

# Russellville Planning Commission Minutes

December 28, 2015 @ 5:30 p.m.

The Russellville Planning Commission held its regular meeting on Monday, December 28, 2015 5:30 p.m. in the Russellville City Hall Council Chambers.

## **Members Present**

Chairman Dennis Boyd  
Vice-Chair Doug Skelton  
Secretary Wendell Miller  
Todd Meimerstorf  
Peggy Stratton

Mike Wilkins  
John Whiteside  
Shirley Hatley  
Nathan Barber  
Council Liaison Bill Eaton

## **Members Absent**

None

**Also present:** Mayor Randy Horton, City Attorney Trey Smith, City Engineer Kurt Jones, Planner James Walden, Building Official Brian Holstein, Planning Assistant Lequitta Jones, Jim Lynch/City Corp, David Garza/Barrett & Associates, and Sean Ingram/The Courier, Bob Weibler.

## Welcome

Chairman Boyd opened the meeting welcoming two new members of the Planning Commission: Commissioners Shirley Hatley and Nathan Barber.

The chairman also welcomed Mr. James Walden of Garver. Mr. Walden is going to be assisting in the capacity of the city planner's position and providing consulting services on a contract basis

**The First Order of Business** was a request to review and approve the November 23, 2015 minutes.

Commissioner Stratton made the motion to approve the minutes as written. The motion was seconded by Commissioner Skelton and passed unanimously.

**The Second Order of Business tabled from the November meeting.** A Public Hearing requesting review and a recommendation of approval to rezone property currently R-1 (Single-Family Residential) to C-2 (Highway Commercial), for property located at 4301 West Main Street. Submitted by Bob Weibler. (ZO15.11.192)

City Engineer Jones said this request is to bring an existing use into compliance. It is consistent with the Land Use Plan. The staff's recommendation is approval.

Commissioner Wilkins asked the city engineer to re-state that the existing facility was not in conformance with the zoning. City Engineer Jones said that is correct because it is in an R-1 zone and this use is not allowed in an R-1 zone.

Commissioner Meimerstorf asked if the other two properties right next to it, that are also zoned R-1, were in conformance. Mr. Jones said they are zoned incorrectly too, and noted that it is all commercial use in that area. Also, he pointed out that this C-2 rezoning request would cover this entire piece of property.

Liaison Eaton asked City Attorney Smith if there were some other sections around that property that are incorrectly zoned, is that something that we might rezone as a City to get that whole area in compliance or whether some other action might be appropriate. The city attorney said to send the code enforcement officer out there to ask the property owners to submit a request to rezone.

Commissioner Skelton made the motion to approve the request to rezone the property to C-2. The motion was seconded by Commissioner Stratton and passed unanimously.

**The Third Order of Business tabled from the November meeting.** A Public Hearing requesting review and a recommendation of approval for a Special Use Permit to operate an existing self-storage facility and construct a self storage facility in a C-2 (Highway Commercial), at 4301 West Main Street. Submitted by Bob Weibler. (SP.15.11.138)

City Engineer Jones said this is the expansion for this min-storage facility. It is for 18 additional storage units. Again, this application appears to be consistent with the Comprehensive Plan and the staff's recommendation is approval.

Commissioner Stratton made the motion to approve the Special Use Permit. The motion was seconded by Commissioner Skelton and passed unanimously.

**The Fourth Order of Business** was a Public Hearing requesting review and a recommendation of approval to rezone property currently C-2 (Highway Commercial) to R-3 (Medium/High Density Residential), approximate location is 520 North El Mira Avenue, (Lot 35, East Industrial Park Phase V). Submitted by Dave Garza of Barrett & Associates on behalf of Russellville Realty Inc., William Thornsberry. (Z0.15.12.193)

City Engineer Jones said this is a long narrow tract of land that ties into North El Mira. Several years ago, the Planning Commission approved a preliminary plat for this property that I drew up. At that time, the type of development that the developer and property owner were looking at doing worked with a C-2 zoning and there was no request to rezone the property. They are now asking for a rezoning of this property from a C-2 to R-3 residential. It does fit into the Comprehensive Plan and the staff's recommendation is approval. The applicant's original submittal request was for an R-2, but after the submittal was made they changed that request to an R-3.

Mr. Garza referred to the preliminary plat from 2010 showing 17 lots in a C-2 zone. If you use C-2 zoning for residential, the setbacks are R-3 so that preliminary plat is set up

as an R-3. When I first submitted as an R-2 I didn't realize that so that's when I requested the change to R-3 to match what the preliminary plat was originally designed for in 2010.

