

Sherwood Planning Commission Minutes

February 9th, 2021 – 5:00 p.m.
2201 E. Kiehl Avenue, Sherwood, AR 72120
Rob Middleton, Chairman

Agenda Items

1. Call to Order
2. Roll Call
 - Gillham
 - Martin
 - Middleton
 - Bruno
3. Approval of January 12th, 2021 Meeting Minutes
 - Chairman noted a few errors that have already been corrected.
 - Bruno made a motion to approve the January 12th, 2021 meeting minutes.
 - Martin seconded the motion.
 - Unanimous roll call vote to approve the January 12th, 2021 meeting minutes.
4. Approval of the Agenda
 - Chairman added a Discussion of Possible Side Yard Setback Revisions to New Business
 - Chairman added a Final Plat for Lot 1, Brooks Subdivision, to New Business and moved that item to number 5 due to a time constraint of the Engineer of Record.
 - Chairman declares the Agenda set.
5. Final Plat for Lot 1, Brooks Subdivision. Bond Consulting Engineers, Agent.
 - Mr. Penn explained that this Plat is Metes and Bounds. There was a home on the lot that burned and they are wanting to rebuild. Aaron Robinson, with Bond Consulting Engineers, stated that Mr. Penn had done a great job of explaining this.
 - Chairman asked Mr. Robinson to show the Commissioners the plat.
 - Mr. Robinson explained that it is 70 feet by 200 feet roughly.
 - Bruno made a motion to approve the Final Plat for Lot 1, Brooks Subdivision.
 - Gillham seconded the motion.
 - Unanimous roll call to approve the Final Plat for Lot 1, Brooks Subdivision.

6. Preliminary Plat for Miller Heights, Phase 4. Thomas Engineering, Agent.
- o Mr. Penn stated that there was an Engineer's approach and a Planner's approach, there is a document from him and one produced by one of our Contract Planners. There will be one document with Staff's review, as per usual. He stated that this plat is at the corner of Miller Road and Kellogg Acres Road. The original comments in the Staff Report provided to the Commission have all been addressed.

He spoke about the Recommendation section of the Staff Report. One of the big requests from the Developer and Engineer is that we allow a 15' front yard setback along Rockwell Drive. Mr. Penn stated, from a historical perspective, the front yard setback had once been 25' and the side yard was 15'. That was changed so that a corner lot there are two 25' front yard setbacks on the plat, so that homeowners could choose which street they choose to face. If we go back to allowing the 15' side yard, this is a minimum. A developer could exceed that 15' minimum. If the regulations changed, we would be able to adopt this as the developer has requested. Without the change of the regulations, we cannot approve this.

All the lots in the subdivision face Hidden Circle. There is no access allowed on Rockwell Drive per the developer's standard, it is a formal entrance into Hidden Circle. If we could get this revision changed, this Developer could come back with a revised Plat for approval. This will be a discussion later in the agenda, under New Business. He wanted to preface the discussion under New Business by making the Commissioners aware of why the request is coming in this way.

- o Chairman stated that the point of a plat approval is to confirm that all of the City's requirements have been met and this plat does not meet one of these requirements. The only way to make an adjustment is a Variance, which this doesn't meet the requirements. What makes sense is to change the Code to the way it was. The only way to approve this plat if it's consistent with the regulations. That is not to say that what the developer proposes to do doesn't make sense. It's just that what the Code says now doesn't make sense and we need to fix that. It is his suggestion that the Developer come back, after the Council hopefully approves a revision. With an amended the plat meeting the new requirements.
- o Mr. Penn stated that the other contingency is that the Developer gets approval of the plat and then get the Construction plans approved. He reviews those and makes sure that the Engineer of Record agrees and verify the regulations are met. We aren't proposing to change that. The question is; should those construction plans be detailed, which is expensive to the Developer prior to Preliminary Plat approval. The practice has been the Preliminary Plat is approved and that's

protecting the Developer's investment. A sketch plat is also an option. That has not been a practice in Sherwood. His concern is the Preliminary Plat approval and then the City Engineer approving the Construction Plans and confirming that with the Engineer of Record.

