

**PLANNING COMMISSION & BOARD OF ZONING ADJUSTMENT  
MINUTES  
FORT SMITH CONVENTION CENTER, EXHIBIT HALL C  
JANUARY 12, 2021 – 5:30 P.M.**

Before calling the meeting to order, Chairman Keesee asked everyone to stand for the Pledge of Allegiance. On roll call, the following commissioners were present: Don Keesee, Ret Taylor, Vicki Newton, Kelly Wilson, Matt Marshall, Brian Trumbly, Griffin Hanna and Shaun McCaffrey. Bob Cooper was absent.

Chairman Keesee then called for a motion on the minutes from the December 8, 2020, meeting. Commissioner Taylor moved, seconded by Commissioner Marshall, to approve the minutes as written.

Ms. Maggie Rice, Director of Development Services, spoke on the procedures.

**1. Consent Agenda**

**a. Horseshoe Ridge - Preliminary Plat - Mickle-Wagner-Coleman, Inc.**

The Planning Department's staff report reflected approval would be subject to the following:

- 1) The developer must agree to meet all franchise and City utility easement requirements.
- 2) The final plat must comply with the city's Subdivision Design and Improvement Standards Specifications for Public Works Construction.

**b. Massard Office Park Phase 1 – Final Plat - Frontier Engineering, Inc.**

The Planning Department's staff report reflected approval would be subject to the following:

- After all required approvals of the plat and the affixing of all required signatures on the original tracing and other copies and associated documents, the plat will be filed with the Sebastian County Clerk

**c. Conditional Use #1-1-21; A request by Kendall Roberts for a Conditional Use for a business professional school at 5505 Euper Lane.**

**d. Development Plan #1-1-21; A request by J. Cliff McKinney, agent for Walmart, Inc., for site plan approval at 2100 North 62<sup>nd</sup> Street.**

The Planning Department's staff report reflected approval would be subject to the following:

- Construction must comply with the submitted development plan. Changes or amendments to the submitted development plan are permitted but limited to those described in Section 27-330-7 of the UDO. Any changes greater than those described in this section will require Planning Commission approval.

Chairman Keesee introduced the consent agenda. There being no discussion, Chairman Keesee called for a vote on the consent agenda. The vote was 8 in favor, 0 opposed.

**2. Fianna Hills Phase III, Lots 409A, 411A, 412A, and Tract 4A – Preliminary Plat – Mickle-Wagner-Coleman, Inc.**

Chairman Keese presented item 2. Ms. Andrews delivered the staff report indicating the 1.6 acre property was located north of Roxbury Lane within the Fianna Hills subdivision. She said the approval of this item would allow portions of the Fianna Hills Golf Course to be platted with adjacent residential lots. She further indicated the technical review of this item did comply with regulations.

Randy Coleman of Mickle-Wagner-Coleman, Mark Moll of Jones, Jackson and Moll, Dalton Person of Jones, Jackson and Moll, and David Mille, owner, were present to represent this item.

Mr. Moll stated the issue to determine was whether or not the proposed replat meets all of the requirements of the UDO.

Next, Mr. Coleman spoke addressing concerns regarding utilities and drainage.

Mr. Mille, owner of the property, spoke next. He explained his decision to replat to adjacent residential lots noting the economic hardship of the golf course. He said the country club required a large monetary commitment each month, which the country club did not meet quotas to cover at any point in the time he owned it.

Mr. Person spoke outlining the UDO regulations met by the preliminary plat in Section 27-333-4 stating all conditions have been met. He then quoted Section 27-333-4(F)(1) *Approval of the preliminary plat shall be granted by the Planning Commission when all applicable conditions of this Chapter are met.*

Joshua Batson of 2609 Roxbury Lane, a neighboring property owner, spoke in support of the preliminary plat indicating this would be a favorable outcome compared to some alternatives.

Chairman Keese called for a show of hands by those in favor and opposition. The show of hands was 18 in favor and 45 in opposition.

John Alford of Alford Law Firm, attorney for the Fianna Hills Property Owners Association, spoke explaining the POA's reason for opposition and the filing of a lawsuit against this item. He explained this replat would physically affect the property owners who are not purchasing additional property due to drainage issues. He also explained there were individuals and professionals who could buy the country club and operate it as a golf course.

