

**PLANNING COMMISSION
MINUTES
February 4, 2021 @ 5:30 p.m.**

The Planning Commission held a virtual meeting on Monday February 4, 2021 at 5:30 p.m.

Commissioners Present

Chairman Wendell Miller
Vice-Chairman Jacimore
Secretary Justin Cothren
Cheryl Monfee
Shirley Hatley
Luke Duffield
John Choate
Larry Smith
Cody Black
Justin Keller

Commissioners Absent

Visitors Present: Mayor Richard Harris, City Attorney Try Smith, City Planner Sara Jondahl, Planner I Victoria Marchant, Flood Manager Ben Gray, City Engineering Tech Armando Diaz, City Engineer Glenn Newman, Building Official and Fire Marshall Richard Setian, Tanya Malcom of Center Point Energy, Abby Mallett, Carla Alverson, Craig Cloud, Amy Miller Jaime Gonzalez, Katrina Gonzalez, Chuck Frankhouse, and Dana Warren.

Welcome Visitors

Appointment of Board of Adjustment Member

Chairman Miller stated that the original nominee, Harold Cornett withdrew his name. Chairman Miller instead said Blake Tarpley had volunteered to fill the new Board of Adjustment position.

Commissioner Duffield made the motion to appoint Blake Tarpley to the Board of Adjustment. The motion was seconded by Commissioner Smith and passed unanimously

The First Order of Business is a request to review and approve the minutes of the Planning Commission from the January 7, 2021 meeting.

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

The Second Order of Business is a Special Use Permit to allow operation of a Carpentry, Custom Woodworking or Furniture Making business in a C-2, located at 2515 East 2nd Street. Submitted by Paco's Farmhouse on behalf of Kriesel Properties. (SPUP-0121-000040)

City Planner Jondahl said this request is to allow operation of a Custom Woodworking operation at 2515 East 2nd Street. Special consideration must be given each Special Use Permit application as certain uses may or may not be appropriate. The building is already an existing structure and the side that face East 2nd Street meets Article 3.20 Commercial Building Design. This is just a tenant in an existing building. The applicant will need to get a sign permit if they add signage and they will need to obtain a business license. If any building materials are stored outside the building they would need to screen that from view.

Staff recommends forwarding this application to City Council for approval of this Special Use Permit with the following condition:

1. A Parking Plan shall be submitted ensuring that there is at least 1 ADA Van Accessible Parking Space provided for the business.
2. No storage of materials outside of the commercial structure.
3. A separate sign permit application and approval will be required for any proposed signage.

As a result of the findings below:

1. This is a proposal for a new use permitted by Special permit within an existing building.
2. The building and use is comparable with other uses and structures in the area; and
3. Current traffic routes are constructed in such a way to handle the traffic from the business; and
4. Public Facilities already service this location.

Commissioner Black made the motion to approve the item as presented by staff. The motion was seconded by Commissioner Duffield and passed unanimously.

The Third Order of Business is a Special Use Permit to allow operation of a Storage Building/Container Sale or Rental business, located at 1610 S Arkansas Avenue. Submitted by William Thornsberry. (SPUP-0121-000043)

City Planner Jondahl stated this request is to allow operation of a Storage Building Sale or Rental operation located at 1610 S Arkansas Ave. The Commercial structure already located there does meet Article 3.20 Commercial Building Design. The applicant is proposing to locate approximately 44 storage buildings between Funky Town Mall and 16th Street. The existing business does have adequate parking including ADA compliant parking. The proposed business will office out of one of the units in the existing structure. City Corporation did comment to staff that none of the storage buildings should be placed over the existing sewer line that crosses the property. The applicant has been notified that a grading and drainage permit is required for the improvements of the lot and has been in contact with engineering. The applicant must ensure all of the storage buildings are placed in such a way that it will not obstruct the drainage area and that they allow adequate space for maintenance and access to the drainage. May need to mitigate for additional runoff as a result of the gravel and rooftops.

