

**Planning Commission Minutes**  
**December 28, 2021 at 6 PM**

1. **ROLL CALL** – Meeting which was available in person and with Zoom on-line service due to Corona Virus pandemic, was called to order by Chairman Robert Mann. A quorum was present.

**PRESENT**

Robert Mann, Chair  
Chad Ball  
Gerry Harris  
Judy Horne  
Keith Macedo - online  
Jay Moore - online

**ABSENT**

Howard Carter – faulty Zoom connection  
Bobby Wilson

**City Employees Present:** Melissa McCarville, City Business Manager; Rick Bramall, City Building Inspector; Chris Brackett, City Engineer; Mayor Ernie Penn; Steve Tennant, City Attorney

2. **Approval of Minutes:** November 22, 2021 meeting minutes were approved as written.

3. **Comments from Citizens:** none

**Public Hearings:**

Chairman Mann determined which agenda items had the most citizens' interest. Judy Horne moved to change the order of agenda items, taking 4E. and 4G. first to clear the room faster. Chad Ball seconded motion which passed unanimously.

**4E. Rezoning—From R-1 to R-O; Property located at 12245 Highway 62 (by entry to Twin Falls); owned by Coyle Enterprises; represented by Mark Beaver.**

Mark Beaver said the property is under contract to build a law office. In answer to Keith Macedo, he explained that although their original rezone request was for C-1, this created confusion and rumors so they asked to rezone to R-O which narrows what could be put on that property. He assured that the building will not be a metal-siding building. This office will be a bit larger than the existing Everett law office.

Melissa McCarville said the property was platted while still in the County and this front part was C-2. Owner rezoned to R-1 because there is no sewer connection there and septic would not support a large commercial operation. So whatever goes in there will be limited due to this fact.

Judy Horne read from the zoning ordinance some allowed R-O uses which are more limited than commercial zones. Chad Ball noted R-O setbacks: Front – 50'; Side – 20'; Rear – 30'; lot frontage – 100'

Keith Macedo explained that the Commission wants to protect how our community looks but we are limited a great deal by state laws passed by the Arkansas legislature.

**Public Comment:**

Hope Jones, 1635 Cannondale, Fayetteville, recently purchased the property adjacent to this property to build a home. They are concerned about the aesthetics and want assurance that a professional office will be built there.

Seneca Peterson, 504 Twin Falls Drive, owns the property behind the current lawyer's office. She had signatures of 82 Twin Falls residents who oppose this rezoning from R-1 to R-O. The Farmington school bus stops at that property and she is concerned about the safety of children near the law office clientele. It was suggested that she discuss the bus stop with the School Administration.

David Richardson, 503 Twin Falls Drive, lives directly behind the property. Melissa answered to him that R-O is much less invasive and would have to have smaller offices. Chad Ball read the R-O description:

"The purpose of the Residential-Office District is to provide areas within the city for the placement of offices or offices and residential in combination; to recognize existing offices and in some cases encourage their expansion and to provide a transition use from residential to commercial. Permitted and conditional uses are listed in the attached chart." (Judy Horne had read from this list previously.)

Ken Bishop, 490 Twin Falls Drive, was told that one of the current law office attorneys plans to build in this location. Also, the Planning Commission makes a decision at this meeting, then City Council must vote on it at their next meeting January 10 at 6 PM. Twin Falls residents may attend to express their wishes and concerns but no official notification to them is required by law.

Tiffany Woodmansee, 12498 Jim Brooks Road, has moved here from another state and loves the beauty and serenity of Twin Falls and is concerned about dangerous situations that can occur at law offices such as fatal shootings.

Jill Toering, 306 Claybrook Drive, was told that no bill of assurance could be attached to a rezoning issue; also that is something a developer has to be willing to provide; a city can't require it.

Tommy Johnson, 441 Driftwood Drive, asked if Twin Falls' restrictive covenants and architectural requirements could be applied to a building in R-O zone. City Attorney Tennant said this was a good question and could be explored by Twin Falls' legal representative. The City cannot enforce covenants.

Chairman Mann called for question to rezone the property from R-1 to R-O and upon roll call vote was 5 YES and 0 NO votes. Motion passed.

**4G. Large Scale – Avance Storage – Property owner Gary Nichols; Location – 700 W Main Street; Presented by Bates and Associates, Inc. representative Jake Chavis.**

Mr. Chavis had no opening statement. Chris Brackett read his suggested conditions for approval:

"The Large Scale Development for the Avance Storage has been reviewed and it is my opinion that the Planning Commission's approval should be conditional on the following comments.

1. The fire flow, fire hydrant and fire lane locations must be reviewed and approved by the Farmington Fire Department prior to construction plan approval.
2. The water and sewer improvements must be reviewed and approved by the City of Fayetteville Engineering Department and the Arkansas Department of Health prior to construction plan approval.
3. Submit two (2) copies of the filed easement plat prior to construction plan approval. A copy of the proposed easement plat shall be submitted to KMS for review and approval prior to signatures.
4. A sign permit will be required for the construction of the freestanding sign shown.
5. A completed Grading Permit Application and fee must be submitted to the City prior to final approval of the construction plans. A preconstruction conference will be required prior to any grading on the site. The owner, their engineering consultant, and the contractor responsible for the best management practices will be required to attend this conference.