City Engineer Jones said this is a rezoning request and they will have to submit a plat and go through the preliminary plat process if the rezoning is approved. So we are not reviewing a preliminary plat at this point; we are simply addressing the rezoning request.

Chairman Boyd pointed out that the *Table of Permitted Uses* in the zoning code allows for *Dwelling - Single-Family, Manufactured Home* in an R-3 zone. Exactly what does that mean? Planner James Walden stated that when a manufactured home is listed as permitted by-right in a zone such as R-3, that means it is allowed on an individual lot outside of a manufactured home park. If the property were not subdivided, then only one manufactured home could be placed on the property. If it were subdivided into lots, a manufactured home could be placed on each lot. The language in the code simply means that a manufactured home is a permitted use on an individual lot, which is outside of what you would normally consider a manufactured home park, being a single property with slips for manufactured homes.

Commissioner Wilkins asked if we rezone this to an R-3, they can put mobile homes out there on each individual lot? Planner Walden said it is a permitted use. Commissioner Wilkins asked what the difference was between R-2 and R-3. Mr. Garza said setbacks and lot size requirement. The developer that is planning on developing this property is developing all 17 lots at one time.

Chairman Boyd asked if the development would work with an R-2 zoning. Mr. Garza said no, not with the type of contract that they are looking at.

Commissioner Wilkins asked Mr. Garza if that developer would assure us there will not be mobile homes put on that property. Mr. Garza said sure, I can get that. Chairman Boyd stated that he didn't believe that the Planning Commission was allowed to rezone property with conditions or restrictions and asked City Attorney Smith for clarification. The city attorney said it is alright as long as it is an R-3.

Mr. Garza said the way the developer's funding and application are done does not allow that. City Engineer Jones said it is similar to the type of development that was done on Fairway and also on West Main. It is a tax credit development. The developer is actually required to own these. They have to build them to a certain standard, but part of your concerns about the mobile home park we have lots of R-3 property. Again, the difference between a mobile home park and a subdivision where mobile homes are allowed is a completely different scenario. I know of no place in town that is a platted subdivision with individual lots where there are mobile homes sitting on it. The zoning code includes R-4 zones that are for mobile home parks. They have one owner that owns the entire piece of property. He has brought in the mobile homes and put them on the property. That is an allowable use in an R-4.

Commissioner Wilkins asked if the developer changed his mind he could put mobile homes on it? Engineer Jones said he could plat 17 individual lots and on those lots they could put manufactured homes. Commissioner Miller asked whether that would classify it as a mobile home park. Engineer Jones said it would not. A mobile home park would be if it were a single piece of property and was not platted into 17 lots and a developer came in and actually just created slips for the mobile homes and rented those out.

Commissioner Wilkins said if we vote to rezone it R-3 he would have to plat it in these sized lots to meet setbacks for mobile homes. City Engineer Jones said the setbacks are dictated by the R-3 zoning code and any mobile home usage of that would have to adhere to those setbacks. Once you subdivide and plat the property then that property can be sold off as individual lots or the developer could come in and develop each lot and sell them at that point. I think what the developer is going to do in this case is actually develop and build homes on them and rent the homes out. They are required to own these for a period of 15 years under this funding.

Commissioner Skelton asked why the development wouldn't work with R-2 zoning. Mr. Garza replied that the developer is trying to maximize the amount of land available for use. The preliminary plat that was submitted in 2010 is what they were looking at. That's what they were wanting was the 17 lots that works for their funding, but that is based on an R-3. When you are building residential subdivisions in a C-2 you can do that, but you use the R-3 zoning to design the lots. They are not doing single units, they are doing duplexes. The funding is for duplexes. Their application process is they have to have everything in by the first week of March and that includes their building plans.

Commissioner Skelton asked what the difference was between R-3 and R-2. Mr. Garza said it is the lot size and the setbacks.

Commissioner Wilkins said my concern is if we vote to rezone this to an R-3 you have all these other property owners out there and between now and March if we have a change of plans then we have no recourse. We do have an obligation to protect the adjacent property owners out there.

Commissioner Skelton said we can rezone this to an R-2 and could you not get a variance for the particular lot size that you are asking for?

Planner Walden said based on the way the regulations and State statutes read, there is a high bar for granting variances. Based upon the known facts of the situation, this instance would fit well for granting a variance because it would purely be a work around of the zoning code. Would a PUD (Planned Unit Development) work for the applicant?

