

**PLANNING COMMISSION  
MINUTES  
June 1, 2023 @ 5:30 p.m.**

The Planning Commission held a meeting on Thursday June 1, 2023, at 5:30 p.m. in City Hall Council Chambers.

**Commissioners Present**

Wendell Miller, Chairperson  
Don Jacimore, Vice-Chairperson  
Larry Smith  
Cody Black  
John Choate  
Eric Westcott, City Council Liaison

**Commissioners Absent**

Justin Cothren  
Shirley Hatley  
Cheryl Monfee

**Visitors:** City Planner Sara Jondahl, Planner I Victoria Marchant, and David Garza, Jim Wooten, Ron Smith, Cody Smith, Gregg Long, Josh Bowden, and Nick Landers.

**Welcome Visitors**

**The First Order of Business** is a request to review and approve the minutes of the Planning Commission Meeting May 4, 2023.

Commissioner Smith motioned to approve the minutes as presented. The motion was seconded by Commissioner Duffield and passed unanimously.

**The Second Order of Business** is a Preliminary Plat for Scenic Way Village Phases I & II. Submitted by Crafton Tull on behalf of Scenic Way, LLC - Nick Landers. (PLAT-0423000350)

City Planner Jondahl stated this was a Preliminary Plat application for Scenic Way Village. She stated that this plat first came before the Planning Commission in 2017 and came back for a revision in 2019 but let their approvals expire. She stated the existing conditions were that this is a vacant parcel located in approximately the 1300 block of Marina Way in the R-1 zone where a previous PUD had been approved. Most of the properties within the area are large single family lots with residential homes. City Planner Jondahl stated that the Land Subdivision and Development Code for review states: staff shall take into consideration requirements of the community and the use of the land to enable the project to meet the purpose and intent of these regulations. Particular attention shall be given to width, arrangement, and location of streets, utility easements, drainage, lots sizes, and arrangements, and other facilities such as parks, playgrounds or school sites, public buildings, parking areas, and arterial streets, and the

relationship of proposed subdivision to adjoining, existing, proposed and possible subdivision of lands. Preliminary Plat Application for Scenic Way Village, a 61 lot subdivision which meets the area requirements of the zoning code for R-1 zoned property. Originally reviewed and approved as a 125 lot subdivision, revised in 2019, and the owner allowed it to expire.

City Planner Jondahl stated that two comments needed to be addressed prior to final plat regarding the covenants and restrictions. No open space is shown on the plat although this area is identified as an area that needs facilities, according to the 2020 Parks Master Plan. Previous reviews did not require open space, with future phases of this subdivision planned, and the need for housing in our community now, no open space will be required with Phase I or II, however consideration for open space will be required with the future phases of Scenic Way Village. Similar to the open space connectivity to adjacent properties was not required for the previous approvals of this subdivision, although staff are specifically required to consider adjoining lands and possible subdivision, it will not be required for Phase I or II as proximity to Marina would not necessitate connections, however an east to west connection will be required with future phases of this subdivision as adjacent properties are not already developed and could develop in a similar manner. City Planner Jondahl stated that per Pope County OEM Fox Chase Loop should be named Black Hawk Drive as agreed upon previously. She additionally stated that sidewalks were required along the frontage of the subdivision on Marina Road. City Planner Jondahl said the applicant must provide a master drainage plan showing positive drainage away from each building pad on each individual property.

City Planner Jondahl stated that double frontage and reverse frontage lots should be avoided except where they are needed to provide for the separation of residential development from traffic arteries. In those instances “a planting screen easement of at least 10 feet” is required. At the discretion of the Planning Commission a 6’ ornamental fence or wall which will appropriately screen and be harmonious with the residential neighborhood may be required. She stated that given that lots 6 through 28 have their backyards located along Marina Road, a 6’ ornamental fence would be appropriate and should be constructed by the developer in a manner that does not impact sight clearance. City Planner Jondahl stated that the landscape plan will need to demonstrate that 90% of lots within the subdivision are sufficient to support the residential tree requirement, as the developer requested the deferral of the street tree requirement to the individual home builders which transfers the street tree to a residential tree located within the front yard.

Staff recommends approval of the Preliminary Plat with the following condition:

1. Submit revised construction drawings containing corrections noted below in the review comments listed as “Application Requirements” and “Preliminary Plat” prior to beginning any construction activity of the project.