6. After a final review set of plans and drainage report have been approved by KMS, the applicant shall submit to the City two (2) sets of the full size plans and three (3) sets of the half size plans, and two (2) copies of the final drainage report that have been sealed by the engineer of record for final approval and distribution.”

Mr. Chavis agreed to the City Engineer’s conditions. In answer to a question about dedication of street right of way to the City to someday extend Grace Lane north of Highway 62, he said he had met with Mayor Penn, Melissa McCarville, and Chris Brackett to discuss where the location should be. It is understood that the location that goes behind this property is the best one for City purposes. This extension is on the Master Transportation Plan as a North-South connector to Rhea’s Mill Road which could make it easier for parents to pick up children at multiple schools. When dedicated to the City, they will maintain the dedicated area.

**Public Comment:**

Paul Phillips, 12771 Tyler Road, had sent an e-mail to commissioners expressing his concerns about a proposed street going directly behind Kelli Street residents, the effect on future sales of his property on both sides of this property, and concerns for adverse effect on Ruby Road residents.

Randy Schlesener, 12838 Ruby Road, was concerned about water erosion on his property. Engineer Brackett said this property drains southwest. Also by law, water problems can’t be made worse by the new construction; also sometimes new construction actually improves water flooding.

Pastor Robert Phelps, 750 W Main was also concerned about flooding and showed photos of flooding. He said long-time residents say flooding does get worse with new construction.

Nova Phillips, 12771 Tyler Road, said if Grace Lane is built as shown it will devalue their property more than the original plan which would also be an asset for Ruby Road.

Robert Renz, 331 Kelli was also opposed to the proposed street dedication.

Jeff Crowder, 410 Adams, Lincoln, is employed by Washington County Road Department and asked City Engineer for a copy of the drainage report.

Chairman Mann called for question to approve Large Scale Development for Avance Storage contingent upon City Engineer’s conditions. Upon roll call vote, motion passed unanimously with 5 YES votes and 0 NO votes.

**4A. Variance – Bethel Elm Subdivision – Waive Street Improvements Requirement; Property owner – MRS Enterprises, LLC; Location – SE of intersection of Little Elm Rd and Bethel Blacktop; Presented by Blew & Associates representative Jorge DuQuesne.**

Mr. DuQuesne said Jeff Crowder had sent an e-mail stating they plan updates to Little Elm (22’) and Bethel Blacktop (22 – 24’ next year. Also, the dangerous intersection will be addressed. The NE corner has a big drop-off.

Mayor Penn reminded that 2022 is an election year and with changes in County administration, is there any assurance these road improvements will be done. He hoped for a written agreement from the County; however, because County government supersedes City government, there can be no binding

agreement. However, the City can ask for certain things regarding subdivisions built in our planning area which includes sidewalks.

Chad Ball noted that variances are supposed to be granted only when there is “undue hardship”. He requested Planning Commission receive a State legal opinion on exactly what cities in Arkansas can demand of developments in planning area.

**Public Comment:**

Al Harris, 12688 Bethel Blacktop Rd, said when this area is annexed by the City, we will bear the expense of improvements at that time if we don’t get the improvements approved now.

Chairman Mann called question to approve the Bethel Elm Subdivision Variance request to waive street improvements. Upon roll call vote, motion failed: YES - 0 and NO – 5 votes.

**4B. Preliminary Plat – Bethel Elm Subdivision – Property owner – MRS Enterprises, LLC; Location – SE of intersection of Little Elm Rd and Bethel Blacktop; Presented by Blew & Associates representative Jorge DuQuesne.**

Chris Brackett read the suggested conditions for approval of this subdivision:

“The Preliminary Plat for the Bethel Elm Subdivision has been reviewed and it is my opinion that the Planning Commission’s approval should be conditional on the following comments.

1. The fire hydrant locations shown on the plat and the utility plans must be reviewed and approved by the Fire Department.
2. The water improvements must be reviewed and approved by Washington Water Authority and the Arkansas Department of Health prior to any construction activities.
3. If the variance fails, Little Elm Road and Bethel Blacktop Road must be improved along the frontage to Minor Arterial Standards as per the Farmington Master Transportation Plan.”

Chad Ball moved, seconded by Judy Horne, to table this until the January 2022 meeting so Commission can get an opinion from City Attorney Tennant regarding whether City can ask to at least get right of way dedication for a future sidewalk that City would build. Upon roll call vote, motion failed. No: Moore, Macedo, Harris; Yes: Ball, Horne.

Chairman Mann called for question on approval of Bethel Elm Subdivision, contingent upon meeting conditions set forth by City Engineer Brackett. Upon roll call vote there were 4 YES votes and 1 NO vote by Chad Ball.