Clifford Yarbrough, Pastor Lee Kemp of Fianna Hills Baptist Church, Danny Aldridge of 9809 Kingsley Place, Leslie Smith of 3000 Chelsea Mead, Pete Charlton of 2905 Cannongate Way, David Hurst of 2205 Brigadoon Drive, Ronald Metcalf of 3100 Heather Oaks Way, spoke in opposition with concerns regarding potential crime rate increases, social impact, maintenance needs, walkability loss, appropriateness, lifestyle loss, property values and issues of unsold property.

Mr. Charlton supported the notion of potential drainage issues in the area. He said the area has significant drainage and building fences would cause drainage problems.

Mr. Metcalf stated if this item was approved there would be no more golf course. He suggested tabling to give additional time for the parties to come to an amicable arrangement.

Mr. Moll addressed some of these concerns.

Chairman Keesee called for a motion. Commissioner Taylor moved, seconded by Commissioner McCaffrey, to approve as written with staff comments.

Chairman Keesee stated the Commission's job was to uphold and maintain the UDO regulations. Commissioner Taylor noted the Commission should have a degree of protective responsibility to the community. Commissioner Hanna noted he would be voting based on the UDO regulations.

Commissioner Marshall and Commissioner Wilson explained there had been a reasonable amount of time for the parties to discuss this property's future. Commissioner Taylor stated this property had been on the market for a significant period of time.

After the conclusion of discussion, Chairman Keesee called for a vote. The vote was 8 in favor and 0 opposed. Approval subject to the following conditions:

- The developer must agree to meet all franchise and City utility easement requirements.
- The final plat must comply with the city's Subdivision Design and Improvement Standards Specifications for Public Works Construction.

### **RECESS PLANNING COMMISSION CONVENE BOARD OF ZONING ADJUSTMENT**

#### **3. Variance #2-1-21; A request by Isabel Lane, agent, for Fenwick Properties, LLC, from 20' to 0' minimum street frontage at 6501 Kinkead Avenue.**

Chairman Keesee introduced items 3-8 as companion items. Ms. Andrews presented the staff report stating the 1.95 acre property was located on the north side of Kinkead Avenue west of the North 66<sup>th</sup> Street intersection. She said the approval of the items would facilitate the development of a five-lot subdivision. The subdivision with perimeter landscaping would have a private drive for five duplexes and common areas for overflow parking.

Isabel Lane was present to represent these items. Danny Stalcup of 16 Jeffrey Way was present to speak in opposition of these items voicing concerns regarding appropriateness, wildlife preservation, size of development, proximity to properties along Jeffrey Way, potential noise pollution and property values.

With no further discussion, Chairman Keesee called for a motion on item 3. Commissioner Trumbly moved, seconded by Commissioner Marshall, to approve as written with staff comments. Chairman Keesee called for a vote. The vote was 8 in favor and 0 opposed.

### **RECESS BOARD OF ZONING ADJUSTMENT CONVENE PLANNING COMMISSION**

#### **4. Subdivision Variance #1-1-21; A request by Isabel Lane, agent, for Fenwick Properties, LLC from UDO Section 27-504-3 Private Access Easement at 6501 Kinkead Avenue.**

Chairman Keesee called for a motion on item 4. Commissioner Taylor moved, seconded by Commissioner Wilson, to approve as written with staff comments. Chairman Keesee called for a vote. The vote was 8 in favor and 0 opposed.

**5. Master Land Use Plan Amendment #1-1-21; A request by Isabel Lane, agent, for Fenwick Properties, LLC from Residential Detached to Residential Attached by extension at 6501 Kinkead Avenue.**

Chairman Keesee called for a motion on item 5. Commissioner Trumbly moved, seconded by Commissioner Taylor, to approve as written with staff comments. Chairman Keesee called for a vote. The vote was 8 in favor and 0 opposed.

**6. Rezoning #3-1-21; A request by Isabel Lane, agent, for Fenwick Properties, LLC, for zone change from Residential Estate One Acre (RE-1) to Residential Single Family-Duplex Medium /High Density (RSD-3) by classification at 6501 Kinkead Avenue.**

Chairman Keesee called for a motion on item 6. Commissioner Hanna moved, seconded by Commissioner Marshall, to approve as written with staff comments.

Commissioner Hanna noted the improvement in density from the previous request for RSD-5 stating it was a good compromise. Commissioner Taylor agreed.

