

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

The Planning Commission held a meeting on Thursday August 5, 2021 at 5:30 p.m. in City Hall Council Chambers.

**Commissioners Present**

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

**Commissioners Absent**

None

**Visitors Present:** City Attorney Trey Smith, City Planner Sara Jondahl, Public Works Director Kenneth Duvall, Planner I Victoria Marchant, Flood Manager Ben Gray, Engineering Tech Armando Diaz, City Engineer Glenn Newman, Jim Lynch of City Corporation, Morgan Barrett of Barrett & Associates, Janet Fryar, Roger Fryar, Cliff Goodin, Casey Castleberry, Jim Knight, Juan Vasquez, Chase Pyle, Sharon Keener, and Donna Kennamore.

**Welcome Visitors**

**The First Order of Business** is a request to review and approve the minutes of the Planning Commission Meeting July 1, 2021.

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

**The Second Order of Business** is a Large Scale Development located at 51 Bradley Cove Road. Submitted by Barrett & Associates on behalf of Gulfside Casino Partnership on behalf of Deter Family Rev. Trust, Marion Helton, and Merrick Landholdings, LLC. (LSDV-0621-000096)

City Planner Jondahl stated that this application for a Large Scale Development approval to construct a new Casino Gaming Facility, Hotel, and Casino Annex with primary access being obtained from Bradley Cove Road and secondary access available off Hob Nob Road.

City Planner Jondahl read her staff report containing the following information: The portion of the property zoned C5 was zoned by ordinance 2343 establishing the rights granted to

jurisdictions by the State of Arkansas to extend zoning to areas located within the planning boundary. Properties in the Planning Boundary where zoning has been adopted are subject to both the Russellville Zoning Code and the Land Subdivision and Development Code. All gaming facilities proposed are within the C5 zone. C5 is designated as Highway Commercial Casino District where Casino / Casino Operator and Hotel or Motel are listed as permitted uses. The site plan submitted has outlined how they are in compliance with the checklist for the site plan submittal. The review of the project is subject to all the requirements of the Land Subdivision and Development Code and the Planning Commission has the authority to deny an application in the event the application conflicts with any of the outlined provisions. Compliance with the Land Subdivision and Development Code requires adequacy of public facilities and services. The developer outlines the improvements for water, sewer, storm water, and transportation system improvements. The transportation system improvements are outlined in the Traffic Impact Study provided to the City, which is advantageous to have at this point although it is not required for this application. In review of the Traffic Impact Study, improvements will be required to be designed and approved by the City and ARDOT as needed for improvements at both entrances including off site street improvements for each entrance located at Hob Nob Road and Bradley Cove Road, as well as improvements to maintain a LOS rating of a C or better for both off ramps from I-40 adjoining Highway 331 / Bradley Cove Road. Large Scale Development does require an applicant to propose greenspaces and landscaping. No specific requirements for landscaping are listed within the zoning code, to help offset the large expanse of hard surface being proposed within the parking lot containing over 1500 parking spaces staff recommends breaking up the vast expanse of pavement by including a landscape island with at least 1 shade tree for every row of parking exceeding 15 spaces side to side. This may cause a reduction in parking spaces, however, as noted in the application “it is highly unlikely that all of the spaces shown will ever be used”, as a result staff believes that a reduction of approximately 50 parking spaces would be acceptable and that would still retain more than 1500 parking spaces. Sidewalks per 3.21 are required for new commercial structures. Per the Russellville Trails map there is a 10 foot trail proposed along Hob Nob Road, across I-40 at 331 and along Bradley Cove Road. The applicant is proposing to build 10 foot trails along the entire frontage of the property. The applicant has submitted calculations for both the hotel and for the gaming area showing that they are providing 1572 spaces with 7 van and 35 regular ADA spaces included in that count. The Parking requirements for the primary building are met. If the annex is built and able to open prior to the primary building parking will need to be provided to meet the requirements for places of amusement or recreation prior to a Certificate of Occupancy being issued. Any new signs will need to meet the provisions of Article V. All signage added on the interstate will direct motorists to exit 84 East Main Street at highway 331 / Bradley Cove Road. If signage directs motorists to exit 83 Weir Road, improvements may be required at the off-ramps at Weir Road in addition to improvements required for the off-ramps at 331 / Bradley Cove Road. The applicant has stated that as soon as possible they plan on annexing the property into the City, the City recommends following the procedures outlined in Arkansas Annotated Code §14-40-609. Generally,

applications for Large Scale Development Projects typically include very limited information and just the items outlined in the Land Subdivision and Development Code. Those items include:

- a. Name and type of development along with the current zoning classification, name and address of owner with title report showing ownership;
- b. Survey of the property showing street names and classification, rights-of-way with centerlines, and any and all easements;
- c. Proposed building location, sidewalks, curbs, drives, parking, and striping, exterior lighting and exterior speaker location(s) and direction(s);
- d. Proposed curb cuts for development and adjacent curb cuts;
- e. Identify all adjoining property by activity and business;
- f. Utility proposal, Drainage improvements and drainage runoff quantities;
- g. Greenspaces and landscaping.
- h. A letter of preliminary approval from the City Engineer for the proposed stormwater management plan; and
- i. Letter from City Corporation stating the status of water and sewer service.

Applications generally do not include specific calculations for water or sewer lines, traffic impact studies, or building plans. Although as noted, some of those items are advantageous to have, like the traffic impact study, they are not required by code at the Planning Application phase of a project. Applications at this point are just trying to obtain development rights, meaning that a jurisdiction will allow the application to move into the next phase of development. Code requirements as commented by Public Works Engineering, City Corporation, and the Fire Department all indicate that no deviations from the code are requested and that those requirements shall be addressed during the design phase of the project. Additionally, the applicant has submitted a letter indicating that they will comply with the conditions recommended by staff if the commission approves the application with those conditions.

