

Russellville Planning Commission Minutes

May 23, 2016 @ 5:30 p.m.

The Russellville Planning Commission held its regular meeting on Monday, May 23, 2016 at 5:30 p.m. in the Russellville City Hall Council Chambers.

Members Present

Chairman Dennis Boyd
Secretary Wendell Miller
Shirley Hatley
Todd Meimerstorf
Council Liaison Freddie Harris

Vice-Chair Doug Skelton
Peggy Stratton
Nathan Barber
John Whiteside

Members Absent

Mike Wilkins

Also present: Mayor Randy Horton, City Engineer Kurt Jones, Planner James Walden, Planning Assistant Lequitta Jones, Fire Marshal Richard Setian, Jim Lynch/City Corp, David Garza/Barrett & Associates, Sean Ingram/The Courier, Bucky Croom, Betty Tucker, Alderman Bill Eaton, Justin Magie/Magie Engineering & Land Development, Mary Ella Yamashita, Peg Starcher, Dana Gann, Georganne Rollans, Shawn Piece/Chairman Pope County Library, Judy Gallaway, Carolyn McLellan, Suzanne Alford-Hodges, Teresa Gallegos, Charity Park, William Browder Swetnam, Kathy Mullen, Lori Latimer, Danny Delao, Alderman Richard Harris, and Bob Weibler/ReMax First.

Welcome

The First Order of Business was a request to review and approve the April 25, 2016 minutes.

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

The Second Order of Business was a request to approve the revised site plan of Lot 2 of R&C Commercial Park for a Holiday Inn Express and Candlewood Suites, located on Harrell Drive. Submitted by Justin Magie, P.E. of Magie Engineering & Land Development, Inc. (DV.16.05.142)

Planner Walden said this application is for large-scale development approval to construct an additional 4-story, 82-room hotel and to revise a previously approved site plan located on Lot 2 R&C Commercial Park located to the south. The adjacent properties are a mini-storage to the north (C-2), agricultural to the south (R-3), vacant to the west (C-2) and a church to the east (C-2). Because there are two separate buildings on one site, they are also splitting the property into two lots.

The application is definitely consistent with the Comprehensive Plan. The dumpster location is an item for discussion. The applicant has submitted a *Joint Use Agreement* for joint use of the parking and the dumpster. One thing in particular that results from this being separated by two lots is the way they are separated makes it difficult to provide needed parking for both lots. The required parking is 82 spots per lot and it's difficult to fit. The code allows for a *Joint Use Agreement* where you have two uses next to one another to be able to share parking spaces. They are providing more than required parking, but the majority of that parking will be provided on the north lot Candlewood Suites portion. The applicant needs to complete a Stormwater Pollution Prevention Plan as required, provide a grading plan of the detention areas and the stormwater detention volume calculations. These need to be addressed prior to issuance of the building permits. The *recommendation for action on this item is approval with contingencies*:

- (1) Provide a dumpster location for Lot 2 Candlewood Suite. The hotel to the north would require employees to carry trash from 250 to 300 feet to the dumpster location on the south side. (Discussion Item Only)
- (2) Obtain approval from the city engineer for a Stormwater Management Plan for the property before pulling a building permit.
- (3) Remove and repair the two unused curb cuts on Harrell Drive.
- (4) Obtain final approval from the city attorney on a suitable *Joint Use Agreement* for the parking and possible dumpster location.

Justin McGee, representing the developer, said the main concern about adding a dumpster to the second hotel was the garbage truck tearing the parking lot up. If we had something that said if another dumpster becomes necessary, it should be placed in a location that's approved by the City. Removing the curb cuts is no problem. We'll work with City Engineer Jones on the stormwater plan. Chairman Boyd told Mr. McGee that since the city staff wasn't recommending that a potential future dumpster location be one of the conditions for approval, a "gentleman's agreement" to coordinate with the city engineer should suffice if the need to add one develops.

City Engineer Jones said it is fairly typical to defer final approval of some of the stormwater issues past the large-scale development approval stage. I am comfortable with what they have submitted to this point and we can resolve some of the questions that I have.