Mr. Jeffrey Holmes questioned the proximity of the private drive to a curve in the road on Kinkead Avenue. Chairman Keesee and Ms. Andrews stated the Engineering Department had previously reviewed and nothing was flagged.

Chairman Keesee called for a vote. The vote was 8 in favor and 0 opposed.

**7. Development Plan #2-1-21; A request by Isabel Lane, agent, for Fenwick Properties, LLC for development plan approval for a duplex subdivision at 6501 Kinkead Avenue.**

Chairman Keesee called for a motion on item 7. Commissioner Taylor moved, seconded by Commissioner Trumbly, to approve as written with staff comments. Chairman Keesee called for a vote. The vote was 8 in favor and 0 opposed. Approvals subject to the following condition:

1. Construction must comply with the submitted development plan. Changes or amendments to the submitted development plan are permitted but limited to those described in Section 27-330-7 of the UDO. Any changes greater than those described in this section will require Planning Commission approval.

**8. Fenwick Tracts Lots 1-5 - Preliminary Plat submitted by Brixey Engineering**

Chairman Keesee called for a motion on item 8. Commissioner Marshall moved, seconded by Commissioner McCaffrey, to approve as written with staff comments. Chairman Keesee called for a vote. The vote was 8 in favor and 0 opposed. Approval subject to the following:

- The developer must agree to meet all franchise and City utility easement requirements.
- The final plat must comply with the city's Subdivision Design and Improvement Standards Specifications for Public Works Construction.
- A temporary construction easement shall be provided for the sanitary sewer line construction.

**RECESS PLANNING COMMISSION  
CONVENE BOARD OF ZONING ADJUSTMENT**

**9. Variance #1-1-21; A request by James Reddick, agent for Kelly Serenko, for a variance from UDO Section 27-602-4(C) high-quality materials at 1500-1506 Dodson Ave, 1310 South 17th Street, and 1324 South 17th Street.**

Chairman Keesee introduced items 9 and 10 as companion items. Mr. Ghous read the staff reports stating the 9.48 acre property was located on the corner of Dodson Avenue and Lexington Avenue. He indicated the approval of the variance would allow for the four (4) existing structures without high quality materials to remain on the property and the approval of the PZD would allow the existing uses to be permitted by right.

Mr. Chip Johnson was present to represent this item. There were none present to speak in favor or opposition.

Chairman Keesee called for a motion. Commissioner Taylor moved, seconded by Commissioner Wilson, to approve as written with staff comments. With no discussion, Chairman Keesee called for a vote. The vote was 8 in favor and 0 opposed.

## **RECESS BOARD OF ZONING ADJUSTMENT CONVENE PLANNING COMMISSION**

### **10. PZD Rezoning #2-1-21; A request by James Reddick, agent for Kelly Serenko, for a zone change from Transitional (T) and Residential Multifamily Medium Density (RM-3) to a Planned Zoning District (PZD) by classification at 1500-1506 Dodson Ave, 1310 South 17th Street, and 1324 South 17th Street.**

Chairman Keesee called for a motion on item 10. Commissioner Trumbly moved, seconded by Commissioner Marshall, to approve the PZD rezoning as written. Chairman Keesee called for a vote. The vote was 8 in favor and 0 opposed.

### **11. PZD Rezoning #1-1-21; A request by Tom Johnson, agent for WS Management, LLC, for a zone change from Transitional (T) to a Planned Zoning District (PZD) by classification at 523 Lexington Avenue.**

Chairman Keesee introduced item 11. Mr. Ghous delivered the staff report stating the 0.31 acre property was located on the northeast corner of the Lexington Avenue and South E Street intersection. He indicated the approval of this item would allow medical appliance services, as well as other uses depicted within the PZD, at this location.

Mr. Tom Johnson was present to represent this item. There were none present to speak in favor or opposition.

Chairman Keesee called for a motion. Commissioner Newton moved, seconded by Commissioner Taylor, to approve as written. Chairman Keesee called for a vote. The vote was 8 in favor and 0 opposed.

