be able to know if he can read the plans to see that the information that he's denying it based on is not up to me. <laughter>

Commissioner Mory: I agree. I agree.

Mr. Cox: Yeah.

Chairman Threadgill: Okay. Alright, do I have any other questions or comments from the Commissioners? Alright, sir, you may be seated.

Mr. Cox: Thank you.

Chairman Threadgill: Is there anyone in the audience with anything to say for or against this item? Again, anyone in the audience with anything to say for or against this item? Alright, I'll close the public portion. Do I have any questions or comments from the Commissioners? Alright. I have one. Mr. Griffin has stated that it has been updated and the Fire Marshal has given approval in writing or no?

Mr. Griffin: I have not received that. I was not aware of this discrepancy until today.

Chairman Threadgill: Okay.

Director Sellman: I believe if you are considering your options ...

Chairman Threadgill: Yeah.

Director Sellman: ...that an approval with a condition that it be consistent with the fire requirements...

Chairman Threadgill: That's a good deal.

Director Sellman: ...would take you to that point.

Chairman Threadgill: Okay. That would make me happy. Any other questions or comments from the Commissioners? None? I'll entertain a motion.

Commissioner Campbell: I'd like to make a motion, but I need a little bit of clarification from staff.

Chairman Threadgill: Go ahead.

Commissioner Campbell: On this revised entryway, can we put that into a motion that that has to be there?

Director Sellman: There is a requirement, No. 3, that states the need to move the private drive

intersection configuration with Canna and Tatum Streets and alter it, move it to the far West side of the property, to create a 90° intersecting angle with the current Tatum and Canna Street intersection and comply with the Code regarding intersections and alignment, which does it at 90° or if not 90°, 85°.

Chairman Threadgill: I have one comment there. The applicant also made the statement a couple of times that if it's feasible. Well, these are recommendations. If you vote on them, it's not whether it's feasible or not. It's a doer.

Director Sellman: There is an existing unimproved right-of-way showing on the County maps at this time that would accomplish that.

Commissioner Campbell: Okay, that's where I was coming from was it is possible to do this with that ...?

Director Sellman: It appears to be based on the County maps, yes.

Commissioner Campbell: Okay. I make a motion to approve this project with the condition added to staff's I believe 7 ...

Chairman Threadgill: 7.

Commissioner Campbell: ...that Canna Street be brought to County standards all the way out to Shady Grove. It may be in County standards now, but I'm not sure.

Chairman Threadgill: Alright, Commissioner Clopton, did you ...? Alright.

Commissioner Clopton: Second.

Chairman Threadgill: Alright. Point of understanding. Staff's seven conditions plus one made by Commissioner Campbell that what street was that?

Director Sellman and others: Canna.

Chairman Threadgill: Canna be improved back to the end.

Director Sellman: To Shady Grove?

Chairman Threadgill: Right. Everybody understand that? Alright, I'll entertain a motion.

Commissioner Campbell: You just did. You have a motion.

Chairman Threadgill: I've got a motion. Do I have a second?

Commissioner Thorp: Yes.

Chairman Threadgill: Got a second?

Commissioner Campbell: Yeah.

Chairman Threadgill: Alright, call the roll, please.

Commissioner Ames – yes; Commissioner Campbell – yes; Commissioner Clopton – yes; Commissioner Mory – yes; Commissioner Thorp – yes; Commissioner Raney – yes; Commissioner Threadgill – yes.

Chairman Threadgill: Alright, with all due respect, I'd like to call a five minute break here. Meeting will be closed for five minutes. <BREAK> No. 7, new business.

7. Site Plan Approval (SPA-08-0200) – Millennium Corporation – Millennium Bay Phase III duplex condominiums – 522 Amity Road, Millennium Bay – County – ET

Director Sellman: Item No. 7 is a request by Millennium Corporation for site plan approval of Millennium Bay Phase III. This is a duplex condominium project at 522 Amity Road. It's in the City's extraterritorial jurisdiction in the unincorporated County area. The Comprehensive Plan Classification is suburban residential. The recommendation is for approval.

Chairman Threadgill: Alright, I'd like a motion to start off with to get it to the floor for discussion.

Commissioner Raney: So moved.

Commissioner Campbell: Second.

Chairman Threadgill: I have a motion by Commissioner Raney and a second by Commissioner Clopton, or Commissioner Campbell, excuse me. Name and address, please sir.

Mr. Milton Raabe, 130 Hillside Place, Hot Springs.

Chairman Threadgill: Alright, do I have any questions to Mr. Raabe from the Commissioners? Commissioner Campbell?

Commissioner Campbell: I have one. Nobody there to bring up ...

Chairman Threadgill: Here he comes.

Commissioner Campbell: This is the three that are there?

Mr. Raabe: Plus one more.

Commissioner Campbell: Plus one more, and then those other two areas ...?

Mr. Raabe: They'll be ...those plans will be submitted later.

Commissioner Campbell: This is just for this one, four-unit complex?

Mr. Raabe: This project was approved in 2004 by Jerry Raite.

Commissioner Campbell: Yeah.

Mr. Raabe: And all the utilities were put in, the streets were put in, and they built three buildings and they stopped them last year.

Commissioner Campbell: Okay.

Mr. Raabe: So we're back. They say we need to submit an Article II.

Chairman Threadgill: Okay, one comment I would like to make. You've already started your ground breaking on the Phase II B, III C, IV D whatever it is on up and over the side. Now all we're actually approving building on is D building.

Mr. Raabe: One more building.

Chairman Threadgill: Yeah, one more building. Now she is and you are aware that to do any further building up there, you have to come back again.

Mr. Raabe: Yeah.

Chairman Threadgill: Okay. I just wanted to make that sure because when I went up there, there's already bulldozers and there's ground cut being done.

Mr. Raabe: It was done a long time ago too.

Chairman Threadgill: Okay.

Mr. Raabe: And we're going to put a temporary cul-de-sac in at the end of this phase.

Chairman Threadgill: Alright, well, the new Code says 90' cul-de-sac. You've got 70' on yours.

Mr. Raabe: We'll meet whatever your new Code is.

Chairman Threadgill: Alright. That's the new state Fire Code. Not ours.

Director Sellman: 96.

Chairman Threadgill: Pardon?

Director Sellman: 96.

Chairman Threadgill: Yes, 96 Fire Code. But that was my only concern that we knew because we had discrepancies on this part. I wanted to make sure we didn't have any on the future development.

Mr. Raabe: Okay.

Chairman Threadgill: Okay. Alright, any other questions to the applicant from the Commissioners? None? It's a very nice looking site by the way. Very nice. Commissioner Campbell, did you have something?

Commissioner Campbell: I have one of staff. I'd like to get back to the staff report. The way the staff report reads, it's III A, B, and C. That's not what we're looking at, right? We're not looking at all three phases.

Director Sellman: What the Code says about phase development is that you have an approval of the entire site and that if it is phased, subsequent phases after the first will require individual site plan approval.

Commissioner Campbell: Okay.

Chairman Threadgill: So you're saying "yes" to all three, but he has to bring the others back for approval before he can start the building.

Director Sellman: B and C.

Chairman Threadgill: Right. Okay?

Commissioner Campbell: Okay.

Chairman Threadgill: First two in black are what we were to go. There you go. On the map, the first two lower left-hand corner, lower right-hand corner.

Commissioner Campbell: What are the ones up in the top then?

Mr. Raabe: That's <unintelligible>.

Chairman Threadgill: That's future development.

Mr. Raabe: No, that's IIIC.

Commissioner Campbell: That's III C, so we're approving it too.

Mr. Raabe: Yeah, all three of them.

Director Sellman: Conceptually.

Mr. Raabe: Conceptually, you're approving all three. Technically, you're approving only A.

Chairman Threadgill: A.

Director Sellman: A, Building 4.

Chairman Threadgill: She read it in the Code. It says the other phases have to come back for approval of each phase.

Commissioner Campbell: Okay. That's all I have.

Chairman Threadgill: As long as he understands. <laughter>

Director Sellman: But I think I understand Commissioner Campbell's perplexity here because the terminology in Condition No. 1 is vague. We may want to tighten that up to say that while the approval does apply to Phase A, B, and C ...

Chairman Threadgill: B and C come back for further approval.

Director Sellman: ...B and C will require separate approvals at the time that they are proposed to be developed...

Chairman Threadgill: No problem.

Director Sellman: ...by Planning Commission.

Chairman Threadgill: Is that agreeable to you, Commissioner Campbell? If it goes that way?

Commissioner Campbell: Well, it looks like to me if this is all we're doing tonight, that it should be that we are just approving Phase III A. No ...yeah, III A is the three that are built and one to be built.

Chairman Threadgill: The way I looked at it and from what Kathy read, we're approving the entire site plan. But as far as buildings, they can only build Building D, because A, B, and C are already built. By what <unintelligible>, I don't know but D is the building they got caught on. They can build that one at this time, but to go to the next four on that same street and then catch the four on the upper landing, each of those has to come back in by the way she read the ...

Director Sellman: It's kind of like a preliminary plat and a final plat. You're going to have a number of final plats coming out of a preliminary plat based on phasing or blocks or whatever. Would you like me to read the Code section?

Commissioner Campbell: Yeah, you can.

Director Sellman: Okay. It's §16-4-15(d): "In the case of multiple building or multiple use phased development, the initial site plan shall include the information required by this section for the overall site, meaning total property. A site plan shall also be submitted for each subsequent parcel, whether that be unit, building, use, lot, or lease, within the overall site as such parcel(s) is or are developed. Site plans for specific parcels shall include the information required by this section for both the overall development site and the specific parcel or parcels within the development for which approval is requested."

Commissioner Campbell: Okay. So we can't go by our staff's recommendation then?

Director Sellman: Well I'm suggesting that you might want to tighten it up so that it's clear that a separate site plan would be required for Phase III B and Phase III C. But you are approving the whole site as it's presented to you.

Commissioner Campbell: Well the way I see it, we're approving that whole thing, and he could go out there and build every one of them if we go by this. If we approve Phase III A, B, and C, then we're approving all of it and why do they have to come back?

Director Sellman: Because if it's built in phases and for whatever reason these phases are all called III but then broken down to A, B, and C, this section says that if you are doing it in a phased fashion, then a separate site plan would be submitted for those phases before permits could be issued.

Commissioner Campbell: Okay. What do we ...when we get to the motion time, I'll ask then...go in <unintelligible> somebody <unintelligible>.

Director Sellman: Mmm, huh. Okay. Okay.

Chairman Threadgill: Alright, any other questions or comments from the Commissioners to the applicant? Commissioner Mory?

Commissioner Mory: I have a comment. Mr. Campbell and I are exactly on the same page in this matter. I am right beside you. I don't like the way it's worded either, and I don't ...I know what you read in the Code and I'm trying to wrap my head around how we're not approving all the units and I just don't see it.

Chairman Threadgill: You are approving a concept of the entire site plan.

Commissioner Mory: Right. I understand that. I understand that, but ...

Chairman Threadgill: Alright, let's do it this way then like Kathy said. When it comes down to making, whether we approve or deny, we'll put the condition on that the Phase A or Phase III or whatever it is be approved. When Phase B III and C III begin building, they have to come in for approval for those phases.

Commissioner Mory: Correct.

Chairman Threadgill: Okay? So ...

Commissioner Mory: I agree.

Chairman Threadgill: You okay with that?

Commissioner Mory: Yeah.

Chairman Threadgill: Alright, so when it comes down to whether we decide yea or nay, we'll make that part of the final rewording. Okay? Any other questions to the applicant? None? Alright, sir, you may be seated. Is there anyone in the audience with anything to say for or against this item? Again, anyone in the audience with anything to say for or against this item? Seeing none, I'll close the public portion. Any comments or questions from the Commissioners?

Commissioner Clopton: I have one.

Chairman Threadgill: Commissioner Campbell? Or Commissioner Clopton, excuse me. You guys need to swap seats.

Commissioner Clopton: According to the overall plans for this development, we're looking at a hundred units? A hundred individual ...

Director Sellman: I believe it's less than 100. I think it's 80.

Commissioner Clopton: <Unintelligible> well 80. I thought it says in here 80 to 100. Anyhow, it's much over 30 on a single access road.

Director Sellman: Yes, it is.

Commissioner Clopton: Where do we start drawing the line on sprinkling?