Commissioner Stratton made the motion to approve the request as submitted contingent on:

- (1) Obtaining approval from the city engineer for a Stormwater Management Plan for the property before pulling a building permit.
- (2) Remove and repair the two unused curb cuts on Harrell Drive.
- (3) Obtain final approval from the city attorney on a suitable *Joint Use Agreement* for the parking.

The motion was seconded by Commissioner Whiteside and passed unanimously.

The Third Order of Business was a request to vacate a portion of an east-west 20-foot alley, lying south of Lots 5, 6, 7, 8 and north of Lots 9, 10, 11, 12 of Block 61, J.L. Shinn Addition beginning on South Arkansas Avenue running east between 3rd Street and 4th Street to east

property line, to construct Casey's General Store. Submitted by Kevin McClafin of Morrison Shipley on behalf of Casey's General Store. (ST.16.05.80)

Planner Walden said this alley vacation location is Block 61 of JL Shinn Addition (East of Arkansas Avenue between East 3rd Street and East 4th Streets). There is Cogswell's Used Car Lot to the north and former Rally's restaurant to the south. This closure would allow redevelopment of the site. The properties are currently developed in an auto-dependent manner. Closing the alley would promote less driveway access on Arkansas Avenue. This would be beneficial from a safety perspective. Centerpoint Energy has no objection to closing the alley. Entergy does not oppose the closure provided existing facilities are relocated. Centurylink will provide an update. City Corporation does not oppose.

The recommendation is approval with conditions:

(1) Approval of a large-scale development plan that will provide for the relocation and/or abandonment of utilities in a manner that is satisfactory to all utility providers with facilities present in the alley.

(2) Need information from Centurylink.

Kevin McClafin of Morrison Shipley, on behalf of Casey's General Store, said he met on site earlier this afternoon with Centurylink and Entergy to discuss the utility relocation. It is all doable. It looks like Centurylink is looking underground with their utilities rerouting around the proposed site. Entergy is going to stay overhead and also route their service around the site.

City Engineer Jones said at this point we don't have any objections at all to the closure.

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

The Fourth Order of Business was a public hearing requesting review and a recommendation of approval to rezone property currently C-1 (Central Business District) to C-2 (Highway Commercial), at 311 North Arkansas (corner of South Arkansas Avenue and 4th Street), to construct a convenience store and food sales. Submitted by Kevin McClafin of Morrison Shipley on behalf of Casey's General Store. (Z0.16.05.198)

Planner Walden said the part of the site subject to rezoning is the former Rally's restaurant. The property that they are talking about piecing together is the Cogswell's Used Car Lot and the former Rally's piece of property to the south. The car lot to the north is currently zoned C-2. This Rally's portion is zoned C-1 bordered on the south by 4th Street. The stated intent of the application is for the construction of a convenience store with food sales. The surrounding neighborhood is a transitional area between downtown uses and other commercial use. While much of the surrounding area is zoned C-1, the development context is more in keeping with auto-oriented commercial uses such as C-2. This property rests at a transitional area between downtown and the 4th Street corridor and other auto-oriented commercial uses further to the south. The property is currently developed in a manner consistent with C-2 zoning despite being zoned C-1. Redevelopment of the site could be a catalyst for additional redevelopment in the

surrounding area. The proposed rezoning is consistent with the Comprehensive Plan. The Comprehensive Plan indicates commercial zoning for the site.

The article in the newspaper related to the library wanting this as a potential location. I did look in the Downtown Master Plan and this was identified as one of three potential alternate locations. There wasn't one single defined site that was actually completely identified within the plans. There has been a considerable amount of discussion regarding the library expanding on this site. That can still happen regardless of whether or not this property is zoned C-2 or C-1. The library can still locate there. So the issue of it being C-1 or C-2 is largely irrelevant whether the library buys the property or not. While not consistent with all currently adopted plans, the C-2 zoning would be consistent with the current form and use of the site. The proposed rezoning is not consistent with the Downtown Master Plan. The goals and policies of the Downtown Master Plan call for walkable urban development on the site consistent with C-1 zoning. *The recommendation is approval.* It is not likely the site would redevelop to incorporate walkable urban mixed-uses. However, future development should be carried out in a way that complements downtown. I think there is a third way of looking at this. If it were to develop in a C-2 through a Special Use Permit there would be ways to incorporate a lot of protection on the site that you might not otherwise be able to achieve.

