

MINUTES

The **Rogers Planning Commission** met for a *regular session* in the Council Chambers of the Maurice H. Kolman Building on March 21, 2017 at 4:30 P.M. The meeting was called to order by Chair Don Spann. Those in attendance were led in the Pledge of Allegiance.

MEMBERS PRESENT:

Commissioners Dennis Ferguson, Barney Hayes, Kevin Jensen, Myra Moran, Tony Noblin, Mike Shupe, Don Spann and Eriks Zvers. Commissioner Mark Myers was absent.

OTHER OFFICIALS PRESENT:

City Clerk Peggy David, Community Development Director John McCurdy, Senior Staff Attorney Jennifer Waymack, Project Engineers Lance Jobe, Nathan Becknell and Dylan Cobb, City Planner Lori Ericson, Fire Marshall Bill Rumsey, Councilmembers Mark Kruger and Jerry Carmichael.

ACTION ON MINUTES:

(March 7, 2017)

Approved.

Motion by Jensen, second by Ferguson to approve the minutes of the March 7, 2017 meeting as submitted.

Voice vote: Yes - Unanimous. ***Motion carried.***

REPORTS OF BOARDS AND STANDING COMMITTEES:

City Planner Lori Ericson announced that a couple of the public hearings on the agenda did not do the proper notification, so they will be pulled from the agenda. They are Item #3, Conditional Use Permit request by Karlene Schatz and the Old Business Item #1 Conditional Use Permit request by Victor Arguelles.

Ericson also announced that a rezone has been withdrawn for Agenda Item #4, Boykin Enterprises.

Lot Split Committee Chair Kevin Jensen announced the Lot Split Committee did not meet.

Large Scale Development Committee Chair Tony Noblin announced that review of the Large Scale for **Nestle Parking** was approved with the following recommendations from staff:

- Require streetlights along the previously developed part of W. Southern Hills Blvd., but waive the requirements for sidewalk improvements and street trees.
- **Denied the waiver** request for the fee-in-lieu for S. 28th Street improvements.

Motion by Noblin, second by Jensen to move the Nestle Large Scale to the Consent Agenda.

Voice vote: 6- Yes; Shupe - Disqualifies. ***Motion carried.***

CONSENT AGENDA:

Motion by Hayes, second by Noblin to approve the Consent Agenda as submitted. Roll call: Ferguson, Hayes, Jensen, Moran Noblin Spann Zvers - Yes; Shupe - Disqualifies. ***Motion carried.***

OLD BUSINESS:

(Agenda Item #1)

A request by Victor Arguelles for a Conditional Use Permit to allow vehicle repair at 116 W Easy Street in the C-2 (Highway Commercial) zoning district.

Withdrawn

Due to improper notification of the public hearing, this item was withdrawn by the applicant.

PUBLIC HEARINGS:

(Agenda Item #1)

A request by Alexandra Galleur for a Conditional Use to allow daycare (general) at 1106 Poplar Place in the R-O (Residential Office) zoning district.

Bill Watkins, representing Alexandra Galleur, explained that the notification of the public hearing that was sent to the neighbors and signage was posted with the correct address, but the public hearing notice was not. A public hearing will be held today, but another public hearing notice will be

published and another public hearing will be scheduled for the next meeting. After the public hearing is held today, we will ask for the item to be tabled until the next meeting.

Watkins said this location, a former Mercy Medical Clinic, has been vacant for almost ten years and has ample parking available. Ms. Galleur has the option to rent all of the available space, and will be licensed by the state for the care of 80 children. At this time, she will just be using one unit and will expand into other units as the need arises.

There were no comments either for or against the conditional use permit.

The Public Hearing was declared closed.

Commissioner Spann noted this location is adjacent to his office and Mr. Watkins' office and would be an excellent site with ample parking and accesses for this type of use.

Approved.

Motion by Hayes, second by Jensen to approve the conditional use permit as submitted.

Voice vote: Unanimous – Yes. ***Motion carried.***

Watkins reminded the commission that another hearing is scheduled to be held at the next meeting regarding this item.

Previous vote **Expunged.**

Motion by Hayes, second by Jensen to expunge the previous vote.

Voice vote: Unanimous – Yes. ***Motion carried.***

Tabled.

Motion by Shupe, second by Jensen to table the item until the next meeting.

Voice vote: Unanimous – Yes. ***Motion carried.***

(Agenda Item #2)

A request by Martin Mota for a Conditional Use to allow vehicle repair and service at 706 N 8th Street in the C-2 (Highway Commercial) zoning district.

