

CITY OF BRANSON PLANNING & ZONING COMMISSION
REGULAR MEETING – MINUTES
January 4, 2005

CALL TO ORDER: Chairperson Davis called the regular meeting of the City of Branson Planning and Zoning Commission meeting to order at 7:30 P.M. in the Council Chambers, 110 West Maddux, Branson, Missouri.

SPECIAL ANNOUNCEMENTS

PUBLIC COMMENTS

CONSENT

1. Roll Call.

Commissioners Present:

Commissioners Edie, Hartley, Roeger, Weisz, Williams, Vice-Chairperson Harris and Chairperson Davis.

Commissioners Absent:

Commissioner Boyce, Butler and VanderNaald.

Staff Present:

Don Stephens – Director of Planning and Development, Ruth Denham-Acting Assistant Director, David Miller – City Engineer, Dan Wichmer – City Attorney and Lesley Davis – Acting Administrative Assistant.

2. Approve Agenda.

Recommended Action:

Approve the format of January 4, 2005 agenda.

MOTION:

Motion by Commissioner Roeger, seconded by Vice-Chairperson Harris and unanimously carried to approve the format of the January 4, 2005 agenda.

3. Approve Minutes.

A. December 7, 2004.

Recommended Action:

None.

MOTION:

Motion by Vice-Chairperson Harris, seconded by Commissioner Weisz and unanimously carried to approve the minutes of the December 7, 2004 meeting.

OLD BUSINESS

PUBLIC HEARINGS

4. Request For A Special Use Permit To Construct And Operate A Theater On Property Located At 1820 W. Highway 76, Branson, Missouri. Resolution No. P-2005-001.

Applicant: Chris Lucchi

Ruth Denham, Acting Assistant Director of Planning and Development, presented the staff report as filed with the Planning and Development Department.

Hank Griffin, Showbiz LLC, explained there was no formal presentation at this time but he would be glad to answer any questions that the Commissioners might have.

Commissioner Roeger asked what type of theater would be constructed and Mr. Griffin responded it would be live entertainment.

Commissioner Hartley asked if the July 1, 2005 deadline would be sufficient for the developers to meet their requirements. Bob Copeland, another spokesman for Showbiz LLC, said the stipulations in the resolution could be met by that date.

SPEAKING IN FAVOR:

None.

SPEAKING IN OPPOSITION:

None.

MOTION:

Motion by Commissioner Weisz, seconded by Vice-Chairperson Harris to approve Resolution No. P-2005-001.

AYES: Commissioners Edie, Hartley, Roeger, Weisz, Williams and Vice-Chairperson Harris.
NOES: None.
ABSTAIN: Chairperson Davis.
ABSENT: Commissioners Boyce, Butler and VanderNaald.

Motion to approve Resolution No. P-2005-001 carries 7-0, with Chairperson Davis' abstention counting as an AYE.

**5. Request For A Special Use Permit To Construct And Operate A 36- Hole Miniature Golf Course With Amenities On Property Located At 2700 W. Highway 76, Branson, Missouri.
Resolution No. P-2005-002.**

Applicant: Chris Bethea

Ruth Denham, Acting Assistant Director of Planning and Development, presented the staff report as filed with the Planning and Development Department.

Chris Bethea came forward to represent Parkway Investors, he informed the Commission that the company was already doing business in the city and had developed the miniature golf course named the Lost Treasure Golf, located on Highway 76. The intent is to build another project that would be family oriented and safe. His company would like to continue to contribute to the City of Branson and enhance the ability to bring families to visit here.

Commissioner Weisz said he understood the proposed location would be behind the Grand Palace. He then asked if there would be a parking agreement between the theater and the new project. Mr. Bethea said they would be constructing their own parking area and the preliminary site plan should show the proposed parking lot that would be located on property purchased from Mr. Wehr. Mr. Bethea said the project would have sufficient parking to meet City of Branson Municipal Code requirements.

Chairperson Davis brought up the written comment from Larry VanGilder, Director of Public Works, regarding a possible conflict with a sewer line and asked if Parkway Investors was currently working with the city to resolve this issue. Mr. Bethea said they had been working with the city and stated they had the same type of issues with the property on Highway 76. He said they would be glad to work with the Public Works Department to find a positive solution and he did not foresee any problems unless there were other utilities outside of the recorded easement.

