

CITY of HOT SPRINGS PLANNING COMMISSION
REGULAR MEETING
DECEMBER 10, 2009
MINUTES

INVOCATION: Commissioner Barbara Lewis offered the invocation.

PLEDGE of ALLEGIANCE: Commissioner John Mory led those in attendance in the Pledge of Allegiance.

CALL TO ORDER: Planning Commission Chair Larry Raney called the December

1. Ordinance Amendment (OA-09-0077) – Sign Code – Establish standards for electronic signs – Citywide

Motion by Commissioner McGrew, second from Commissioner Lewis, **ADOPTED**, to table proposed amendments to the Sign Code to establish standards for electronic signs to a work session of the Planning Commission.

Upon Roll Call Vote:

AYES: Commissioners Foster, McGrew, Mory, Lewis, Westerman, Smith and Raney

NAYS: None

ABSENT: Commissioners Clopton and Campbell

Public Hearing: Opened at 6:08 p.m.

None appeared to speak

Public Hearing: Closed at 6:09 p.m.

2. Appeal Administrative Decision (AA-09-0129) – Gino's Pizza and Philly Steak – Appeal staff denial of freestanding sign, HSC 16-5-22 (c) and (e) to construct a 20' sign pole to display two signs: 1.) 8' X 12' sign and 2.) 4' X 10' sign – 1301 Albert Pike, Southwest corner at intersection of Wynn and Albert Pike – District 4 – C-2

Motion by Commissioner Smith, second from Commissioner Foster, **FAILED**, to approve appeal staff denial of freestanding sign, HSC 16-5-22 (c) and (e) to construct a 20' sign pole to display two signs: 1.) 8' X 12' sign and 2.) 4' X 10' sign at 1301 Albert Pike.

Upon Roll Call Vote:

AYES: None

NAYS:

Commissioner McGrew – deny based on findings that an existing wall sign is currently placed on the west side of the building, and a development sign is available to advertise the restaurant in compliance with HSC 16-5-22(c)

Commissioner Mory – deny based on findings that an existing development sign is already in place within 500 ft

Commissioner Lewis – deny based on findings that an existing development sign is already in place within 500 ft which complies with HSC 16-5-22 (c)

Commissioner Westerman – deny based on staff did not recommend approval

Commissioner Smith – deny based on finding that an existing development is available for advertising

Commissioner Foster – deny based on findings that an existing development sign is available

Commissioner Raney – deny based on finding that the requested sign is not allowed in compliance with 16-5-22 (c)

ABSENT: Commissioners Clopton and Campbell

Public Hearing: Opened at 6:15 p.m.

1. Kurt Lemke, manager of Gino's Restaurant, located at the intersection of Wynne and Albert Pike, stated there are 4 different legal plats for the plaza that is adjacent to 5 different streets; there is an existing multi-tenant sign, located on Airport Road that is 375' from intersection of Wynne and Albert Pike where Gino's restaurant is located on the far right side of the plaza, has its own entrances and does not share parking with the rest of the plaza; Gino's opened for business last Friday, December 04, 2009; there is an existing pole sign that was permitted April 04, 2007 and a portion of the sign was removed prior to knowledge about losing the use of the sign, and feels the placement of the existing sign meets the standards for a waiver;

Public Hearing: Closed at 6:25 p.m.

DISCUSSION:

1. Commissioner Raney cited the available vacancy for a sign on the multi-tenant sign.
2. Planner Stauder stated several years ago a business was established at this site, and the existing sign was non-conforming, yet it has been permitted in the same cabinet; they were not aware of regulations and removed a portion of the non-conformity
3. Assistant Planner Jeffrey Griffin applicant needs to demonstrate practical difficulty, a sign structure is available, the plaza is a conglomeration of parcels and sometime in the past Gino's was its own separate parcel, current situation is that the restaurant is on a parcel that has others businesses, and a common sign available; cited Section 16-5-22(c).
4. Commissioner McGrew inquired if the parcel that the restaurant is on could be taken back out; stated the tenant sign is on one road, Airport Road, and the restaurant is on Albert Pike; this is a location where there are 5 streets, with the tenant sign on Airport Road and the restaurant located at the intersection of Wynne Street and Albert Pike; agree with Staff Report to approve with conditions, as it appears to be a separate parcel.
5. Commissioner Mory cited other comparisons, Fairgrounds Crossing all tenants on one sign, Cornerstone has 2 definitely separate signs, should be 1 sign for commercial development with all tenants on one sign, 1 sign, some contiguous, some not.
6. Commissioner Foster cited redundancy, the existing restaurant has a wall sign on Albert Pike that is an attraction and well done.
7. Commissioner Lewis inquired that since there is a common sign available to all tenants can the pole be removed?
8. Director Sellman stated an element of an abandoned sign has been removed and removal of the pole is appropriate.