Director Sellman: These are not single family homes and I believe the single family number is 30. If it is not single family, then it is a 100. That's my recollection.

Commissioner Clopton: Sprinkling, I don't think so.

Director Sellman: For sprinkling, no? These will be required to meet the Fire Code. It says, Condition No. 3, construction shall be accomplished in accordance with all applicable construction codes, included but not limited to sprinkling of the buildings in accordance with the Arkansas Fire Prevention Code as may be required. That would be considered at the time the plumbing permits are requested.

Commissioner Clopton: I'll look into that a little deeper, but it looks to me like if I remember the way that's worded, it's not single family residences. It's the number of units. I'll look into it and see.

Chairman Threadgill: Alright an additional add-on to that the Fire Marshal has made a comment that turn around is required and added additional fire hydrants, so apparently he's reviewed it and found no problem with the additional buildings.

Commissioner Clopton: Okay.

Chairman Threadgill: Now in, you know, the future when more buildings are built, he might add on to it. The way the property's laid out, there could be another access going off this in a later date, which we don't, you know, we're still at the minimal buildings right now. We're using the 30 requirement, then...

Commissioner Clopton: I'm looking at your access off of Amity Road.

Chairman Threadgill: Right. Commissioner Campbell?

Commissioner Campbell: I looked at all these, your phases. Why can't we not just approve Phase III A and let them finish that building?

Director Sellman: For construction, you are approving Phase III A.

Commissioner Campbell: Okay. Why can't we stop it there and let the rest of it come back as it comes back?

Director Sellman: Umm, why can't you? I don't have an answer for that. The Code says that you will look at the whole site as a unit and then provides for the phasing to be considered separately. I don't know what else to tell you there.

Chairman Threadgill: I have no problem with the way the ordinance is written. I understand that we're approving the entire project. All we're giving him authority at this meeting tonight is to build D building. A, B, and C are already built. We're authorizing him to build D. That's the completion of that phase. To do the second and third phase, whatever number it is, the applicant will have to bring back that phase for approval by this Commission. As Kathy stated, if you wish, you can make the recommendation that we approve the first phase tonight and as part of it, he brings back the second phase and the third phase separately for additional approval. That will solve your questions. Will it not?

Commissioner Campbell: Yeah, because what it's saying there is that we are approving a site II multiple building site plan for Phase III – A, B, and C.

Chairman Threadgill: Right. But the Code states that the additional phases will have to come back for approval...

Commissioner Campbell: Okay.

Chairman Threadgill: ...in the ordinance.

Commissioner Campbell: As long as they're coming back.

Chairman Threadgill: Yep, they've got to come back.

Director Sellman: They have to come back.

Chairman Threadgill: Like I say, if you wish to make part of your recommendation that ...what phase is that? Phase III A?

Male Speaker: III A.

Chairman Threadgill: Okay, Phase III A be approved and that Phase III B and III C be brought back at a future date for approval for Phase II or Phase III, whatever it is.

Commissioner Campbell: Okay.

Chairman Threadgill: That's not a problem. Does everybody understand that?

Commissioner Mory: Mmm, huh.

Chairman Threadgill: Commissioner Mory?

Commissioner Mory: Are you ready for a motion? I think I'll take a shot at it.

Chairman Threadgill: Go for it.

Commissioner Mory: Alright, I move that we approve the project with staff's recommendations with the following modification to the first recommendation. I move that we approve the concept of Phase III. I move we approve the construction of Phase IIIA only. Any construction for Phase III B and III C will require resubmission of additional site plans.

Chairman Threadgill: Acceptable.

Commissioner Campbell: Second.

Chairman Threadgill: I have a second by ...I have a motion by Commissioner Mory and a second by Commissioner Campbell. Any discussion?

Commissioner Thorp: Question.

Chairman Threadgill: Question?

Commissioner Thorp: <Unintelligible>

Chairman Threadgill: Call the roll, please.

Commissioner Campbell – yes; Commissioner Clopton – yes; Commissioner Mory – yes; Commissioner Raney – yes; Commissioner Ames – yes; Commissioner Thorp – yes; Commissioner Threadgill – yes.

Chairman Threadgill: It passes. Alright, we'll right along to Item No. 8, new business. Central Crossing.

8. Site Plan Approval (SPA-08-0206) – Central Crossing Phase II, Lot 3 – multiple building site plan for commercial development – Central at Files Road – District 5 – C-4

Director Sellman: Item No. 8 is Central Crossing, Phase II, Lot 3 site plan approval. This is a multiple building site plan request for commercial development located along Central at Files Road. The zoning is C-4. The Comprehensive Plan Classification is linear commercial corridor. It's located in District 5. The recommendation is for approval with conditions.

Chairman Threadgill: Alright, I need a motion to bring it to the floor for discussion.

Commissioner Clopton: So moved.

Chairman Threadgill: I have a motion. Do I have a second?

Commissioner Ames and another: Second.

Chairman Threadgill: I have double seconds. Is the applicant present? Please come forward and give us your name and address for the record, sir.

Mr. John Rodgers, B&F Engineering, 928 Airport Road: Sure.

Chairman Threadgill: Alright. Do I have any questions from the Commissioners to the applicant? Okay, I have one. When this came about, when we started all this phasing and breaking up, one of the comments on the last meeting was that all the final lots in this development be brought in in a complete packet. Alright, on this, I see you've put in the road to Files Road, which is lovely. But I don't ...

Mr. Rodgers: <Unintelligible> road.

Chairman Threadgill: Pardon me?

Mr. Rodgers: Yes, sir.

Chairman Threadgill: Okay. But I don't see any access into Lot 7, Lot 8, or Lot 6 or Lot 4. One of the requests that I'd have that there not be any access to any of those lots off of Files Road. So if there was a complete rendering of a site plan, I would think there would need to be some sort of entries into these lots. Which you do have on what is that, 5? But I see nothing on

4, which to me looks like you'd be trying to pull something off of Files Road, and in the future maybe Lot 7 and Lot 8. I'd kind of like to know where the roads are? How are you going to access those parcels of property – 4, 7, 8, and 6 – since we asked for a complete site plan on the final parcels? Do you have any comment?

Mr. Rodgers: Yes, sir.

Chairman Threadgill: Okay.

Mr. Rodgers: I agree, Commissioner or Chairman, I do agree that I think we ...it would be best that we don't have access to Files Road from lots ...or the two lots that front Files.

Chairman Threadgill: Lot 4 actually fronts Files on the back side as well.

Mr. Rodgers: Right. You know one thing that we're accomplishing here is this ...your approval of this will allow us to work towards confirming and the conditions that Sissy's Log Cabin and for the Purple Cow restaurant that they want your approval, then they will develop their site plan and their architectural plans. So at this time, I really don't know what they're going to do with those other lots. It could be hotels. It's likely to be those that I've mentioned, but to predict where those driveways will be exactly, I can't do right now. But before us right now is Lot 3, multi-building site plan application.

Chairman Threadgill: Mmm, huh. Which is a fine looking, fine looking development. You show the road in. You show the attachment to Files Road. But again, the request by this Commission was that we have the complete ideal on what, you know, what the rest of the lots are going to be. Which you have them laid out fine, but I'm not into the access onto Files Road. And if we don't show something or make some sort of statement now, then say whoever buys Lot 7 can come in and say I want to cut a road off Files, you know, I want to cut an access off Files Road and then we have a problem. That's not what we're trying to do here. We're trying to limit the usage of Files Road just to the main entries that we already have.

Mr. Rodgers: I respect that. I think that's a good idea. I do want to point out that this is an approved subdivision. It was approved in December of '07 and we're focusing on Lot 3. Also we've inherited those conditions back from the preliminary plat approval in December of '07. During the staff recommendations report, and if you can, point that condition out to me. There's five that are quoted from that previous Planning Commission and I don't see that specific one – in that we would know what developments are going to take place on each one of those lots.

Chairman Threadgill: Page 181?

Director Sellman: Mmm, huh.

Mr. Rodgers: What we do know is that we would like to build 25,000 square foot of office and retail and restaurants on Lot 3.

Commissioner Campbell: While they're looking at that, I have a question.

Chairman Threadgill: Yeah, go ahead.

Commissioner Campbell: You're showing the sidewalks on that road going out to Files.

Mr. Rodgers: Yes, sir. Both sides.

Commissioner Campbell: Are they in place now? I don't remember seeing them.

Mr. Rodgers: No, sir.

Commissioner Campbell: Are they going to be put in in this phase?

Mr. Rodgers: Yes, sir. In fact, to get the construction permit to build – correct me if I'm wrong, Kathy – but to get the actual construction permit to build these retail centers on Lot 3, we have to either construct those sidewalks and that road and final plat it or bond it and final plat it. Those are conditions that are prescribed to us, so yes, sir.

Commissioner Campbell: Those and the sidewalk going back down to Central are in this?

Mr. Rodgers: Correct. The traffic signal drive near Bank of the Ozarks.

Commissioner Campbell: Yeah.

Chairman Threadgill: Okay, what we have here on page 181 of staff's recommendations, those are recommendations that they made for us to approve now. Correct?

Director Sellman: These were the preliminary plat conditions...

Chairman Threadgill: Right.

Director Sellman: ...that were approved in December of 2007. This is, since you've given me an opening here, this is kind of an unusual sequence of projects because the owner has tenants who would like to begin making plans. I take us back to the condition of our previous approval that says that no permits will be issued until the final plat has been approved and recorded. It has not, but there is nothing that says we cannot in a somewhat concurrent fashion, review this specific plan for Lot 3 because there are tenants who would like to make plans for Lot 3. So some of what we're seeing is out of our normal sequence, but it allows for the owner and the prospective tenants in this difficult economic time to move while they think the timing is good. We will still have to have that final plat reviewed, approved, and recorded before any permits can be issued, including the final approval on this site plan. That would be contingent on the final plat itself being recorded. So some of the questions that you have would be answered on that final plat and the keys to that of course in the preliminary that we saw almost 12 months ago.

Chairman Threadgill: So in respect then what we're doing, we're allowing them to build on each one of those lots independently of the site plan?

Director Sellman: No, we're not. We're ...

Chairman Threadgill: Okay, that's where we came in. It started out with a credit union. That was allowed. Then they did a lot split and the Taco Bell or whatever went in. Then ...

Mr. Rodgers: That was a different owner, sir.

Director Sellman: No.

Mr. Rodgers: Different development.

Director Sellman: No. They're not even proposing that. They are asking that we look at the detailed site plan while they prepare the final plat. The final plat deadline is rolling right up on us, so I'm sure that that final plat is in progress right now.

Chairman Threadgill: So this cannot be occupied until we get the final plat?

Director Sellman: No permits whatsoever will be issued on Lot 3 until there is a Lot 3...

Chairman Threadgill interjects while Director Sellman is speaking: That's where I'm going. Okay.

Director Sellman: ...and there is no Lot 3 at this time.

Chairman Threadgill: Okay. That's what I'm getting at. So ...Alright. So this is just an okay until they get everything together?

Director Sellman: This allows them to plan for Lot 3. As soon as they have their final plat done, then they can begin to think about developing Lot 3, but their plan will be in place.

Chairman Threadgill: Why can they not bring in the final plat, get it approved, and start building at the same time?

Director Sellman: They could.

Chairman Threadgill: Why?

Mr. Rodgers: Can I answer?

Chairman Threadgill: Yeah, go ahead.

Mr. Rodgers: Just to add to that. I agree with all that, but one of the things that we're accomplishing is your vote of confidence here for this large development. This is a four acre lot, Lot 3. It's the primary lot in this subdivision – 25,000 square foot of retail and restaurant and office. By authorizing that multi-building site plan application, it allows us to confirm the other

lots, most of the other lots, of what's going to happen with them. That is a condition of their negotiations between these other entities and the owner/developer.

Chairman Threadgill: Okay, we've done that in the past when the applicants come forward and want to just get our okay that yeah, we don't have a problem with the development. And I don't have a problem with this, but I do have a problem with the other lots.

Mr. Rodgers: Specifically on Files Road?

Chairman Threadgill: Yeah. So, what assurances do I have by approving this that those roads will not be allowed onto Files Road?

Director Sellman: Well one possibility that you might want to consider is the requirement of cross access easement for that Northerly lot across this lot rather than having direct access onto Files Road. That's something you can consider.