Vice-Chairperson Harris asked if there were any rules regarding pedestrian walkways being striped for safety. He pointed out the area hotels and the visitors that would be walking to the proposed attraction causing an increase in foot traffic. David Miller, City Engineer, stated the city tried to avoid "mid-block" crossings and encouraged intersection crossings. He said the four-way stop on the east end of the project

would be conducive to striping. Mr. Bethea said Parkway Investors would be willing to finance the striping if the city would require it.

SPEAKING IN FAVOR:

Larry Milton, 102 Vixen resident, came forward to speak in favor of the project. He said he worked with Mr. Bethea on his previous project and knew first hand how, even though many obstacles had to be overcome, he continued to work well with the city and kept a positive attitude.

SPEAKING IN OPPOSITION:

None.

MOTION:

Motion by Vice-Chairperson Harris, seconded by Commissioner Roeger to approve Resolution No. P-2005-002.

AYES: Commissioners Edie, Hartley, Roeger, Weisz, Williams and Vice-Chairperson Harris.
NOES: None.
ABSTAIN: Chairperson Davis.
ABSENT: Commissioners Boyce, Butler and VanderNaald.

Motion to approve Resolution No. P-2005-002 carried 7-0, with Chairperson Davis' abstention counting as an AYE.

6. Request For An Alley Vacation Located At 200 South 4th Street, Behind Taneyhills Community Library, Branson, Missouri. Resolution No. P-2005-003.

Applicant: Arlene Schaefer

Ruth Denham, Acting Assitant Director of Planning and Development, presented staff report as filed with the Planning and Development Department.

Arlene Schaefer, 516 Parnell Drive, representing the library, came forward to answer any questions.

Vice-Chairperson Harris asked if Mrs. Schaefer would describe the plans for the library. Mrs. Schaefer responded that the library was planning on extending the existing building fifty (50) feet to the south. She stated she had been in contact with the CenturyTel, Empire District Electric and Cox Communications (neighboring property owners) and received their cooperation with this proposal. She also verified that she had spoken with the Public Works Department regarding the sewer line being relocated.

Commissioner Roeger asked about the access to the building, seeing as the new addition would extend into the existing parking lot. Mrs. Schaefer explained that by closing the alley the library would move their entrance to the back of the building facing the parking lot. The other doors will become exit doors for emergencies only.

Chairperson Davis asked Mrs. Schaefer if she would explain the easement remaining on the property, even though the sewer line would be moved. Mrs. Schaefer said that Larry VanGilder had said the sewer line would be moved into an area of the existing parking lot and the easement would follow the new sewer line.

SPEAKING IN FAVOR:

None.

SPEAKING IN OPPOSITION:
None.

MOTION:

Motion by Commissioner Weisz, seconded by Commissioner Hartley to approve Resolution No. P-2005-003.

AYES: Commissioners Edie, Hartley, Roeger, Weisz, Williams and Vice-Chairperson Harris.
NOES: None.
ABSTAIN: Chairperson Davis.
ABSENT: Commissioners Boyce, Butler and VanderNaald.

Motion to approve Resolution No. P-2005-003 carried 7-0, with Chairperson Davis' abstention counting as an AYE.

7. Request For A Final Subdivision Plat To Be Known As Branson Hills Plaza On Property Located On Northwest Corner Of Branson Hills Parkway And U.S. 65 Highway, Branson, Missouri. Resolution No. P-2005-004.

Applicant: James W. Grice; Spencer Fane Britt & Browne LLP

Chairperson Davis recognized Commissioner Weisz and he recused himself from Items #7 and #8 at 7:52 p.m. due to conflict of interest.

Ruth Denham, Acting Assistant Director of Planning and Development, presented staff report as filed with the Planning and Development Department.

Dan Coffran with Spencer, Fain, Britt and Brown Law Firm located in Kansas City, Missouri, stated he did not have a presentation as such, however he was available to answer any questions that the Commission might have at this time.

Vice-Chairperson Harris asked David Miller about the water lines and if they would be sufficient for fire suppression systems. Mr. Miller explained that this would be determined as a part of the permit process and the developer would be required to do whatever necessary to bring the water pressure and/or volume up to code standards. The burden of meeting the standards would rest on the developer.

Gary Fultz, with HCW and Branson Hills Owners Association, came forward to inform the Commission that they are working currently with an Engineering firm to extend the 16" water main from Buchanan Road to the Branson Hills Parkway area to solve the water problem.