3. Preliminary Subdivision (PS-09-0122) – Ralph Cross – Long Island Drive – Lot split / Incidental request to subdivide an existing residential lot. – 211 Long Island Dr, On Long Island Drive, east of Highway 7 – County ET

Motion by Commissioner Foster, second from Commissioner Westerman, **FAILED**, to approve lot split for Ralph Cross to subdivide an existing residential lot.

Upon Roll Call Vote:

AYES: None

NAYS:

Commissioner Foster – deny based on staff findings that it fails to demonstrate compliance with Hot Springs Code requirements: H.S.C. § 16-4-71(p), H.S.C. § 16-4-71(b), and H.S.C. § 16-4-71(e).

Commissioner McGrew - deny based on staff findings that it fails to demonstrate compliance with Hot Springs Code requirements: H.S.C. § 16-4-71(p), H.S.C. § 16-4-71(b), and H.S.C. § 16-4-71(e).

Commissioner Mory - deny based on staff findings that it fails to demonstrate compliance with Hot Springs Code requirements: H.S.C. § 16-4-71(p), H.S.C. § 16-4-71(b), and H.S.C. § 16-4-71(e).

Commissioner Lewis - deny based on staff findings that it fails to demonstrate compliance with Hot Springs Code requirements: H.S.C. § 16-4-71(p), H.S.C. § 16-4-71(b), and H.S.C. § 16-4-71(e).

Commissioner Westerman - deny based on staff findings that it fails to demonstrate compliance with Hot Springs Code requirements: H.S.C. § 16-4-71(p), H.S.C. § 16-4-71(b), and H.S.C. § 16-4-71(e).

Commissioner Smith - deny based on staff findings that it fails to demonstrate compliance with Hot Springs Code requirements: H.S.C. § 16-4-71(p), H.S.C. § 16-4-71(b), and H.S.C. § 16-4-71(e).

Commissioner Raney - deny based on staff findings that it fails to demonstrate compliance with Hot Springs Code requirements: H.S.C. § 16-4-71(p), H.S.C. § 16-4-71(b), and H.S.C. § 16-4-71(e).

ABSENT: Commissioners Clopton and Campbell

Public Hearing: Opened at 6:28 p.m.

1. Doug Fellenz 928 Airport Road, B & F Engineering representing the application, stated there were 3 variances from the Subdivision Code that were being requested, parent tract addressed as 211 Long Island Drive and was created prior to city ordinance. Mr. Fellenz stated that HPR (Horizontal Property Regime) has been discussed to achieve his clients goal, but questions remain on how to transfer the property and the salability should that be a desire in the future. Mr. Fellenz cited the unique geometry of the applicant parcels in that there is a lot of area near lake, the west rectangular piece is 25' higher and a plateau, topography is what created puzzle piece like lot lines; existing lot already does not meet requirements, a common driveway is used for the 2 existing lots that is 12' and 5' on east to provide adequate access.

Public Hearing: Closed at 6:40 p.m.

DISCUSSION:

1. Director Sellman stated the request was to create another parcel and build another residential structure which would be to knowingly create a non-conformity
4. Planned Development (PD-09-0128) – Security Storage – Temperance Hill – Replace existing freestanding sign elements with new digital message center sign. Approval sought per HSC 16-5-24 (h). 170 Temperance Hill Road, Temperance Hill Shopping Center. – District 4 – PD

Motion by Commissioner Foster, second from Commissioner Moroy, **ADOPTED**, to approve the sign request as presented because it complies with HSC 16-5-21(c), HSC 16-5-23(b) and HSC 16-2-47.

Upon Roll Call Vote:

AYES: Commissioners McGrew, Mory, Lewis, Westerman, Smith, Foster and Raney

NAYS: None

ABSENT: Commissioners Clopton and Campbell

Public Hearing: Opened at 6:45 p.m.