As a result of the findings below:

1. The application submitted conforms to the application requirements outlined in 4.2.1 of the LSDC; and
2. The application meets the area requirements outlined in the Russellville Zoning Code;

and

3. With the construction of a lift station all utility requirements are met; and
4. Soil and topographical conditions conform to City standards and inspections; and
5. The roadway has adequate capacity to handle the additional traffic load; and
6. Construction of Residential Single Family homes is the highest and best use of the Property.

Greg Long, Crafton Tull, stated that this project started in 2017; however, it had been delayed. He stated that they were asking if they could finish the work they had already started in 2017. Mr Long stated that they had already made some concessions to align their project with the new Zoning Code. He stated that they have moved some sidewalks, and they are working with the Planning Department on landscaping. Mr Long stated that the applicant only has a problem with two of the conditions laid out in City Planner Jondahl's staff report: the wall and the sidewalk along Marina Road. He stated that in 2017 the City indicated that they may want a sidewalk on Marina, however, ARDOT, who owns that state highway, was against having a sidewalk in their right of way. Mr Long stated that that would put the sidewalks in the backyards of the lots along the street. He stated that this was approved by the Planning Commission in 2017. Mr Long stated that the second issue was the wall being pushed back to the developers property. He stated that where the wall would be is a screen of trees, and rather than putting a wall there the applicant would prefer to address the holes by installing screening. Mr Long stated that they have a plan that will be reflected on the final plat to put in a landscape buffer zone to restrict access onto Marina Road from the back of those lots. He stated that adding the wall and sidewalk would add a significant cost to the project, but serve little purpose.

Commissioner Choate asked if the sewer line went over the mountain or went down Marina Road and came around. Mr Long stated that it is pumped up to the River Oaks Subdivision.

Nick Landers, Landers Development, stated that not following through with the project was his company's fault as they had not adequately budgeted for the lift station. He stated that it has taken some time to accumulate the money to continue with the project. Mr Landers stated that for this project they had not budgeted for the wall or the sidewalk. He stated that the sidewalk would not look good along this road.

Commissioner Duffield asked City Planner Jondahl if after these houses were developed if the homeowner wanted to put a fence in the backyard that faced Marina, they would be allowed to. City Planner Jondahl stated that there is an access restriction easement on the rear of the property but not a fence restriction, and it is not shown that there is the planting screen requirement on the plat. She stated that if they showed it on the plat they would not be allowed to put in a fence in that easement area.

Mr Long stated that their intent was from the right of way line to have a landscape buffer so that the tree could offer a visual and sound buffer. He stated that they could build a rear fence, but it would have to be behind the landscape buffer easement.

Commissioner Duffield asked if the homeowner would have room to build a fence that fit within guidelines. Mr Long stated that if they build a fence they would still need to get a permit—they just want to hold those fences off the landscape buffer because the trees would look nicer than a wall.

City Planner Jondahl stated that those lots are around 125 or 135 feet long which makes them longer lots giving them more room in their backyard than a traditional lot.

Commissioner Duffield motioned to approve the application as presented with the exception of the sidewalk and fence/wall requirement along Marina Road. The motion was seconded by Commissioner Jacimore and passed unanimously.

**The Third Order of Business** is a Special Use Permit to allow an Industrial Use Not Listed (Cryptocurrency Mining Facility) in a M-1 zone, located at 611 Tyler Road. Submitted by Barrett & Associates on behalf of BlockOps Mining LLC. (SPUP-0523-000365)

City Planner Jondahl stated this application was being brought to the Commission to revise the Special Use Permit issued on April 22, 2022 to allow the operation of a Cryptocurrency Bitcoin Mining Operation in the 600 block of Tyler Road. She said the existing conditions were that this was a vacant parcel located between the Tyson along Tyler Road and Entergy Substation along East 6th. It is directly south of a residential subdivision and the property is zoned M-1 along with surrounding properties with the exception of the subdivision to the north, which is zoned R-2. In her review comments she stated that Bitcoin operations across the country have demonstrated that decibel levels increase with this type of active digital mining facility. She stated that a “revised study and site plan” demonstrating that the construction of a warehouse building with no sound abatement measures would produce decibel readings about 42.2 and 41.9 in a location near the property lines for the residential subdivision to the north. Staff acknowledges that the current readings are in excess of the EPA recommendation however this revision brings the project closer into alignment with the EPA recommendation, and is a reduction of the proposed dBA levels of the project of approximately 8 dBA. With the existing nighttime levels being 54.8 and the proposed project estimating that the change in sound level would increase the high end readings by 0.2 to approximately 55.0 dBA. The acoustical consultant did recommend revising the requirements of the special use permit.