- Chairman states that this is a gray area. What the Planner has recommended is probably a good compromise. Other bigger cities in Central Arkansas all have the final engineering done after the Preliminary Plat is approved because there is a lot of expense involved there. Unfortunately, typically subdivision regulations are written to protect the City from the abuser, which Thomas Engineering is definitely not. The Planner has recommended limited approval, such that the Chairman doesn't sign the Preliminary Plat Certificate until after the Construction Plans are approved by the engineer.
- Mr. Penn stated that further acknowledgment of the truth through further research is that there are many, many Preliminary Plats that have not been signed properly or dated. Those items are in the Planning Commission records of approval, they were just not signed. So, Chairman's suggestion of not signing the Preliminary Plat is in accordance with that, this should not change anything in the schedule of getting things done.
- Chairman stated that the Preliminary Plat is an agreement between the developer and the City that all of the City's requirements have been met and may not dig dirt until all of the engineering is approved. But what they've put down on paper is approved and are ready to proceed. Unfortunately, that's not always the case and it doesn't work.
- Mr. Penn stated that the final summation of all things being completed, then the Final Plat is brought before the Commission for approval. No lots can be sold until the Final Plat is approved.
- Chairman stated that the Commissioners can approve the Preliminary Plat with two conditions...
- Martin asked why a 15' setback with No Access is an issue on this Plat, there have been several that have been approved recently that have gone through.
- Mr. Penn stated that we've been combing through our regulations and making sure every regulations is followed. If or when we're called in to court, we are in firm standing. To follow our regulations, is the best practice.
- Chairman stated that someone asked if the Subdivision Regulations have a provision to waive some requirements to make it work better. The answer is that we can waive requirements to the Subdivision Regulations but you can't waive any other Code or Ordinance; that has to been done separately. So, we need to fix this problem, but we need to allow the developer to proceed.
- Mr. Penn stated, so our recommendation is for the Commission to approve the plat with the contingency as stated.

- Martin asked if Mr. Deere and Mr. Pownall are in agreement.
 - Steve Deere, Developer, asked about a through-lot where it faced a street on three sides. He asked for an explanation on what a through-lot is.
 - Chairman stated that technically a through-lot borders two streets on front and back but will have the two 25' front yard setback and a side yard and the side yard is what he's worried about. Chairman stated that we try to avoid through-lots.
 - Mr. Deere stated that he is agreeable to be approved now and come back with an amended plat. Mr. Pownall provided an updated plat that shows 25' along Rockwell Drive. He stated that even if the change isn't done, he would not allow a drive off of Rockwell Drive.
 - Martin stated that he understands the purpose of No Access along Rockwell Drive.
 - Chairman stated that there will be no contingencies necessary with an updated plat showing 25' setback along Rockwell Drive.
 - Martin made a motion to approve the Preliminary Plat for Miller Heights, Phase 4, contingent on approval of construction plans.
 - Bruno seconded the motion.
 - Unanimous roll call to contingently approve the Preliminary Plat for Miller Heights, Phase 4.
7. Amend the Sherwood Subdivision Regulations regarding Street Design. [Public Hearing]
- Mr. Penn stated that the Existing Conditions are Street Functional Classifications are identified in the master street plan and in the subdivision regulations and Special Street Designs within a Functional Classification have historically been made by ordinance on a case by case basis. The Staff Recommendation is to consider a change to the Subdivision Regulations to allow for an Alternate Street Design of a specific section of roadway to be approved by Resolution of the Planning Commission based on input from the City Engineer regarding site specific challenges that prevent the standard street design from being constructed.
 - He stated that there are specific ordinances that specifically addresses Woodruff, Maryland, and Oakdale. There are instances where we have streets that on the Master Street Plan, especially minor arterials and collectors, that we know we need to improve, these are particularly problematic in the older parts of Sherwood. Getting the right of way for such streets and constructed to the standard classification, depending on the average daily traffic count, we leave room to allow for expansion. We are at a point now on Country Club that is curbed and gutter and 25 feet. The widening of that to accomplish the standard is going to completely destroy what is known as Historic Sherwood. So with regard to retaining certain features of Sherwood that are important and to mention

Hemphill. There have been a few meetings regarding Hemphill with the public. The 50 foot right of way was marked and created a bit of alarm because it came up to the houses. Standard design is 27 feet. Hemphill is a Collector Street so it would be in the 34-36 foot range. The suggestion is to allow these special street designs to be presented to you and then approved by your resolution so that we can go ahead and build a project without having to go through the process of having an Ordinance from City Council and have a specific classification for these streets.

- Chairman stated that there was an Ordinance 371 adopting a Master Street Plan in 1978 based on the Central Arkansas Regional Transit Study design criteria. That was incorporated into the original subdivision regulations that were passed two years later. Subsequently, the amendments to the Subdivision Regulations have added Maryland and Woodruff and Oakdale with specific design criteria that didn't really address the Master Street Plan that was adopted by Ordinance. Now we have a revised Master Street Plan that is adopted by Resolution but in a case where there is a Resolution and an Ordinance, the Ordinance prevails. Right now, what we've been doing in the past, was amending the Subdivision Regulations but not the Master Street Plan and doing it a specific street at a time. It's obvious that we need to update the Master Street Plan. MetroPlan is coming up with new design standards in late spring and it is something we need to address and figure out what our street standards are and how we incorporate the functional classification in the Subdivision Regulation.