Mr. Mota, explained that he had been at this location for the last few years and has removed tires and cleaned up the location.

Commissioner Jensen asked staff if there had been any complaints regarding this business.

Ericson reported the staff report details the issues that have been identified regarding the operation of this business.

There were no comments from anyone in the audience either for or against the conditional use permit request.

Mota said a fence was built about four years ago to shield the parked cars on the gravel that are waiting for replacement parts.

Jensen said he is concerned that the city has not inspected this and is nervous to approve anything until we know what the issues are that need to be addressed.

Community Development Director John McCurdy suggested that the Commissioners considered a “conditional” conditional use permit to allow an inspection of Mota’s site and operation.

Commissioner Noblin suggested that a two-month timeframe for the conditional use permit be used to allow the inspection and ensure compliance with city codes.

In lieu of Noblin’s suggestion, McCurdy said another option would be to table this to allow Mota the inspection and compliance.

Jensen noted that Mota is already operating out of compliance of zoning codes and not following the letter of the law.

Staff Attorney Jennifer Waymack explained that yes, Mota would be in violation of the

letter of the law, but in this case, the city will work with Mr. Mota because he wants to cooperate and is working to identify the violations and comply with the city code.

Mota said he would be happy to comply with city code, he just doesn't know what the violations are.

Commissioners discussed possible times for tabling this item to allow time for inspections by the city.

Waymack said the only issue for tabling would be, if after sometime, with no action, the Conditional Use Permit would be deemed denied.

Waymack suggested that two months would give the applicant enough time to identify the violations and correct them. If the violations are corrected before the two months then it could be brought back up for consideration.

Tabled.

Motion by Jensen, second by Noblin to table this request until the Planning Commission meeting on May 16, 2017.

Voice vote: Unanimous – Yes. ***Motion carried.***

(Agenda Item #3)

A request by Karlene Schatz for a Conditional Use to allow daycare (limited) at 2705 W Olive Street in the R-SF (Residential Single Family) and A-1 (Agricultural) zoning district.

Withdrawn

This item was withdrawn.

(Agenda Item #4)

A request by Boykin Enterprises LLC to rezone a 3.99 acres off N 12th Street, south of W Hudson Rd from RMF-12B (Residential Multifamily, 12 units per acre, rentals) to RMF-15B (Residential Multifamily, 15 units per acre, rentals).

Withdrawn

This item was withdrawn.

(Agenda Item #5)

A request by Mills Family Farm to rezone a 188 acres southwest of the intersection of Pleasant Grove Road and I-49 from A-1 (Agriculture) to a mix of C-2 (Highway Commercial), R-O (Residential Office), RMF-24B (Residential Multifamily, 24 units per acre, rentals) and RMF-12B (Residential Multifamily, 12 units per acre, rentals).

Bill Watkins, representing the Mills Family Farm, presented the rezoning request.

Watkins said he has been told that this is the largest undeveloped available parcel in Rogers along I-49 for development and has been in the Mills family for many years. Originally the RMF-12B and RMF-24B and R-O were not included in the plan, but after a community meeting held last week with the residents, was added to provide a buffer from the commercial zoning.

Watkins said the city's master street plan calls for a street extending south with a 60-ft. right-of-way. If you add the 60-ft right-of-way and the 300-ft. of multifamily and R-O would give the residents to the south a 360-ft. buffer with a street in between from the commercial. The adjacent properties belong to Rogers School District, for a future school, and First Baptist Church. The multifamily and R-O zones are typically used as buffer between residential and commercial uses.

Watkins said the question has been asked why not submit this as a PUD, but the Mills family does not want to be developers, so this is a rezoning based on what has been a traditionally proven method using transitional buffers and has been reviewed and found to be appropriate zoning by the Planning staff.

There has been an offer for a part of this property, but that has not been finalized yet.

There were no comments from anyone in the audience in favor of the rezoning.

Vernon Cunningham, (address not provided) president of the Lexington POA , expressed concern with additional traffic that this development and high density rental property will create toward their subdivision. 114 property owners in the Lexington Subdivision

are opposed to the rezoning and would prefer the low to medium density residential.

Frank Wascott (spelling not legible or address provided) said as a resident of Silo Falls Subdivision and professional engineer, expressed the concerned with what uses would be allowed in the C-2 zone such as bars and cocktail lounges, does that include a strip joint? Another use would be service stations which would add additional traffic and beer manufacturing which would create discharges into the air in the immediate area. The north and east boundary is good for commercial, and appreciates the buffering of multifamily, but would like to see it doubled or tripled to keep it as far as possible from the residential.