Mr. Rodgers: Mr. Threadgill?

Chairman Threadgill: Yes.

Mr. Rodgers: I'll also add the final agenda item in the Transportation Master Plan which will speak to those driveway distances between...

Chairman Threadgill: I'm familiar with that one. <laughter>

Mr. Rodgers: Good. Good.

Chairman Threadgill: Alright. Commissioner Mory?

Commissioner Mory: I understand and agree with the limiting access off on Files Road and I really feel that Lots 7 and 8 can pretty easily be handled because on this site plan, we have a road that abuts those and I believe we can add a condition that Lots 7 and 8 shall access the road that's shown on the site plan and shall not access Files Road. I think we can put those conditions in the approval of this site plan and take care of that.

Chairman Threadgill: And Lot 4.

Commissioner Mory: No. 4 is the one that concerns me though, because there's nothing on this site plan that affects Lot 4 in any way. I don't see how ...and ...I don't see how – and this is what I'm going to ask staff about – how can we tie in Lot 4 back to this site plan? I can see where we can do it for 7 and 8 – as I said, because we have a road that is on this site plan that abuts those lots. But Lot 4, we don't have anything involved with this site plan.

Director Sellman: I think the method there would be to require identification on Lot 3 of where that access and circulation would be for Lot 4, so that we don't preclude that in the future development of Lot 4.

Commissioner Mory: Okay, if we do that, is that something that this Commission wants staff to approve or do we want to look at that again as the Commission and approve for ourself?

Chairman Threadgill: I would recommend it come back to the Planning Commission as part of our responsibility.

Commissioner Mory: I would agree.

Chairman Threadgill: And if I might here if I can find the picture again here ...

Commissioner Campbell: Can't you go back to what he was saying earlier today that Lots 7 and 8 and 4 cannot access onto Files Road?

Director Sellman: That's not really before us.

Chairman Threadgill: That's what I'm saying. Right now, we're not approving, but we are approving Lot 3 or ...

Mr. Rodgers: Yes, sir. Lot 3.

Chairman Threadgill: Yeah.

Mr. Rodgers: Multi-building site plan, Article II.

Chairman Threadgill: We looking at a multi-building site plan that covers Lot 3 only. But for them to be able to do that, they have to have a final approval, final plat, on Lot 4, 5, 6, 7, and 8 which we don't approve the final plat. That's staff's shot only. So there again, I have a problem with Lot 4 tying into Files Road and Lots 7 and 8 tying into Files Road, because that was the intent the entire time with this development to reduce and restrict. I believe that's restrict the access in and out on Files Road. Not to have just a whole ton of cars dumping cause the road that's so small to start with. So I don't know what to ... Staff?

Director Sellman: Well, I think your concern is, you know, based in reality here; but we do have an approved preliminary plat that does not limit access from Lot 4 to Files Road.

Chairman Threadgill: Well that's what I'm saying.

Director Sellman: However desirable it may be at this time to consider that, I think by means of identifying a place to cross Lot 3, then you preserve some options there for Lot 4. But I don't know other than that, based upon what is before you tonight which is only Lot 3, that you could limit that before.

Mr. Rodgers: Our approvals were unanimous from the DRC Meeting across the board for Lot 3 development.

Chairman Threadgill: Yeah, but I'm still ...I'm at the point ...I mean granted when this lot had all its dividing and stuff, the individual at the time that granted a lot of this stuff didn't come through the Planning Commission. Sorry, but I still remember it the last time this came up that we requested to know where the access and everything was going to be gained, where you were going to tie into – Ray was here – where we were going to tie into Files Road and all of it. Now, which is great, you show the Files Road which is one of our major concerns, but I still ... I ...Lot 4, I don't see any access. And Lot, you know, 6, 7, and 8 I don't show the way you're going to get access. And to me, if we don't get it now, they're going to come off Files Road. I know 4 will. I'm concerned with approving a part of a final plat when I'm still, you know...I don't understand. If we approve this, then staff can approve 4, 5, 6, 7 and 8 without us seeing anything else because that will be a final plat.

Director Sellman: Uh, if that's what they ...If they propose something that's consistent with the preliminary, then you will not see it again. And the conditions that were established, Conditions 1 through 6 that were established in December of 2007, appear in the body of this staff report here.

Chairman Threadgill: But Item 3 was part of the entire plat.

Director Sellman: Yes.

Chairman Threadgill: We're subdividing the plat ...

Director Sellman: We're not subdividing the plat. We are ...

Chairman Threadgill: If we already approved the preliminary, then 3 should have already been approved.

Director Sellman: The boundary of 3 was established on the preliminary plat. What is proposed tonight is a specific site plan for Lot 3 only. This site plan is not worth the considerable paper that it has been printed on until there is a recorded final plat. It's out of sequence.

Chairman Threadgill: Which that final plat will take in five additional...

Director Sellman: It will.

Chairman Threadgill: I'm lost. I'll leave it to everybody else. Anybody else have any questions or comments to the applicant? Ray, you have something you'd like to say? Give us your name and address please.

Mr. Ray Owen, 110 Lee Circle, in the City: My law office is at 209 Hobson. I have represented the Central Crossing since the formation of the improvement district out there. I am well aware of what the plans are. It is typical in the way of a commercial subdivision where there are different clients or customers at any given point in time. There are projects that are planned and may or may not fall through. I know that the developer has talked with a number of people, including folks that wanted to develop a hotel or such. I think this is a very beneficial thing for

the City of Hot Springs. Kathy has already said to you that it has to have the final plat to be able to go forward with any kind of permits. It's a 25,000 square foot commercial development, which this community needs at this point in time. I don't see anything that they're trying to do here that's going to hurt your feelings. The only thing I see that has happened is that it probably could have been handled better from the beginning, but that's history and you need to get over those sorry feelings and go on and just deal with this thing now. I hope that you use good common sense in dealing with this and follow your staff's recommendations.

Chairman Threadgill: Any comment? Commissioner Mory?

Commissioner Mory: I just have a comment about what you were bringing up a minute ago. We would see 5, 6, 7, 8 come back if they were multi-building site plans. Or, and this is my question, if our new Subdivision Code were in force by then, that would also trigger it to come in, correct, because of the size? That of course is a big if.

Chairman Threadgill: Yes.

Commissioner Mory: Still my primary concern is with Lot 4. I think since we have a road that is touching those other four lots – 5, 6, 7, and 8 – and 5 is shown, I understand Mr. Rodger's point about they can't show drives because if they show a drive and they don't guess in the right place, that's all they can do at this point is guess it, then it's wrong and they have a modification to a site plan and they start the process over again. But I do believe in our wording of this, we can restrict 7 and 8 off of Files Road pretty easily by just saying that they shall use the access road that is shown on the site plan.

Chairman Threadgill: Staff says we're working on 3, that we can't make any recommendations on 7 and 8.

Director Sellman: All we have ...This is the site plan for 3.

Commissioner Mory: But as part of that site plan, we have this road.

Director Sellman: We have the road as a part of this site plan because there was ...Right. We do not have the lots. We have only the right-of-way.

Commissioner Mory: Okay, so we can't ...Okay. Alright.

Chairman Threadgill: Any other questions or comments to the applicant? None? You may be seated, sir. Is there anyone in the audience with anything to say for or against this item? Again, anyone in the audience with anything to say for or against this item? Alright, seeing none, I'll close the public portion. Any comments from the Commissioners? None? Commissioner Mory?

Commissioner Mory: I have comments/question. Okay, if all we're considering is the site plan for Site 3, and all we're considering is whether or not what's inside Site 3 meets the requirements, correct?

Chairman Threadgill: Yes.

Commissioner Mory: Okay.

Director Sellman: And the right-of-way.

Chairman Threadgill: Yeah, and the right-of-way.

Commissioner Mory: And the right-of-way.

Chairman Threadgill: So...that's it.

Commissioner Mory: While our other comments are valid concerns, they really don't pertain to this matter then?

Chairman Threadgill: None.

Commissioner Mory: Okay. Very good.

Chairman Threadgill: So, we approve Phase or Lot 3. We approve it, then it's a done deal. They have to bring in a final plat then and have it recorded before they can start building. That's it. Okay? Everybody understand? An affirmative motion, we approve. No, we deny. Any other questions? I'll entertain a motion.

Commissioner Clopton: Mr. Chairman?

Chairman Threadgill: Commissioner Clopton?

Commissioner Clopton: I move we approve this project as submitted by the applicant, subject to staff's recommendations.

Chairman Threadgill: I have a motion to approve by Commissioner Clopton. Do I have a second?

Commissioner Mory: Second.

Chairman Threadgill: I have a second by Commissioner Mory. Any discussion? Call the roll, please.

Commissioner Clopton -- yes; Commissioner Ames -- yes; Commissioner Thorp -- yes; Commissioner Campbell -- yes; Commissioner Raney -- yes; Commissioner Mory -- yes; Commissioner Threadgill -- uh, I abstain.

Chairman Threadgill: Alright. Item passes. We'll move on to Item No. 9

9. Preliminary Subdivision (PS-08-0189) – Barker Estates Subdivision – preliminary subdivision plat review to develop a five lot single family residential subdivision – 2324 Park Avenue – District 1 – R-1

Director Sellman: Item No. 9 is Barker Estates Subdivision. This is a request for preliminary subdivision approval to develop a five-lot, single family residential subdivision located at 2324 Park Avenue. This is a split-zoned property. The frontage along Park is zoned R-2. The remainder of the land is zoned R-1. It is Comprehensive Plan Classification suburban residential and it is located in Board District 1. The recommendation is for approval with conditions.

Chairman Threadgill: Alright, I need a motion to bring the item to the floor for discussion.

Commissioner Campbell: So moved.

Commissioner Clopton: Second.

Chairman Threadgill: I have a motion and a second. Is the applicant present? Please come forward and give us your name and address for the record, sir.

Mr. Jonathan Hamner, B&F Engineering, 928 Airport Road, Hot Springs.

Chairman Threadgill: Do I have any questions to the applicant from the Commissioners? Commissioner Campbell?

Commissioner Campbell: I have one. Are you aware that Park Avenue requires curb and gutter and sidewalk on this project?

Mr. Hamner: No, sir.

Commissioner Campbell: Okay. It does.

Chairman Threadgill: Any other questions or comments?

Commissioner Campbell: §15-10-41 or 1401 is one of the items.

Chairman Threadgill: Street specifications?

Commissioner Campbell: Yeah, that's the curb and gutter requirements and §15-10-24 in the ...

Mr. Hamner: Are you talking about on the driveways?

Commissioner Campbell: No, on the Park Avenue.

Chairman Threadgill: Entire frontage.

Commissioner Campbell: <Unintelligible> project requires sidewalks and curb and gutter and

being across – I think it's right across the road from the church on part of it – ...

Mr. Hamner: Yes, sir.

Commissioner Campbell: That requires a 5' sidewalk over there.

Chairman Threadgill: Alright, any other questions or comments to the applicant from the Commissioners? Commissioner Campbell?

Commissioner Campbell: Yeah, I have one. Where are the streets going to come out in these lots? Do you have any idea?

Mr. Hamner: Do you mean the driveways?

Commissioner Campbell: The driveways.

Mr. Hamner: Well right now at this time, they only have plans to add one house. This is the house that burned down. I guess you probably know by now is on that second lot. They're going to build one more house right now and they intend to put them all right in the middle of the lot lines in order to give adequate spacing.

Commissioner Campbell: Okay.

Mr. Hamner: The best they can in the middle.

Chairman Threadgill: Any other questions to the applicant? Alright, sir, you may be seated. Is there anyone in the audience with anything to say for or against this item? Again, anyone in the audience with anything to say for or against this item? Alright, seeing none, I'll close the public portion. Do I have any questions or comments from the Commissioners?

Commissioner Mory: I have one of staff.

Director Sellman: Yes.

Chairman Threadgill: Alright. Commissioner Mory?

Commissioner Mory: There is a requirement somewhere that these drives ...basically people can't back onto Park Avenue. Is that right?