Mr. Garza said, no we could not get a PUD through the process in time.

City Engineer Jones said if this were to come through as a plat requiring the restriction that there not be any mobile homes allowed, City Attorney Smith and I talked about this a little bit more. There is a provision in our Land Subdivision & Development Code that requires submittal of covenants with subdivision preliminary plats or final plats. This is

something that you all could consider in the future to further protect this property. When it did come back as a plat, require restrictive covenants in the platting process that prohibits manufactured homes in the subdivision. Commissioner Skelton said but it is also true that most covenants can be amended by the property owners. City Engineer Jones agreed.

Chairman Boyd pointed out that once this property is rezoned to R-3, then any of the permitted uses in the zoning code would be allowed. If, for some reason, the property changed hands or if the developer decided not to follow through with the original plans, then the zoning code would allow manufactured homes to be placed on this property. He also noted that it was not unprecedented for plans to change after property is rezoned. Not too long ago we approved a rezoning request on West Main Street for a dog-walking area for a veterinary clinic and not long after, a chain drugstore was built on the property. More recently we rezoned El Paso from C-2 to R-3 to accommodate a multi-family housing development targeting Arkansas Tech students. That development is not going to happen; however, we wound up with more desirable zoning for El Paso. That was a part of our discussion at that time. In the same manner, the commission needs to ensure that we protect the interests of the surrounding property owners and the City in regard to this application.

Commissioner Skelton said I would like for you to bring this in as an R-2 and request a variance from the Board of Adjustment to get the lot size and setbacks that you need.

Chairman Boyd asked if it would be possible to do this with R-2 zoning and a variance. Mr. Walden said this situation is not a good fit for a variance because of the standards set in the zoning code and State law. Based on what I know of the case, I'd likely recommend against approval of a variance.

Mr. Garza asked if a developer stated in a letter or a form that they would not develop this property for manufactured homes, would City Attorney Smith accept that and would it be legal. Mr. Garza said that manufactured homes would not be the highest value use of that property and the developer knows that. One of the reasons we are staying with the preliminary plat is because the infrastructure was already put in.

City Engineer Jones said what we have is a situation where everything works with the current zoning for this developer except we don't allow duplex construction in a C-2 zone. The R-2 zone would work if R-2 allowed lot sizes as narrow as 60 feet.

Mr. Garza said you could change the Zoning Code between now and then. They won't know until July whether they got the funding.

Mayor Horton said if you remove this manufactured home line item from R-3 make sure we can do the same thing in R-4 not in a Manufactured Homes Park on a single stand alone lot.

Chairman Boyd said it sounds like we are agreeing to amend the zoning code by removing the manufactured home as a permitted use in the R-3 zone, then re-visiting the rezoning application.

Mr. Walden said if the city moves forward with removing manufactured homes as a permitted use in R-3 that it will need to make sure that adequate areas remain for the placement of a manufactured home on an individual lot outside of a manufactured home park. He said he would check to make sure before modifying and presenting changes to the zoning code.

Commissioner Miller made the motion to table the request until next month. The motion was seconded by Commissioner Stratton and passed unanimously

**The Fifth Order of Business** was a Public Hearing requesting review and a recommendation of approval to rezone property currently C-2 (Highway Commercial) and R-2 (Medium Density Residential) to R-3 (Medium/High Density Residential), for property located on Hwy 7-T/South Knoxville. Submitted by Dave Garza of Barrett & Associates on behalf of Danny Kirby, Whig Creek Properties, LLC. (Z0.15.12.194)

City Engineer Jones said this is Ashbrook Estates and this would affect Ashbrook Estates Phase III. The property is currently developed as single-family residential. The zoning split is roughly the overhead power line transmission easement that run through the property that splits the property on the west side of the power line that fronts on the highway that's currently zoned C-2 and everything else was zoned R-2. The property owner is requesting that this be rezoned from C-2 and a small portion of R-2 to square off the proposed development to R-3 residential to be able to utilize the property at the R-3 lot sizes verses the R-2 that it is currently. The owner is planning on utilizing this property for duplex development. He noted that we have the same scenario with this one as the last one.

Chairman Boyd asked Mr. Garza if the commission tabled this item until next month would it put Mr. Sanders in a bind. Mr. Sanders replied that it would cause some delay, but nothing he couldn't deal with. But I can assure you they will be duplexes. They will be built identical to the project I built on South Oswego.

Mr. Garza said we took that floor plan and that is how we built the lot. We backed them up from the highway back toward the power line. Of course, we lost a lot of land because of the way the power lines set and are at an angle, but there is nothing you can do about that.