Compliance with the regulations has been determined, therefore a planning commission may not disregard the regulations set forth in the Land Subdivision and Development Code and substitute its own discretion in lieu of fixed standards applying to all Large Scale Developments, no discretionary power to disapprove exists. Thus, it is staff's recommendation to approve the Large Scale Development to allow the construction of the Main Facility and Casino Annex structure with the following conditions outlined by stage of development:

1. Prior to Building Permit issuance:
  - a. Submit and finalize a petitioner requested annexation; and
  - b. Determine a feasible solution regarding all transportation system impacts identified within the Traffic Impact Study (TIS) and obtain approval for all

improvements required by the facility from both the City and ARDOT for those; and

- c. All public improvements shall be bonded at 150%; and
  - d. Submit revised site plans showing Landscaping with the reduction to parking shown; and
  - e. Obtain an updated license to operate a Casino Annex temporary facility from the Racing Commission and provide the update to the City – OR – Remove the Casino annex building, no revisions will be required to the LSD approval if removed; and
2. Prior to Issuance of a Certificate of Occupancy:
    - a. Submit and finalize a Final Plat application including dedication of ROW; and
    - b. Improvements identified and approved by the City and ARDOT completed; and
    - c. Bond regarding potential improvements at 150% of the cost for improvements identified in the TIS as needing re-evaluated after the Certificate of Occupancy is issued.
  3. Within six (6) months of Certificate of Occupancy:
    - a. Submit a new TIS re-evaluating the off-ramps at both Highway 124 / Weir Road and Highway 331 / Bradley Cove Road confirming distribution assumptions within the original TIS.
    - b. If no improvements warranted by new TIS the Bond for potential improvements will be released.
  4. Within one (1) year of Certificate of Occupancy:
    - a. Submit construction plans for any intersection improvements identified by the re-evaluation TIS as being warranted for improvements.

As a result of the findings below:

1. The applicant demonstrates compliance with the regulations within Article 2.10 of the Russellville Zoning Code; and
2. The applicant demonstrates compliance with the regulations of the Land Subdivision and Development Code.

Morgan Barrett of Barrett & Associates, representing Gulfside, stated that he was not going to go through everything he did at the July Planning Commission meeting but that he wanted to clarify a few things. The first being the traffic study, he stated that it was prepared and submitted to the City and the highway department and that they had been in communication with the highway department, specifically the director of planning. He stated that his conversations with the highway department had been that they reviewed the study and when it gets to the permitting stage there is more information that they are going to want to look at. He stated they are going to work with the highway department throughout the process and come up with the solutions. The highway department did not have any additional comments at the time of the meeting and had looked at the number and received the study. Mr. Barrett stated that he knew there were a lot of

concerns and that there were a lot of people who are anti-casino, he said he was one of them and that some people may find it funny that he was there representing them. He stated that there were a lot of conditions for him being there, and one of them was to make sure that it was done right. He stated he was there because he did want it done right. Mr. Barrett said the planning portion, at that point, was purely a technical review. The land use portion, whether it is a casino or not, was decided sometime ago as the property was zoned for a casino. The large scale development process is just the site review of the technical aspects of the traffic, drainage, water, and sewer. He stated that they had complied with all of the regulations and they went above and beyond what was required for submission at that point. Mr. Barrett stated that he thought staff had done a good job in their review and recommendations. He stated that Gulfside had stipulated the staff recommendations. Mr. Barrett said the site plan submitted has to be built, if it was not built or if there were changes made--other than what staff included in their staff report--they would have to come back to the Planning Commission. He stated that he would let Mr. Castleberry address any questions related to the license and that a copy of the license was submitted with the application. He stated Gulfside had a valid license to operate a casino in Pope County in the state of Arkansas. Mr. Barrett stated that the land use was decided whenever the piece of land was rezoned. He stated that there had been some discussions about the Racing Commission and pending lawsuits, and that approval at the Planning Commission did not change any of that and that if something happens and they cannot build the casino, approval from the Planning Commission would not be the final word. The final word rests with the state. He stated that at the Planning Commission, Gulfside was asking the Commission to look at the large scale development ordinance that requires the Planning Commission to review and approve an application if it meets all of the requirements, and the staff report stated that the application did meet all the requirements. Mr. Barrett said he went back and looked at the ordinance and it says the Planning Commission shall review the application at the next regularly scheduled meeting and shall approve it if it meets all of the requirements. He stated that the language is not permissive, it is mandatory and he asked the Commissioners to take that into consideration and to approve the application.

Chairman Miller asked Mr. Barrett to summarize what was done regarding the traffic study. Mr. Barrett said he would not go into all the details on it. He stated they wanted to bring in a second set of eyes when it came to the traffic study instead of doing it completely in house. He said they brought in CBB (a company out of Missouri) which has a division that specializes in traffic. Mr. Barrett stated that it was the most detailed traffic study for a development that he had seen in his 25 years in Russellville. He stated that it was much more detailed than the traffic study for the Walmart Supercenter. The study did counts of the existing traffic, looked at other sources related to highway department counts, looked at multiple sources for traffic generation, talked to Gulfside about their other properties and the anticipated volumes that they expect at this location, looked at the driveways, looked at all the roadways, looked at the existing level of service of intersections, and gathered all the data they could and modeled the traffic that would be

generated by the casino. Mr. Barrett stated that they went through that process and recalculated the level of service at existing intersections based on the impacted traffic and then they looked at improvements and modeled the improvements with the added traffic. They made several changes to improvements including pushing the driveway to the east and getting it out of the congested area that many people were familiar with on Bradley Cove Road. He stated that one of the conversations he had with Gulfside was that he did not want to draw a site plan until the traffic engineer could make it work. He wanted to do the analysis and let the analysis dictate the site plan and the access points. He said that was the approach they took. Mr. Barrett said moving the entrance further to the east got the entrance out of a lot of the conflicting turning movements and let the traffic flow into the site. The driveway location was not what Gulfside wanted, but the location that they wanted was not going to work and so that is why the driveway was moved to the east. After the traffic study process, they submitted the traffic study to the City Engineer and the Highway Department and had multiple conversations with them and addressed some of the concerns and finalized the traffic study. Mr. Barrett stated that it is a large facility and that a casino operates a little differently, even though it is really large it does not have as much peak hour generation as a football game or a restaurant as far as percentage of traffic. He stated there is a PM peak that is the highest and there is not really much of an AM peak, it is a lot of coming and going throughout the day. As far as events that might take place, they did model that and it really did not have much of an impact because the way the events work at the casino, a lot of people do not leave all at once, they will hang out or if they are staying at the hotel they do not leave the property. He stated that as far as any types of events associated with their meeting areas it did not have much of an impact on the overall traffic study.