Director Sellman: On §16-4-44, there are three sections – let me try to get to there – that could apply in similar situations, so let's take a look at those. I believe g which says that double frontage lots are prohibited except where lots abut on an existing or proposed arterial street, freeway, expressway, so on and so forth. Then there is section o, along arterial streets in proposed subdivisions where it is desirable to limit curb cut access, building lines shall be established on both frontages of double frontage lots. This is not, as proposed, a double frontage lot. Along the line of lots abutting such traffic artery, a restricted access easement of at least 10'

across which there shall be no right of vehicle access permitted shall be provided. Then Planning Commission may require construction of fences or lines of shrubbery to assure this no access provision is enforced. Actually those are probably the items that most clearly could apply to this. This is somewhat unique in that these are very, very large lots and as such, the frontage provides for well in excess of the minimum separation of 40'. However, should Planning Commission find that it is desirable to make that requirement prohibiting direct access onto Park, then some provision possibly could be made for a road that would traverse the back perimeter of the lots.

Commissioner Mory: Well the direct access isn't necessarily what I was concerned about. I was just wondering about if there's something in place to prohibit ...to make them where they have circle drives or turnarounds on the property so they don't back onto the road.

Director Sellman: There isn't. Residential drives are the exception to the no-back-out rule and according to the Code, it is permissible to have that back out configuration. Given the state highway, maybe that's something that you want to take a closer look at though.

Commissioner Mory: So could we add a condition that is more strenuous than the Code?

Director Sellman: If you find that there is a safety condition or a public health ...given that finding, it's something you could consider.

Commissioner Mory: Okay.

Chairman Threadgill: Commissioner Campbell?

Commissioner Campbell: This Commission in the past has made that action that we required the developer to build an internal street and connect all the driveways to like a normal subdivision where they have one entry in and one entry out so that they did not access directly to a busy thoroughfare.

Chairman Threadgill: Alright. Any other questions or comments? Alright. No other questions or comments from the Commissioners? Commissioner Raney?

Commissioner Raney: Well one. If you want to make that requirement, then how have we done it in the past?

Chairman Threadgill: We've made them put an extra street, like it would go to the back of the property.

Commissioner Raney: Was it another, like a recommendation that was added to the approval?

Chairman Threadgill: Yes. Yes. The Planning Commission's recommendation would be no access off onto Park Avenue, that an alternative street would be cut.

Commissioner Campbell: No.

Chairman Threadgill: Yes?

Commissioner Campbell: It would be an internal street that would access Park Avenue...

Chairman Threadgill: Yeah.

Commissioner Campbell: ...with one access.

Chairman Threadgill: Yeah.

Commissioner Campbell: Because there is no access on the back to anything else.

Chairman Threadgill: All lots would have to access the back, the street on the back of the property and all the way down and tie back into Park Avenue.

Commissioner Campbell: He could do it in the front. <Unintelligible> front.

Chairman Threadgill: Well, yeah, okay.

Commissioner Campbell: It would just have to be an internal street.

Chairman Threadgill: Yeah.

Commissioner Raney: I follow that.

Director Sellman: Mmm, huh.

Commissioner Raney: That answered my question. I was just wondering what vehicle you used to add that. It would just be another recommendation. Okay.

Chairman Threadgill: Any others? No other comments from the Commissioners? Alright, I'll entertain a motion.

Commissioner Raney: I would like to move approval subject to the recommendation that are currently presently and adding the fifth that we require an internal street to lock, interlock these five properties ...

Chairman Threadgill: With a single access to Park Avenue?

Commissioner Raney: Right.

Chairman Threadgill: I have a motion with an additional ...

Commissioner Campbell interjects: Can we add the requirements for the street, for the curb and guttering and the sidewalks?

Chairman Threadgill: <Unintelligible> Park Avenue.

Commissioner Raney: Most certainly.

Commissioner Campbell: Just to meet those two requirements?

Commissioner Raney: Right.

Chairman Threadgill: You make that part of your motion, sir?

Commissioner Raney: Yes, I would.

Director Sellman: So we would add Conditions 5 and 6?

Chairman Threadgill: Yes.

Director Sellman: 5 would be the internal street?

Commissioner Raney: 6 would be curb and gutter.

Director Sellman: Curb, gutter, and sidewalks consist with §15-10-14.1.

Commissioner Raney: Right.

Commissioner Campbell: And §15-10-24.

Commissioner Raney: 24.

Director Sellman: And §15-10-24.

Chairman Threadgill: Alright, everybody understand that and the additional conditions? Do I have a second?

Commissioner Campbell: You have a question.

Chairman Threadgill: Oh, yes, sir.

Mr. Hamner: I would just ask that before you vote on this motion that you might take a look at the terrain on the property. An internal street would be a major, you know, that would be a major undertaking on such a steep piece of property for, you know, them wanting to build one house. I would just ask that you consider that terrain of the property for building an internal street would be a very difficult task, so I would just ask that you consider that.

Chairman Threadgill: I've looked at the terrain. I've, you know, I've had people tell us in the past that the contour is too steep for cutting roads and next thing, it's level ground, so you know,

anything can be done.

Mr. Hamner: Right. I'm just asking.

Chairman Threadgill: Commissioner Campbell?

Commissioner Campbell: I wanted to add a little comment to it. That terrain out there is one of the reasons that I favor this internal street because it does give you a control for getting back onto Park Avenue instead of just that 18% grade down to it.

Mr. Hamner: Sure.

Chairman Threadgill: Alright, I have a motion and a second on the floor. Any other discussion with the Commission? Call the roll, please.

Commissioner Mory – yes; Commissioner Thorp – yes; Commissioner Raney – yes; Commissioner Clopton – yes; Commissioner Ames – yes; Commissioner Campbell – yes; Commissioner Threadgill – yes.

Chairman Threadgill: Motion passes. We'll move to Item No. 10, new business.

10. Rezoning (RZ-08-0205) – 319 Hawthorne rezone – rezone 0.44 acres from R-3 to C-2 for parking – 319 Hawthorne – District 3 – R-3

Director Sellman: Item No. 10 is 319 Hawthorne rezone. This is a request to rezone 0.44 acres from R-3 to C-2 for parking.

<END OF TAPE>

Director Sellman: ...commercial corridor. The proposed zoning is C-2. It is located in Board District 3.

Chairman Threadgill: Alright, I need a motion to bring the item to the floor for discussion.

Commissioner Raney: So moved.

Commissioner Thorp: Second.

Chairman Threadgill: I have a motion and a second. Is the applicant present? Please come forward and give us your name and address for the record, sir.

Mr. Anthony Taylor, Taylor Kempkes Architects, 210 Central Avenue.

Chairman Threadgill: Alright, do I have any questions of Mr. Taylor from the Commission? None? Oop, Commissioner Raney?

Commissioner Raney: Why was the request for C-2 other than the fact that the main property is C-2?

Mr. Taylor: That's the only reason.

Commissioner Raney: That's the only reason? Okay. Thank you.

Chairman Threadgill: Alright, any other questions to the applicant? Alright, sir, you may be seated.

Mr. Taylor: I would just like to say that this lot has been used traditionally for parking for the last I don't know how many years. Right now it's gravel. This proposal will pave it, light it, landscape it, and put the storm drainage where it needs to be.

Chairman Threadgill: Alrighty. Is there anyone in the audience with anything to say for or against this item? Again, anyone in the audience with anything to say for or against this item? Seeing none, I'll close the public portion. Do I have any questions or comments from the Commissioners? Commissioner Raney?

Commissioner Raney: Please. I don't know whether I'm ragging this or not, but I understand and he's confirmed why the application is for C-2, but I wonder if commercial transitional isn't a better zone to put it in because it gives us more control and this is after all, infringing or taking or backing up to or converting if you will a residential property into commercial use. So I'm wondering if that really ...and that gives us more control because once this becomes C-2, then one could argue for the property on either side of it or North of it to be converted for the same reason – that it's adjoining C-2 property. Whereas, if it was a commercial transitional property, any future uses on that property – if they wanted to change it from use as a parking lot – would have to come back before us and it would give us a little more control and protection for the adjacent residential properties. That's all. I'm just ...I'm trying to give you my thinking process and where I came up with that.

Chairman Threadgill: I have no problem with it. Any other questions or comments from the Commissioners?

Mr. Taylor: Could I speak to that?

Chairman Threadgill: Yes, sir.

Mr. Taylor: This is the only parking available, besides on-street parking, for 42,000 square feet of redevelopment going on, so I really doubt that there will be anything other than the use of parking.

Commissioner Raney: I appreciate your remark.

Commissioner Campbell: Can he come back up?

Chairman Threadgill: Yep.

Commissioner Campbell: Can you come back up, Anthony?

Mr. Taylor: Yes, sir.

Commissioner Campbell: Would you be opposed to the CTR? I mean ...

Mr. Taylor: I don't see any difference to our client because we're going to have to come back for a conditional use for the parking lot anyway.

Commissioner Campbell: Yeah, but there's a lot of things that can go in a C-2 that you don't have to come back for is what he was alluding to.

Mr. Taylor: Well parking has to come back and that's all this guy wants to do with it.

Mr. Griffin : Is there not a 2 ...I'm sorry, is there not a two acre requirement for an individual zone to be established?

Director Sellman: CTR is exempt.

Mr. Griffin: Thank you.

Chairman Threadgill: The only one.

Director Sellman: Uhh, huh.

Chairman Threadgill: Alright, any other questions or comments from the Commissioners? Is there anyone in the audience ...Commissioner Clopton?

Commissioner Clopton: I'm going back to this. If we approve it tonight as CTR, he has to come back to be approved for a parking lot?

Director Sellman: For a conditional use, he does.

Chairman Threadgill: Even if it's a C-2, he has to come back. All he's requesting tonight is a zoning change, not a parking lot.

Commissioner Clopton: I'm with you.

Chairman Threadgill: Just a change from R-3 to C-2. We're only looking at a zoning change, not a parking lot.

Mr. Taylor: I might also point out – I'm not sure if this actually affects anything or not – but this formally was several different properties, parcels, and it's now one parcel, and so it makes more sense to have one parcel zoned one zone.

Chairman Threadgill: Alright. Commissioner Campbell?

Commissioner Campbell: Does CTR allow a parking lot?

Director Sellman: It does.

Chairman Threadgill: It will still have to come back for additional approval.

Commissioner Campbell: Yes.

Chairman Threadgill: Commissioner Mory?

Commissioner Mory: I have another question to his last comment. Are you saying that the piece that is being discussed tonight is now one parcel with the piece that is also C-2?

Mr. Taylor: Yes.

Commissioner Mory: Or is it all by itself?

Mr. Taylor: No, no. It along with the C-2 piece is now one parcel. The C-2 piece used to be several parcels and all this has now been consolidated into one property.

Commissioner Mory: In that drawing – this is for staff – in that drawing, from what he's saying, the red parcel and the hacks parcel (this lighter color) all now are actually one piece of property. The red, the darker red, is more than 50% of that. Would they even be required to be here tonight?

Director Sellman: Yes, that 50% thing is no longer in the Code.

Commissioner Mory: Oh, okay. Alright.

Chairman Threadgill: That was cut a couple of months back.

Commissioner Mory: Okay.

Mr. Taylor: That would have been too easy.

Chairman Threadgill: Yeah. <laughter> Too, too easy. Any other questions to the applicant?
Commissioner Campbell?

Commissioner Campbell: Yeah, one. Would you be opposed to CTR?

Mr. Taylor: No, but I don't think it makes any sense whatsoever. I think it would be absurd actually to try and rezone one piece out of this 43,000 square foot building that comprises 42 parking spaces.

Chairman Threadgill: Alright. I've closed the public portion. Do I have questions or comments from the Commissioners? None? Okay, we have a discussion on changing the zone from C-2 to CTR. My opinion, not a bad ideal. In the future, if somebody else decides to use this, it could be a lot split done again and the parcel used for basically anything and staff has the authority to do a single lot split. Not saying they would, but they do have the authority. I don't see anything wrong with the rezoning of that parcel to CTR. Are there any other questions? Commissioner Mory?

Commissioner Mory: I have one question. Do we affect the timing of the project if we change it tonight? Do we have that ability, or does he have to go back and reapply?

Chairman Threadgill: No. We can change it tonight. The motion will go forward to the Board of Directors as rezoning to CTR. We are just making a recommendation to the Board.

Commissioner Mory: That's right. Okay.

Chairman Threadgill: Commissioner Campbell?

Commissioner Campbell: Staff have any problem with the split zone on this parcel?

Director Sellman: Just conceptually, it's far more difficult to administer, but other than that, it's your call.