Kevin McClafin of Morrison Shipley, on behalf of Casey's General Store, said he would be happy to answer any questions. There were none. Chairman Boyd then opened the floor for public comment.

Shawn Pierce, Director of Russellville Public Library System, representing the Russellville Public Library said I would like the members of the Planning Commission to consider a few things. The Russellville Public Library serves 400 to 700 people per day. That's 110,000 people per year. We have 23,000 patrons just for the Russellville Library. For the county there are 30,000. That's half the county. When Downtown Russellville started their Master Plan we started our Master Plan and our Master Planner was working with their Master Planner and at that time there were several recommendations. Our Russellville Library would increase in size 4 ½ times its current size which means that the Russellville Library is 13,000 square feet and it needs to go to 54,000 to 68,000 square feet, which is the size of the Tech Library, which means we need parking to go along with that. The first recommendation was to form a foundation so that we could start raising funds. We have raised some funds. We have the tax assessed value that we could purchase that amount of it. We currently are fundraising for more funds. The other thing that I want you to recognize is the effect if this convenient store, this gas station, comes in. It will take one half of this block and it would not allow us to expand there. We need this land. The business owners around here talked to us and they don't know that Casey's is coming. They didn't know until we talked. The Exxon Station owner is shaking in his boots. He said he didn't know that they were coming. When you look at the list of contacts, we know they were contacted, but they are trusts. The people that work at these businesses don't know that Casey's is coming to town. We find 12 gas stations in Russellville. What I'm saying is we have one Russellville Library serving half the county and we have multiple gas stations that actually could relocate if Casey's wanted to go in off the interstate. Generally they go off the interstate because they are so large. They could go out on Weir Road and the library could still purchase the property. The Russellville Library does 386 of the 1100 programs per year. We have out grown our space and we need to expand. I just ask the Planning Commission to

consider this and think about the downtown revitalization efforts that this is an area where people around here can walk to or ride their bikes to and they do. If it moves to those three areas that were mentioned; one was by Starbucks, one was out by the Jr. High, and other National Home Center. We are asking you to search your heart and to think about the area residents and how much they depend on this library's programs.

Chairman Boyd told Ms. Pierce that during his review of the Downtown Master Plan he noticed that it was revised in March 2013. He asked Ms. Pierce if she had ever approached the property owner about purchasing this property. Ms. Pierce said we didn't know it was for sale. At that time we were trying to get our state aid funding back because we got cut \$25,000 by the governor's budget. And we just got that reinstated.

Suzanne Alford Hodges said for the zoning issues, the issues are about people and communities. I am a Library Foundation Board Member and I own property in the Historic District and my home is in the historic area on the west side of Arkansas Avenue. These homes will be affected. There are many reasons to keep the library in the central district. As far as the walkability, I walk to the library. I walk to my business location. It is a very walkable area. I think this is critical to rezone, but the traffic patterns don't show about adding this type of business to that area. I'm assuming trip counts have already been done or they will be done before the decision is made.

Chairman Boyd noted to City Engineer Jones that he had read in the Downtown Master Plan that Arkansas Avenue carried a traffic load in the vicinity of 20,000 to 25,000 cars per day. He asked if that sounded about right. Engineer Jones said that sounded accurate. Mr. Boyd said the Downtown Master Plan also indicated that the preference was for the library to actually be relocated to the opposite side of Arkansas Avenue, but the plan indicated difficulty finding a suitable location on the west side of Arkansas Avenue. So I would question the walkability aspect of crossing five lanes of traffic from downtown to get to the library at its current location.

Lori Latimer, Geology Department at the Russellville Library, said the car lot may have been zoned C-2, but behind that it is not only C-1 but there are residential areas back there. There are people that don't have cars and they have to ride bicycles. There are lots of pedestrians. She asked if there are going to be fuel tanks at the gas station. Chairman Boyd said "yes." Just because I am familiar with environmental impacts I would be concerned that would take away from the residential area. It would take away from the plan that the City has to have gas fuel tanks right in that area.