1. David Reagler, 120 Roberts Ridge, Hot Springs, AR 71913 stated his request is to replace hard copy sign with digital message sign that would involve remove all 3 smaller hard copy signs on the lower portion of the pole and replace with a digital message sign, and retain the existing larger hard copy at the uppermost portion of the existing sign.

Public Hearing: Closed at 6:50 p.m.

5. Home Occupation Type B (HOB-09-0125) – Lilly Blossom Daycare Phase II – Amend approved conditional use to expand daycare to provide for 16 children per shift, existing approval limited

to 10 children per shift – 208 Garland Avenue, North east corner of Federal Street and Garland Avenue – District 2 – R-4

Motion by Commissioner McGrew, second from Commissioner Westerman, **ADOPTED**, to approve with staff recommendations:

1. Drop-off and pick-up of children shall occur in the driveway adjacent to Federal Street and scheduling is required so as to reduce overlapping, to the greatest extent possible.
2. There will be no non-resident persons employed at the Group Daycare home.
3. Outdoor daycare activities are limited to between the hours of 10:00 am and 6:00 pm.
4. Outdoor activity toys shall be neatly stored and out of view of the public and neighbors outside the hours of 10:00 am to 6:00 pm.
5. This use and activity shall not impose any undue hardship or nuisance upon the neighborhood or adversely affect the use of the roadway.
6. Certain safety items, including but not necessarily limited to a monitored fire alarm system and approved ventilation hood with fire suppressant system shall be installed prior to March 13, 2010.
7. All fire and life safety elements required by the Arkansas Fire Prevention Code and NFPA 101 shall be installed by the applicant and approved by Fire Marshall Nate Schanlaber and Building Official Mike Scott prior to March 13, 2010 and prior to any increase of children above 10.
8. The applicant has an affirmative responsibility to demonstrate on-going compliance with the conditions of this approval. The violation of any of these conditions so imposed shall constitute grounds for revocation or modification of this conditional use permit by the Planning Commission per HSC 16-2-79.

Upon Roll Call Vote:

AYES: Commissioners Mory, Lewis, Westerman, Smith, Foster, McGrew and Raney

NAYS: None

ABSENT: Commissioners Clopton and Campbell

Public Hearing: Opened at 6:55 p.m.

1. Gina Ridley 208 Garland Avenue, Hot Springs, AR 71913 cited her application was to increase the number of children in her home daycare from 10 children per shift to 16 children per shift, and that all other conditions of the previously approved conditional use for home daycare would remain the same.

Public Hearing: Closed at 7:00 p.m.

DISCUSSION:

1. Assistant Planner Jeffrey Griffin cited 8 conditions that are required due to the increase in the number of children that would be in Lilly Blossom's care such as NFPA smoke alarms, ventilation hood, etc.

6. Conditional Use – CU-09-0120 – Viva Rose Photography – Malvern Avenue Overlay District and C-TR Zoning review to convert existing residential structure to a photography studio. – 2815 Malvern Avenue – District 6 – C-TR

Motion by Commissioner Foster, second from Commissioner Lewis **ADOPTED**, to approve conditional use to convert existing residential structure to a photography studio in the Malvern Overlay District and C-TR Zoning District.

Upon Roll Call Vote:

AYES: Commissioners Lewis, Westerman, Smith, Foster, McGrew, Mory and Raney

NAYS: None

ABSENT: Commissioners Clopton and Campbell

Public Hearing: Opened at 7:00 p.m.

1. Genevieve Townley 215 Pico Circle, Hot Springs, AR 71913 stated that the parcel received recent approved for a zone change to CTR, and she is now seeking approval of a conditional use to operate a photography studio in an existing residential structure on an approximate 3 acre parcel.

Public Hearing: Closed at 7:05 p.m.

7. Re-Zoning (RZ-09-0130) – Batts-Border and Butterfield – Apply Manufactured Home Overlay District to 2 Lots in McKowns Subdivision, Block 4, Lots 01 and 02, approximately 14,000 square feet – 200 Block Border, located at Rosewall, Border at Butterfield – District 2 – R-4

Motion by Commissioner Mory, second from Commissioner Westerman, **ADOPTED**, to approve application to apply Manufactured Home Overlay District to 2 Lots in McKowns Subdivision, Block 4, Lots 01 and 02, approximately 14,000 square feet – 200 Block Border, located at Rosewall, Border at Butterfield.

