



Legislation Text

File #: MIN-03:051, **Version:** 1

Minutes for the MAPC meeting on July 8, 2003.
Metropolitan Area Planning Commission Minutes, July 8, 2003

MEMBERS PRESENT: Beadles, Vance, Damron, Gott, Krennerich, M. Johnson

MEMBERS ABSENT: Day, Moore, G, Johnson

The minutes of the June 17, 2003 meeting were approved as prepared on a motion Mr. Damron, second by Mr. Gott, and unanimous vote.

Review a proposed ordinance amending Title 14, the Zoning Ordinance of the City of Jonesboro, to require design professionals preparing site plans to certify that site improvements have been installed and completed in accordance with the approved site plan.

The following language was changed in the ordinance, prior to it being considered, to read as follows, “to require design professionals preparing site plans to verify that, according to the best of their knowledge, that site improvements have been installed and completed in accordance with the approved site plan”. This language was changed in the title block, the first paragraph, and the fourth paragraph. In paragraph three of the ordinance, the word certification was changed to verification.”

Phillip Crego, City Attorney, responded to a question about when the ordinance would become effective. The ordinance is not retroactive and does not apply to site plans that have already been submitted for approval. It would apply on to those submitted after adoption of the ordinance by the City Council.

John Easley, Associated Engineering, questioned the format that would be required for the verification. It was stated that an as built letter of verification stating that site visits were made during the construction process and that the design professional observed the construction and to the best of their knowledge the site is built according to the approved plans.

With regard to allowing changes in plans, Glenn Batten, City Planner, stated that the process currently used would still apply where the applicant and/or his design professional would submit a revised plan to the Planning Department for approval. The design professional would then verify that the site was built according to the amended plan.

A motion to recommend approval of the amended ordinance to the City Council was made by Mr. Krennerich and seconded by Mr. Damron. Voting was 5 in favor, 1 opposed. Those voting aye were Damron, Gott, Krennerich, M. Johnson, Beadles. Those voting no were Vance. **MOTION CARRIED.**

Review a proposed ordinance amending Title 14, The Zoning Ordinance of the City of Jonesboro, Arkansas to require a bond to be posted with the City of Jonesboro to ensure completion of required building and/or site improvements before issuing a temporary certificate of occupancy.

Glenn Batten, City Planner, explained that the purpose of the ordinance was to ensure that site improvements are completed and is actually an extension of the zoning ordinance. The posting of a bond, or an escrow or a letter of credit in the amount of the remaining improvements will guarantee that they will be completed within a certain period of time. This would only apply to those that are seeking a temporary certificate of occupancy.

Commissioner Vance questioned whether this was the best way to handle the situation and if other methods were available. Mr. Vance stated that the majority of commercial and industrial projects need temporary electric in order to proceed with the advanced stages of construction and this would in effect shut down commercial projects and he was opposed to it.

Mr. Krennerich made a motion to recommend approval to the City Council with Mr. Damron making the second. Voting was 5 in favor, 1 opposed. Those voting aye were M. Johnson, Krennerich, Gott, Damron, Beadles. Those voting no were Vance. MOTION CARRIED.

#1 RZ03-17 Vicki Shipp and Craig McDaniel requested approval of rezoning from the R-1, Single Family Medium Density District to the R-2, Multi-Family Medium Density District for Lots 1A and 1B, Block A of Barnett's Replat of Lot 1, Block A of Morrow Acres. The general location of the property is on the east side of Paragould Drive, north of Shagbark Lane.

WITHDRAWN PRIOR TO MEETING.

#2 RZ03-18 Larry & Connie Gibson requested approval of rezoning from the R-2, Multi-Family Medium Density District to the C-5, Neighborhood Office District for Lot 2 of Gibson Subdivision, a replat of Lot 9 of Stallings 2nd Addition of Lots 4 & 5 of Stallings 4th Addition. The address of the property is 812 Glendale Street and the general location of the property is on the east side of Glendale Street, south of E. Matthews Avenue.

George Hamman, Project Surveyor, stated that the plan for this house is to use it for office space to assist with the Pediatric Day Clinic next door. The administrative offices will move into this house if approved.