Chairperson Davis asked Mr. Fultz if he was aware of any design of slopes on the project. Mr. Fultz said the Branson Hills Owners Association would be granting the developer a slope easement. The plan that was presented to them by the developer included landscaping and irrigation on the slope. Retaining walls will be placed along Ozark Scenic Drive and all such slopes or walls would meet city regulations.

SPEAKING IN FAVOR:
None.

SPEAKING IN OPPOSITION:
None.

MOTION:

Motion by Commissioner Williams, seconded by Commissioner Edie to approve Resolution No. P-2005-004.

AYES: Commissioners Edie, Hartley, Roeger, Williams, Vice-Chairperson Harris and Chairperson Davis.
NOES: None.
ABSTAIN: Commissioner Weisz.
ABSENT: Commissioners Boyce, Butler and VanderNaald.

Motion to approve Resolution No. P-2005-004 carried 6-0.

8. Request For A Zoning Change For Property Located At Little Pete's Road – Tract G, Music Country First Addition, From "R-1" Single Family Residential To "C" Commercial, Branson, Missouri. Resolution No. P-2005-005.

Applicant: Mark Weisz

Ruth Denham, Assistant Director of Planning and Development, presented the staff report as filed with the Planning and Development Department.

Mark Weisz, agent for Western Eagle Developers, stated that the reason for this request was to allow nightly rentals. The plan is to build traditional condominiums as well as duplex and four-plex condominiums. Mr. Weisz said he understood it was not a timeshare use but due to the nightly rental aspect they would need commercial zoning. The property is currently surrounded on three sides by other property zoned commercial.

Chairperson Davis asked Mr. Weisz to show him the exact location of the adjacent lot that is not zoned "C" Commercial. Mr. Weisz showed the Commission the location on the overhead vicinity map and further explained the adjacent property would be applying for "C" Commercial zoning in February.

Commissioner Edie asked if the adjacent lot was vacant at this time. Mr. Weisz said it had a parking lot, a rental house and lightly wooded area there now. Mr. Weisz stated that Mr. Morris the property owner also had commercial plans for his lot in the future and the application had been submitted to the Planning and Development Department.

SPEAKING IN FAVOR:

None.

SPEAKING IN OPPOSITION:

None.

MOTION:

Motion by Vice-Chairperson Harris, seconded by Commissioner Hartley to approve Resolution No. P-2005-005.

AYES: Commissioner Edie, Hartley, Roeger, Williams, Vice-Chairperson Harris and Chairperson Davis.
NOES: None.
ABSTAIN: Commissioner Weisz.
ABSENT: Commissioners Boyce, Butler and VanderNaald.

Motion to approve Resolution No. P-2005-005 carried 6-0.

Commissioner Weisz rejoined the table at 8:07 p.m.

9. Request To Amend Section 445.100 Of The Branson Municipal Code By Adding Language Allowing The Use Of Temporary Signs For Major Construction Projects. Resolution No. P-2005-006.

Applicant: City of Branson.

Don Stephens, Director of the Planning and Development Department, gave the staff report as documented at the Planning and Development Department.

Vice-Chairperson Harris asked Mr. Stephens to explain the sign registration procedure that was in place at this time. Mr. Stephens said there was not a permit fee for the temporary sign. The business owner or agent would apply for the sign by filling out an application. The sign is then put on a registry and approved or disapproved according to the information provided.

Commissioner Williams asked Mr. Stephens if a particular amount of time was being set for these signs to remain up. Mr. Stephens said the next step would be to create a written procedure for the temporary signs. This would be approved by Terry Dody, City Administrator and regulated by city staff. The procedure would establish guidelines that would be changed in-house, only if certain conditions would cause tolerance for an extended deadline.

Chairperson Davis asked for clarification on when a temporary sign could be approved. He asked if the sign would be allowed when the business was identified by name or if it would be allowed before this. Mr. Stephens said they would be required to fill out the application and then staff would determine if the sign was eligible. The circumstance trying to be avoided is off-premise advertising. This would occur if a business placed a sign on a property stating it was "coming soon" and never had any intention of building on that site.

Commissioner Weisz said he would like to commend Don Stephens and his staff for purposing this solution for business that would be constructed in the future.

MOTION:

Motion by Commissioner Weisz, seconded by Commissioner Rodger, to approve Resolution No. P-2005-006.