John Crenshaw (spelling not legible or address provided) asked residents of Silo Falls Subdivision who are attending to the meeting to stand. Approximately 30 people stood. The residents of Silo Falls would like to see a better balance of green space and bigger buffer to protect their neighborhood with more green space in the R-O zone and suggested that 1500-ft of buffer be considered. The comprehensive growth map shows this area to be developed as medium density. The buffer needs to be bigger and questioned if the multifamily is needed at all.

Al Koffman (address not provided) of Ridge Crest Meadows POA asked those in attendance to stand if they were opposed to the rezoning request. Approximately 60 people stood.

Koffman said there needs to be a voice from homeowners that will be affected by this and suggested that a buffer needs to be added to the northwest corner of the property.

Jessica Willis (address not provided) of Silo Falls subdivision said she is not against development, but this rezoning should be rejected unless there is more buffering added to better separate the residential area. The multifamily areas as developed could add at least another 650 people, which will impact the infrastructure of streets and schools. We would like to see committed green space buffering included once the plan is presented as a PUD from a committed developer and ask that you reject this rezoning request.

Lynden Polk (address not provided) said as a realtor and resident of Silo Falls the estimated value of the property should be quantified as residential and 90% of home buyers would not want to see this type of development as presented. Polk agreed that the C-2 to the north and east for half of the property is appropriate, but asked the commissioners to look at the zoning next to a residential area or church, is that the highest and best use?

Holli Sublett (address not provided) said as a resident of Bellview Estates expressed concern with the proposed road and how it will affect the neighborhood. Will it go between the trail or north of the trail? The RMF-24 could be up to 700 apartments which will increase traffic on a single road. This will also affect our property values.

Bethany Johnson (address not provided) expressed concern for traffic safety for her children.

Matt Kovach (spelling not legible or address provided) stated the comprehensive growth map shows medium density which is closer to where they live and we have to trust that that map's representation would be upheld. If the property is rezoned to C-2, then what happens if it's not developed as planned. We just ask that you keep our trust.

Chair Spann thanked those that had made phone calls or sent emails to the commissioners regarding this project.

Heather Ridenower (spelling not legible or address provided) a resident of Pleasant Acres Subdivision and said there is a concern for density and additional traffic that this will create.

Brenda Ford Hutchison (address not provided) spoke to the audience and asked how many in attendance were native Benton County residents. "I am, and we are blessed for the subdivisions that we have and where we are living right now. We look at out and see that Godly land that has not been bothered but by cattle. You don't realize what we've got until you move away and see what all has been taking place. This is beautiful. We are walking on holy ground. Let's keep it that way"

Ann Greenwood (address not provided) said she lived on S. 18th Street which wasn't planned properly and suggested that proper planning be utilized. Plan ahead, visualize the plan. We can do better in the future.

David Schmill (address not provided) of Warren Glen Subdivision asked, "I'm not opposed to development but asked, what can be done with this property? I drive by it and like what I see. I think it would be a great park and green space."

Jason Bean, 2602 W. Amour Dr, reported the results of the on-line petition with 350 votes within the Silo Falls residents who are against the rezoning as presented.

There were no other comments made.

The Public Hearing was declared closed.

Watkins responded to comments with the following:

- The Comprehensive Growth Map is a guide, there is nothing set in stone. Both the Planning Commission and City Council deviate from it because it doesn't get updated very often.
- Single family density is not the highest and best use of the land
- Using the Pinnacle Promenade as an example, there is only 300-ft. buffer from residential on all side of that development and there is residential along Capps Road and Bloomington Subdivision. There is also multifamily along New Hope.
- One resident suggested that good planning practices should be made. This opportunity is good planning with the revised code that has recently been enacted.
- The comments on the burden on infrastructure, streets, schools, crime were expected. There has never been any resource that would confirm this but he has found a study called the "Joint Center for Housing Studies" from Harvard University. A part of the study called "Overcoming Opposition of Multifamily Rental Housing states that on average 100 single family owner-occupied houses include 51 school-age children, by contrast apartments are attracted to single people, couples without children and empty-nesters which is why 100 apartments on average creates just 31 children. The disparity is even greater when you consider new single family homes which create 64 children per 100 single family homes versus new

apartments which create 29 children for new apartment units. For higher priced apartments, the disparity rises. Taxes are generally higher for apartments up to 48% to 54% more than single family homes and have fewer children than single family housing. It might be accurate to say that apartment residents are subsidizing the public education and infrastructure more than single family residents. For infrastructure, high-density development is more efficient than low density development. Traffic studies show that for apartment dwellers makes 6.72 trips per day on average. For single family homes, trips per day are made for an average of 9.57. Property values have always been claimed to be affected, but these studies show that there is no significant difference in property values of single family homes and apartments.