Commissioner Monfee asked if they considered exit 83 instead of exit 84, since exit 84 was a highly populated area going to homes. She asked if the entrance came in off of exit 83 off of Weir Road; it was not as heavily populated that way. Mr. Barrett stated that one of the things they did was propose building a prominent entrance off of Hob Nob Road to encourage traffic to go that direction. He stated that they did some directional distribution assumptions to try to guess which way the traffic may go. They laid out the site plans to where people could go that way easily. Mr. Barrett stated that they plugged the address into Google Maps to see how it was routed and that helped with their directional distribution assumptions. He stated that Google Maps took it to exit 84, however he did think traffic would find its way to exit 83 if there is congestion at certain times. He stated that they had laid out the site plan to allow traffic to be easily able to go out Hob Nob and hit the Weir Road Interchange. Mr. Barrett stated that one of the good things about the site was that the option was there as opposed to it being on Weir Road and everyone had to go to Weir Road. He stated the site does have access directly to Hob Nob and to the Weir Road Interchange.

Jim Knight stated that he was president of the anti-casino group. He stated that he had heard a reference that this should not be considered as a casino issue, he stated that he agreed with that.

He stated that he hoped that people were at the meeting because they wanted to see their neighborhoods protected. Mr. Knight stated that the multiple lawsuits that were going on were a point proven that the casino effort has come under some scrutiny to do what they say they are going to do. There had been some doubt cast over that. He stated that this was not a casino issue, he was there because he owned land in the area and was concerned. Mr. Knight stated that he had a lot of confidence in Mr. Barrett and that he would do the very best job that he could to design the casino. He stated that there was no backdoor plan because they play by the rules and they would come on with a full frontal assault. He stated that with all the lawsuits one might speculate that Gulfside does not play by the rules and that a judge somewhere would sort that out. Mr. Knight stated he was there as a concerned property owner.

Commissioner Monfee clarified that the area the casino was proposing to be built on was zoned correctly for the use. City Planner Jondahl confirmed that it was. Sharon Keener asked when the zoning was established. City Planner Jondahl stated that she did not have a date but that it was established by Ordinance 2343.

Sharon Keener said she did not understand the City addressing the casino at that point prior to the Supreme Court making a final ruling. She stated that she also did not understand the City anticipating spending any revenue to make any improvements prior to the Supreme Court making a decision. She stated that the Commission needed to do what was best for the community and they needed to put special interests aside. She stated that there were buildings within the City that had sat empty. Ms. Keener stated she believed they were empty because there are too many special interests in the community and that people needed to think about the generations to come. She said that Russellville needed the casino. Ms. Keener stated that people cannot preach morality to other people, you can pray for them, and that people are going to gamble if they are going to gamble. She stated that she had a problem with the churches being involved because there was a reason that there is a separation of church and government. Ms. Keener said that she knew in the current state of the world, people did not always do the right thing. She stated that if something would benefit someone as an individual it did not matter if it would hurt the majority at large, they would still do it. Ms. Keener said she was hoping that the whole County would come together. She said that the outlying areas in the County would dry up and people would move away just like one of her children did because they could not make a living in Russellville. She stated that the reason people did not stay is because the community did not unite to do what is best for the community. Ms. Keener stated that she hoped the Commissioners would vote their conscience and not approve the application until a final decision had been made. She stated that she would hate for any more revenue to be spent on something that may not even come about. Ms. Keener stated it may end up being Legends who she believed was best for this community.

Roger Fryar stated that he and his wife had lived in Cove Landing for around 20 years. He stated the two things he wanted to address were the traffic impact study and the Attorney General's letter. Mr. Fryar stated that one of the first things he saw on page four of the traffic impact study was the traffic mix and what was contributing to the numbers. He stated that looking at that page, residential traffic was not covered. He stated that there are four subdivisions that way, Cove Landing, Stonegate, Richland Hills, and Cliff and Stream. Mr. Fryar said there are over a thousand homes in those subdivisions. He said he had seen some of those get built in his 20 years. Mr. Fryar said it was amazing how busy the intersection at exit 84 has gotten over the years. He stated that he saw people in the room representing those subdivisions and that he was glad they had taken an interest in what was going on. Mr. Fryar said the failure to identify these people is an error because if you just do quick math you would realize that there is probably one two drivers per household in those subdivisions which represents two to three thousand trips at least. He stated that was probably 20-30% of that total amount that he thought had been modeled for the traffic counts. Mr. Fryar said these people are going to school, work, and into town for business and coming back and he said the residents out there know it can get really busy and dangerous. He thought it was interesting that the traffic study pointed out that on average there were 11 accidents a year and the traffic impact study referred to them as crashes. Mr. Fryar said some of these involve personal property and a few injuries but he thought public safety was an issue. Mr. Fryar stated that he heard the City Planner talk about moving things from level C or better, and he had heard they had done all that when they had not. He referred to page 26 on the traffic impact study on table five where five different intersections and side street stops that after improvements would get worse. He stated that four of those five would get significantly worse. Mr. Fryar stated that he spoke with City Engineer Newman on that and he confirmed that Mr. Fryar was not looking at something incorrectly. He stated that the traffic issue was a major flaw, he stated that the alternative would be to make the primary entrance at Hob Nob Road and to direct traffic to go to the casino at exit 83 with signage. Mr. Fryar stated the last thing he wanted to address was the Attorney General's letter, which was written to the Mayor regarding the Planning Commission. He said basically the gist of the letter was to wait.