### **12. Subdivision Variance #2-1-21; A request by Connor Threet, agent for ERC Create, LLC, from UDO Section 27-504-3 Private Access Easement at 7000 Wells Lake Road.**

Chairman Keesee introduced items 12 and 13 as companion items. Ms. Andrews read the staff reports indicating the 11.42 acre property was located adjacent to The HUB Phase I on Wells Lake Road. She stated the approval of this item would facilitate a multi-use site consisting of 27 single-family dwellings on individual lots and multiple buildings of varying size, with multifamily and commercial uses.

Connor Threet was present to represent this item. There were none present to speak in favor or opposition.

Chairman Keesee called for a motion on item 12. Commissioner Trumbly moved, seconded by Commissioner Taylor, to approve the subdivision variance as written.

Commissioner Keesee noted the evolution of the area stating it would be a nice addition.

Chairman Keesee called for a vote. The vote was 8 in favor and 0 opposed.

**13. PZD Rezoning #4-1-21; A request by Connor Threet, agent for ERC Create, LLC, for a zone change from Not Zoned to a Planned Zoning District (PZD) by classification at 7000 Wells Lake Road.**

Chairman Keesee called for a motion on item 13. Commissioner Taylor moved, seconded by Commissioner Hanna, to approve the rezoning as written. Chairman Keesee called for a vote. The vote was 8 in favor and 0 opposed.

**14. Rezoning #7-1-21; A request by Mickle-Wagner-Coleman, agent for Rocky Walker, for a zone change from not zoned to Residential Single Family Medium/High Density (RS-3) by classification at 10301 Chad Colley Boulevard.**

Chairman Keesee introduced items 14, 15, 16 and 17 as companion items. Ms. Andrews presented the staff reports stating the 26 acre property was located south of The Reserve Apartments and east of Torraine Lake. She said approval of these items would facilitate the development of a 71 lot single-family subdivision.

Mr. Jeffrey Holmes was present to represent these items. There were none present to speak in favor or opposition.

Chairman Keesee called for a motion on item 14. Commissioner Hanna moved, seconded by Commissioner Marshall to approve as written with staff comments.

Commissioner Trumbly questioned the use of Tract B. Ms. Andrews explained that Tract B would be part of a future request, but was not being zoned at this time.

Chairman Keesee called for a vote. The vote was 8 in favor and 0 opposed.

**15. Development Plan #3-1-21; A request by Mickle-Wagner-Coleman, agent for Rocky Walker, development plan for a single-family subdivision at 10301 Chad Colley Blvd.**

Chairman Keesee called for a motion on item 15. Commissioner Taylor moved, seconded by Commissioner Hanna to approve as written with staff comments. Chairman Keesee called for a vote. The vote was 8 in favor and 0 opposed.

**16. Subdivision Variance #3-1-21; A request by Mickle Wagner Coleman, Inc, agent for Rocky Walker, for a subdivision variance from UDO Section 27-503-11 Perimeter Landscaping requirements at 10301 Chad Colley Blvd.**

Chairman Keesee called for a motion on item 16. Commissioner Taylor moved, seconded by Commissioner Trumbly to approve as written with staff comments. Chairman Keesee called for a vote. The vote was 8 in favor and 0 opposed. Approvals are subject to the following conditions:

- Construction must comply with the submitted development plan. Changes or amendments to the submitted development plan are permitted but limited to those described in Section 27-330-7 of the UDO. Any changes greater than those described in this section will require Planning Commission approval. Any changes greater than those described in this section will require Planning Commission approval.
- Approval is subject to the installation of a 6' privacy fencing adjacent to I-549.

**17. Shire Glen at Chaffee Crossing, Lots 1-71 and Tracts A & B – Preliminary Plat – Mickle Wagner Coleman, Inc.**

Chairman Keesee called for a motion on item 17. Commissioner Trumbly moved, seconded by Commissioner Marshall to approve as written with staff comments. Chairman Keesee called for a vote. The vote was 8 in favor and 0 opposed. Approval of the preliminary plat is subject to the following:

- The developer must agree to meet all franchise and City utility easement requirements.
- The final plat must comply with the city's Subdivision Design and Improvement Standards Specifications for Public Works Construction.

## **RECESS PLANNING COMMISSION CONVENE BOARD OF ZONING ADJUSTMENT**

### **18. Variance #4-1-21; A request by Allen Jay Young, agent for Arvest Equipment Finance, from Arvest PZD landscaping requirements at 8000 Taylor Avenue.**

Chairman Keesee introduced item 18. Mr. Ghous presented the staff report stating the 2.93 acre property was located on the north corner of Taylor Avenue and Roberts Boulevard. He said the approval of this item would allow for the elimination of the 5 feet landscaping strip surrounding the storage yard.