Glenn Batten, City Planner, stated that the rezoning could have a very positive outcome. The C-5 Zoning is limited in use and size and would not cause very much damage to the neighborhood. The zoning now calls for residential design structures to be used as offices and this would fit that classification. When questioned by Commissioner Krennerich about how parking would be handled, Mr. Batten explained that there are some parking spaces on the site itself now and some of the existing parking at the day care would be utilized. Mr. Krennerich stated that he did not want to see additional paving or parking added to the house site. A site plan will have to be submitted to make sure parking requirements are met for both sites.

Mr. Damron made a motion to recommend approval of the rezoning to the City Council with the stipulation that a site development plan be submitted to the City Planner for approval that would particularly address parking. The motion was seconded by Mr. Gott. Voting was 5 in favor, 0 opposed. Those voting aye were Vance, M. Johnson, Krennerich, Damron, Gott. MOTION CARRIED, REQUEST APPROVED WITH STIPULATION.

#3 RZ03-19 Gary Ezell requested approval of rezoning from the R-1, Single Family Medium Density District to the C-3, General Commercial District for a part of the SE ¼, NE ¼ of Section 2, T14N, R3E containing .42 acre. The general location of the property is on the west side of Southwest Drive, south of Stillwater Drive.

George Hamman, Project Engineer, stated that the parcel is a very narrow tract along Southwest Drive and is

bordered by a large ditch on the west side. CWL has supposedly purchased property on the other side of the ditch. There are commercial uses to the south and a five lane road on the east side. Mr. Hamman stated that the plat reflects the new right of way for the AHTD.

Glenn Batten, City Planner, informed the commissioners that this a very limited parcel in terms of size particularly when you place the building setback lines on it. Only a limited number of uses might be put here. This would also lend itself to some uses that are not desirable. With a C-3, General Commercial classification, there are some things which might not be appropriate for this location and therefore he recommended that the zoning be upgraded to a C-3, Limited Use application with specific permitted uses. A site development plan will have to be submitted to the City Planner that would address drainage and other pertinent issues.

Phillip Crego, City Attorney, stated that the ordinance provides that the proponent, the Commission or the City Council can impose a limited use on an application for rezoning.

Commissioners questioned what those specific uses might be and who would approve the list of uses. It was suggested that if the owner and the City Planner can agree upon the limited uses then it would not have to come back to the MAPC. If either one disagrees, then it would come back to the MAPC for approval of the limited uses.

Some commissioners stated they would like to see the list when it is finished and Mr. Batten said he would be glad to furnish the agreed upon list to the MAPC before it goes to the City Council.

Mr. Krennerich made a motion to recommend approval of the C-3 Zoning with the limited use attached with the limited use determinations to be made by city staff and to be reviewed via the fax by the Commissioners. The motion was seconded by Mr. M. Johnson. Voting was 5 in favor, 0 opposed. Those voting aye were Gott, Damron, Vance, M. Johnson, Krennerich. MOTION CARRIED, REQUEST APPROVED WITH STIPULATIONS.

#4 MP03-6 Gary Ezell requested approval of a one lot minor plat containing .42 acres and located on a part of the SE ¼, NE ¼ of Section 2, T14N, R3E containing .42 acre. The general location of the property is on the west side of Southwest Drive, south of Stillwater Drive.

A motion to approve the request was made by Mr. Damron and seconded by Mr. Krennerich. Those voting aye were Damron, Gott, Krennerich, Vance, M. Johnson. MOTION CARRIED, REQUEST APPROVED.

#5 CU03-6 Wayne Armstrong requested approval of a conditional use for placement of a manufactured home, residential style, in the Residential R-2, Single Family Medium Density District. The address of the property is 2403 Court Street.

Mr. Armstrong informed the Commissioners that he is going to remove his house from the site and replace it with a double wide, manufactured home. If approved the existing home will be demolished and the new home put in the same place. They anticipated that the home will be torn down on Thursday, July 10th. Mr. Armstrong stated that he owns two lots there, one that has a rent house on it and the other has the house to be torn down.