David Ivy stated that he purchased property on Bradley Cove Road 16 years ago and started a successful business there and he had some concerns about the traffic issues. He said that one of the things he had not heard discussed at all was truck traffic. Mr. Ivy said Flying J Travel Center sits at the intersection. He stated when the Flying J was built there was no rear access or egress from the parking lot, it was not permitted in the original site plan. He stated that the reason for that was that the road and infrastructure in that area was not built to support those trucks. Mr. Ivy stated that five or six years ago there was an egress built, a curb and gutter cut made on Interstate Drive. Mr. Ivy stated that approximately a year ago he asked if someone in the City could pull the permit for that, to his knowledge no one in the City was able to find anything permitting the egress, so it was done without approval. He stated that it creates a serious problem especially in the evenings. Mr. Ivy stated that on the afternoon of the meeting he sat in this area from 3:45 to

4:00 o'clock and there were 132 cars, and 36 trucks that drove through that area in only the 15 minutes he was there. He stated that this was not even during peak hours. He stated that he had read through the whole traffic impact study and that according to the TIS peak time 4:30-5:30. Mr. Ivy said they have a huge volume of traffic in the area. He stated that there is a lot of growth still going on in the area including along Crow Mountain and Bradley Cove Road that will continue to increase traffic. Mr. Ivy said the real problem was that there had been numerous times coming down Bradley Cove Road where the road narrows down to one lane in front of the Crafton Tull office and the entrance to the truck section of the Flying J and a truck would be trying to turn left out of Interstate Drive to go back towards the Interstate. He stated that he once experienced a situation where it took an hour and fifteen minutes because they had to call a tow truck out and pull the truck off the road and traffic was backing up towards his business along Bradley Cove Road, and he had customers that could not get to him because the road was blocked. Mr. Ivy said there are times when just to make the turn, a truck coming down Bradley Cove Road has to sit back 70-80 feet because another truck had to have the width to make a turn. He stated that he was really concerned that this was a very dangerous scenario and that they had been very fortunate that no one had gotten hurt but the traffic load in that area is increasing some. He stated that he was hoping that they could look at that. Mr. Ivy stated that he knew Mr. Barrett had indicated that there would be further discussions with the state. Mr. Ivy said he did not know where the state responsibility ends and the City begins. He stated that he was asking the Commissioners to consider these issues prior to making their decisions. He asked them to consider the fact that there is a light at Parkway and Bradley Cove Road, the TIS says there needs to be a light on one of two ramps and that they anticipate that in the short term there needs to be a third light in that area. Mr. Ivy stated that this would be talking about massive congestion that is going to cause problems.

Morgan Barrett said Mr. Ivy brought up good points about the traffic and they did look at the percentage of truck traffic. He stated that the proposed improvements were to mitigate the impacts. Mr. Barrett said that those proposed improvements were what the City and the State looked at. He said as far as the truck traffic, one of the reasons Gulfside aligned the driveway with Interstate Drive was to allow for truck traffic and possible signalization of that intersection if necessary. Mr. Barrett said that they even modeled a roundabout at that location but it was going to encroach onto some private property that the applicant was not able to acquire. He stated that to answer Mr. Ivy's other question, that portion was City maintained, the State ended basically at the end of the curb and gutter and then transitioned to City. Mr. Barrett stated that it was a little bit of a complicated area as far as who is responsible for what and why they are coordinating with multiple agencies. He stated that the portion that was in the City they could add a signal if needed, it was not warranted because the proposed improvements would allow basically free flow traffic and a stacking lane if it was not free flow for left turn in. He stated that on the exit of the casino there was a widening proposed from the end of the state improvements all the way to the driveway that would add another lane to let existing traffic be free-flowing.

The additional lane would be protected by an island and not impact through traffic coming off Bradley Cove Road. Mr. Barrett said they did consider and address the points that were brought up in the traffic impact study.

Casey Castleberry, attorney on behalf of Gulfside Casino Partnership, said he wanted to address some of the comments made regarding legal matters. He stated that there were a few cases pending including one before the Arkansas Supreme Court. He stated that that case would be fully briefed the week following the meeting and the Supreme Court would come back into session in September. However, they did not have any knowledge of when the Supreme Court might rule on that case, although they hoped to get a quick ruling, there was no way to know that. Mr. Castleberry stated that the parties did request an oral argument in that case, but the court denied it, so the court would be ruling just on the papers. He stated that could be in the middle of September or next October, they did not know when the Supreme Court would rule. He stated that he did not think that should be a consideration for the Planning Commission to take into account at that point. Mr. Castleberry stated that there was also mention of the Attorney General's letter, he said that even in the letter the Attorney General recognized that Gulfside has a license.

Chairman Miller asked Mr. Castleberry if he could address the comment he made stating that the lawsuits are something that the Commission should not consider in their decision. Mr. Castleberry stated that he believed that the consideration before the Planning Commission at that point were whether their proposed site plan complies with the applicable ordinances that apply to a large scale development pursuant to the Cities regulations, laws and ordinances. Mr. Castleberry stated that in the legal world if you want to prevent a party from going forward and acting based upon the rights that the party has, then you have the ability to go to the court and ask the court to issue an injunction or issue a restraining order to prevent that party from going forward. He stated that no such injunction or restraining order entered in any of the pending cases, so there was no legal impediment to the Planning Commission considering the matter at that time.

Mr. Castleberry stated regarding the Attorney General's letter, the letter acknowledged that Gulfside has a license. He said there was also email correspondence between the City Planner and the Racing Commission where the Racing Commission acknowledged that Gulfside had a license and Gulfside was entitled to construct a casino based upon that license. Mr. Castleberry said again that he did not believe that it would be one of the factors for the Commission to consider at that time and would defer to Mr. Barrett in respect to their compliance with the applicable ordinances and laws.

Commissioner Jacimore asked what the information on the annex having another separate license was? Mr. Castleberry said that their current license did not say specifically whether they could operate a temporary facility, it just stated that they could operate a casino. The Racing

Commission had taken the position that if Gulfside wanted to operate a temporary facility, they would need to come back before them and ask for their permission and Gulfside had agreed to that. Mr. Castleberry stated that in the recommendations that were proposed by staff, in section 1E, it says that if Gulfside wanted to operate a temporary facility, they would have to get a temporary license from the Racing Commission and bring it to the City or they could remove the temporary facility from their plan and go forward without it. Mr. Castleberry stated that he submitted a letter on behalf of Gulfside after they had received and reviewed those recommendations and stipulated that they would comply with all of the recommendations that were made by staff, so they would not go forward with the temporary facility unless they got approval from the Racing Commission and provided that to the City.

Commissioner Smith asked that if Gulfside built the annex, what would happen to that facility once the main facility was built. Mr. Castleberry stated that the Annex building was designed to be multi-purpose, so they are hopeful if they did go that route to build and operate the temporary facility, there would be a use either as a second gaming floor in the future or as some convention space. Mr. Castleberry stated that it would be integrated into the final project and would be available for other uses than just a temporary facility utilization. Mr. Smith stated that he was under the impression they were just going to use it for storage.