Mr. Allen Jay Young was present to represent this item. There were none present to speak in favor or opposition.

There being no discussion, Chairman Keesee called for a motion. Commissioner Hanna moved, seconded by Commissioner Taylor, to approve this item as written with staff comments. Chairman Keesee called for a vote. The vote was 8 in favor and 0 opposed.

### **19. Variance #3-1-21; A request by Ricky Hill, agent, for Doug Skokos, for 1) from 25' to 12.5' and 15.3' front yard setback, 2) from 10' to .60 exterior side-yard setback, 3) from 10' to 1.7' interior-side-yard setback, 4) from 10' to 6.4' rear yard setback, and 5) from 7,000 to 5,880 s.f. minimum lot area at 1318, 1320, 1322 and 1324 North B Street.**

Chairman Keesee introduced item 19. Mr. Ghous read the staff report indicating the 0.37 acre property was located on the southwest side of North B Street between North 13<sup>th</sup> Street and North 14<sup>th</sup> Street. He said the approval of this item would allow the replat of Convent Place Addition, Lots 7, 8 and the north half of Lot 9 into two lots.

Mr. Ricky Hill was present to represent this item. There were none present to speak in favor or opposition.

Chairman Keesee called for a motion. Commissioner Marshall moved, seconded by Commissioner Newton, to approve as written with staff comments. Chairman Keesee called for a vote. The vote was 8 in favor and 0 opposed. Approval subject to the following condition:

- Filing of the plat will be withheld until the property owner has complied with all building and fire code requirements pertaining to fire wall ratings and protected openings when walls are less than 10 feet from a property line.

## **RECESS BOARD OF ZONING ADJUSTMENT CONVENE PLANNING COMMISSION**

### **21. UDO Amendments – Form Based Code**

Chairman Keesee introduced item 21 to be voted on before item 20. Ms. Rice presented the staff report stating it was a key recommendation of the Propelling Downtown Forward Plan. She said the purpose of the Fort Smith

Downtown Form Based Code (FBC) would be to facilitate development and redevelopment in the Downtown FBC District. She said the FBC would also aid in the reuse and rehabilitation of existing downtown buildings and encourage pedestrian activity.

Chairman Keesee noted that this was a better way to look at certain areas and was a proactive approach to the area.

Chairman Keesee called for a motion. Commissioner Taylor moved seconded by Commissioner Trumbly, to approve as written. Chairman Keesee called for a vote. The vote was 8 in favor and 0 opposed.

**20. Rezoning #6-1-21; A zone change from Transitional (T), Commercial Heavy (C-5), Commercial Downtown (C-6), Industrial Light (I-1), and Industrial Moderate (I-2) to Form Based Code (FBC) by classification as located on the attached FBC Boundary Map.**

Chairman Keesee introduced item 20. Ms. Rice presented the staff report indicating the Propel Downtown Forward Plan, CBID and staff were in support of this item. She said the CBID Commission approved this item on November 17, 2020.

Jerry Bollin of 2016 South 69<sup>th</sup> Street spoke with concerns regarding how the zone change will affect existing businesses. Ms. Rice explained that the existing will be considered legal non-conforming if it doesn't conform to the FBC, but future uses and permitting will need to meet the Form Based Code if adopted by the Board of Directors.

Chairman Keesee called for a motion on the rezoning. Commissioner Hanna moved, seconded by Commissioner Newton, to approve as written. Chairman Keesee called for a vote. The vote was 8 in favor and 0 opposed.

**22. UDO Amendments**

Chairman Keesee introduced item 22. Ms. Rice presented the staff report stating this proposal would add Neighborhood Store to the retail trade description category in the UDO. She said this addition would address the numerous variances received by this use of over the years. Neighborhood Store would require 1 parking space per 250 square feet of customer service area

Chairman Keesee called for a motion. Commissioner Trumbly moved, seconded by Commissioner Hanna, to approve the UDO Amendment as written.

Chairman Keesee noted need for this amendment.

Chairman Keesee called for a vote. The vote was 8 in favor and 0 opposed.

The meeting adjourned at approximately 8:05 P.M.