

**CITY OF JACKSONVILLE, ARKANSAS
REGULAR PLANNING COMMISSION MEETING
JANUARY 10, 2022
6:30 P.M. - 7:00 P.M.**

OPENING REMARKS:

The Planning Commission of the City of Jacksonville, Arkansas met in a regular session on January 10, 2022. Chairman Moore opened the meeting at approximately 6:30 p.m. expressing appreciation to those in attendance.

ROLL CALL: Commissioners Mike Dietz, William Montgomery, Billy Hall, Tanner Ruple, Vivian Brittenum, Jeff Twitty, Greg Bollen, and Chairman Jim Moore were present and answered ROLL CALL. Chairman Moore declared a quorum. PRESENT (8) with Chair, ABSENT (1).

CORRECTION AND/OR APPROVAL OF MINUTES:

PUBLIC HEARING(S): REZONING 306 South Road from R-1 to C-2

Petitioner Charles Culpepper stated that the property has always been used, in some fashion, for commercial ever since it was built. He explained that he did not know how, but it got zoned residential. He related that he wants to sell the property since he has purchased another building on First Street. He stated that it makes a difference to him regarding the value of the property, pointing out that no one would ever be able to use the building as a house. He noted that even if the building was torn down, the lot is too small to fit a house. He related his desire for it to be zoned C-2.

Chairman Moore opened that public hearing at approximately 6:35 p.m.

With no one in opposition of the request, Chairman Moore closed the public hearing at approximately 6:36 p.m.

Commissioner Bollen moved, seconded by Commissioner Hall to approve the rezoning of 306 South Road from R-1 to C-2. MOTION CARRIED.

REQUEST TO APPROVE PLAT(S): FINAL PLAT Graham Woods PH 4

Representative Aaron Robinson with Bond Engineering presented the final plat of Graham Woods Phase 4, noting that the Commission has reviewed this about a year and a half ago when he brought the preliminary plat before them. He explained that as far as he is aware, everything is completed, the water and sewer is in and approved, the streets are completed, and there will be a bond for sidewalks. He shared that it is a good-looking subdivision and responded to Chairman Moore that they will be single-family homes with a minimum of 1100 square feet.

Engineering Tech Mylissa Griggs related the City has no problem recommending approval with contingencies listed as: receiving the sidewalk bond and an agreement with the developer on completion of Redbud Road, where there is a temporary turn-around. She explained that they had originally requested an agreement for completion of development, but the developer has an issue with that since she cannot

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control the contractor's utilities and such. She shared that the developer requests the Commission accept her agreement to start construction on the remainder within two years. She then related they have received verbal approval from water and sewer, but no formal letters yet. She noted the electric installation would need to be installed. When a question arose about if the proof of water and sewer approval is required to approve the plat, she answered that previously the Commission has given contingent approval where the City would hold the plat for recording until they receive confirmation on those utilities being approved.

Mr. Robinson affirmed the sewer and water are completed, installed, and accepted by the Water and Sewer Departments. He questioned why the City would want to hold a plat until the end of February, because the Sewer Commission does not meet this month since they do not have anything on the agenda. He also stated they have never, ever, in the 20 years he has been in front of the Commission, had an issue with the electrical and then pointed out that the City has no authority over Entergy or First Electric. He confirmed that all the conduit is in, everything is there, and they are just waiting on Entergy to come in, pull the wires, and set the transformers. He stressed that not him, the Mayor, nor anybody, can control when they are going to come and put in the electrical since Entergy does what they want, when they want, on their own timeline. He expressed his dislike of the idea of holding up someone from selling lots in the City of Jacksonville for 30-60 days because of the wires not being pulled. He suggested you could build a house with a generator and do not have to have power there yet. He explained that they are fine with some of the contingencies, but waiting on the actual paperwork from the utilities and for Entergy to pull the wires before the final plat is signed, they do not want that to be a part of the contingencies. He continued, saying if the Commission is going to do that, then there is no reason for them to be here, which he feels is ridiculous.

Public Works Director Jim Oakley clarified they are following the City ordinance that states all utilities have to be in before they can sign and record a final plat. He noted if someone sold lots with no utilities, then went bankrupt, but the Commission already approved the plat, now the builders do not have power. He reiterated that the ordinance states all utilities will be installed prior to selling lots.

Mr. Robinson responded that he looked and there is an ordinance that spells out Jacksonville Water and Jacksonville Wastewater, it does not mention Entergy, but did state the catch all phrase of "or other". He reiterated water and sewer are all in and the contractor has been paid, same thing with Entergy. He explained that the conduit and everything is in, but the developer does not pay Entergy to pull the wire, she has to pay to put the conduit in and for street lights. He pointed out the developer does not receive a bill so if they were to

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go bankrupt, as long as the conduit is in, Entergy will come and pull the wire for those houses. He stated the developer does not pay for the wiring or transformers, only the conduit and the installation of it. He restated that the City does not have jurisdiction over the electrical and asked if the Commission agrees that cable and gas are considered utilities.