Commissioner Miller made the motion to approve the R-3 rezoning request. The motion was seconded by Commissioner Wilkins.

The chairman pointed out that this was a Public Hearing and asked whether there was anyone in attendance who wanted to speak either in favor, or against, the rezoning request. Mr. Kent Bullard, owner of Lot 103, said I am not for it or against it. I am concerned about the potential for mobile homes being allowed, but it sounds like the

earlier discussion tonight will take care of that. I'm also concerned about the type of apartment complexes that are being built, the proximity to the high school, and that the Hwy 7-T roadway is not pedestrian friendly. If kids are going to and from high school where do they go? Do they go across private property or is there a provision made for them to make it to the high school or what? It is a narrow shoulder and traffic tends to go across the line into the turn lane there, but often times there are people turning into the subdivision there that causes problems.

Mr. Garza said that the developer is going to build duplexes using the same plans as Oswego. There is already an existing residential subdivision. The school district runs a bus through there.

Chairman Boyd said the sidewalk would be the City's responsibility along Hwy 7-T, not be the developer's.

Commissioner Wilkins asked Mr. Sanders if the area where you are going to be developing these are you going to have appropriate sidewalks in the development itself? Mr. Sanders said I'll do whatever the City requires me to do.

Commissioner Meimerstorf asked City Engineer Jones if you go down through the other area it is kind of congested with cars parked on the side of the street. Mr. Jones said cars parking on the side of the roads, yes. Mr. Jones said that is something we are working on, but I'm not sure how much affect it is going to have on residential areas like that. As of right now, in any residential subdivision, they are allowed to park on the streets.

Commissioner Meimerstorf asked if Fire Marshal Setian had any problems with the traffic. Mr. Jones said we have not had any discussion about potential issues down there. The connectivity in the subdivision is good. They have plenty of cross connectivity. This would introduce a third ingress and egress into the subdivision development. This is not going to increase traffic into the existing subdivision. It is going to be a whole new road coming in so it should not affect traffic in the existing parts of the subdivision at all. Mr. Jones said we applied for a grant to build a sidewalk. We worked with some students out at the high school and one of the pieces of that sidewalk project was a sidewalk from Ashbrook back to the high school. We did get a letter today indicating that we had gotten the funding for that, so we'll be working on that here in the next year.

The chairman noted that there was a motion pending and asked if there was any further discussion. The motion passed unanimously to approve the R-3 rezoning request.

**The Sixth Order of Business** was a request to approve vacating an unused portion of the right-of-way lying east of the driveway in the 600 Block on Forrestwood Court, (Lot 1, Block 5, Woodridge Estates, Phase IV, City of Russellville). Submitted by Darrell & Trish Lowder, 1014 Ridgewood Drive. (ST.15.12.78)

Petitioners Darrell & Trish Lowder have asked that this request be tabled until next month. Commissioner Wilkins made the motion to table until next month. Commissioner Miller seconded the motion and passed unanimously.

**The Seventh Order of Business** was a request to approve *Bill Barborek Property Survey*, located on Barborek Lane. Submitted by Gregg Barborek. (SD.15.12.299)

- a. Requesting a waiver from Section 9.1.G.8 (Pipe-Stem-Lots) to exceed the narrow portion limit of 200 feet by 524.25 feet.

City Engineer Jones said this is a family-owned property. Mr. Borborek wants to sell off a piece of the land to his son to build a home on it. It is a large tract of land that is being split into smaller tracts. We have a restriction on the length of the pipe-stem. This one doesn't have the potential of severing property or access to existing property. The staff does not have an issue with this or the emergency services. We recommend approval.

The chairman asked whether the planning commission should consider this request as a Minor Subdivision. Mr. Jones said if this variance is approved he can sign off on the Minor Subdivision.

Commissioner Wilkins made the motion to approve the request as submitted. The motion was seconded by Commissioner Meimerstorf and passed unanimously.

**The Eighth Order of Business was a Late Agenda Item** to nominate two planning commissioners to serve on the Board of Adjustment.

Commissioners Wendell Miller and Peggy Stratton volunteered to serve as commissioners on the Board of Adjustment.

Commissioner Meimerstorf made the motion to approve Commissioners Wendell Miller and Peggy Stratton to serve on the Board of Adjustment. The motion was seconded by Commissioner Wilkins and passed unanimously.

Meeting Adjourned.

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Chairman Dennis Boyd