Cliff Goodin stated that he is a citizen of Pope County and that this was a very difficult issue that the City was facing. Mr. Goodin stated that he wanted Mr. Barrett to know that he had a lot of respect for him and that he did not question his ability or his integrity. Mr. Goodin stated that Mr. Barrett told him after the last meeting that Gulfside was a long way from getting a building permit. He stated that he visited with City Planner Jondahl and he told her that he thought that she did an excellent job of presenting the staff's review. Mr. Goodin stated that there was a lot of stuff that had not been done yet and City Planner Jondahl listed the stuff that needed to be done. He stated that he noticed some things that may or may not be a big issue. The first thing Mr. Goodin pointed out that on Gulfside's site plan they had approximately 42 acres but their license had 120 acres. He asked what would happen to the rest of the acreage. The second issue that Mr. Goodin brought up were the court issues, he stated that Mr. Castleberry raised several reasons as to why they would not be considering that at the meeting. The third issue he brought up was whether or not Gulfside would be doing a temporary casino. Mr. Goodin stated that in his lifetime, he had gone before groups with projects that he was trying to sell and he would go to them and they would say that they thought the project had merit but that he had more work to do. He stated that is where he felt Gulfside was, that they had more work to do. Mr. Goodin stated they needed to be meeting some of the requirements listed and then come back and ask for an approval, not ask for an approval and then go out and do it. He stated that they were not there and the public image that they are showing was not where they are. Mr. Goodin stated that they were a long way from getting a casino started.

Morgan Barrett stated that he wanted to respond to Mr. Goodin, he stated that he had the utmost respect from Mr. Goodin. He said this is where they are at in the planning process, to seek large scale development approval and then complete all the detailed plans. He stated that this was just the process for large scale developments, they do not come in and spend a bunch of money doing a bunch of detailed plans and then come to the City and submit it and have a bunch of changes and redo everything. Mr. Barrett stated that it was a long planning process, they did not want to start detailed building plans until they had the Planning Commission's approval. He stated that they had tried to incorporate any comments from the City into the site plan so that they could design it according to the City's desires. He stated that is why all those things were not done yet, and that was part of the process and that they would be done. Mr. Barrett said the staff had done a good job listing what they wanted done and that was the process. He stated that if they would have had a complete set of plans and brought them in and then staff reviewed them and listed changes that needed to be made, it would have been wasted and things were not done in that way. Mr. Barrett said he had seen a lot of developments that everything was not in place as far as large scale developments, there was a site plan that was the first step in the engineering process and then they would do the detailed drawings. He stated that as well as the additional permitting, all the permitting takes place after detailed plans. He stated that the Commissioners would see applications that evening and in the future that come to the Commission as a large scale development that did not have all the permitting in place because they had to nail the large scale development down to do the detailed plans to do the additional permitting.

Commissioner Jacimore asked how the traffic flow was done on the traffic study. Mr. Barrett stated that they did actual traffic counts of the existing traffic. They put up cameras that would do both the counts and classification of the vehicles. Commissioner Jacimore confirmed that they tracked all the vehicles coming in and out of that area and then added their projected traffic. Mr. Barrett confirmed and stated that they compared the counts to the highway department counts that they had previously done and they were pretty consistent. Mr. Barrett wanted to verify the traffic volumes with current counts. When they were performing the traffic counts they had cameras all over that area.

Janet Fryar stated that she lived off of Bradley Cove Road and that there was one set of vehicles that had not been discussed that was a safety issue and that was emergency vehicles such as ambulances, fire trucks, and police cars. She stated that the Arbors assisted living facility was on Bradley Cove Road which would probably require a lot more ambulances down that road. In 2019 on Walleye drive there was a house that caught fire and the Russellville Fire Department put it out. Mrs. Fryar said she looked at the traffic study and spent hours looking over it. She said there was no way to get all the traffic through that area. She stated that she was not an engineer but they went out and walked the area and there were not enough left turn lanes, after exiting the interstate there was still a one lane road until it had the passing lane. She stated that she did not think that they could have the casino entrance off of exit 84. Ms. Fryar said that she realized the

Commissioners had things that they were looking at and that the boxes had been checked. She stated that this was a box that they may not have thought about, that the people who lived in that area have a need for emergency services at times and she did not think that this would work for them.

City Planner Jondahl addressed Ms. Keener's question on when the Zoning had been established, and she wanted to correct herself as she had the wrong Ordinance number. It was Ordinance 2346 that changed the zoning and that was on February 20, 2020 and that was passed with an emergency clause to zone that area and Ordinance 2343 was passed on December 19, 2019 that added the use of casinos as a permitted use in the C-5 zone. City Planner Jondahl stated that her understanding with ambulances and fire trucks was that during construction there would be communication if there were any road closures or anything. She stated that Fire Marshall Richard Setain was there and could potentially address that better since he was more familiar with fire response. She said that she did know that their response times anywhere in the City were typically pretty good. City Planner Jondahl said she believed that any improvements the City was making out in that area as a result of the casino would only improve traffic with the exception of the interstate if they did not maintain that level of service B which was currently at that. Anytime you had any development there would potentially be a decrease in a level of service. She stated that the City was not allowing it to decrease to a level D which was what was stated in the traffic impact study. The City expected them to maintain at least a level C, so they would have to meet specific requirements as identified in the traffic impact study and in coordination with the City and ARDOT to get those approvals to maintain those levels of service. City Planner Jondahl stated that as far as large scale developments she was not aware of any projects that have had this big of an impact and that had as many conditions at the planning stage. She said she did want to reiterate that this was the planning stage of things, it just gave Gulfside permission to move forward to the design phase. The Planning Commission approval was saying that they have met the check boxes but then they have to go and meet all the requirements of the Russellville Zoning Code, the Land Subdivision Development Code, the Stormwater Code, the Water and Sewer requirements for City Corporation, and the Building Code. Because the City was requiring them to annex then they would have to meet the State Building Code and would have inspections. City Planner Jondahl said there were a lot of things that were going to be required but if she compared this to a development such as the Walmart Supercenter that had about the same level of traffic. She was not aware of any cases where the City came in after a development had their Certificate of Occupancy and were in operation and the City required them to do additional studies and potentially do additional construction and improvements to maintain level of service within the City's transportation system. She said the City had definitely reviewed the project quite a bit to make sure that they were taking care of the community as a whole, not just one little area but all the citizens, as she knew there were several citizens that did not even live in the City who were impacted by the development. City Planner Jondahl stated that staff was doing what they could at that stage to ensure that the requirements