- Crime was discussed in emails sent to the commissioners, but there is no data that shows that criminal activity is any worse than in a single family development than in apartments.
- The study says that experience shows that single family home owners are hard to convince that apartments are safe, for some it may be more emotional than analytical and is simply a matter of “We don’t want renters, we just don’t want them.”

To sum up the multifamily use:

- It does not impose a greater a cost for local governments.
- It doesn’t increase traffic.
- When well designed and appropriate for neighborhoods, it does not reduce property values.

It does not inherently attract residents who are less neighborly or more apt to engage in criminal activity.

Watkins also read from another study from Georgia State University dated April 2015: “the C-2 uses usually follow residential growth. While there is some impacts of lower property values of 1.3% for up to 4 years during development, but after completion of retail development, within a radius of the development there is a significant rise in property values.”

Watkins closed with a statement from the Urban Economics which says: “Residential values increases the closer it is to commercial uses.”

Watkins said the decision should be based on a rational basis considering the highest the best use of the property and the potential sales tax that will be impacted with this development, which will affect the city and the schools.

Commissioner Ferguson stated he appreciates everyone who attended the meeting and the civility of those attending.

Ferguson said he lives in the Manors Subdivision whose residents also received the on-line petition. There were inaccuracy in what was sent and he would discount some of the votes because of that.

Ferguson said one of his concerns is that the R-O buffer is not wide enough in that the cul-de-sac in Silo Falls would be the closest to the R-O zone.

Watkins reminded Ferguson, there is 60-ft. right-of-way and the buildings would be limited to 35-ft. in height.

Commissioner Jensen said he also appreciates the residents for their attendance and comments.

Jensen asked Mr. Watkins, could you vaguely show where the streets would be located?

Watkins responded that the location of streets will be considered during large scale development and be a consideration of the schools location.

Commissioner Hayes said a more detailed plan would be helpful with a traffic study.

Watkins said this isn't a PUD and the determination is the highest and best use of the land. This request is not that unusual, we rezone property all of the time and don't know how it will be developed.

Jensen asked, "Why are we rezoning today?"

Watkins said the rezoning is being requested to have the property ready for a developer to come in with a plan. There may or may not be a PUD brought in and the consideration is the highest and best use.

Commissioner Hayes asked, "How will the multifamily areas be accessed?"

Watkins said when this comes in as a large scale, it will have to comply with large scale requirements. If there is not an access, then it won't get built.

Chair Spann said this thing can change and it may take 20-years to develop. By the time it is all built out, it may all change. We are going to see this brought back with a plan which includes streets, utilities, and drainage. It will depend on the economy, the need, the growth, real estate values. To the owners, if you are here, kudos for listening to the residents. Looking at the size and scale of

this property I wonder if maybe this is not enough buffer.

Watkins said the legal duty is to consider the highest and best use of the land in a way that is not arbitrary or capricious or without a rational basis.

Spann suggested that the owner sell it as A-1 and let the developers bring it in with a plan.

Watkins after consulting with his client asked that the rezoning be withdrawn to regroup.

Staff Attorney Waymack advised that Watkins consider asking for the rezone to be tabled instead of withdrawing because by city code if it is denied or withdrawn after the public hearing, then another rezoning could not be considered for one year.

Watkins requested the rezoning be tabled the request.

Motion by Noblin, second by Jensen to table the request.

Voice vote: Unanimous. – Yes. ***Motion carried.***

Waymack advised the audience that there is no notification requirement for when this rezoning is placed back on the agenda, so they need to watch for future agendas.

TABLED.

NEW BUSINESS:

(Agenda Item #1)

LSDP, Nestle Parking, a 52-lot parking lot expansion for the Nestle office building at 3605 W. Southern Hills Blvd. in the C-2 (Highway Commercial) zoning district.

(Agenda Item #2)

LSDP, Domino’s Pizza, a 1,800-sf restaurant at 5092 W. Northgate Road, in the C-2 (Highway Commercial) zoning district.

Approved on the Consent Agenda

There was no one present to represent this.

Motion by Noblin, second by Hayes to table this item.

Voice vote: Unanimous – Yes. ***Motion
carried.***

There being no further business, the meeting adjourned at 6:15 P.M.

ATTEST:

APPROVED:

Barney Hayes, Secretary

Don Spann, Chair