Staff recommends forwarding this application to City Council for approval of this Special Use Permit with the following condition:

1. Tiny Homes shall not be smaller than 500 square feet; and

2. Grading and Drainage Ordinances shall be met; and
3. No structures permitted in the area of the drainage without approval from the City Engineer; and
4. A separate sign permit application and approval will be required for any proposed signage; and
5. No storage buildings shall be placed within the existing sewer line easement that crosses this property

As a result of the findings below:

1. This is a proposal for a new use permitted by Special permit located on a previously developed property.
2. The building and use is comparable with other uses and structures in the area; and 3. Current traffic routes are constructed in such a way to handle the traffic from the business; and 4. Public Facilities already service this location

Commissioner Jacimore noted that he had driven by the site and there were already numerous storage buildings on the property, he asked how this occurred without being approved. City Planner Jondahl said the applicant reached out to the Mayor because of significant costs when he was told to vacate property where he was existing and had to relocate. The City was asked to issue a temporary license. If the application was not approved then the applicant would have to vacate that property. Commissioner Hatley said she had the same question. Commissioner Cothren asked what the distance from the buildings to the road was because it seemed as if they were within 6 feet. City Planner Jondahl said they should be meeting area setback requirements which she believed to be 15 feet. Mayor Richard Harris said the issuance of the temporary license should not affect the Planning Commission's decision in one way or another. Commissioner Duffield said he did not have any issue with the business and commended the Mayor and City Planner for allowing this to happen. He thought it showed good faith to people wanting to do business in the City of Russellville. Commissioner Duffield asked if applicants were obligated to give staff a copy of their lease agreement. City Planner Jondahl stated that applicants are not required to submit that but instead the applicants offered to include that in their application.

Commissioner Duffield made the motion to approve the item as presented by staff. The motion was seconded by Commissioner Monfee and passed unanimously.

The Fourth Order of Business is Rezoning a property from C-2 to R-3, located at 416 East 3rd Street. Submitted by Chuck Frankhouse. (ZONE-1220-000039)

City Planner Jondahl stated this application was a request to update the City of Russellville Zoning Map for property located at 416 East 3rd Street from the existing C2 Highway Commercial zoning designation to R3 Medium/High Density Residential. When considering a zone map adjustment careful consideration needs to be made in regard to the future and current land use of the area, the Comprehensive Plan recommendations, and that the request is not based exclusively upon a desire to increase the value or income potential of the property.

1. Future and Current Land Uses of the Area. In this area we see a mixture of commercial and residential uses, however recognizing that over time this will transition to a predominantly commercial area as shown by the businesses that are operating within historically residential structures. Allowing this area to be rezoned just extends the R3 zone from the north across the street to encompass this property. This application would not create what is called “spot zoning” in the traditional sense because the definition is “the process of singling out a small parcel of land for a use classification totally different from that of the surrounding area for the benefit of the owner of such property.” As previously noted, this would be an extension of an existing adjacent zone and not creating a pocket of R3 within an area wholly C2. As noted in the previous Special Use Application that was withdrawn from consideration there were 23 code violations and as of 2/1/2021 all but 4 of those violations were corrected. 7 new violations were noted and the owner was notified of that.

City Planner Jondahl also noted that staff was provided a petition by residents which 17 people signed in opposition to the zone change. They also provided nine incident reports from the Russellville Police Department of events that have occurred at that property since April of 2020.

2. ReImagine Russellville 2040 comprehensive plan, as guide for decision making, defines this area as “inner city office”. It describes that to include “single and multi-storied buildings accommodating a mixture of uses inside individual structures and should have shared parking”. With this in mind it is possible to consider that the R3 zoning classification be allowed.

3. Value or Income potential of the property. Staff cannot find that this application is made solely on the basis that there is a desire to increase the value of income potential of the property.

Staff finds no legal reason why the commission could not forward this application to the City Council for approval of the request to rezone the property from C2 Highway Commercial zoning designation to R3 Medium/High Density Residential as a result of the findings below:

1. Is in line with existing and Future Land Uses within the area; and
2. The proposal mostly aligns with the ReImagine Russellville 2040 Comprehensive Plan; and
3. There does not seem to be an increase of value or income potential of the property.