Staff recommends approving this application and revising the conditions of the original special use permit to the following conditions:

1. Ensure the discharge side of the facility is pointed away from the residential areas; and
2. Construction of an acoustically absorptive warehouse be utilized as the sound barrier for the facility; and
3. Conduct post-construction compliance testing to demonstrate that the facility does not exceed 55.2 dBA Leq (hour) on the South side of the ROW for East 6th Street after 6PM; and

- a. If an exceedance is measured, install acoustic louvers on the warehouse or add additional attenuation treatments, such as acoustic panels / blankets to the interior of the building; and
  - b. If acoustic louvers are installed, conduct additional compliance testing to demonstrate that the containers with acoustic louvers do not exceed 55.2 dBA Leq on the south side of the ROW for East 6th Street; and
4. Submit for approval and recording an incidental subdivision application; and
    - a. If the incidental subdivision does not partition the property into two lots separating this property from the residential subdivision to the north, then install a sight obscuring fence in compliance with Russellville Zoning Code (RZC) Article 6; and
  5. Ensure Landscaping is in compliance with RZC Article 5.

As a result of the findings below:

1. The applicant demonstrates compliance with the regulations within Article 2.13 of the RZC; and
2. The consultant for the City concurs that the revised report for the warehouse would justify changes to the original Special Use Permit; and
3. The proposed use is in line with the adjacent use in this district; and
4. Current traffic routes are constructed in such a way to handle the traffic from the business.

Commissioner Smith asked what they would need to do if they could not keep the decibels at the required level. City Planner Jondahl stated that according to their study, they can lower their decibels. She stated that according to their study, without any additional treatments their warehouse meets the requirements. She stated that if the levels are not in compliance they will build additional sound barrier applications.

Commissioner Smith asked if any of the residents in the area have had any comments about this. City Planner Jondahl stated that they had not received any this time around, and last time they had only received a phone call. She stated that last time they knocked on doors and talked with people about it and received no complaints or concerns. David Garza, Barrett & Associates, added that last time there was a gentleman at the meeting that had a nearby home, and he did not have any objection to it.

Mr. Garza stated that they agree to most of what City Planner Jondahl presented with the exception of the original Special Use Permit—the decibel level was 56.2 not 55.2. He stated that the Planning Commission also granted a 3 dba variance. He stated that this was in the staff report of the letter of determination of April 2022, but it did not get into the ordinance. He stated that he did not know why it was left out. Mr Garza stated that the developer would like to maintain the original request. He stated that this works better with the new designs and he likes the idea that

there is an actual facility. He stated that they looked at one in Comanche, Texas that had farmhouses around it, so their study had real readings based on an identical facility.

Commissioner Smith asked if the Texas facility had to install additional sound barrier applications. Mr Garza stated that they did not. He stated that the Texas facility used a fogger to keep it cool.

Commissioner Black made a motion to approve the application as presented with the allowance of +/-3dBA. The motion was seconded by Commissioner Smith and passed unanimously.

**The Fourth Order of Business** is a Special Use Permit to allow a Digital Billboard, located at 46 Bradley Cove Road. Submitted by Vision Outdoor Media, LLC on behalf of Winslow Holdings LLC. (SPUP-0523-000363)

City Planner Jondahl stated this application is being brought to the Planning Commission to allow the construction of a 65 Foot Billboard along I-40 and addressed as 46 Bradley Cove Road. She stated that the existing conditions were that there was an existing double post off-premise sign for the Exxon station that was located at 3103 E Main Street, the current location for First State Bank. She stated that the property and sign were immediately adjacent to the Welcome to Russellville sign located on I-40. City Planner Jondahl stated that north of this property is the Flying J Truck stop, Truck washes and repairs, and east of this property is the Waste Management Property. There is an existing active billboard on the Waste Management property approximately 675 to 700 feet from this location. Properties in this area are zoned C-2 Highway Commercial.