Upon Voice Vote:

AYES: Commissioners Westerman, Smith, Foster, McGrew, Mory, Lewis and Raney

NAYS: None

ABSENT: Commissioners Clopton and Campbell

Public Hearing: Opened at 7:05 p.m.

1. Kenneth Batts, 204 Border, Hot Springs, AR 71901 stated he is seeking Manufactured Home Overlay District for 2 parcels on Border that is adjacent to an existing Manufactured Home Overlay District zone that would allow manufactured housing on these 2 parcels.

Public Hearing: Closed at 7:10 p.m.

8. Site Plan Approval (SPA-09-0123) – RVC USA Hot Springs Resort – Phase I C – Construct 4,000 square foot mini storage facility and RV parking area. – 1700 Shady Grove Road – County – ET
Motion by Commissioner Foster, second from Commissioner Mory, **ADOPTED**, to approve RVC USA Hot Springs Resort application for Phase I C to construct a 4,000 sq/ft storage building facility and above ground fuel storage tanks as depicted as Phase IC site plan and construction drawings with the following conditions:

- 1) The development site shall be constructed/developed in strict accordance with the approved site plan including, but not limited to, location of buildings, lights, fire hydrant location and perimeter security fencing;

- 2) This approval encompasses only what is illustrated on the site plans and development plans as Phase IC and additional development and/or future phases will require the submission of separate application and approval;

- 3) The exterior pole lighting shall be designed and installed to retain the illumination on the subject property and to prevent light trespass from becoming a nuisance to adjacent properties.

- 4) The shown fire hydrant shall be operational upon completion of the proposed storage facility structure and above ground fuel storage tank.

- 5) Construction shall be accomplished in accordance with all applicable construction codes including but not limited to sprinkling of the buildings in accordance with the Arkansas Fire Prevention Code as may be required; and

- 6) Permanent water and wastewater service shall not be provided to this additional structure unless and until the above conditions have been satisfied.

Upon Voice Vote:

AYES: Commissioners Smith, Foster, McGrew, Mory, Lewis, Westerman and Raney

NAYS: None

ABSENT: Commissioners Clopton and Campbell

Public Hearing: Opened at 7:10 p.m.

1. Doug Fellenz 928 Airport Road, B & F Engineering representing the application, stated the RVC application is an amendment to an approved Multi-Building Site Plan wherein Phase I and Phase II approved just the parking area and are now seeking storage facility; Phase III is a 4,000 square foot above ground that is constructed according to site plan, requesting only what's illustrated and not requesting future plans at this time, the pole lighting is contained, the site plan reflects the location of the fire hydrant and will be operational, permanent water and wastewater, building will be sprinkled.

Public Hearing: Closed at 7:15 p.m.

9. Site Plan Approval (SPA-09-0119) – Center Fork Missionary Baptist – Construct a two story Fellowship Hall and Adult Classroom addition to the Family Life Center. – 1101 South Moore Road, east side of Moore Road, cross street of Marion Anderson (north) and Rush Fork Road (south) – County – ET

Commissioner McGrew requested and granted to abstain from hearing application for Site Plan Approval (SPA-09-0119) – Center Fork Missionary Baptist

Motion by Commissioner Mory, second from Commissioner Lewis, **ADOPTED**, to approve the site plan for Center Fork Missionary Baptist to construct a two story Fellowship Hall and Adult Classroom addition to the Family Life Center subject to the following conditions, because when these conditions are applied the application complies with the requirements of HSC 16-4-20, et.al.

1. Additional site utility plans including water main extension to new fire hydrant to be submitted for review and approval to be given by the Utility Department prior to issuance of a plumbing permit; and

2. All construction and construction activity is to be accomplished in strict accordance with site plan and approval conditions and with applicable technical codes and specifications including the Arkansas Fire Prevention Code, including required sprinklering of the building, fire separation and alarms, whether or not submitted for staff review or Planning Commission approval; and

3. An approved Application and Permit Form to Develop in a Flood Hazard Area from the Garland County Flood Plain Management officer shall be provided prior to any plumbing permits being sought; and

4. A revised Site Plan reflecting staff recommendations and all additional conditions approved by Planning Commission (if any) shall be provided by the applicant to the Planning & Development Director within 30 days of Planning Commission action and prior to the applicant seeking related permits.