Glenn Batten, City Planner, stated that some additional information was needed particularly the dimensions of the property and a plan showing the home can meet setbacks and any other information that would help evaluate the request.

Mr. Krennerich made a motion to approve the request subject to submitting a plan to the City Planner showing the lot dimensions, house placement with required setbacks and one residence on one lot. The motion was seconded by Mr. M. Johnson. Voting was 5 in favor, 0 opposed. Those voting aye were Krennerich, M. Johnson, Gott, Damron, Vance. MOTION CARRIED, REQUEST APPROVED WITH STIPULATIONS.

#6 CU03-7 Charles, Albert & Teri McGinnis requested approval of a conditional use for placement of a manufactured home, residential style, in the Residential R-1, Single Family Medium Density District. The address of the property is 4121 Kellers Chapel Road.

A motion to table this request due to lack of representation was made by Damron and seconded by Mr. Gott. Voting was 5 in favor, 0 opposed. Those voting aye were M. Johnson, Krennerich, Gott, Damron, Vance. MOTION CARRIED.

#7 CU03-8 Edna Boyd Price requested approval of a conditional use for placement of a manufactured home, residential style, in the Residential R-2, Single Family Medium Density District. The address of the property is 2101 S. Kathleen Street.

Mrs. Price explained that her home on the property burned recently and she plans to tear it down and replace it with a manufactured home.

Glenn Batten, City Planner, stated that some additional information was needed particularly the dimensions of the property and a plan showing the home can meet setbacks and any other information that would help evaluate the request. The footprint of the existing home needs to be shown. The neighborhood should benefit from the placement but it needs to be properly located with access to utilities.

Mr. Krennerich made a motion to approve the request subject to submitting a plan to the City Planner showing the lot dimensions, house placement with required setbacks and one residence on one lot along with a utility plan showing their availability. The motion was seconded by Mr. M. Johnson. Voting was 5 in favor, 0 opposed. Those voting aye were Krennerich, M. Johnson, Gott, Damron, Vance. MOTION CARRIED, REQUEST APPROVED WITH STIPULATIONS.

#8 CU03-9 John DeLuca, dba, Spartan Towers, requested approval of a conditional use to construct a communications tower in the R-1, Single-Family Medium Density District. The address of the property is 1421 W. Nettleton Avenue, and the general location of the property is on the south side of Nettleton Avenue, east of Brookhaven Road.

Mr. DeLuca informed the Commissioners of some changes he had made in the site. There are some known carriers for the tower at this time, one of which is Alltel. AT&T is also interested in this site which would accommodate several carriers. When several carriers locate on the same tower, it eliminates the need for constructing more towers. Many sites were considered and evaluated and this site was the best choice for where the service is needed. The tower has been moved so that the nearest home is now some 200' away and will be kept below the height that would require lights to be on it. It will be placed on one of the unused tennis courts behind the YMCA. The tower is a monopole, eight sided, and is free standing with no guide wires. There are several trees in the area that will provide a natural buffer for the site. All activities on the site will be very low profile. Should the tower (which will be built to withstand a 110 mph wind load) collapse, it is designed to fall within 45' of its base location. Information was also presented regarding the RF emissions that could be expected from the tower users.

Lance Owens, representing Southwest Church of Christ, spoke in opposition to the tower placement. Mr. Owens stated that construction of the tower would have a detrimental effect on the future development of the church's property adjacent to this site and would interfere with the construction of church structures. The use is very inconsistent with the way the surrounding properties have developed and have always been used which is for worship, recreation, relaxation, and things of this nature. The tower will be an eyesore and a fence will not hide or cover it from church patrons or park patrons. The proposed location is within a few feet of the church's property line. The trees that are seen now belong to the church and are not controlled by the YMCA and cannot be considered as buffering because they may come down. Safety of persons attending any event on the site should also be considered. There is very limited access to the site without crossing the church's private property and the church has declined to grant an access easement.

Gary James, a Jonesboro resident and member of Southwest Church, objected to the placement stating that it would be a disservice to the neighborhood and surrounding houses. Mr. James stated that this would not enhance property values in any way.