Commissioner Campbell: Okay.

Chairman Threadgill: Any further questions? I'll entertain a motion.

Commissioner Raney: Well I would move that we change the recommendation to read from C-2 to CTR, transitional.

Chairman Threadgill: You want to change it from ...to read from R-3 to CTR?

Commissioner Raney: Correct, rather than C-2.

Chairman Threadgill: Alright, I have a motion to amend the application to read R-3 to CTR. An affirmative motion will make this a request to rezone it to CTR to be sent forward to the Board of Directors for their approval. Understood? Do I have a second?

Commissioner Mory: Second.

Chairman Threadgill: I have a motion and a second. Any discussion? Call the roll, please.

Commissioner Raney – yes; Commissioner Thorp – yes; Commissioner Campbell – yes; Commissioner Mory – yes; Commissioner Clopton – yes; Commissioner Ames – yes; Commissioner Threadgill – no, due to the reason that I'm kind of against the separation of one

parcel of lots into two separate entities.

Chairman Threadgill: Alright, motion passes.

Director Sellman: If I could ask?

Chairman Threadgill: Yes.

Director Sellman: Would you like to make a statement as to reason for changing it to go into the recommendation to the Board?

Commissioner Raney: It allows us more control and management over the future uses of the property.

Director Sellman: Okay, thank you.

Chairman Threadgill: Alright. My apologies. I should have nailed him on that. <laughter> Alright, let's go to Item No. 11. Correct?

Director Sellman: Correct.

11. Rezoning (RZ-08-0204) – 300 Block of Broadway – rezone from M-1 to C-1 – 325 Broadway, 303, 305, 307, and 325 Broadway – District 2 – M-1

Director Sellman: Item No. 11 is a rezoning request on the 300 Block of Broadway. This is a request to change zoning from M-1, light industrial, to C-1, which is downtown business. It's located at 325, 307, 305, and 303 Broadway. The current zoning is light industrial, and it's located in District 2. The recommendation is for approval.

Chairman Threadgill: Alright, I need a motion to bring it to the floor for discussion.

Commissioner Raney: So moved.

Commissioner Ames: Second.

Chairman Threadgill: Alright, is the applicant present?

Male Speaker from the audience: I am. <laughter>

Chairman Threadgill: Please come forward and give us your name and address for the record, sir. Don't be mean to me this time.

Mr. Ray Owen, 209 Hobson is where my law office is: I'll be nice and sweet this time. <laughter> This absolutely just makes too much sense for ya'll to pass it, but the fact is this was, this backed up to the railroad tracks is what this did. That's why it's M-1. That's where they used to unload the hay and the stuff like that. Well the change is coming to this area. We've

already got the Cheese Corner there. We've got Verdigris. We've got a real estate office or an insurance office – Mr. Randall's. We've got the old Treadway Building which has been bought by Diane and Shane Bratton and will become at some point in time, shortly after Taco Mama's comes into play here pretty soon, the restaurant Shade Allen. I'm not on TV, so I don't really need to say that I don't guess, do I Diana? Anyway, the spirit of American cuisine, which will be a top notch restaurant. We may, we may get a Holiday Inn across the way. If we do, it really is going to be important. This just takes it to a C-1. This is the type of entertainment area, David, you and I had talked about before. It is I think Kathy talked about in the Gateway Study. It's already proposed to be this way. It really does make a whole lot of sense. When I first came up, when I first started talking about this, I met with Kathy. I met with the staff. We looked at the entire package. We talked to Kent about it. It seemed like the right thing to do there. There's C-1 across the street. There's C-1 kitty cornered across the street. It is for all intents and purposes like a downtown area and probably needs to be zoned that way rather than as light industrial manufacturing/warehousing, which it used to be but is no longer. So, that's really what we're asking to do. I think it's something that I know the staff was excited about doing this because it seemed to make a whole lot of sense. It just is the right thing for that area.

Chairman Threadgill: You done? <laughter>

Mr. Owen: Done. <laughter>

Chairman Threadgill: I didn't want to cut you short. Alright, any questions to the applicant from the Commissioners? Alright, sir, you may be seated.

Mr. Owen: Thank you.

Chairman Threadgill: Is there anyone in the audience with anything to say for or against this? Please come forward and give us your name and address for the record.

Mr. Anthony Taylor, 210 Central Avenue, Taylor Kempkes Architects: We were the architects for the original Transportation Plaza and Phase I of the Greenway. This was always what was envisioned for these buildings. I'm glad to see that it's finally come to fruition and it just shows that if you stay around long enough, things do actually develop as you maybe tried to put it in place or put it in play. And C-1 is the only zone that this needs to be considered as <laughter> because of its recognition of the density and nature of downtown development. Thank you.

Chairman Threadgill: Thank you, sir. Anyone else? Alright, seeing no other comments from the public, I'll close the public portion. Do I have any questions or comments from the Commissioners?

Commissioner Thorp: I'd just like to make one comment. I think it would nice in the building or however you plan to do your façade to maybe go along with what is there at the Transportation Depot and how it looks. I mean, you know some places they do ...like at Ouachita, they're buildings are all kind of alike; but we might not want a cookie cutter either.

Chairman Threadgill: Alright, hold on. One thing here ...

Commissioner Thorp: I know. I understand.

Chairman Threadgill: ...we're asking for a rezoning, not what's being built.

Commissioner Thorp interjects: I know. I know. But you asked for a comment ...

Chairman Threadgill: We're not going to discuss...

Commissioner Thorp: ...and I gave my comment.

Mr. Owens: But if it's okay, I can respond to that. Since this building existed before...

Chairman Threadgill: <Unintelligible>

Mr. Owen: Since this building was built before, since the Treadway Electric Building was built before I think that train station was, we probably are going to keep it in its existing form because I think it was built in 1922. So I don't really remember either one of those, so ...<laughter> But I think it's been there a long, long time.

Chairman Threadgill: Alright, thank you, sir. Any other questions or comments from the Commissioners?

Commissioner Thorp: No, thank you.

Chairman Threadgill: None? Alright, I'll entertain a motion on the rezoning only <unintelligible>.

Commissioner Clopton interjects: Mr. Chairman, I move that we forward this recommendation for approval to the Board of Directors.

Commissioner Thorp: Second.

Chairman Threadgill: I have a motion by Commissioner Clopton to send forward a motion of approval to the Board of Directors and a second by Commissioner Thorp. Call the roll, please.

Commissioner Campbell – yes; Commissioner Clopton – yes; Commissioner Mory – yes; Commissioner Raney – yes; Commissioner Ames – yes; Commissioner Thorp – yes; Commissioner Threadgill – yes.

Chairman Threadgill: Alright, we'll move to new business, Item No. 12.

Commissioner Clopton: I just wanted to say "thanks" for an easy one. <laughter>

12. Rezoning (RZ-08-0197) – Evans Property Annexation – initial zoning designation public hearing for proposed property to be annexed into the City on Lakeside Road

– no fee required – hearing November 13th – Lakeside Road – ET

Director Sellman: Item No. 12 is the Evans Property annexation. This is your consideration of an initial zoning designation for property proposed to be annexed into the City. It's located on Lakeside Road. This has been scheduled and heard by the County Judge for annexation. On November 3rd, it will be heard by the Board of Directors within the next month. The current zoning is of course extraterritorial jurisdiction. The proposed zoning is R-2, single family residential. The recommendation is for approval.

Chairman Threadgill: And this has been accepted by the County Judge?

Director Sellman: Yes, it has.

Chairman Threadgill: Alright. Alright, I need a motion to bring the item to the floor for discussion.

Commissioners Ames, Thorp, and possibly Campbell: So moved.

Chairman Threadgill: I have a motion and a second. Is the applicant present? Please come forward and give us your name and address for the record, sir.

Mr. Phillip Evans, 253 Springbrook, Hot Springs.

Chairman Threadgill: Alright, do I have any questions to the applicant from the Commissioners? None? You may be seated.

Mr. Evans: Thank you.

Chairman Threadgill: Is there anyone in the audience with anything to say for or against this item? Again, anyone in the audience with anything to say for or against this item? Seeing none, I'll close the public portion. Any questions or comments from the Commissioners? None? I'll entertain a motion.

Commissioner Raney: Move approval.

Commissioner Thorp: Second.

Chairman Threadgill: I have a motion to approve by Commissioner Raney and a second by Commissioner Thorp. Call the roll, please. Oh, any discussion? None? Call the roll, please.

Commissioner Ames – yes; Commissioner Campbell – yes; Commissioner Clopton – yes; Commissioner Mory – yes; Commissioner Thorp – yes; Commissioner Raney – yes; Commissioner Threadgill – yes.

Chairman Threadgill: Yes, item passes. We'll move to Item 13, new business.

13. Rezoning (RZ-08-0195) – Harmony Properties Three, LLC – rezone request from R-2 to C-4 – Corner of Section Line at Central Avenue – District 5 – R-2

Director Sellman: Item 13 is a request by Harmony Properties Three, LLC, for a rezoning. The request is to change from R-2, single family, to C-4. The property is located at the corner of Section Line at Central Avenue. It's currently R-2, low density residential. It's located in Director District 5 and the recommendation is for approval.

Chairman Threadgill: Alright. I need a motion to bring the item to the floor for discussion.

Commissioner Mory: So moved.

Commissioner Campbell: Second.

Chairman Threadgill: I have a motion and a second. Is the applicant present? Please come forward and give us your name and address for the record, sir.

Mr. Jim McAdams, 4039 Central: Thank you. I'm the registered agent for Harmony Properties Three. Actually I have the owner and managing partner, Ned Christie, from Chicago, Illinois, with me tonight. The Harmony Properties have developed several projects here – Chili's, Midas Muffler, Hancock Fabrics, Harmony Park – and this particular property has been owned by the family for over 50 years. Quite truthfully, we're just doing a proactive strike. We realize it didn't get rezoned and it's totally surrounded by C-4. Part of it was rezoned when the City rezoned the front 200' and there's about 0.65 acres left that we're asking to be rezoned to C-4.

Chairman Threadgill: Alright. Any questions to the applicant from the Commissioners? None? You may be seated. Is there anyone in the audience with anything to say for or against this item? Again, anyone in the audience with anything to say for or against this item? Seeing none, I'll close the public portion. Do I have any questions or comments from the Commissioners? None? I'll entertain a motion.

Commissioner Raney: I move approval.

Commissioner Campbell: Second.

Chairman Threadgill: I have a motion to approve by Commissioner Raney and a second by Commissioner Clopton. Discussion? Call the roll.

Commissioner Campbell – yes; Commissioner Clopton – yes; Commissioner Mory – yes; Commissioner Raney – yes; Commissioner Ames – yes; Commissioner Thorp – yes; Commissioner Threadgill – yes.

Chairman Threadgill: Alright, the item passes. It will go forward to the Board of Directors. Item No. 14, new business.

14. Rezoning (RZ-08-0199) – Betty Boone – rezone request from R-4 to C-2 – 105 Treva Place – District 4 – R-4

Director Sellman: Item 14 is the Betty Boone rezoning. This is a request to rezone from R-4, multi-family, to C-2, general business. It's located at 105 Treva Place. The current zoning is R-4. The Comprehensive Plan Classification is medium/high density residential. It's located in Director District 4. The recommendation is for approval.

Chairman Threadgill: Alright, I need a motion to bring the item to the floor for discussion.

Commissioner Mory: So moved.

Chairman Threadgill: I have a motion ...

Commissioner Clopton: Second.

Chairman Threadgill: ...and a second. Is the applicant present? Please come forward and give us your name and address for the record, sir.

Mr. Steve Street, Lake Hamilton Realty, 4425 Central, Hot Springs: The owner is Betty Boone.

Chairman Threadgill: Alright, do I have any questions to the applicant from the Commissioners? None? Alright, you may be seated.

Mr. Street: Thank you.

Chairman Threadgill: Is there anyone in the audience with anything to say for or against this item? I guess not. I'll close the public portion. Do I have any questions or comments from the Commissioners? Commissioner Raney?

Commissioner Raney: Just looking at the zoning map as it was presented to us, is there going to be a small strip of R-4 between it and the other C-2 District – that will be on the East ...?

Chairman Threadgill: No, sir. That's actually the center line on the street.

Commissioner Raney: Oh, is that? Okay.

Chairman Threadgill: Yeah. That will be commercial as well.