Upon Voice Vote:

AYES: Commissioners Smith, Foster, Mory, Lewis, Westerman and Raney

NAYS: None

ABSENT: Commissioners Clopton and Campbell

ABSTAIN: Commissioner McGrew

Public Hearing: Opened at 7:15 p.m.

1. Lynn Baxter 362 Dogwood Trail stated the Center Fork Missionary Baptist is seeking to construct a two story Fellowship Hall and Adult Classroom addition to the Family Life Center where classes and worship services will be held.

Public Hearing: Closed at 7:20 p.m.

10. Site Plan Approval (SPA-09-0132) Forest Lakes Wood Working Shop – Construct additional accessory structure for residential subdivision – 228 Willowbend Circle – 19-3-19
APPLICATION WITHDRAWN BY APPLICANT

11. Ordinance Amendment (OA-09-0117) – Higdon Ferry Road Overlay District – An ordinance amending the Zoning Code to establish site plan review design guidelines for new development excluding single family dwellings on existing platted lots. Higdon Ferry Road, Higdon Ferry Road roughly from Audubon Street south to Central Avenue – Citywide

Motion by Commissioner Westerman, second from Commissioner Smith, **ADOPTED**, to recommend the Board of Directors adopt an ordinance amending the Zoning Code to establish site plan review design guidelines for new development excluding single family dwellings on existing platted lots as amended with recommendation from city attorney for changes regulating exterior facades and as amended in number 10 to insert “freestanding” to read “all freestanding signs ground mounted.”

Upon Voice Vote:

AYES: Commissioners McGrew, Mory, Lewis, Westerman, Smith, Foster and Raney

NAYS: None

ABSENT: Commissioners Clopton and Campbell

Public Hearing: Opened at 7:25 p.m.

1. None

Public Hearing: Closed at 7:28 p.m.

DISCUSSION:

1. Director Sellman stated City Attorney Albright reviewed exterior architecture, page 169 of 219, and highlighted in 8, and the current document reflects minor changes concerning architectural regulations.
2. Commissioner Raney stated the word “freestanding” needed to be inserted into item 10 “ all *freestanding* signs ground mounted”; and item 10 (e) 25% of building/window clarification of definition for size of allowable sign.

12. Ordinance Amendment (OA-09-0131) Amend Subdivision Ordinance – Lot of record filed prior to January 01, 2006, is defacto approved by City of Hot Springs – Section 16-4-9 (c)

Motion by Commissioner Foster, second from Commissioner Mory, **ADOPTED**, to recommend the Board of Directors amend the Subdivision Ordinance that a lot of record filed prior to January 01, 2006, is defacto approved by City of Hot Springs amending Section 16-4-9 (c) of the Subdivision Ordinance.

Upon Roll Call Vote:

AYES: Commissioners Mory, Lewis, Westerman, Smith, Foster, McGrew and Raney

NAYS: None

ABSENT: Commissioners Clopton and Campbell

Public Hearing: Opened at 7:30 p.m.

1. None

Public Hearing: Closed at 7:33 p.m.

DISCUSSION:

Director Sellman stated that this amendment to the Subdivision Code would provide for formal recognition (16-4-9c(3))as recommended by City Attorney Albright, of a Planning Commission procedure, as reflected in a memo, that any deed that was filed prior to January 2006 for the creation of parcels that conform to the Subdivision Code and properly recorded is hereby recognized as an approved division by defacto, upon the creation of Section 16-4-9c(3).

PLANNING DIRECTORS REPORT:

1. Comprehensive Plan Update –
Director Sellman stated the “kick-off” for the Comprehensive Plan Advisory Committee was well attended and great interest was shared; Population projections are to be formulated; and new information from the National Parks Service may influence the thought process for the Planning Area.
2. Planning Area –
Director Sellman stated the work is just beginning to review the planning area, and the Planning Commission will meet on December 17, 2009 at 5:00 p.m. to discuss composition of Planning Area for proposal from the Planning Commission.

COMMENTS FROM COMMISSION:

1. Commissioner Raney cited a January work session of the Board of Directors with the Planning Commission where an opportunity will be provided to discuss concerns and interests facing our city.
2. Commissioner Mory stated he would rather see a final plat earlier in the process and a site plan reflecting all the required revisions to ensure documentation.

ADJOURNMENT: at 7:45 p.m.

Larry Raney, Chair
Planning Commission
City of Hot Springs

Approval Date: _____