In the meantime, we have a bond issue project that needs to be done, we have at least two examples already where functional classification standards don't work in existing neighborhoods without an enormous disruption to property and at extreme cost. We also don't want to have to go to the City Council every time we have a minor change in design. What we need is to give the City Engineer the option in a developed area with Standards. If there is too much open-ended discretion on Staff or the Planning Commission, Council doesn't like that. There needs to be a valued judgment with constraints as to why it's appropriate. There is sub-language that Mr. von Tungeln has recommended to the Commission offering alternatives.

- Chairman opened the public hearing.
- Gillham asked if they are planning to do something with Country Club.
- Mr. Penn stated that there were four or five projects given to the public in 2018 about the Sales Tax. Improving Country Club was one of the four or five projects to address drainage and prevent the City from having to blockade Country Club frequently. The main change to Country Club would be to improve drainage, curb and gutter and sidewalks.
- Gillham asked about widening Country Club.

- Mr. Penn stated that it will not be widened because there is not a lot of room to do so and there are utilities that would be very expensive to move; including several years and in excess of a million dollars. It is highly trafficked and there are no issues with people parking on the street.
 - Chairman closed the public hearing
 - Chairman read through the proposed language. Mr. von Tungeln has originally tried to do was include the most important criteria to guide the City Engineer and Planning Commission to approve a deviation from the Street Design Standards.
 - Mr. Penn stated that he is amenable to items one through six. There need to be very good reasons to not follow the standards.
 - Martin stated that he likes the first 6 but does not care for the three listed on the “May list.”
 - Bruno agrees with Martin, he likes the top six. He stated that he liked the monetary consideration, but it could be taken both ways.
 - Chairman agreed and stated that it’s an issue when you’re disrupting the community.
 - Gillham also preferred the top six.
 - Mr. Penn is amenable to the 1-6 listed in Section G. It does help to confirm that the City Engineer is not running unrestrained on an alternate Street Design.
 - Bruno made a motion to amend the Sherwood Subdivision Regulations regarding Street Design inclusive of the top 6 items in Sub-Section G.
 - Gillham seconded the motion.
 - Unanimous roll call to amend the Sherwood Subdivision Regulations regarding Street Design inclusive of the top 6 items in Sub-Section G.
 - Mr. Penn asked the Chairman to endorse an Emergency Clause due to the monies needing to be spent.
 - Martin, Bruno and Gillham concurred. Chairman stated that, absent a formal vote, the Commission concurred with recommendation for an emergency clause.
8. Amend the Zoning Code regarding Planned Unit Development requirements. [Public Hearing]
- Mr. Penn stated that a few months ago, a developer came in with a proposal and after reviewing it, he thinks it’s a wonderful idea. Staff, Chairman and Colleen Carr, Executive Director of Economic Development, all agreed that it would be a good development for Sherwood. In order to accept the development for a Planned Unit Development, one of three criteria must be met. One of the three criteria is the adjacent properties has a similar property. There are properties within a quarter mile radius, but not adjacent. Mr. von Tungeln suggested adding a fourth criteria; if there is not a better use for the land than what it being proposed. If the Land Use Plan suggests the use for an area is Residential and the

project is predominantly residential, we could use that as a reason to accept it. So, from that perspective, having land that has had multiple requests that have failed, there's not much that can be done with this land. This fourth criteria would allow us to accept this application and go through the process and going to City Council for approval.

- Chairman stated that he believes that where Mr. Von Tungeln was coming from was called infill development. Where you have lots somewhere in the City that may not be very large and have not been developed for one reason or another. We would rather fill in the City where utilities are already available. This would allow a property to potentially be developed that would otherwise remain undeveloped.
 - Chairman opened the public hearing. There being no comments, Chairman closed the public hearing.
 - Chairman summarizes that the only thing this does is add one more criteria.
 - Martin stated that if this allows developments that weren't previously allowed, he's in favor of it.
 - Martin made a motion to amend the Zoning Code regarding Planned Unit Development requirements.
 - Bruno seconded the motion.
 - Unanimous roll call to recommend that the City Council amend the Zoning Code regarding Planned Unit Development requirements.
9. Amend the Zoning Code regarding Sight Distance Triangle. [Public Hearing]
- Mr. Penn stated that some questions have come up regarding the Sight Distance Triangle, this has been ongoing for the past year or so. He read through the document submitted.
 - Chairman noted that appeals would need to go through the Board of Zoning Adjustment, not Planning Commission. He stated that the graphic last year that it was measured on the curb and the text said it was measured on the Right of way. So, the graphic had to be changed.
 - Mr. Penn explained the graphics. He stated that the reason we use the term back of curb is because everyone can see that.
 - Chairman confirmed that it's back of curb or edge of pavement.
 - Mr. Penn continued to describe the graphics such as; 2 to 10 feet needs to be cleared. A fence in the front yard cannot exceed 3½ feet. The graphic and the language can help to approve/deny permits and Code Enforcement can use it to address issues.
 - Chairman said that ordinarily 3½ feet of height shouldn't create an obstruction, but if you're property is a higher elevation, 3½ feet could create an obstruction. This is going to be applied to someone wanting to plant shrubs or place a fence