Commissioner Raney: And I take it that the property North of it is still going to be R-4.

Chairman Threadgill: Yes.

Commissioner Raney: Okay.

Chairman Threadgill: Am I looking at the directional map wrong here?

<Several people are talking at once.>

Director Sellman: <Unintelligible> right here.

Several Commissioners: North is up.

Chairman Threadgill: North is up. North is residential. Correct? Yes, it will be.

Director Sellman: Mmm, huh.

Chairman Threadgill: Alright. Any other questions? None? Alright. No others? I'll entertain a motion.

Commissioner Clopton: Mr. Chairman, I move that we send this forward to the Board of Directors with a recommendation of approval.

Chairman Threadgill: Alright, I have a motion to approve with recommendation sent forward to the Board of Directors with approval. Do I have a second?

Commissioner Thorp: Second.

Chairman Threadgill: Alright, I have a motion by Commissioner Clopton and a second by Commissioner Thorp. Comments? Commissioner Campbell?

Commissioner Campbell: Why are we leaving that R-4 in there – a question to staff?

Director Sellman: There was no request to change that.

Mr. Griffin: Which portion?

Chairman Threadgill: The portion right in front of it – at the top of it.

Commissioner Raney: North of it.

Mr. Griffin: North of it? That's not owned by this applicant.

Chairman Threadgill: Right.

Commissioner Campbell: But it is <unintelligible due to distance from mic>.

Chairman Threadgill: That's a separate parcel.

Mr. Griffin: That is not owned by this applicant.

Chairman Threadgill: The one requesting the rezoning.

Commissioner Campbell: Okay.

Chairman Threadgill: You don't rezone property unless you have the request of the applicant or <unintelligible>.

Commissioner Campbell: That's why I was asking.

Chairman Threadgill: <Unintelligible> Okay. Any other questions?

Commissioner Campbell: That's all I have.

Chairman Threadgill: What?

Commissioner Campbell: That's all I have.

Chairman Threadgill: Okay. Any other comments from the Commissioners? I'll entertain a motion.

Commissioner Ames: We have a motion.

Commissioner Thorp: We already have a motion. We just need to vote.

Chairman Threadgill: Done? Okay. Call the roll, please. Thank you.

Commissioner Clopton – yes; Commissioner Ames – yes; Commissioner Thorp – yes; Commissioner Campbell – yes; Commissioner Raney – yes; Commissioner Mory – yes; Commissioner Threadgill – yes.

Chairman Threadgill: Item passes. Go forward to the Board of Directors for their approval. We'll go to Item No. 15.

15. Ordinance Amendment (OA-08-0188) – Subdivision Code text amendment – hearing to receive public input regarding proposed revisions to the City of Hot Springs Subdivision Ordinance – City Wide – City Wide

Director Sellman: Thank you. Item No. 15 is the Subdivision Code text amendment. This is an ordinance amendment that considers the entire Subdivision Code. A little history – this is the culmination of probably three or four years of work, numerous public meetings (this is the second public hearing to be held in 2008), and this is for the purpose of correcting considerable technical errors in the existing Code and better accomplishes the goals of the Comprehensive Plan.

Commissioner Campbell: Is that it?

Director Sellman: Mmm, huh.

Commissioner Campbell: Okay. Our Chairman had to leave for a minute. Do I have a motion to bring this to the floor?

Commissioner Thorp: I make a motion. <Unintelligible>

Commissioner Campbell: Do I have a second?

Commissioner Clopton: Second.

Commissioner Campbell: Alright, we do have a motion and a second. Is there any other comments that you would like to make on it before we ask the public?

Director Sellman: Not at this time, no.

Commissioner Campbell: Okay.

Director Sellman: Thank you.

Commissioner Campbell: Alright, anybody in the public want to comment on this? Would you come forward now?

Male Speaker later identified as Glenn Smitherman: I look around. I think I'm the only "public" here. <laughter> <Unintelligible> say something ... I'm Glenn Smitherman, 100 Saxony, Hot Springs, District 6 I think. I guess this is a public meeting. <laughter> You know I really didn't have any comments. I know ya'll have worked a long, hard time on this thing. I wonder sometimes from sitting through one of your meetings, if you don't have too many regulations sometimes from the different things that it takes and all the time ya'll put in. I don't see where you're going to change – and I'm not sure I've even got a correct draft copy. Of course we went through this thing, but the only comment – and I think most of you are aware of what I relate to – it's just vacant property more than 20 acres. I think we've been through this before. I know ya'lls feelings and comments on this property. Ours would be that any time anybody sells any more than three acres, it wouldn't have to be approved by anybody. That's not going to happen, but that would be our deal because some of us that just got property that all we want to do is sell it, even though we are technically a subdivision, it's not a subdivision in the common use of the word with houses and buildings and stuff like that. So the only other comment I would have was that on the §16-4-65 acquisition of public lands – apparently if there is an area marked by the Master Plan for trails and other uses for future use – and I may be reading this wrong, so correct me if I'm not – if I go to do something with this property and it's marked for a trail or a bicycle trail or something, I have to give the City the first option to buy this property?

Director Sellman: I believe that's correct and the City then has to respond in a timely manner and based upon the appraisal process to establish the value.

Mr. Smitherman: I know we've got a Master Plan I haven't seen. I know ya'll have got a hearing on the Transportation Master Plan coming up. But I know there have been bike trails,

hiking trails, all kinds of stuff put out on a Master Plan over the years for future development and stuff like this, and I think some of our property may be included in this Master Plan for a bike trail and stuff. So if I go to sell this and I've got an offer on the table, I have to tell this guy that I can sell it to you if the City doesn't want it? Which is really an option? I mean you're really, the City really has first option of refusal on this thing?

Director Sellman: That's if your proposing to subdivide land. It's only if you're proposing to subdivide it. And ...

Mr. Smitherman: You lost me on the word "subdividing".

Director Sellman: Right. If you are coming in, you've got hundreds of acres and that I know like the back of my hand <laughter> and if you came in with a plan to subdivide that whole thing, if there were trails on the Master Plan there, we would sit down and look at those with you and the City would look at what its needs were and how it could accomplish those.

Mr. Smitherman: Okay, let's just get, let me, you know, and I get lost because I'm not real smart, but I get lost on this thing. We've got 50 acres on one side of McLeod, 10, 15 acres on the other side of McLeod next to a creek which is the area marked for Master Trail plans and bike stuff. Okay? If I get an offer for 20 acres on the North side, 10 acres on the South side altogether straight across, does the City have the option on the South side to buy that property first?

Director Sellman: I can't answer that question.

Mr. Smitherman: That's what I'm trying to figure out.

Director Sellman: Yeah. Yeah.

Mr. Smitherman: Is the City wanting an option to buy? Is the City wanting an option on property without actually giving anybody any money? Do they have the first right of refusal without anything else? I guess that's what ...

Chairman Threadgill interjects: You have say 50 acres on the one side and 20 acres on the other.

Mr. Smitherman: Okay.

Chairman Threadgill: You want to sell off five here and 10 there?

Mr. Smitherman: No. Straight across. 20 acres straight across, North and South. Property running East and West. You sell off 20 acres North and South across both sides of the road.

Chairman Threadgill: But you still have additional property.

Mr. Smitherman: Exactly. But ...

Chairman Threadgill: So you have to subdivide ...

Director Sellman: Well, not necessarily.

Mr. Smitherman: But, but part of the acres ...

Director Sellman: Not necessarily. The land that you have is sized, significantly sized, so that there is a possibility for you to do an exempt land division where you would create a parcel of land that was 10 acres or more, leaving land that was 10 acres or more, and that is exempt. That does not kick in the subdivision trigger.

Mr. Smitherman: It does not kick in the Master Trail deal.

Director Sellman: No, it would not.

Mr. Smitherman: Okay. But that was kind of the way that I was reading this thing. And going back to the exempt part is what I would like to have three acres or more. You know, I don't really ...there's not that many acres that are left in the City of Hot Springs this large ...

Director Sellman: Right.

Mr. Smitherman: And that's why I'm saying, you know, if you go to sell ...Sorry about that, my hearing aid is ...

Chairman Threadgill: No problem.

Mr. Smitherman: If you go to sell three acres, ya'll still have control over anything that is built on that three acres, even though it's vacant property. I get hung up I guess on the word "subdivision" as far as vacant property is concerned I guess is what I get hung up on. Technically, it's subdividing subdivided property which technically is a subdivision. But I just get hung up on the property part of vacant property being a subdivision. I really do.

Commissioner Mory: One comment that I wanted to make.

Chairman Threadgill from a distance: Commissioner Mory?

Commissioner Mory: One comment that I wanted to make about the acquisition of the land. The City can acquire the land for the appraised value roughly. They cannot just go in and take it for nothing and that's where it's kind of come into play because if the value of the land is fairly significant and nothing to <unintelligible> saying, they will have to consider the cost of the acquisition of that land at that time as part of their decision. It may be some grand idea to have a trail wandering, but if something comes in and that property on that creek side all of a sudden, you know, to get it, it's worth you know \$500 a linear foot across the creek for whatever reason, then that's what the City's going to have to consider.

Mr. Smitherman: Yeah, exactly. You know and your Parks Department is pretty aggressive

about doing grants and stuff for money. You know they get a lot of <unintelligible> 90 funds and stuff like this for parks and stuff. We just weren't quite aware of whether we were actually giving this Master Plan or this thing is actually giving the City the option the first right of refusal is what it actually sounds like, you know, the way it's written. The 10 acre deal, you know, we've been through this thing.

Director Sellman: Right.

Mr. Smitherman: But when you're putting bike trails out and everything else, the City could go through condemnation procedures. I don't know that they ever have. Don't know if they ever will. We've been through one back when they built the bypass. You know, they took 30 acres and we did all the bids with the Highway Department back then. That was one of the things that we were concerned about. Of course, we would like to see anything three acres or more not be approved by anybody. <laughter> So that would be ours. We wanted to tell you we were here for the public hearings whether anybody else is or not.

Commissioner Thorp and others: Good.

Mr. Smitherman: Thank you.

Chairman Threadgill: Go ahead.

Commissioner Campbell: Anyone else in the audience want to comment on this? Again, anyone else want to comment on the Subdivision Code? Seeing none, I'll close the public portion. Is there any discussion amongst the Commissioners on it? It's been a long, hard battle to get it to where we've got it. It's not right, but it will work for awhile.

Commissioner Raney: It's a living document.

Commissioner Campbell: Yeah. Alright. No discussion on it? I'll have a motion.

Commissioner Clopton: Mr. Chairman, I move that we send this forward to the Board of Directors for final approval.

Commissioner Raney: Second.

Commissioner Campbell: We have a motion to send it to the Board of Directors by Commissioner Clopton and a second by Commissioner Raney. Any further discussion? Call the roll, please.

Commissioner Mory – yes; Commissioner Thorp – yes; Commissioner Raney – yes; Commissioner Clopton – yes; Commissioner Ames – yes; Commissioner Campbell – yes; Commissioner Threadgill – I'll vote yes, but I would rather that Commissioner Campbell's name be the last name on that since he was chairing at the time.

Chairman Threadgill: Alright. If I might, I'll resume my seat back again.

Commissioner Campbell: Get it.

Chairman Threadgill: Alright. Item No. 15. Thank you, sir. Correction, Item No. 16.

Male Speaker: Gary, microphone.

Chairman Threadgill: Oh. Item No. 16. Thank you.

16. Comprehensive Plan Revision (CPR-08-0087) – Transportation Master Plan – recommendation on Transportation Master Plan

Director Sellman: Item No. 16 is the Transportation Master Plan. This is a project of the Hot Springs Area Metropolitan Planning Organization. This is a city, county, state, regional group that has spent two years developing an inventory and analysis of the existing transportation system and projecting future needs. This establishes a set of guidelines that all of the agencies that are responsible for transportation in the region will consult when they are making decisions. The plan with regard to how the Planning Commission uses it has probably three major roles: One is to identify the functional classification of the street and highway system, and that's that list that we consult every time we have a subdivision or other project that needs review. That list itself is not in the plan at this time. There is a map and MPO Study Director, Diane Morrison, will be preparing that list so that we can adopt that into our Code for use. It also provides a basis for capital investment decisions, both at the local level and at state level. It establishes the standards for public improvements related to new development as well as for system-wide transportation projects. If it's approved, the recommendation is that you would recommend to the Board of Directors that they adopt this plan as an element of our adopted Comprehensive Plan.