Chairman Moore responded that he would say gas is.

Mr. Robinson stated that they will not install in a subdivision until that easement is recorded. He then questioned if they would not record a plat if they do not have gas and cable. He added that cable will not come in until there is an easement recorded and someone has called from a house to get service. He emphasized again, that the City has never required electricity and noted when they did the electrical conduit, they contacted Entergy because they had to stop at a dip pole on Graham Road and they said it is going to be six weeks before they can set the pole. He stated this was before Thanksgiving and they still have not set the pole. He then asked if the developer should have to pay interest on everything for another three months while she waits. He suggested this is like saying to developers the City does not care if they come to Jacksonville or not because they do not have everything 100% in the ground from utilities that they do not have control over.

Chairman Moore stated the catch all phrase in the ordinance is "and other" and questioned what is determined by "other". He pointed out that is why the Commission counts on the City's Engineering Department to tell them what we cannot do in accordance with the ordinance.

Mr. Robinson asked if in the last 20 years something had changed.

Chairman Moore recalled that in the past, someone stood before the Commission and said the Commission needs to approve this because we have all of these vacant buildings around town, but we cannot base approval just because of that.

Mr. Robinson stressed it is not the same thing.

Chairman Moore stated there is an ordinance they have to go by.

Developer Dana Nixon related that she was on the Planning Commission once and they never, ever, required electrical to be installed. She reiterated that she has no control over Entergy and suggested Entergy may not do anything until she sells the lots and somebody wants to get this going. She related she cannot sell the lots if she has no final plat approval, and asked if she is going to be at the mercy of Entergy. She stressed again that the Commission has never required this before and she was not told until two weeks ago that this would be an issue. She expressed if this were something that was done all of

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the time, maybe they would have been able to get Entergy to move, but at this point, the Commission is putting her in a really bad position because she has someone waiting to buy lots, and if she does not have a final plat, she cannot sell them. She did not think that was what the City was about.

Chairman Moore reminded her it is required that the Chairman of the Planning Commission sign the final plat and he cannot sign it and go against the ordinance that says you have to have utilities installed before they do the final plat.

Mrs. Nixon stated that it has never been interpreted as to include utilities that the City has no control over.

Chairman Moore assured he is not saying the City does not have control over Entergy.

Mrs. Nixon brought up that gas will not be installed until a house is built and questioned what do we do about that.

Public Works Director Jim Oakley related he has never seen that be the case.

Mrs. Nixon pointed out she has built several of these and gas does not come in until after they are sold and gas is requested. She reiterated she has never, ever, heard of not filing a final plat because electrical is not in, which is not under the jurisdiction of the City.

Mr. Robinson recalled a year ago, Jaxon Terrace Phase 15 plat was recorded before the power was put in, they were in the process of working on it, but it was not put in.

Public Works Director Jim Oakley added there was another phase without sewer or water, but that was a mistake from 20 years ago.

Mr. Robinson disagreed and stated not from Jaxon Terrace.

Public Works Director Jim Oakley and Chairman Moore confirmed they are dealing with the replat of that phase right now.

Mr. Robinson recalled they were referencing Phase 1 Block 1.

Engineering Tech Mylissa Griggs added they are open to have legal interpretation, but the ordinance reads "all utilities" and electricity is a necessary utility.

Commissioner Twitty asked about someone saying that in the past they did this without Entergy being there.

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Engineering Tech Mylissa Griggs responded there have been issues because they have had builders come to them being shocked electricity is not available on the lots they just bought.

Chairman Moore turned the discussion over to the Commissioners because he cannot call for a vote on this without having the utilities in. He asked if the Commissioners had anything to say in regards to this, otherwise, he needs a legal interpretation on the utility part of it.

Engineering Tech Mylissa Griggs asked if it is something they can work on and compromise because the City certainly does not want to hold up development. She assured that is not how the City wants to come across, but we also want to protect the citizens and builders, because they have to see it from both sides. She affirmed that all they can do as a department is follow the ordinances they were hired to follow.

Mrs. Nixon questioned when the City decided to change the interpretation of the ordinance because it has not been required that the electrical be completed. She stressed that if she was told two months ago, she could have made it happen, but not to spring it on her three days before the meeting.