City Planner Jondahl stated that the existing conditions were that this application was to replace an existing Off-Premise Sign for the old Exxon Station. ARDOT confirmed the applicant had an active B-Tag Billboard Permit. A B-Tag permit is a non-conforming permit which allows the sign to remain as it was originally permitted, except for customary maintenance or repair, until it is either destroyed or removed. The state confirmed that they were allowed to apply for an A-Tag permit, however, many B-Tag permits are not issued A-Tag permits for a variety of reasons, including location and spacing. In order for the state to issue an A-Tag permit the City had to approve a Special Use Permit.

Conforming Billboards are required to meet the following requirements:

1. Sign Dimensions:

- a. A maximum sign area of 672 sqft. The sign proposed is 672 sqft.
- b. A maximum height of 60 feet. The proposal is for a sign OAH of 65 feet tall, which is in excess of the permitted allowance by 5 feet, the applicant has verbally stated that the billboard will not be this tall, however that would need to be shown and confirmed with the sign permit if this application is approved. No plans were submitted showing compliance.

2. Number of Signs: Billboard structures shall be placed no less than 1,000 linear feet from other

billboard sign structures. The proposed location is within this distance at 675 to 700 linear feet from an A-Tag active billboard. ARDOT confirmed that there is an active A-Tag permit for the structure just 675-700 linear feet to the east of the Exxon sign on the Waste Management property. If the Commission prefers to approve this Special Use Permit, a variance would first be required to be approved by the Board of Adjustment to reduce the spacing requirement. Per ARDOT, “if the Planning and Development office were to issue a variance for that location, it would create a zoning action strictly for the purpose of erecting a billboard, which is not recognized for outdoor advertising control purposes.”

3. Design standards: A standalone structure shall consist of brick or stone veneer, or other exterior facade material for a minimum of 75% of the structure. Not shown on application, would need to be verified with the sign permit, and is unclear if this requirement is met at this time.

Staff recommends denying this application as a result of the findings below:

1. The billboard is located approximately 675 to 700 feet away from an adjacent billboard, which is within the 1,000 linear foot limitation; and
2. The Billboard is being proposed at a height of 65 feet, which is in excess of the allowable height; and
3. It is unclear if the Design Standards for the proposal have been met; and
4. Per ARDOT regulations a variance to the regulations is not recognized for outdoor advertising control purposes.

Cody Smith, Outdoor Media LLC., stated that this application is for a billboard that they want to reconstruct. He stated that the sign is permitted by the State of Arkansas as a B-tag sign. Mr. Smith stated that everything is in state compliance to receive an A-tag sign. He stated that they had spoken with the ARDOT head of beautification, Ed Reynold Williams, who stated that everything would be permitted as long as they received the permit. Mr. Smith stated that as for the height of 65’, that would be the maximum height and that they would bring it down lower if necessary. He stated that as for the 1000 linear feet rule between billboards, ARDOT defines linear feet to be on the same side of the road while for Russellville it appears that it is applied to both sides of the road. Mr. Smith stated that Mr. Wooten’s sign was approved by ARDOT in 1976, and the other sign was built in 1998. He stated that Mr. Wooten’s billboard was permitted first, so it would be most fair. Mr. Smith asked why the thousand foot rule was not an issue in 1998. He stated that Lamar purchased the sign in 2008 and that they reconstructed the sign just like they are wanting to do with their sign. Mr. Smith stated that the sign is currently in desperate need of repair. He stated that they would be putting up a digital sign, investing a quarter of a million dollars. Mr. Smith stated that they would be open to letting the City advertise on this sign if they chose to do so. He stated that they just want the same opportunity that their competition got when they wanted to reconstruct their sign in 2008, and as their sign was built first they feel like it is more fair to do so in that manner.

Jim Wooten stated that he started out in Russellville over 50 years ago. He stated that he owned the Tire Mart stores. Mr. Wooten stated that their desire is simply to use this property. He stated that if they go any other way, under the rules and regulations of ARDOT, they cannot operate with a variance. Mr. Wooten stated that they had agreed to issue a Tag-A, according to Mr. Smith, for the construction of this sign. He stated that he has done business with Mr. Smith's father on other billboards, and he has done an excellent job. Mr. Wooten stated that they had constructed several billboards in Beebe, and the City of Beebe always has access to the billboard. He stated that the billboard is on the same side of the road as they are, to correct the claim by Mr. Smith. Mr. Wooten stated that the overriding point is that his board was registered by the State in 1976. He stated that the billboard was electrified in 1986. Mr. Wooten stated that their sign had been there for 12 years, so their sign should have precedence over the other sign that at the time it was built was in compliance with State regulations. Mr. Wooten stated that the sign welcoming visitors to the City lies on his property and he has never charged the City for it. He stated that they are wanting to be able to use that property, otherwise, it is not usable.