and improvements were made. She stated that she did get a request from one of the Commissioners to once again outline what the Planning Commission was there for and what they had authority over. City Planner Jondahl said the site plan submitted had outlined how they were in compliance with the checklist for the site plan submittal and they had gone above and beyond trying to review and have those conditions in place. The review of the project was subject to all the requirements of the Land Subdivision and Development Code and the Planning Commission had the authority to deny an application in the event the application conflicts with any of the outlined provisions of the Land Subdivision and Development Code and the Russellville Zoning Code. She stated that the application did not conflict with any of the provisions. City Planner Jondahl stated that it came down to the fact that the applicant had met all of the requirements and the Land Subdivision and Development Code did state under large scale development if the application met all of the requirements, the Planning Commission's job is to say that the application was in compliance and they needed to move it forward.

Sharon Keener asked when a building was planned and you had an architect firm, they should know what was required and they would know what the City of Russellville codes were. She said in her opinion even though they met requirements at that stage, if the development was going to have a temporary facility then they plan to use the remainder of the land. She said she did not understand why they did not have the large scale design already completed for people to look at. She asked why they were doing piecemeal and that it did not make sense to her and asked if it made sense to the Commission. Chairman Miller stated that the Planning Commission was conflicted on a lot of things regarding the application. He said with their job description for what they were authorized to do and what they knew was right, it was hard for them to say yes to something that was morally corrupt in his opinion. He stated that their authority was to make sure that they ensured that they take care of everything planning wise, and pray that the City Councilors that they forward the application onto take care of it. Chairman Miller stated that if there were legal issues, those would be addressed but not by the Planning Commission. Ms. Keener said if Gulfside did want to build in Russellville even though they had what she referred to as a temporary license, that they should have got everything in order and a large architect firm that could address everything then bring it to the Planning Commission. She said they were piecemealing an application for something that most people did not even want. Ms. Keener said she knew the Commissioner's had heard that from more people than just her. Chairman Miller said he appreciated her comments and did sympathize with her. Ms. Keener said if she was on the Commission she would want a complete set of plans done by an architect from the beginning of design to end of design and then there is no question of what would be coming.

City Planner Jondahl reminded the Commission that large scale developments decision authority rested with the Planning Commission and that it would not go on to City Council. Chairman Miller stated that the Planning Commission was well aware of what their authority was and unfortunately there were times where they did not personally agree with something that was

being discussed but he did appreciate City Planner Jondahl for presenting the facts. He stated that they did not want citizens upset with them and a lot of people think the Planning Commissioners had a lot more authority than they have. They had a job to do and they had to do it. He stated that there were other bodies that took care of other things. He stated that the Planning Commission had a single responsibility whether they agreed with it or not.

Mr. Castleberry stated that Gulfside could not be more pleased with the engineering firm that they had chosen based out of Russellville, Arkansas and that they did not think they needed any other firm than the one they had.

Rogar Fryar stated that on the traffic study on table five, page 26, on the far right it showed what the traffic service levels would be after the improvements were done. He said that is why he spoke with City Engineer Newman and asked him if he was reading it correctly. Mr. Fryar said on that list one could see some service levels going for a B to an F, E, D, or C. He said that what that was telling them was that the mitigation that was planned would not work, and it would get more congested.

Commissioner Monfee asked City Planner Jondahl if she had not stated that there was some requirement that the traffic stay at level C or better. City Planner Jondahl confirmed she had said that. Commissioner Monfee asked if that was printed somewhere. City Planner Jondahl stated that it was in the staff report, stating that in review of the traffic impact study improvements would be required to be designed and approved by the City and ARDOT as needed at both entrances including off-site improvements for each entrance located at Hob Nob Road and Bradley Cove Road. As well as the improvements to maintain a level of service rating of a C or better for both off ramps from I-40 adjoining Highway 331 (Bradley Cove Road). Commissioner Monfee said she found it, she was looking for it in the recommendations.

Commissioner Duffield asked City Attorney Smith if they had an applicant that adhered to all of the requirements and conditions for approval and the City recommended the application for approval, what was the Commission's obligation as a body to go against that. City Attorney Smith asked if Commissioner Duffield was saying that if it met the Land Subdivision Development regulations. Commissioner Duffield confirmed that he was saying if all of the boxes had been checked then the code said the Commission shall approve which was a pretty strong word. Commissioner Duffield said his question was if all of the conditions were met, what did the Commission have as a body to not approve the application legally. City Attorney Smith stated in his opinion and understanding of the law, if all of the boxes had been checked, then at that point there was no discretion with the Commission as to arbitrarily put new conditions on. City Attorney Smith based that on a case called Richardson vs the City of Little Rock Planning Commission. He stated that it was an application that went to the Little Rock Planning Commission and the applicant met all of the requirements of their subdivision regulations but the

Planning Commission essentially said that it met their criteria but they did not like it. City Attorney Smith said the Supreme Court found that they could not add the additional requirements and there was no discretion because the applicant had met the requirements of the Little Rock Land Subdivision and Development Code. City Attorney Smith stated that he thought the same thing would apply to the Gulfside application because the City of Russellville had the same language of shall approve. City Attorney Smith said if you went past that language it only talked about disapproval if there was a box that was not checked, so in his opinion if the Commission found something that was not complete on the application or the applicant failed to do something that was the only way he could see the Commission reject the application.