Mickey Mathis, who lives at 1400 W. College Avenue, stated that he views the tennis courts from his house and he would be directly affected if the tower should fall.

Denton Kernodle, a Jonesboro resident and member of Southwest Church, objected to the placement stating that the church tries to be a good neighbor and work with people in the area. Mr. Kernodle stated that Southwest Church had offered to purchase the property where the tennis courts are now from the YMCA and allow them to continue to use them but the offer was not accepted.

Glenn Batten, City Planner, reminded the Commissioners of the specific development standards for evaluating conditional uses in the zoning ordinance which sets out guidelines for review of the application. There are eight points that need to be addressed. The first is that communications towers are listed as a conditional use in the R-1 Zoning District. Secondly, the ordinance questions whether the proposed use conforms to all applicable provisions set out in the district. This has not yet been determined because there are still a couple of issues that are pending that will be worked out as a part of the site plan if the conditional use is allowed. Those issues are access to the site for both construction and service needs.

The next question asked is whether or not the proposed use is designed, located and proposed to be operated so that the public health, safety and welfare will be protected. Mr. Batten stated that there are three issues concerning health and safety. Those are the radio frequency (RF) emissions, the strength of the tower to withstand high wind loads, and the internal structure design of the tower so that it will implode instead of falling laterally and striking something within the distance. All three of these issues have been addressed in the application. As proposed, the protocol will be established by Alltel who will be one of the lessees on the tower and this tower is proposed to hold at least three other carriers and maybe more. There will be co-location advantage to this particular tower. There will be a protocol established that will furnish data to the City showing the RF emissions over a period of time so that the City as well as the FCC and Alltel and others will be able to see the data and confirm or verify that the transmitters on the tower are operating within the appropriate frequency tolerances. This will be monitored over time to make sure that everything is functioning properly from an RF standpoint. The tower is being designed to withstand a 110 mph wind load. With regard to the requirement that the tower implode or fall down within itself should there be a structural failure, the City will require verification by a structural engineer and the tower manufacturer that these specifications have been met. The next point to consider is the compatibility of land uses and would the tower adversely affect other properties in the area. If you look at the tower and the surrounding structures, there is a fairly large distance between the structures and the tower according to the information supplied by Spartan Towers. The

information supplied shows the tower to be 189' from the nearest residence, 335' from the church structure, and 206' from the edge of the YMCA pool. The plan submitted shows extensive landscaping and also other steps to be taken to screen the tower base which is the most visible. Another consideration is the size and shape of the lot and it has been determined that the size is an appropriate size. Ingress and egress for construction and service vehicles is being worked out now and is something that would probably need to be a stipulation of approval so that there is an easement provided and parking space for service vehicles. The last consideration is the issue of any safeguards proposed to limit noxious or offensive emissions including lighting, noise, glare, dust, odor or RF emissions. There are no lights supposed to be on this tower. Base on some extensive study over the last several months into cell towers and actually drafting a tower ordinance, RF emissions are not a major issue at this point. Mr. Batten also noted that this particular case was submitted and reviewed and was pending at the time the City Council declared a moratorium on cell towers. This tower and the tower on Browns Lane were in the works when the moratorium was declared and that is why this case has been brought forward. Mr. Batten recommended that the conditional use be granted subject to receiving additional information on site access and landscaping.

When questioned about why the City Council declared a moratorium, Phillip Crego, City Attorney, stated specific reasons were not given by the Council but felt that the decision was made so that a more comprehensive ordinance could be adopted for guidance. Currently the ordinance does not address cell towers specifically, but only in general terms as a conditional use. The issues raised tonight and others will be addressed in the new ordinance.

When asked what is being done to provide access to the site, Mr. DeLuca, stated that if necessary they would come in following the ditch on the west side of the YMCA which would require enclosing the ditch with pipe. They have also had some discussions with neighbors to the west of the site about obtaining an easement.