Chairman Threadgill: Alright, anyone in the audience have anything to say for or against this? I'll let them get up and then I'll let you have it, Diane.

Mr. Glenn Smitherman, 100 Saxony: Are you the lady that's in the MP? Well we had gone to a couple of meetings down there. What we were having trouble finding out information on projects that were designated long-term, short-term projects on improvements and ya'll had a bunch of maps down there with street lights and street improvements and stuff. One of the areas ...

Chairman Threadgill interjects: Alright, Mr. Smitherman, <unintelligible>.

Mr. Smitherman: One of the areas that I was trying to get an answer out of her. One of the areas that they had on a short-term improvement was Ridgeway Boulevard, but nobody down there at that time could ever give us what they were going to do on Ridgeway – which we live down that

way. We never have been able to find out even though it was on a short-term list of improvements. I mean a short time, not a long-term improvement, but a short-term improvement.

Chairman Threadgill: Alright.

Mr. Smitherman: We never have been able to find out what ...and I don't know how they ...

Chairman Threadgill: Under the new Master Plan that Diane has there that's been in her office for some weeks now. It breaks it down into sections. It has Ridgeway and all the others. It shows it on maps, definitions what the intent, future intent or possibilities are.

Mr. Smitherman: I think we've made several calls to your office trying to find out. It was back ...it's been a long time since we've had this last meeting at the Transportation Plaza. All we were wondering is what's happening on Ridgeway for the near future?

Chairman Threadgill: Alright.

Mr. Smitherman: And I didn't know ...

Chairman Threadgill: Is that the only question you have?

Mr. Smitherman: Yes, sir.

Chairman Threadgill: Alright. Hold it. Hold on, Diane. Let's get them all ran out and then we'll ... I need your name and address for the record Ms. Smitherman.

Ms. Cheryl Smitherman, 100 Saxony: I have another question. Also we had a real estate agent that talked with the Planning Director and told us that McLeod Street was listed as I think a main artery street and said our street was not a dedicated street, so there's like a City dedicated street, so there's kind of a problem with that. You know, making it an 80' right-of-way when it's not ...it's in the City, but ...The City annexed it. It's just a problem on the Master Plan Transportation, so I'd like to have that in question ...

Chairman Threadgill: Okay, we'll address that as well.

Ms. Smitherman: ...you know, worked out before the Master Plan was sent to the Board.

Chairman Threadgill: Alrighty.

Ms. Smitherman: Thank you. Could she, you know, could she verify that?

Chairman Threadgill: She'll address your questions here in just a second.

Ms. Smitherman: Okay.

Chairman Threadgill: Alright? Thank you, Ms. Smitherman. Alright is there anyone else in the audience that has any questions before I ...? Diane, would you please come forward and give us your name, address, and title, please?

Ms. Diane Morrison, Hot Springs Area Metropolitan Planning Organization Study Director, 100 Broadway Terrace, here in Hot Springs.

Chairman Threadgill: Before we get too deep, would you try to address their two comments?

Ms. Morrison: I want to answer theirs first before I forget my <unintelligible>. <laughter> I'm hungry and it's late. To answer the first question with regards to Ridgeway, there is a project proposed – no money attached to it, no ...there's five to 10 years bet, still you know kind of up in the air – to extend <unintelligible> Way to the East to connect to Ridgeway. <Unintelligible> were to classify it as a minor arterial to be constructed to four lane, divided cross section with a dedicated bike lane and full pedestrian accommodations. That's too, because we have such a problem with there not being – it's page 71 – with very many East/West connections. I mean you can go from Greenwood, you can go only so far and then go “Hmmp, now what? Now we have to go over here.” And I believe there are also maps on page 115, now these are by no means – I don't want anyone to jump up and down and get excited as far as exactly where they are going to go – this was just basically the consultants put a line on the map. So I don't want anyone to jump up and down if it shows a line going through, directly through the Boys and Girls Club, which is completely wrong. <laughter> So you know that's ...it says five to 10 years because it is one of those things that yeah, if it was a perfect world, that would be great. But realistically, no. It's not probably going to happen in five to 10 years.

Male Speaker from the audience: Well, you know ...

Chairman Threadgill: Any comments, please come back to the microphone, sir. We've got to get you on recording here.

Mr. Glenn Smitherman, 100 Saxony: You know and I can see some of the dream world, but sometimes we're spinning our wheels with doing dreams like this that this is not going to happen in any of our lifetimes. I don't see ...and we've got where you're connecting Albert Pike ...I've lost my page here. But your ...115. Is that what you have?

Chairman Threadgill: Alright, now what you have is a ...

Mr. Smitherman: Ultimately connections should intersect Malvern Avenue, 270, where Ridgeway Street. This connection would provide a continuous East/West connection from Albert Pike to 270?

Ms. Smitherman: What is Greenwood?

Ms. Morrison: Because Greenwood you can get essentially from Albert Pike via ...okay, I've lost it a second. Thank you. To Greenwood and across.

Chairman Threadgill: Again, these are just plans that they've come up with that these could be the future directions that we go. There's nothing cut in stone.

Mr. Smitherman: I know. And I know <unintelligible> she's doing a fabulous job, but sometimes these plans need to be more realistic than dreams sometimes. I can't see this happening somewhere <unintelligible>.

Ms. Morrison: We also have a long-range Transportation Plan that is the actual <unintelligible>.

Mr. Smitherman interjects: But this is a five year deal.

Ms. Morrison: No. That's just for ...No, not the entire thing. The entire thing is 20 years. <Unintelligible>.

Chairman Threadgill interjects: Okay, hold up. We're losing it here. We need to keep this as a meeting and not a conversation. Direct all comments up here, please.

Mr. Smitherman: Thank you.

Ms. Morrison: I'm trying. I'm trying. The second question was about McLeod and what it was classified as. It's classified as an urban major arterial.

Chairman Threadgill: Which is?

Ms. Morrison: Which is ...now you're going to make me change pages again. <laughter> Let me find the page. An urban minor arterial would be 50' of pavement – this is at build out. We're not talking about at immediate moment. At build out it would be, with sidewalks and four 12' lanes – you know, two lanes in each direction, 12' – with a total of 80' of right-of-way. But

again, that's at build out. That's not tomorrow, five years from now. That may be 20 years from now.

Commissioner Campbell: Diane?

Chairman Threadgill: Alright, Commissioner Campbell?

Commissioner Campbell: You said urban major and then you said urban minor.

Ms. Morrison: Well it's classified, the drawings are classified either way if it's urban major or urban minor.

Commissioner Campbell: Current size?

Ms. Morrison: This one is classified as urban major.

Commissioner Campbell: Alright. <Unintelligible> make it bigger then?

Ms. Morrison: McLeod. Eventually, yes.

Commissioner Campbell: Okay. It's bigger than the minor. You described a minor.

Ms. Morrison: Well, yes, it's major and minor. I'm saying the drawings are for either one.

Chairman Threadgill: Hold on just a second. What's <unintelligible>?

Commissioner Thorp: Can I make a comment while ya'll are looking?

Chairman Threadgill: Let me get to the Master Street Plan here and find out what it is right now and then we can give you what the perspective might be. Any other questions or anything before we get ...?

Commissioner Thorp: Diane, how many of these books do we have?

Ms. Morrison: Hmm?

Chairman Threadgill: Okay, arterial right-of-way is 70' right now and you said the major and minor would be what in the future?

Ms. Morrison: Right-of-way would be 80'.

Chairman Threadgill: Okay, so you're looking at maybe 10' wider.

Ms. Morrison: 10' of right-of-way.

Chairman Threadgill: It would not be ...an additional 10' of width – 5' off each side.

Director Sellman: Well I think in the question that Mrs. Smitherman raised is that at the time of subdivision, from the center line of that right-of-way, there would be a line drawn that would be half the distance of that required street width. In this case, if it was 80', it would be 40' from the center line of McLeod to a point on her property. And I believe she is concerned about the amount of property that that would be, that would then be dedicated to public street use.

Chairman Threadgill: If it progresses into what Diane says, that will be an additional 5' more of her property. That's where I was going with this, with the addition of 5'.

Ms. Smitherman: Well I really see it as a <unintelligible> more than 5' because she said 80'. You know we dedicated the road to the County, but the road is not a dedicated City road. So it's just a question of really how much right-of-way the City has.

Chairman Threadgill: It's labeled in the City's book as an arterial. So it is labeled.

Ms. Smitherman: Right, but you have to go by the, you know, how wide really ...I mean the City has taken care of the street, the pavement on the street, but the right-of-way, you know, they haven't ...It's just kind of a legal question, you know. I mean the only reason I'm concerned about it is because when Ms. Sellman said that the Planning Department would look at this Master Plan on Transportation when they're reviewing plans I believe. So I want my street clarified on the right-of-way, you know. McLeod Street. It's not really clarified that it's 70'.

Chairman Threadgill: It's clarified right here in the Master Street Plan under ...

Female Speaker: That's the existing one.

Chairman Threadgill: Yeah, the existing one under §15-10-14-1...

Ms. Smitherman: Well I want it changed from the Master Plan. I don't agree with the Master Plan. <laughter>

Chairman Threadgill: We're not working on the Master Street Plan right now.

Ms. Smitherman: Well you're having a hearing on the Transportation part.

Chairman Threadgill: That's a different ...different...Right now the Master Street Plan says that that road is 80'.

Ms. Smitherman: That's what they're wanting to claim in the future. I thought this was a hearing on that.

Chairman Threadgill: That's what they're wanting as well. That's what it already is, so...

Ms. Smitherman: That's just a question. <laughter> You don't have a dedicated City street.

Director Sellman: I believe what Mrs. Smitherman is concerned about is that there is a street there now that is supposed to be 80' and it isn't 80'.

Ms. Smitherman: No.

Director Sellman: So when she is ready to develop, then it will be the responsibility of the Smithermans or whoever is the owner of that land or similar land to dedicate the increment between what the street is now and what the street is to be in the Master Plan. And ...

Ms. Smitherman: You want us to give you that property? Is that what you're telling me? You want us to give the City 80' of right-of-way?

Director Sellman: 40'.

Ms. Smitherman: 40'. Okay. 40'. Okay. Cause <unintelligible> only had 60' and now you want 40'. Doesn't make ...<unintelligible>

Director Sellman: The street itself in the adopted plan that's in place now, McLeod on that segment of McLeod that is adjoining your property or intersects your property, the width of improved McLeod if McLeod was improved is to be 80' and that includes the shoulders, the sidewalks, the gutters, the curbs, the street.

Ms. Smitherman: Well the City has used it as a street and paved it, so they have taken over that part of the property that they use.

Director Sellman: Part of it, yeah.

Ms. Smitherman: Right? It's just ...I just don't agree with your Master Plan, so ...On the

Transportation part. Thank you.

Chairman Threadgill: Alright, Diane. If you'd like to start back at the beginning and let us have the whole nine yards.

Commissioner Thorp: Nnn, huh.

Chairman Threadgill: In a quick version.

Ms. Morrison: Well Kathy covered most of it as far as what will be important to the Planning Commission, but first of all, it was okayed by the Technical Committee. It has been out for public comment three different times before and after meetings. There's been three public meetings on it. The Technical Committee met October 28th and recommended it to the Policy Board. The Policy Board adopted it at their meeting on October 30th and now it has been sent to the Planning Commission for ya'll to recommend to the City Board of Directors. It also goes to the Quorum Court. Basically that's everybody on the planet. It was written and 90% of the research was done by Traffic Engineering Consultants out of Oklahoma City. I worked with the Highway Department in doing several different rewrites and corrections. Like I say, it does take ...it updates the current functional classifications system of roads and it also takes and adds the Master Trails Plan onto the functional classification. So that way it will be easier when roads are being improved, when there's a development to see that okay, yes, this is on the Master Trails Plan so it needs to have this much right-of-way dedicated because of that for this project. There is <unintelligible> things in here of exactly what each of the road segments should look like at build out. So that's one of those things that ya'll would look at and say okay, there's this development on this road which should have a right-of-way eventually of 80'. You know that's at build out. It may not be four lanes for 50 years, but it has the capability of being that way now. This also shows, you know, the sidewalks, bike lanes, and how everything like that should be designed at the absolute minimum standards. It also has an access management plan, which is a big change from what we have now. It explains – and it starts on page 94 if anyone is thumbing through trying to stay awake – that states how far away driveways must be on particular roads. On a residential street, it's pretty much wherever driveways would usually be. We're not trying to regulate anything like that. But for example – I don't want anyone to have a heart attack on me tonight – for example on say like an urban principal arterial, something like Central Avenue for example, the driveways should be 300' apart. It also shows how far driveways should be from street intersections. It also states only one driveway per lot frontage shall be allowed. Now I do need to get with Nate, the Fire Marshal, to see what he can ... If he's okay with that or if that's going to give the Fire Department some serious heart burn or not. And if so, what can be done to fix that. This is not set in stone for all eternity. It can be amended by the Planning Commission, the City Board, the MPO, even the Highway Department or the public can come in with consideration for amendments at a future date. This is not the MPO's Long

Range Transportation Plan. That is a separate document that the MPO has to do every five years. This is the City, County, MPO, a little bit of everybody collaboration.