along the property line. He stated that the first paragraph is already a part of the Zoning Code, the only addition is the second paragraph.

- Chairman opened the public hearing. There being no comments, Chairman closed the public hearing.
- Gillham stated that it seems very reasonable.
- Bruno made a motion to amend the Zoning Code regarding Sight Distance Triangle.
- Gillham seconded the motion.
- Unanimous roll call to amend the Zoning Code regarding Sight Distance Triangle.

10. Old Business

- Home Occupations
 - Chairman held this from going to Council last month because the City Clerk's office had some concerns about a provision regarding permitting. The City Clerk's office and City Attorney recommended dropping the section on Applications and Permit Requirements. He thinks this is a reasonable suggestion because there is already included some constraints and restrictions of what can be allowed as a home occupation. We don't really need to issue permits, we need to be concerned with appropriate uses. There is already an existing ordinance of 19-20 pages that lists every kind of home occupation, they assign the occupation tax based on that ordinance.
 - Martin stated that if that's the only changes made, he's agreeable.
 - Martin made a motion to strike Section D from the previously adopted draft Home Occupation revision to the Zoning Code and to recommend that the City Council adopt the amended language
 - Gillham seconded the motion.
 - Unanimous roll call to strike Section D from the previously adopted draft Home Occupation revision to the Zoning Code and to recommend that the City Council adopt the amended language.

11. New Business

- Discussion of Side Yard Setback Revisions
 - Chairman passed out a sheet to the Commissioners. He did some calculations on his own, the minimum lot size in R-1 is 6000 sq ft. That's a 60x100 lot, you've got a front yard and backyard that cannot be developed, that's half the lot. On an interior lot, the side yard setback would be 6 feet. The available area that you can develop is 2400 sq ft, which is about 40%. On a corner lot, you have 25 feet on three sides, that gives you 24% of the lot/1415 sq ft. That's a small house and no accessory buildings. The only way you can develop a lot is to expand the size of the lot. That may or may not work well in some subdivisions.

He understands that 25 feet was originally done to allow them to choose which side they wanted to orient the structure, but the minimum should reflect more of a reasonable distance allowing more of the lot to be used. If you change it to 15 feet, you still have the interior lot has 2400 sq ft, a corner lot with a 15 feet setback would have just under 2000 sq ft which is about 32%. Every residential zone has its own setback requirements. The residential zone for Manufactured Housing is 15 feet on the side. R-1, R-2, and R-3 are all 25 feet. His recommendation is to change it to 15 feet.

- Chairman stated that he'd like to hold a Public Hearing in the March meeting.
- Gillham agrees.
- Chairman stated that he's been reviewing the Subdivision Rules and Regulations. He stated that it is clear to him that we've been relying on Staff who are overworked to review these plats. He has developed a complete checklist for Lot Splits, Preliminary Plats, and Final Plats based on everything in the Subdivision Regulations. This is a cheat-sheet of what is required for any of these kinds of plats. He is of the opinion that we need to streamline the Subdivision Regulations and turn them into a Code, just like we did with the Zoning Code. Planning Commission's responsibility of reviewing Plats is simply to confirm that all the requirements have been met on that Plat. The Commission cannot make or suggest alterations, they can only approve what's on the books. He reminded that the Commission that it is a work in progress.

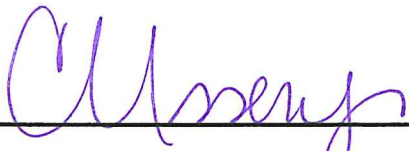
12. Adjournment

- Martin made a motion to move Adjourn.
- Gillham seconded the motion.
- Unanimous roll call vote Adjourn.

PASSED AND ADOPTED THIS 9th DAY OF March, 2021.



PLANNING COMMISSION CHAIRMAN



PLANNING COMMISSION SECRETARY