AYES: Commissioner Edie, Hartley, Roeger, Weisz, Williams and Vice-Chairperson Harris.

NOES: None.

ABSTAIN: Chairperson Davis.

ABSENT: Commissioner Boyce, Butler and VanderNaald.

Motion to approve Resolution No. P-2005-006 carries 7-0, with Chairperson Davis' abstention counting as an AYE.

OTHER BUSINESS

**10. Planning and Development Director Report –
Discussion of Preliminary Subdivision Plat Process.**

Chairperson Davis explained that due to a subdivision plat presented before the Commission last month, he had requested a review of requirements for submittal and approval. He stated the Commission would like to be refreshed as to the opportunities they have to protect residential neighborhoods. Chairperson Davis said he felt like the majority of the Commission understood their role in this goal, but he felt it was always good to remember where they are in the process. He asked for this report to clarify and enhance their ability to encourage green area in projects, as well as parklands.

Don Stephens, Director of Planning and Development, explained that in the case of preliminary platting, very basic information was required to be provided. The actual time that a developer establish green space for a property is in the final plat process.

Mr. Stephens referred to the handouts, which were provided to the Commissioners at the study session before the meeting. One sheet titled, Division II Plats, basically lays out the application process for preliminary plats. Mr. Stephens pointed out at the bottom of page, 12 of 41, under H-4 there is a list of what must be provided. This would include location and size of proposed parks, playgrounds, churches, school sites and other special uses of the land to be considered for public use or to be reserved by deed or covenant for the use of all property owners in the subdivision. If these are not included on the plat, then the Planning and Zoning Commission may determine that none of these areas must be included. It is at that point, the Commission has an opportunity to discuss any parks or playgrounds that should be designated on the plat. The project/plat would then be referred to the Park Board, according to the current ordinance, to affirm if that seems reasonable to them. The Park Board would determine if that would be something they would deem appropriate due to their responsibility of the upkeep and care for an additional park.

Mr. Stephens then referred to the second handout, Division IV: Dedications and Improvements, in "A" it talks about all residential subdivisions. In this portion it speaks of the final plat process in regards to if the developer/owner dedicates land or an equivalent 'cash in lieu' of payment for open space for public use. "B" talks about land areas that are proposed on a preliminary plat. Any proposing of dedication of open space would be referred to the Park Board.

Mr. Stephens asked the Commissioners to examine the back of the second handout, in which he had laid out an area in the process that he feels requires changes in the future. He provided an overhead showing the current stipulated calculations for green space in a residential subdivision as well as the formula calculated using one hundred (100) acres. He then pointed out that one of the goals of the City of Branson is to encourage and promote the construction of affordable housing in the city limits.

Mr. Stephens stated a developer came to the city offices to develop a piece of property. He wanted to develop one hundred and twenty (120) acres and by the time the calculations for green space and infrastructure were done, he was going to lose over 60% of his land. He changed his mind about proceeding with the project.

Commissioner Edie asked if differing the lot sizes could change the density. Also instead of requiring twenty (20) acres per 1000 person population, possibly changing that to twenty-five (25) or thirty (30). Mr. Stephens said that over the last three years he has changed the numbers trying to find a reasonable equation and had not found a reasonable outcome yet. Mr. Stephens explained that by placing minimums required the problem might be solved. Another solution would be to create a Master Parks Plan for the City of Branson to see where future parks would be the most beneficial to the population as whole. With a plan in place, the city could require a developer to give a reasonable amount of land or money for the creation of a park in that area, without having to give exorbitant amounts of either.

Commissioner Roeger asked if the formula had been worked "backwards" to see how many lots he wanted to develop before the other calculations were begun. Mr. Stephens said the staff had worked with him on this, however, the ordinance is established on the whole property rather than a portion. Commissioner Roeger stated that you could make numbers reflect anything that you wanted them to by manipulating them. Mr. Stephens agreed, however it seems to be more reasonable to establish what our needs are as a community as far as parks go and then base the ordinances on what those are deemed to be.

Commissioner Edie asked if other cities had been researched to see what their policies are regarding this issue. Mr. Stephens replied yes. He said a lot of other cities ignore it. He stated he felt like the City of Branson was one of the most progressive cities he had been in with regards to green space, tree saving

and parks. But he went on to say that he felt a situation where a developer with one-hundred (100) acres, was required to give the city sixty (60) acres was unreasonable. Commissioner Edie agreed.