Chairman Miller asked City Attorney Smith about the pending lawsuits as they were concerning, he asked if those lawsuits had any bearing on the Commission's decision. City Attorney Smith stated in his opinion that the lawsuits had no bearing on the Planning Commission on the application before them. He stated that Gulfside was the body at risk. City Attorney Smith stated that the Planning Commission was just looking at an application that appeared to be completed. Chairman Miller asked if City Attorney Smith foresaw a potential empty building in the middle of a field like the old National Home Center, he asked if the City did not have a risk of something like that. City Attorney Smith stated that he looked through the Land Subdivision and Development Code and there was nothing that talks about that. Chairman Miller stated that as long as they were not checking a box that they should not have and wanted to make sure the Commission had done its due diligence. City Attorney Smith said he understood and that he saw nothing in the large scale development that talked about the potential of the viability of what is being proposed or the potential litigation for each applicant that comes before the Commission. City Attorney Smith said he believed the litigation had no bearing on what was before the Commission. City Attorney Smith said the large scale development should be administered evenly based on the checklist provided.

Commissioner Duffield clarified with City Attorney Smith that when he cited the case of the Planning Commission in Little Rock all of their boxes were checked by the applicant and the Planning Commission went against the Code and it went to the Supreme Court and the Supreme Court ruled in favor of the applicant. City Attorney Smith confirmed.

Cliff Goodin said it appeared to him that since they did not know whether Gulfside's plans were to build a casino or a casino and an annex building that Gulfside would tell the Commission and public what their plans were. He said if they were not going to build the annex, they would take it out of the large scale development, if they were going to build the annex they would go back to the Racing Commission and get a license to do that. Then at that point at least the large scale development could be approved. Mr. Goodin stated that for the large scale development, they did not know what the applicant's development plans were and he would think that it would be prudent for Gulfside to make a decision about what they wanted to build.

David Ivy stated that he did not disagree with the process and if the boxes were checked then that was the responsibility of the group. He said his only comment was that if all of the boxes were checked why were there still questions. Mr. Ivy said if they had all of the traffic answers and they could check that box and there were no questions, then he could understand that. Mr. Ivy asked if there were still questions on whether their numbers were correct or whether it was going to work, how could they check a box that they had questions for.

City Planner Jondahl said that there was just a checklist of items that the applicant had to submit. She wanted to speak on the fact that there were things that were advantageous for the City to have, like the traffic impact study, however, that was not one of the checkboxes that the applicant had to meet. The approval would just be granting them the development rights to move forward with the project, the applicant would still have to do a traffic impact study and typically they would not expend those funds to get to this point. Applicants typically just provide a site plan and then they would work through the code requirements. She said once applicants get to the design phase of a property, then they would get the design and engineering for water, sewer, and stormwater. The traffic impact study to ensure the requirements for the City's transportation system were met would also occur at the design phase of a project. City Planner Jondahl said the Commission had extra information on this application that typically they would not have at that phase. She stated that although there were unanswered questions regarding how the transportation system was going to be fixed or the construction proposal, how those answers were going to be solved would be a result of the traffic impact study. City Planner Jondahl stated that those were not questions that were typically answered as part of the large scale development process, they were part of the design process. She stated that they were just granting the applicant approvals necessary to move forward with their project to get into the design of the project.

Commissioner Monfee said there was an inference by someone speaking that the City of Russellville would be expending funds, she wanted to confirm that the City was not expending funds. City Planner Jondahl confirmed that was correct, all expenses were to be paid by the developer.

Sharon Keener asked who paid for the traffic study. City Planner Jondahl stated that the developer paid for the traffic study and that the City had not expended any funds at that point.

Chairman Miller asked if City Planner Jondahl could expand on any of the questions that had come to the Commissioners regarding the pending lawsuits. He stated that they wanted to do the right thing but he wanted citizens to have peace of mind when they left. He asked what the City had done in reference to the pending lawsuits. City Planner Jondahl stated that she knew they

had emailed the Racing Commission to confirm that Gulfside actually had the license. She stated that they had mapped the legal description to confirm that the property they were proposing to develop on was the property included within their license. City Planner Jondahl stated specifically regarding the lawsuits, they were paying attention to what was happening but that it had no bearing on a large scale development application. There was nothing in the rules or regulations that required any county, state, or federal licenses to already be issued or in place at the time of application for a large scale development. She stated that she believed they may have something when it came time for the business license issuance where they could not operate the business until they had those licenses in place, however for the planning phase there was nothing in code or City law that said they had to have those approvals and licenses in place to approve a large scale development.

Commissioner Duffield made the motion to approve the item with the conditions as presented by staff. The motion was seconded by Commissioner Black and passed with a vote of 7-1.

**The Third Order of Business** is a Special Use Permit to allow an Auto Service Station in the C-2 zone, located at 109 Weir Road. Submitted by Vasquez Engineering on behalf of McIlwain Revocable Trust. (SPUP-0721-000085)

City Planner Jondahl stated that this application was being brought to the Planning Commission to request a Special Use Permit to allow construction of a Discount Tire Facility at 109 Weir Road. She stated that this property was just north of the intersection of East Main Street and Weir Road across the street from the main Wal-Mart Supercenter. City Planner Jondahl stated that the application met all of the requirements. She stated that the applicant had met with City Staff prior to submitting. City Planner Jondahl said that the facade of the proposed structure would be in visual harmony with the buildings in this commercial corridor and there was no discernible benefit by requiring an alternate design. She stated that they would be tearing down the existing facilities and building a brand new facility. The applicant had listened to staff comments about the southern driveway that was closest to the intersection and made that driveway right turn in right turn out only. City Planner Jondahl stated that the parking regulations had been met and they were aware they would have to apply for a sign permit separately.

Staff recommends forwarding this application to City Council for approval of this special use permit as a result of the findings below:

1. The applicant demonstrates compliance with the regulations within Article 2.10 of the Russellville Zoning Code; and
2. The proposed use is in line with other uses in this district; and
3. Current traffic routes are constructed in such a way to handle the traffic from the business with the condition of the southern driveway being right in / right out; and
4. Public Facilities already service this location.

Commissioner Black asked City Engineer Glenn Newman if he felt as if the change in ingress and egress would be sufficient to handle traffic in that area. City Engineer Newman confirmed that he thought it would be sufficient and that staff had spoken with the applicant and felt the right in right out entrance would be appropriate at that location.