Mary Ellen Yamashita, part-time worker at the Pope County Library in the Children's Department, addressed the walkability issue. I see people that live over on Glenwood that come to the library every day and those people are walking. I think if we put in a gas station and convenience store there, if it does increase the traffic, that is going to impact the people that are already walking to the library and the other businesses that are in that area. She asked the Planning Commission to consider that and the importance of the library to the community.

Bucky Croom, Trust Office at Regions Bank, said Regions is the Trustee of the owner of this property. The A.R. Talkington Trust proposes selling to Casey's Property. There is a discussion about the library and I don't think there has been a better friend to the library than the Talkington

Trust. The Library Annex next to the library right now was donated by the Talkington Trust to the library for its current use. We want to continue to be friends with the library. There has been discussion about this walkability issue and there are a lot of steps to be taken here before this becomes a reality, which you guys are well aware. I think the walkability issue will be greatly improved by Casey's General Store because right now there are no sidewalks on those Talkington properties on either side right now. So, I'm sure in this development that's being proposed, a large-scale development will come to you later that will have sidewalks and will improve accessibility. But from the standpoint of the library needing this property, that is something that is very difficult for a landowner to just wait for the outside chance they may be able to purchase this property in the future when we have a contract with an existing interested party to purchase the property.

Charlotte Goodwin said she owned commercial property on 4th Street. I have lived in this immediate area at least three-fourths of my life and lived in Russellville all my life and I have watched that corner throughout my life. I know how many businesses have failed there and that was because of the traffic problems. I see people walking up and down my street in front of my house walking going to the library and area businesses. The Planning Commission is supposed to be protecting the interest of all the citizens. We have numerous convenience stores in a three or four mile radius of this location. If we are trying to revitalize Russellville and turn it into something like what we see in Northwest Arkansas, this is not the way to revitalize historical areas. I'm asking the Planning Commission to do its job and protect all the citizens of Pope County. I hope that you can see the interest and detriment that people in Historical District make. I also hope that you can see the need for a library for people to come to in the heart of the city and how it can be a benefit to the entire community and bring it back to life. I don't think another convenience store is going to improve my neighborhood. I don't think the library moving out of the heart of Russellville is going to improve Russellville.

Commissioner Whiteside asked if the library had made any effort to look at purchasing that property. Ms. Pierce said I got here in January 2012 and two weeks later started on the Master Plan. At that time Jeffrey Sheer, Master Planner, had started talking about possibly that we could buy that land. At that point, they were thinking that it was not for sale. When the former director was here they had made some contact and they had even said that it wasn't for sale. That is the reason I didn't pick it up and say let's move forward with this. I just thought it was not for sale at that point.

Commissioner Skelton asked Ms. Pierce if the library would oppose the rezoning if it was across Highway 7; if it wasn't adjacent to the library. Ms. Pierce said we have tried to be so focused on how to preserve this library. I don't know that I can speak for the rest of them. Mr. Skelton said the library in general, the Pope County Library, would it be opposed to rezone to C-2 if it was across Highway 7? Ms. Pierce said we even formally had a deaf-blind man that was working at the library and we called and tried to figure out how can we get the lights that would make a sound, but it was so costly. I don't know if we would be for it if it was across the street either.

Commissioner Skelton said to the commissioners that may have sounded like an odd question but it's not and that's because we are here to rezone property if the business that is being asked to go there fits the City Plan. My concern is that we have a valid contract entered between Peggy Talkington and Casey's. So we have a valid contract and we now have a third party that comes

in and asks us not to rezone because they would like to buy the property. The third party is asking us not to allow that valid contract to go through. There is a civil case call of action for that called *Tortuous Interference of Contract* and I'm afraid we are starting to head down that road in considering not rezoning so a third property can buy the property instead of Casey's.

Charlotte Goodwin said I understand Mr. Skelton's concern and I have read about the possibility of legal proceedings. However, what I am speaking of outside the employment of the Pope County Library is as a citizen of Russellville and as a property owner. I am asking this council to remember you are not only representing the citizens that are trying to sell this property, but also the citizens who live and work and play in that area. And we know that is going to create a horrible traffic problem. We already have traffic issues there. It will make it harder on the businesses that are immediately located in that intersection. But beyond that it will create a less than conducive environment for young families to move into the immediate area of residential areas. This block that is historical you can't rebuild or you can't recover once they're gone and that is the history of Russellville.