Commissioner Miller asked what 4 code violations had not yet been corrected. City Planner Jondahl said she did not have the 4 violations that were outstanding but she did have the 7 new violations which were: GIF receptacles in bathroom, a vent fan needs to be replaced, lavatory in a bathroom, bathroom windows need to be fixed, water meter needs to be replaced, and all electrical outlets need new covers. City Planner Jondahl said she did believe one of the outstanding issues pertains to plumbing under the structure.

Mr. Frankhouse stated that they had been running the Rooming House there for the last 20 years with a business license and no one knew they did not have the proper zoning. He said the house had been run in a previous manor for 12 years prior to him acquiring it and may have been run the same way for 20-40 years before that. He said when City Planner Jondahl pointed it out to them they had to apply to have it properly zoned.

Dana Warren stated she was a business owner across the street. She said they are experiencing parking issues and that the City curb has been cut so that residents can pull up and park in the front yard. She is running into issues when children are being dropped off typically within their eyesight is usually men with no shirts on and their bottom crack showing. She also stated there is often profanity and yelling that occurs outside the structure as well. Mrs. Warren said she gets complaints on a weekly basis and feels as if she has lost business because of the boarding house. She said prior to Mr. Frankhouse owning the property, there were not that many residents who lived there. One of her concerns was if the number of residents in the structure increased, she was not sure if the street could handle the added traffic.

Abby Mallet said she shared the same concerns that Mrs. Warren did about parking and street traffic. She also said that there had been a call on a neglected child previously at the home.

Chairman Miller asked Mrs. Warren if she had any contact with the police in regards to this property. Mrs. Warren said they have had to call the police for a number of reasons including, the yelling and profanity, the smell of marijuana, indecent exposure, pit bulls, and once because a man was dragging a woman across the yard by her hair. She also stated once Russellville Police Department asked them to lock down due to a raid and one of her parent witnessed an officer chasing a man down with a handgun during that raid. Mrs. Warren said those are the types of situations she is negotiating with her business.

Commissioner Duffield asked if they are adding parking or if their current parking is up to code. City Planner Jondahl said it was not. Commissioner Duffield asked if that was mentioned in the staff report. City Planner Jondahl said it was not and said typically Rezoning applications do not implicate development requirements, they are just for changing from one zone to another. When Mr. Frankhouse comes in for his business license on this property if the Rezoning is approved, he will have to do some development on the site for parking to provide enough parking for the at least ten units on the property.

Commissioner Duffield asked with this many people living in one structure if it fell under any requirements for fire safety. Building Official and Fire Marshall Richard Setian said homes like this are an evolving process. He said likely many years ago it was a large family home and got bought and sold and ultimately it turned into what Mr. Frankhouse calls a boarding house. Building Official and Fire Marshall Setian said the structure does not come close to meeting the current life safety code, however there is nothing that allows them to retroactively enforce things such as sprinkling. He said if this structure were built today it would be fully sprinklered and look completely different. Commissioner Duffield then asked if the rezoning of this property to residential would kick in the new regulations for the structure, he said he was asking for the applicants benefit to see if by being rezoned it would open up a lot more expense. Building Official and Fire Marshall Setian said there are differences being a residential zoning and a residential use. He said the changing of the zoning does not affect the use and the use has been multi-family. Building Official and Fire Marshall Setian said one of the reasons Mr. Frankhouse's application got withdrawn a few months ago was because he wanted to call the structure a Group Shelter. He said this is not a Group Shelter, because Group Shelters have custodial care and are typically not non-profit with a centralized management system. Building Official and Fire Marshall Setian said that was one of the reasons that application was withdrawn

was because there were inconsistencies between what Mr. Frankhouse wanted to name it as a use and what it was going to get zone. He said because the use is staying the same it is difficult to go back and retroactively bring it up to code. Commissioner Duffield said he just wanted to make sure that if this was going to trigger a new set of regulations by Rezoning the property that the applicant was aware of the cost it would take to bring it up to standard.