Commissioner Choate asked City Planner Jondahl if the 700ft rule was something that they could change or if it would have to appear before the Board of Adjustment. City Planner Jondahl stated that it would have to receive a variance from the Board of Adjustment prior to being approved by the Planning Commission.

Commissioner Jacimore asked how tall the sign was currently. City Planner Jondahl stated that it was around 90 ft tall.

Commissioner Smith asked if they were talking about the Exxon sign. City Planner Jondahl confirmed that they were talking about the Exxon sign. Mr. Smith confirmed that it was in the lease agreement.

Commissioner Smith asked if there was anything in place stating that if their business was to cease the sign would be torn down.

Counselor Westcott asked Mr. Wooten what the current height of the sign was. Mr. Wooten responded that he did not know the exact height, but it was short enough to where some of the trees were interfering with the view of the sign.

Counselor Westcott stated that they had a 90 foot sign in desperate need of repair, and the request is for a 60 ft sign brand new. Counselor Westcott asked Chairman Miller to refer to similar signage on Exit 81. He stated that at the beginning of Exit 81 there is a large double billboard on the right hand side. He stated that about 400 ft up the ramp is the digital sign that was recently installed. Counselor Westcott stated that there was a smaller billboard in between the two signs. He stated that if there had been nothing but positive benefits from the signage on Exit 81, what is there to make them think that this would have a different outcome.

Mr. Wooten stated that he agrees with Counselor Westcott.



Counselor Westcott asked City Planner Jondahl if there was any risk to the public health and safety if this was to be approved. City Planner Jondahl stated that they obviously want to see things improve over time. She stated that they have certain regulations in place that did not exist when those other signs were erected. She stated that the current code, the only way to move forward was with a variance. City Planner Jondahl stated that she had been verbally made aware that ARDOT would approve this billboard. She stated that while she would like to see things improve, she has to work within the current regulations. She stated that they can table this application, and the applicant can go before the Board of Adjustment to get a variance for the distance between billboard signage, and then the Planning Commission could approve it once the variance is approved. She stated that the distance between the two signs is the main issue.

Counselor Westcott asked if the City was making this process as easy as possible for the applicant. Mr. Wooten responded that the planning staff had been very helpful and informative. He stated that his issue was that, from his past experience with changes to billboard regulations, his sign should be grandfathered in.

Commissioner Black asked City Planner Jondahl if this was an instance where they would want a variance to transpire. City Planner Jondahl replied that their process would be for the applicant to apply for a variance for the distance requirement and then be issued a Special Use Permit. She stated that then the applicant would have to come to an agreement with the State.

Commissioner Black asked if the State would not issue a permit based on just a variance or if they would need to get a variance and then come back for a Special Use Permit. Mr. Smith replied that the State would not recognize a variance for the sole purpose of issuing a Special Use Permit.

Mr. Smith asked why the Planning Commission does not have the authority without a Special Use Permit. Chairman Miller stated that they would need a variance from the Board of Adjustment. He stated that it would need to be tabled and an application would need to be sent for a variance. City Planner Jondahl added that Special Use Permits add additional requirements not found in the code. She stated that a Special Use Permit cannot change a requirement currently in the code, so a Variance is necessary.

Mr. Wooten asked City Planner Jondahl if they got a variance from the Board of Adjustment, if they could then go back to the Planning Commission and get a Special Use Permit. City Planning Jondahl stated that a variance would allow the Planning Commission to issue a Special Use Permit.

Mr. Wooten asked City Planner Jondahl if the Special Use Permit would do away with the variance in terms of following on to the next step of the process. City Planner Jondahl stated that it would.

Mr. Wooten asked Mr. Smith if this would be approved by the State. Mr. Smith stated that as long as the process is as City Planner Jondahl had described it would.

City Planner Jondahl stated that she is willing to email the State and get it in writing that if they follow this process that they would then issue the A-tag.

Commissioner Duffield stated that staff should get it in writing from ARDOT stating what they will approve for future reference.

Commissioner Jacimore made a motion to table the application. The motion was seconded by Commissioner Smith and passed unanimously.

**Meeting adjourned.**

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**Chairperson**