The chairman asked City Attorney Smith for his opinion on Commissioner Skelton's comment. I have thought about that too when I have looked at this and you have to judge it on the merits. It certainly could be passed to remain for as well as against. You are asking about the zoning issue, not necessarily trying to negate the contract between two people. You are looking at the zoning issue, not at whether or not how it affects the contract between two parties. The court would take into consideration all the facts including how this body made its decision if they chose to deny the rezoning. The court would consider everything involved.

Commissioner Skelton made the motion to approve the request as submitted. The motion was seconded by Commissioner Meimerstorf and passed on a roll call vote of five in favor (Skelton, Meimerstorf, Stratton, Barber and Boyd) and three against (Miller, Whiteside and Hatley).

The Fifth Order of Business was a public hearing requesting review and a recommendation of approval for a Special Use Permit to operate a tire/repair shop and used car lot, for property located at 1001 East 3rd Street in a C-2. Submitted by Danny Delao. (SP.16.05.147)

Planner Walden said this application involves a request to use a former lumber sales and warehousing/home improvement retail outlet as a tire and auto repair/vehicles sales lot. The current site is vacant. There is warehousing to the south, a church to the west, vacant (warehousing)/railroad to the north, and ATV sales to the east. The adjacent zoning is C-2, M-2 to the north. The Comprehensive Plan indicates single-family residential for the site. The applicant has provided a conceptual site plan that would remove most of the unsightly metal buildings, and if properly developed, the use would improve the aesthetics of the property and corridor. There are similar uses within close proximity of this site. There are four used car lots within 1,500 feet of this property. The use would not be of greater intensity or have greater external impacts than other uses within close proximity.

The plan indicates single-family residential for future use in the area. This designation is grossly outdated as most of the area transitioned to commercial and quasi-industrial use long ago. *The recommendation would be approval with conditions.*

- 1) Submit an application and obtain approval for a site plan that includes the removal of the open air metal structures on the east end of the lot. The area to the east of the primary structure be restricted from use for the parking of vehicles for repair or use as a vehicle repair storage area.

Potential conditions of approval as a part of the site plan approval include the following in addition to all code mandated requirements:

- a. Minimum 5-foot landscaping strip along Knoxville Avenue.
- b. Retain the two large mature trees on the south property line along 3rd Street.

Planner Walden said the only building that would remain is the one that has the brick front facade. So the addition that is to the west of there would be removed. It would be a fenced in area used for vehicle repair/storage and all the structures that are to the east -- all those metal structures -- would be removed and that area would be asphalted.

Dave Garza of Barrett & Associates, on behalf of Danny Delao, said he prepared the site plan. The original building for the lumber yard, to the west of that at some point in time in the past they put in a metal building with asphalt underneath it. So he wants to remove that metal building, fence it, screen it, and that is where he will park and put his vehicles for repair. Also they will be accessible to the bays because the bays are to the back. All the structures that housed the lumber are going to go away with the exception of three concrete walls which will be left and possibly be use for the detailing area. The front will be replaced with a pipe rail fence and a chain link fence alongside the railroad. The parking was in the front you used to pull out onto the street, and we have made the modification to bring it into compliance.

Chairman Boyd opened the floor for public comment.

Ms. Betty Tucker said she was not here to oppose this Special Use Permit. She said she had property next door. She stated that she liked what was being proposed. She said she was here to call the commission's attention to previously approved Special Use Permits that have been given in good faith. As you know, people don't always go through with what they tell you. Mrs. Tucker recommended that the City follow up on the Special Use Permits that are issued and the conditions placed on the approval because that has not been done in the past. Chairman Boyd recommended that Mrs. Tucker contact the Code Enforcement Office if she suspects non-compliance with the conditions set forth in a Special Use Permit. He explained that once a Special Use Permit has been approved with conditions, if the conditions are violated it falls to the Code Enforcement Office for action.

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

Meeting Adjourned

Chairman Dennis Boyd