Commissioner Cothorn asked if then the left turn going south out of the Walmart Supercenter would need to be eliminated. City Engineer Newman stated that historically the most traffic congestion area was crossing traffic, so at this location because it was closer to East Main Street with the signalized intersection backing up traffic, that was the location they were looking at. Mr. Cothorn stated that he was a business owner on Weir Road and he would get backed up three or four times a week with traffic coming out of Walmart pulling left. Mr. Cothorn stated that if they were going to have this business right turn in right turn out, there would still be left coming out of Walmart to make traffic even worse. City Engineer Newman said that this application had no bearing on Walmart's driveway and that they would not have Walmart change their configuration for development on private property.

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 a Special Use Permit to allow Commercial Amusement business in the C-2/M-1 zone, located at a property along Dow Rd just south of Lock and Dam Rd.. Submitted by Allen Fulsom. (SPUP-0721-000106)

City Planner Jondahl stated that this application is being brought to the Planning Commission to request a Special Use Permit to allow construction of a Commercial Sand Volleyball Court along Dow Road, it would be approximately 800 feet south of the intersection of Dow Road and Lock and Dam Road. City Planner Jondahl stated that staff had met with the applicant and gone over the requirements for the complex, discussing commercial building design and that this use was permitted by Special Use Permit and special conditions may be placed on the property. She said that the applicant was proposing ADA spaces for parking. City Planner Jondahl stated that one of the conditions staff would be asking the Commissioners to place was that the applicant had proposed a metal building and staff was asking the applicant to come into compliance with the Commercial Building Design requirements. She believed that was something that staff could work through with the applicant with the building permit process. City Planner Jondahl stated that she and others believed this would be a good fit for that area despite there being industrial property to the south. She stated that this was the entrance area towards the soccer complex and lock and dam park so it would be in visual harmony with the surrounding areas.

Staff recommends forwarding this application to City Council for approval of this special use permit with the following conditions:

1. Re-plat the property to contain a parcel less than 5 Acres that contains this development, or apply for and obtain a Large Scale Development Approval; and
2. Provide 72 parking spaces, with 3 of those being ADA compliant; and
3. Revise the elevations to show compliance with Article 3.20 – Commercial Building Design; and
4. Obtain Floodplain Development permits and provide both a pre and a post elevation certificate with the building permit and Certificate of Occupancy.

As a result of the findings below:

1. With the conditions listed the application will be in compliance with the regulations within Article 2.10 of the Russellville Zoning Code; and
2. The proposed construction is located within the Special Flood Hazard Area.

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

**The Fifth Order of Business** is a Large Scale Development located at 4820 E Main Street. Submitted by Barrett & Associates on behalf of West Fraser. (LSDV-0721-000105)

City Planner Jondahl stated that this large scale development was coming before the Planning Commission as a result of the size of the property, any new development on that property would require large scale development. The applicant was requesting construction on a new kiln within the existing property boundaries of West Fraser. She stated that West Fraser was an existing business on South Arkansas and the property is zoned M-1. City Planner Jondahl said she drove by the property to see if she would be able to see the new kiln from the right-of-way and she could not and therefore she did not believe any special conditions or requirements for the new kiln would be needed. She stated that all of the requirements were met.

It is staff's recommendation to approve the Large Scale Development to allow construction of the new kiln at West Fraser, Inc with the following conditions:

1. Will require fire protection; and
2. Will require relocation of above ground flammable storage tank.

As a result of the findings below:

1. The applicant demonstrates compliance with the regulations within Article 2.10 of the Russellville Zoning Code; and
2. The applicant demonstrates compliance with the regulations within section 7 of the Land Subdivision Development Code.

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

**The Fifth Order of Business** is a Zone Text Amendment to allow an update to the Table of Permitted Uses in the Russellville Zoning Code.(ZONE-0721-000104)

City Planner Jondahl stated that there was an application that came before the Planning Commission regarding a rezone on N Phoenix Ave. She stated that after discussion with the Corps of Engineers and the City Council knowing that they would not be able to approve a Rezoning request, they came up with a solution by updating the Table of Permitted Uses. City Planner Jondahl stated that this application was to update the City of Russellville Zoning Code to update the Table of Permitted Uses to allow Warehousing – Inside Storage Only, Existing Building as a Special Permitted Use within the CNS Zone. She stated that this would just update the Table of Permitted Uses allowing that use, Warehousing– Inside Storage Only, for an Existing Building. She stated that this was the only existing building within the CNS Zone, so it would be kind of particular to this property. She stated that if the Table of Permitted Uses was updated it would allow a building that is in existence to be utilized and not fall into a dilapidated state.

Staff recommends forwarding the updates to the Russellville Zoning Code for Article XIII Table of Permitted Uses to City Council for approval as a result of the findings:

1. This proposal aligns with the Russellville ReImagine 2040 Comprehensive Plan; and

2. Allows reasonable growth to occur within the City of Russellville; and
3. Supports local businesses.

Commissioner Smith asked if this would allow the applicant on the North Phoenix property to come back before the Planning Commission. City Planner Jondahl confirmed that this would allow them to come back and apply for a Special Use Permit which they had already submitted to be heard next month after the City Council approved the Table of Permitted Uses update. She stated that if the Planning Commission moved it forward to the City Council the applicant would be proposing their signage as part of the Special Use Permit because the CNS zone does not permit any signage so it would have to be permitted under the Special Use Permit.

Commissioner Jacimore confirmed that if the update to the Table of Permitted Uses was approved it would not require the property to be Rezoned. City Planner Jondahl confirmed that the property would not need to be Rezoned, if approved this would allow the property to remain in the CNS zone but allow the building to be utilized by the proposed business.

Commissioner Smith asked what happened with the Rezoning. City Planner Jondahl stated that it was recommended denial by the Planning Commission and denied by the City Council so this update would allow the business a solution to move forward.

Commissioner Black asked City Planner Jondahl if she foresaw any derogatory implication by changing the Table of Permitted Uses for this one location. City Planner Jondahl stated that she did not and that the US Army Corps of Engineers originally permitted this building to be built in the conservation zone for warehousing inside storage, so they were in support of something that would allow the owner to retain the warehousing inside storage functionality in that building. Commissioner Black asked if this is really the only building within the conservation zone. City Planner Jondahl confirmed that it was.

Commissioner Black made the motion to approve the item as presented by staff. The motion was seconded by Commissioner Smith and passed by a vote of 7-1.

Meeting adjourned.

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Chairman Wendell Miller