Chairman Threadgill: Everybody have an understanding of what she just said? Great. <laughter>

Ms. Morrison: Is anyone asleep yet?

Chairman Threadgill: I want to put out a word of thanks to Diane to start with. I sit on the Executive ...what committee is that?

Ms. Morrison: Policy?

Chairman Threadgill: Policy. Thank you. I knew I sat on one of them. There was tons and tons of work done on this booklet and if you'd have saw it four months ago, you would have laughed. It was a total disaster. I've seen better looking funny books. Diane and her office has worked real hard. They dealt a lot with Kathy and the Technical Committee part of it and everybody's worked it out and I think they've done a real good job. I just want to recommend them all for a job well done. Second, if there's any questions on the document. Anybody have any? Commissioner Thorp?

Commissioner Thorp: Could we get that front page changed and spell October correctly? It sure stands out and it's really bad. I think that's ...

Chairman Threadgill: See all those atta-boys just went out the window.

Ms. Morrison: <Unintelligible> it really ...I can't really saw that I did not type it.

Commissioner Thorp: I know you didn't do that. I'm just saying ...

Ms. Morrison: That one I could actually blame on someone else, but yes, we can change that.

Commissioner Thorp: Thank you.

Chairman Threadgill: Alright. Anything else? If that's the only misspelled word, I'll give you the book last <unintelligible>.

Commissioner Thorp: It's right there on the front page and it stuck out like a sore thumb.

Chairman Threadgill: I didn't even pay attention to it. <laughter>

Ms. Morrison: Well that's right. I'm sitting here staring at it going, what is it she's saying?

Chairman Threadgill: When you look at it for six months, you kind of go brain dead. Alright, any other comments?

Commissioner Campbell: You probably scared the contractor when he <unintelligible>.

Ms. Morrison: I don't know. They refused to talk to me after a while, so ...

Commissioner Campbell: That they weren't going to get their money if they didn't get it together. <laughter>

Chairman Threadgill: That's probably where they got most of it. Anyway.

Commissioner Thorp: Let's go.

Chairman Threadgill: Alright. Any other questions? Alright, I'd like a recommendation to send this forward to the Board of Directors as-is.

Commissioner Mory: So moved.

Commissioner Thorp: Second.

Chairman Threadgill: I have a recommendation by Commissioner Raney and a second by Commissioner Thorp.

Commissioner Thorp: It's Mory.

Chairman Threadgill: It was Raney.

Commissioner Thorp: No, he did not.

Chairman Threadgill: Mory did? Alright.

Commissioner Clopton: Asleep again.

Chairman Threadgill: Speak up. <Unintelligible> Commissioner Campbell over here. <laughter> Alright, call the roll.

Commissioner Raney – yes; Commissioner Ames – yes; Commissioner Campbell – yes; Commissioner Mory – yes; Commissioner Thorp – yes; Commissioner Clopton – yes; Commissioner Threadgill – yes.

Chairman Threadgill: Alright. That's the end of the agenda. Do I have any comments from staff?

Director Sellman: Yes.

ITEMS FOR DISCUSSION AND ANNOUNCEMENTS

1. PLANNING DIRECTOR'S REPORT

Director Sellman: I would like to applaud your perseverance in working through the Subdivision Ordinance. I think you have an excellent document. You'll probably want to make changes to it after you use it for awhile, but man, you have come so far with this thing. So thank you all very, very much.

Commissioner Thorp: Put it in my envelope, will you? <laughter>

Director Sellman: Yes, I'll put it in your envelope.

Commissioner Campbell: I have the only question about the Subdivision Code. Could you explain to me where it says subdivision ...

Chairman Threadgill: Did you get that copy back from them?

Director Sellman: Mmm, huh.

Chairman Threadgill: Okay.

Commissioner Campbell: ...the division of any tract or parcel of land into one or more lots?

Director Sellman: That's what it says now too. Yeah. It's the setting of a perimeter for one or more lots.

Commissioner Campbell: Mmm, kay. That subdivision ...

Chairman Threadgill: It sounds dumb.

Director Sellman: That's why you can do the ...whatever it is that we do all the time ...Article

II. That's a one lot. Yeah.

Commissioner Campbell: Okay.

Chairman Threadgill: Alright, I've got one question. Where is that located in here? Subdivision. Definitions.

Director Sellman: Right here.

Commissioner Campbell: You've got it.

Female Speaker: <Unintelligible – out of mic range.>

Chairman Threadgill: You've got my unlisted. There you go. <laughter> Alright, I've got one question. I'll get it real quick and then we'll figure out ...Okay.

Commissioner Thorp: Can we <unintelligible>?

Chairman Threadgill: It was the definition of a subdivision. Where is it?

Commissioner Campbell: It's right here. Here it is.

Commissioner Mory: It's on page 65, Gary. In this one.

Commissioner Campbell: I don't know what it is in that one.

Commissioner Mory: Would you like me to read it to you?

Chairman Threadgill: Yeah.

Commissioner Mory: The division of any tract or parcel of land in one or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale, lease...

Chairman Threadgill interjects: No, that's not it. Where does it specify a subdivision as being commercial subdivision, manufactured subdivision, manufactured home park subdivision? Where's that?

Commissioner Mory: Next. We have subdivision commercial, subdivision industrial, subdivision residential, subdivision boundary.

Chairman Threadgill: Yeah, but there's a phrase in there that says "These five are..."

Director Sellman: No. That's in the <unintelligible>.

Chairman Threadgill: Okay. Where is it? Yeah. That's what I'm looking for. That ...okay.

Commissioner Campbell: And they're all defined.

Commissioner Ames and Thorp: Why are we looking for that?

Chairman Threadgill: I'm getting there. Hold your horses.

Commissioner Ames: And then we can go home?

Chairman Threadgill: Yep. Maybe.

Commissioner Clopton: I think I'll stay up and go to work.

Chairman Threadgill: <Unintelligible> we're going to do. Nope. That's still not what I'm looking for. In the ordinance that we're just now writing, it states there are five types of subdivisions – commercial subdivision and that's the phrasing of it is commercial subdivision ...

Commissioner Campbell: Commercial industrial ...

Chairman Threadgill: ... residential, commercial industrial, residential, mobile home, manufactured homes, and something else. In our old one, there was six.

Commissioner Mory: What's the wording you're looking for?

Chairman Threadgill: <Unintelligible>.

Commissioner Mory: What's the wording you're looking for?

Chairman Threadgill: That's what I'm looking for. It's under the definition or something. It says what a manu...what a mobile ...what a subdivision is. What types of subdivisions are there and it says there's five types – commercial, residential, you know mobile home, manufactured home and there was something else. In this one, it specifies one number. In our new one, it's one less.

Commissioner Ames: We're searching for the term.

Director Sellman: I remember talking about that about a year and a half ago.

Chairman Threadgill: Mmm, huh.

Commissioner Raney: What do you guys want?

Commissioner Ames: I just flipped to commercial subdivision and see if it would come up.

Commissioner Campbell: It's on page 4 here. Recognizing subdivisions.

Chairman Threadgill: What paragraph is it?

Commissioner Campbell: §16-4-10.

Chairman Threadgill: §16-4-10.

Commissioner Campbell: It says there's six.

Chairman Threadgill: I've got variance. On §16-4-10, I've got variances.

<Several are speaking in the background away from mics.>

Commissioner Clopton perhaps: Under 3, you've got a manufactured home subdivision.

Chairman Threadgill: Is that the new one?

Commissioner Ames: It says six right here.

Director Sellman: Yeah.

Commissioner Campbell: §16-4-10.

Commissioner Ames and others: §16-4-10.

Commissioner Ames: Commercial office, industrial, manufactured home parks, manufactured home subdivision, residential, and minor subdivision.

Commissioner Thorp: Incidental.

Commissioner Campbell: Incidental subdivisions.

Commissioner Ames: Incidental submissions. One, two, three, four, five ...

Chairman Threadgill: Okay. §16-4-10.

Commissioner Ames: ...six.

Chairman Threadgill: Okay. §16-4-10. And what is that listed under? Types of subdivisions? Here we go.

Male Speaker: <Unintelligible>.

Chairman Threadgill: Yeah, that's what I'm saying. There's ...there was a

Male Speaker: There was a different number.

Chairman Threadgill: There was a difference ...

Commissioner Mory: Now the one that I have printed out right here is the one that's from my packet, and it lists six of them.

Director Sellman and others: Yeah.

Chairman Threadgill: That's what I'm saying. Types of sub ...Okay, there you go. See in the old one, it had types of subdivisions. There's five. Now you've got 6.

Director Sellman: Right, because we added in the lot split, the minor, those things that don't fall under a big heading, were just out there, out there in the old Code. If you didn't look for them, you wouldn't find them. Now they're organized.

Chairman Threadgill: And they would fall under the incidental? Okay. That's what my question ...I new we had added.

Director Sellman: Yeah. I didn't understand what you were asking.

Chairman Threadgill: That's alright. I knew what I was thinking, but I couldn't get it out there. But that's what I was ...

Director Sellman: We put those small pieces with varying <unintelligible> rules and all in that section.

Chairman Threadgill: Here you go, Jeff. Alright, any other comments or questions anybody?

Commissioner Mory: I have one quick one. I'll make it quick.

Chairman Threadgill: Commissioner Mory?

Commissioner Mory: I know we all gave Larry a hard time about the commercial transitional, but I think he has a very valid point on a lot of these. Even the one he brought before the last meeting I actually agree with him on, but there was a problem there with timing or whatever it was so we went on ahead and did the C-2 that they requested. But I would like to make a comment to staff that that becomes something that we do look at because we do have more control and when it's abutting a residential area, I think it's something we ought to really look at.

Chairman Threadgill: Alright. One comment on staff's behalf though, when an applicant comes in and they request to rezone to C-2, it's not their place to tell them "No, you can't do that. You've got to do this."

Commissioner Mory: I agree, but can they not advise them?

Chairman Threadgill: They do.

Commissioner Mory: Okay. Okay. And that's fine. I mean, that's the point of my comment just to make sure that <unintelligible> is advised before they get to us and you know, you know ...

Chairman Threadgill: He said why would I do a lot, why would I zone half one and the other ...

Commissioner Mory: Sure.

Chairman Threadgill: That was my decision why I voted no, because I cannot see taking a single parcel of property and making two out of it.

Commissioner Raney: I understand that Gary and I appreciate that, but I look at it as you can, that if the guy buys more land and gets it in that parcel, he's stepping out and stepping out and stepping out and at some point, I think you have to have this buffer or this thing where you start to protect the adjoining residential properties.

Chairman Threadgill: And I have no problem with that.

<Several people are speaking at once.>

Chairman Threadgill: So that's why we did away with that 50% and greater and that because that's where it came in. A guy went out and bought the property and zoned it all as one parcel or replatted it all as one parcel and said "Hey, I got it."

Commissioner Raney: Yeah.

Chairman Threadgill: It don't work <unintelligible>.

Commissioner Clopton: Everybody's anxious to get home. <laughter> I know everybody's ...

Chairman Threadgill: Meeting adjourned.

Commissioner Clopton: I know everybody's anxious to get home.

Chairman Threadgill: Hold up. Hold up. <END OF TAPE>

2. COMMENTS FROM COMMISSION

ADJOURNMENT