Mr. Robinson stated if he were in the City's position, looking at it from the other side, his belief would be if the infrastructure is in place, in order for it to happen, because the ordinance only spells out sidewalks, streets, sewer, water, and other. He explained that the "and other" is the stuff the City does not have control over, but the infrastructure, the conduit, everything is there for Entergy to come and put in their wire they need. He noted if he were to look at it from the City's end and the conduit was not in, he could see a point of them saying the infrastructure needed to be installed, but your conduit is in, just the wire needs to be pulled. He reiterated they have to put in the conduit, but they have no control over Entergy and added sometimes they pull wires quickly. He mentioned they have to wait for City Council and Entergy may pull the wire between now and when City Council happens. He explained they may do it in two weeks or two months. He then confirmed Entergy is aware they are ready for wire.

Mrs. Nixon suggested they may be short staffed, but we do not have control over that. Responding to a question from Commissioner Ruple, she related they were given a timeline, but Entergy has not met it.

Mr. Robinson explained they staked where they had to put the dip pole, they inspected it, okayed it, and sent it to Construction, but Engineering and Construction are two different entities within Entergy. He was unsure of when Construction will come out and actually install it, but assured it has been approved by Engineering to put in the wire.

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Chairman Moore pointed out that Entergy's construction people are contractors that do all of their installations, so it is not actually Entergy employees that are pulling the wire; UCLS, who is stationed here in Jacksonville, is supposed to be doing all of that and most of their repairs too.

Mrs. Nixon stressed again they have no control over it and they have done what they had to do contractually. She affirmed that the City has approved the conduit design and all of that, but they have no control over what Entergy is going to do time wise. She assured if she had known this a month ago, she would have probably got in touch with Entergy earlier, but she did not know this was going to be an issue.

Commissioner Bollen shared he does not see why it is necessary to hold them up over electricity, which is obviously going to end up being put in, when they have streets, sewers, and everything else already.

Commissioner Twitty confirmed, like what Engineering Tech Mylissa Griggs said, the City does not want to hold up progress, then asked City Attorney Friedman if there are any legal ramifications she knows of.

City Attorney Friedman stated she did not know this was an issue until right now, she wishes she had known before so she could have had the ordinance in front of her, so it is hard for her to give a legal interpretation on something that she does not have.

Mrs. Nixon affirmed all she knows is that she can promise they will have electrical.

Council Member Dietz shared his experience dealing with Entergy recently, saying he can understand Mrs. Nixon's frustration. He recalled how he waited 12 days after confirmation they were going to hook up electricity in Stonewall for a gentleman that already had water and gas. He explained that when he finally got in touch with Entergy after waiting twice for three hours, three different times, they told him he had a two-day wait again because they did not get to it. He continued to say it was freezing that weekend, but luckily, he had a friend that worked for Entergy, so he got electricity where otherwise he would have had frozen pipes. He related they are on their own, very independent right now, real short-handed, and there is nothing you can do. He stated based on what she is saying, the kind of building that she does, and as long as they have been here, he believes the Planning Commission needs to figure out a way to let them go ahead and start everything to sell lots. He suggested letting the builders know when they buy them, at this point, there is no electricity, but if you get five builders calling Entergy, he is confident they are going to get the power on fast. He noted that it is a problem and is not sure how to get it corrected, but he will work some other avenues because he is very disappointed in Entergy since they do not care, and that is not how they should treat people. He

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agreed they should be able to work on something to allow them to sell lots and suggested making a note that the plat will be approved and recorded and the builders will be aware there is no electricity there at the time. He affirmed we need to sell lots for new houses in Jacksonville.

Mrs. Nixon wished she could call in and get them to do it in two weeks, but it was bad enough before Covid, and now they never know when. She was grateful her contractors finally got everything done after their supply chain was held up.

Engineering Tech Mylissa Griggs confirmed with Chairman Moore, they have no issues with water or sewer, but need a sidewalk bond, Entergy electric, and an agreement for road completion.

Mrs. Nixon assured she could give a check tomorrow on the sidewalk for the remainder and would love to say she could complete the road, but they are a year and a half behind on this phase because of everything. She noted the rain and the pandemic delayed them, but she will be glad to agree to get it started.

Engineering Tech Mylissa Griggs affirmed the City is agreeable to that and reminded them they have to wait for City Council approval. She requested they still receive legal interpretation of the ordinance, for future reference, or possibly change the ordinance if necessary.

Commissioner Bollen moved, seconded by Council Member Dietz to approve the final plat of Graham Woods PH 4 contingent on receiving the sidewalk bond, letters of approval from Water and Sewer Departments, and an agreement with the developer to start on construction of Redbud Road within two years. MOTION CARRIED.

Chairman Moore stated City Attorney Friedman will look into the legalities regarding utilities.

BUILDING PERMIT(S):

GENERAL:

ANNOUNCEMENT:

ADJOURNMENT: Chairman Moore without objection, adjourned the meeting at approximately 7:00 p.m.

Respectfully submitted,

Susan L. Davitt