Commissioner Hatley asked that the reason this application was brought before Planning Commission because it did not have the proper zoning. City Planner Jondahl confirmed that it has been brought before the Planning Commission because it is not in the correct zone because Mr. Frankhouse let his business license lapse. City Planner Jondahl said Mr. Frankhouse came to apply for his business license after it had been expired for 10 months and staff noticed that the property was not zoned correctly for the use. She said it does have to meet certain code requirements thus why our Code Enforcement has been out there pretty regularly enforcing things that have to be kept up with property maintenance code. City Planner Jondahl said from a zoning perspective, the zone change would allow him to operate and get his building permit, he would have to do some parking lot revisions. She said Mr. Frankhouse is working on a plan to get that taken care of.

Building Official and Fire Marshall Setian clarified that the word code is sometimes misunderstood. He said there is a Fire and Building Code which is a state requirement, there is Zoning Code which is set up by the local legislative body, and then Code Enforcement which enforces local Zoning Code. Building Official and Fire Marshall Setian said if he gets involved it is where a change in use or occupancy change would trigger the state code or state violation. He said City Planner Jondahl is generally talking about the Zoning Code which is at a local level. He said when they say Mr. Frankhouse needs to fix things like if his outlets are not up to code, he is not in compliance with the existing state code that he should have been all along. Building Official and Fire Marshall Setian when talking about codes in an existing building it is hard to force them to upgrade state codes.

Commissioner Duffield asked if it is rezoned if it will be looked at as a new license, if it had been improperly looked at over a period of time and if that would trigger a different way of looking at that. Building Official and Fire Marshall Setian said if he would have submitted like he did the first month as a Group Shelter, then that would have been a change in use and they would have had to look at it. He said since it has been multi-family that is a sort of loop hole that makes it difficult for them to require state compliant upgrades.

Commissioner Duffield asked if units were rented by the month. Mr. Frankhouse said some tenants rent by the month and some rent by the week, with all utilities included in one payment.

Carla Alverson said her concerns were with the traffic of the tenants in and out of the area. She said they provided a few police reports. She said she is concerned for the safety of those living around the structure as there is a daycare and an apartment complex for elderly people across the street. She said the tenants of this building can make safety difficult for others in the neighborhood.

Mr. Frankhouse said if there is an incident with police with tenants inside the building they are removed from the building and that they do not allow them to stay. Ms. Alverson said that is untrue, that she has called the police on one of the tenants multiple times and he continues to reside there. Chairman Miller said they opened the floor for comment not arguing, he said he appreciated everyone's comments and feelings on this but it was not the place for arguments.

Vice-Chairman Jacimore stated that policing and Code Enforcement was not up to the Planning Commission, they are just going over taking it from a C-2 to an R-3. City Planner Jondahl confirmed that was correct.

Dana Warren said she just wanted to reiterate that taking the property from a C-2 to an R-3 would allow more families to live there which has presented a problem currently.

Commissioner Duffield asked if this was a spot zoning issue. City Planner Jondahl said it was not because there is R-3 zoning on the property to the north across the street, and it is just extending that zoning to encompass this property.

Commissioner Smith said he felt sorry for the individuals living in this place and he does not know why it operates. He asked why it did not have a license. City Planner Jondahl said she did not know why the license was originally issued, if the Zoning was not enforced. However when Mr. Frankhouse allowed his business license to expire and then had to come in and reapply for a license that is when all of this was brought to light. She said that rezoning the property is the only way to potentially allow this business to remain in operation at that location.

Commissioner Smith made the motion to deny the item. The motion was seconded by Commissioner Jacimore and was recommended denial to City Council by a vote of 5-3 with one abstaining. The yeas were Chairman Miller, Vice-Chairman Jacimore, Commissioner Monfee, Commissioner Hatley, and Commissioner Smith. The nays were Commissioner Duffield, Commissioner Black, and Secretary Cothren. Commissioner Choate abstained.

Discussion was held in reference to the possible discontinuation of virtual meetings.

Meeting adjourned.

Chairman Wendell Miller