Mr. M. Johnson made a motion to disapprove the request stating he disagreed with the fact the City Planner thinks that a little screening around the bottom is going to solve any problems. Mr. Johnson further stated that the tower is almost 200' tall and is totally inappropriate in this area even though it may not have lights to deal with. This tower does not belong in a residential area that is so clustered with houses and all the recreational activities that go on here. The motion was seconded by Mr. Gott. Voting was 3 in favor, 1 opposed, 1 abstaining. Those voting aye were Gott, M. Johnson, Vance. Those voting not were Damron. Those abstaining were Krennerich. Five votes are required for passage, therefore the motion did not carry.

Dr. Beadles called for another motion but none was made.

Mr. Crego advised the commissioners about what the options are when considering an item. The first is to approve as presented, approve it with conditions, table with cause, deny the application or refer it to the City Council for final disposition.

Mr. Damron made a motion to refer the matter to the City Council for final disposition. The motion was seconded by Mr. Gott. Voting was 3 in favor, 1 opposed, 1 abstaining. Five votes are required for passage, therefore the motion did not carry.

#9 CU03-10 Jackie Thomas requested approval of a conditional use to construct a Daycare, General, in the R-3, Multi-Family High Density District. The address of the property is 328 Fourth Street, and the general location of the property is on the east side of Fourth Street, south of Allen Avenue.

Ms. Thomas stated that much of the property is undeveloped around her and she knows of many kids in the area

that could use such a facility.

Glenn Batten, City Planner, stated that this probably would benefit the neighborhood a great deal by providing services to the area and the new facility would also help improve the neighborhood. There should not be any particular negative impact and therefore approval is recommended subject to submission of a final site development plan that would address the items not currently addressed on the first submittal.

Teddy Hooton, City Engineer, stated that information is needed for the sea level elevation for the finished floor and back of curb (high and low points) and construction details. If no base flood elevation, a statement is needed to that effect.

Mr. Krennerich made a motion to approve the request with the stipulation that a site development plan be submitted to the City Planner for approval and addressing the flood plain issues as raised by the City Engineer. Construction details need to be provided in the final plans. The motion was seconded by Mr. Damron. Voting was 5 in favor, 0 opposed. Those voting aye were Vance, Damron, Gott, Krennerich, M. Johnson. MOTION CARRIED, REQUEST APPROVED WITH STIPULATIONS.

#10 FP03-7 Eddie Foster requested final approval of subdivision plans for Brittney Heights Phase II containing 23 lots on 6.43 acres. The general location of the property is on the south side of Prospect Road, east of Ellis Lane.

George Hamman, project engineer, stated that he had received a copy of the city engineer's comments and had no problem with them and they will be changed accordingly. The preliminary stipulations have been complied with except two minor errors which are being handled with Teddy Hooton, City Engineer.

Teddy Hooton, City Engineer, stated that a 4' shoulder and for slope 4:1 maximum and back slop with 2:1 max per standard typical section. On page 3 of 13, the invert of new pipe is 0.3 feet below existing ditch. Per city code, the project engineer is responsible for inspecting and certifying that the improvements as installed meet plans and specifications and write letters to that effect. The engineer is also supposed to provide two sets of as-built drawings to the City Engineer.

Glenn Batten, City Planner, stated that the utility companies are okay with the plans and had no additional comments.

Mr. Vance made a motion to approve the request subject to compliance with the engineering comments contained in the paragraph above. The motion was seconded by Mr. Krennerich. Voting was 5 in favor, 0 opposed. Those voting aye were Vance, Krennerich, Damron, Gott, M. Johnson. MOTION CARRIED, REQUEST APPROVED WITH STIPULATIONS.

Other business:

#11 Chip Layne, at 1901 Oakwood Lane, requested approval to install a privacy fence taller than 8' tall. Mr. Layne explained that the grade of his property is such that an 8' fence does not provide much privacy. He expressed his intent to build his fence to a height of 13' and about 80' long across the property line. The fence will be installed such that it can be maintained as well as the grounds around it.

A motion to approve the request was made by Mr. Damron and seconded by Mr. Gott. Voting was 5 in favor, 0 opposed. Those voting aye were M. Johnson, Vance, Damron, Gott, Krennerich. MOTION CARRIED,

REQUEST APPROVED WITH STIPULATIONS.