Commissioner Weisz asked if Mr. Stephens felt this was one of the reasons that developments were built in the county and then petitioned for annexation into the city limits. Mr. Stephens replied that to some extent that was true but there are actually a lot of reasons given for this happening. Many who develop in the county rather than in the city due to the adopted building codes. Chairperson Davis agreed that he had heard this frequently regarding the building inspections and codes.

Chairperson Davis said he felt it was a part of the comprehensive plan to develop green space. He said his understanding of green space would be more along the lines of undisturbed land in a development rather than a park area. He felt we should encourage 'uncleared' areas in subdivisions. He mentioned that one developer last month thought that this type of green space would mean land without any construction on it. His interpretation meant the natural vegetation would be left untouched in designated areas around the development. He told Mr. Stephens he agreed the park area portion of the ordinance required some correction, however he would like to see developers asked to provide undisturbed areas on the plat. He asked if there was some way to encourage this type of green space. A way to protect the visual integrity of the area and feel of the neighborhood. Such as requiring utilities to be placed under the street and in that way protect the backyard wooded area. Mr. Stephens replied the Commission had that ability now. He went on to clarify by pointing out the section in the ordinance that allowed for the developer to meet one-half of the requirements by providing private open space. The Board of Aldermen is the final decision making body but the Planning and Zoning Commission is the recommending authority. The Commission has recommended private open space in the past. A rewrite of the ordinance would allow flexibility for private open space and parks being referred to Park Board.

Commissioner Weisz asked if there should be a minimum lot size before this requirement is instigated. He asked if a park space would be required on each acre that a developer would subdivide. Mr. Stephens replied that the ordinance as existing applied even to a four (4)-lot subdivision that is being divided into smaller lots. He explained that according to his interpretation of the ordinance the Commission could choose to recommend the inclusion of open space or to waive it, but the actual ordinance included replats as being required the open space area.

Commissioner Hartley asked if Rainbow Shoals Subdivision had been required to have the open space. Mr. Stephens explained that particular subdivision was built in the county and then annexed into the city. The ordinance would pertain to any replat of that subdivision.

Chairperson Davis stated he would like to see a mind set of encouraging undisturbed green space.

Commissioner Hartley asked if, when green space is dedicated, it would be allowed to come back through the process to be subdivided again and built upon. Mr. Stephens said that could happen and it would have to come through the Commission again. She said she had heard from residents who are very upset when this occurs. Mr. Stephens explained the option, in that case, would be for the resident to purchase the property in question and ensure the property would remain undeveloped.

Chairperson Davis said he thought the Commission owed it to residents who purchase lots in a subdivision to provide them open space. He said he believed the open space that was provided in most cases was limited to the lots that do not sell. He believes the Commission should be stricter on requirements for undisturbed natural space in a subdivision. Mr. Stephens said the Commission had the authority to require this each time a preliminary plat came before them. He explained that if the Commission did not require the green space then the developer considered it waived.

Mr. Stephens said it might be required for the applicant to submit topography on any open space areas that are being identified and then have the city engineer provide comments in his review. Chairperson

Davis said he would like open space identified on preliminary plats before it is presented to the Commission.

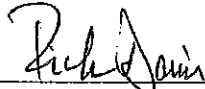
Vice-Chairperson Harris asked if the technology was available for the Commissioners to receive a picture of the subject property. Mr. Stephens said that overhead pictures were available right now and staff would begin to include those for the Commissioners especially in the case of subdivision plats.

Chairperson Davis stated that Don Stephens had brought up two very good points. The first point is the necessity of parks for the city and the second being the desire for undisturbed areas in subdivisions. He said he felt the two issues were combined at this time and the ordinance was not being as effective as could be. Chairperson Davis said the Commission would continue to work with the ordinance as existing at this time and Mr. Stephens stated that the Planning and Development Department would work on reworking the ordinance as diligently as possible.

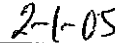
ADVISORY RECOMMENDATIONS

ADJOURNMENT

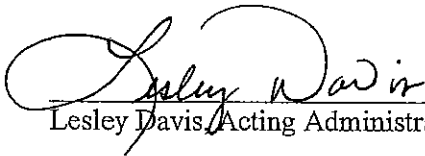
Motion by Chairperson Davis was unanimously carried to adjourn the meeting at 8:55 p.m.




Rick Davis, Chairperson



Date



Lesley Davis, Acting Administrative Assistant



Date