**4C. Variance – Telecommunications Tower – Allow monopole to have an external antenna array and not internal antennas; Property owner – SCI Wireless; Location – SE of corner of N Kimberley St & Lossing St; Presented by Greg Farris**

Greg Farris summarized: City code requires all towers have internal antennas but also encourages co-location of antennas. An internal antenna limits to 3 antennas and so prevents co-location. Most 5G carriers are seeking co-location towers. Also, coverage is cut in half by internal antennas so there will be increased requests for towers. He estimated a new cell tower request in near future and four in 2-3 years. Even though external towers are more visible, this more isolated location is in the middle of lots of trees. It will be between two other towers about 1.5 mile away.

City Attorney Tennant said the city worked a long time to develop the Cell Tower Ordinance and aesthetics was an important consideration. He showed photos of internal towers in the City of Fayetteville.



Judy Horne showed photos of internal and external antenna arrays to Mr. Farris who said they accurately depicted external and internal antennas.

Keith Macedo mentioned the telecommunications industry can use other forms of communications such as "small cell" format. These are much smaller than traditional cell sites and may be installed on light poles, traffic signals, or small power/telephone poles.

**Public Comment:** Guy Von Bergen, 11512 Giles Rd, does not want a tower with an external array. Norm Toering, 306 Claybrook, also opposed the external array concept.

Chairman Mann called for question to approve a variance to allow an external antenna array which resulted in 3 NO votes: Harris, Horne, Macedo, and 2 YES votes: Moore, Ball. Variance was denied.

**4D. Conditional Use Permit – Telecommunications Tower; Property owner – SCI Wireless; Location – SE of corner of N Kimberley St & Lossing St; Presented by Greg Farris**

Mr. Farris said they would like to move the tower as far to the SE corner of the property as possible to give a property owner to the Northwest of the tower another 40' distance from the tower.

City Engineer Brackett read suggested conditions for approval of conditional use request:  
"The Conditional Use Permit for the SCI Wireless Telecommunications Tower has been reviewed and it is my opinion that the Planning Commission's approval should be conditional on the following comments.

1. A completed Grading Permit Application and fee must be submitted to the City prior to final approval of the construction plans. A preconstruction conference will be required prior to any grading on the site. The owner, their engineering consultant, and the contractor responsible for the best management practices will be required to attend this conference.
2. After a final review set of plans and drainage report have been approved by KMS, the applicant shall submit to the City two (2) sets of the full size plans and three (3) sets of the half size plans, and two (2) copies of the final drainage report that have been sealed by the engineer of record for final approval and distribution."

After further discussion, Chad Ball moved to approve locating the tower to the SE corner, to approve addition of a 6' to 8' lightning rod and to request culvert improvement and added gravel and to include City Engineer's conditions. Jay Moore seconded the motion which passed unanimously.

Chairman Mann called for question to approve a Conditional Use permit for a cell tower with internal antenna array, subject to conditions outlined in City Engineer's memo. Upon roll call vote, motion passed unanimously.

**4F. Preliminary Plat – Summerfield Ph. II; Property owner – DRP Holdings, LLC; Location – west side of Hunter St. and west of Summerfield Ph. I; Presented by Jorgensen & Associates.**

Chris Brackett read his memo outlining conditions for approval:  
"The Preliminary Plat for the Summerfield Subdivision Phase I has been reviewed and it is my

opinion that the Planning Commission's approval should be conditional on the following comments.

"1. On April 27, 2020 the Planning Commission approved Phase I with the following condition. "The Developer and City Staff have come to an agreement for the required offsite improvements for this development. This agreement is only binding if the Planning Commission agrees to the offsite improvements as follows.

f. The City (Planning Commission) agrees to waive the payment in lieu of parkland dedication for all phases of this development.

Due to this condition of Phase I, there will be no requirement for parkland dedication for this phase of the development.

2. The fire hydrant locations shown on the plat and the utility plans must be reviewed and approved by the Fire Department.

3. The water and sewer improvements must be reviewed and approved by the City of Fayetteville Engineering Department and the Arkansas Department of Health prior to any construction activities.

4. A completed Grading Permit Application and fee must be submitted to the City prior to final approval of the construction plans. A preconstruction conference will be required prior to any grading on the site. The owner, their engineering consultant, and the contractor responsible for the best management practices will be required to attend this conference.

5. After a final review set of plans and drainage report have been approved by KMS, the applicant shall submit to the City two (2) sets of the full size plans and three (3) sets of the half size plans, and two (2) copies of the final drainage report that have been sealed by the engineer of record for final approval and distribution."

Mr. Jorgensen had received a copy of City Engineer's report and was OK with conditions.

Chad Ball asked if developer would comply with PG Telco's #2 Plat Review request for increased easements from 15' to 20 to 25'. Mr. Jorgensen said they will comply.


Keith Macedo asked about plans for a traffic light, but city has no firm plans at this time.

Gerry Harris moved for approval of Summerfield Ph II preliminary plat contingent upon City Engineer's conditions for approval. Motion was seconded by Judy Horne and upon roll call vote passed unanimously.

**4H. Review of the proposed sidewalk ordinance** – This item will be considered at the January meeting.

**Adjournment:** Having no further business, the on-line/in-person Planning Commission meeting was adjourned at 9:10 PM.

  
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Judy Horne - Secretary

  
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Robert Mann - Chair