

**MINUTES
SPECIAL PLANNING MEETINGS**

August 28th, 2024

5:00 pm, Quorum Court Room, New Court House
280 N. College Ave.
Fayetteville, Arkansas 72701

SPECIAL PLANNING MEETING

Brian Lester, County Attorney, opened the special planning board meeting.

Members present include Loren Shackelford, Joe Maynard, Philip Humbard, Lisa Miller and Jay Percy. Anthony McNutt was absent from the meeting.

Brian Lester stated that Washington County has had plans to update the planning code within the county for the last seven years. Stating that the County has been working alongside Jeff Hawkins, from Regional Planning, drafting the new code to alleviate any reoccurring issues from the planning code that was established in 2006.

Brian Lester stated that all school districts were notified of the special planning meeting. Mr. Lester opened the public comments and stated that this meeting will be structured as a Q&A.

Diana Dickerson approached the podium and requested the panel to give an overview of the new planning code.

Mr. Lester responded that the biggest change with the new planning code will be the zoning. As of now there is no consistency on what applicants will be approved for Conditional Use Permits rather than others. To establish consistency the new zoning will be comprised of three different zones such as residential (including agricultural use), commercial (including two different types based on the use), and industrial. Since the County is growing there are more business and residential areas that are being developed. To protect property owners, business owners, and the County the new zoning will protect residential and agricultural areas while establishing commercial zoning areas to direct businesses to be established.

The new planning code will force applicants proposing a business use on land not zoned as commercial to go before the Quorum Court to request a change in zoning on the property within question. If the Quorum Court grants an approval of the zoning change on the property the applicants will then go through the Planning Department for Large Scale Development permitting. After meeting all of the Planning Department requirements the applicants then may go before Planning Board to have conditions placed on the business for approval.

Joe Maynard questioned since applicants will have to go before the Quorum Court to be rezoned then all zoning will be controlled by the Quorum Court.

Both Sam Ata and Brian Lester explained to Mr. Maynard that the Quorum Court currently has the final approval/disapproval of the new zoning requests. As of now, if a property owner wants

to rezone a property they have to apply for a Conditional Use Permit and go before the Planning Board for approval. Then the applicant will go before the Quorum Court for ratification. The Quorum Court can approve/deny a request of rezoning regardless of an approval/disapproval from the Planning Board.

Joe Maynard then questioned the purpose of the Planning Board when this goes into effect.

Brian Lester stated that the Planning Board has to approve the conditions and the design for the projects that come before the board, however, the zoning will have to be approved by the Quorum Court.

Alan Lankford questioned if an entity wants to install an item onto a property and receives a denial from the Quorum Court and a denial from the Circuit Court for an appeal, it seems they can continue to operate out of ordinance with no restriction.

Brian Lester stated that there was a provision that was passed in 2006-2007 that once an appeal has been filed the County can no longer enforce the ordinance. This prohibits the Sheriff's Office from enforcing the ordinances or the County issuing fines for any property owners from working out of compliance with the County. At this point the only enforcement to stay in compliance will come from the Circuit Court by requesting an injunction. To receive an injunction within the State of Arkansas an individual would have to be willing to put up a bond to reimburse any money that could be lost that someone has invested into a property. Once this stage has been reached there is a statute that prohibits the County from enforcing the property owner to become compliant with the current zoning ordinances/regulations.

The new planning code has this removed. If the property owner is working out of compliance, even through an appeal, they can be fined a maximum of one thousand dollars per operational day. Revisions in the new planning code remove the maximum amount that limits the county.

Sherry Weathers approached the podium and questioned what is to be expected of business that are currently operating that don't fall into the zones that are designated within the new planning code.

Brian Lester explained that if the property owner already has an approved Conditional Use Permit then this would be updated to reflect this change on the County's zoning map. These changes will accompany the new planning zoning code.

Sherry Weathers questioned if business owners that have been operating before 2006 if they would be forced to halt operations if neighbor complaints were made against the use of the property.

Brian Lester responded stating that any non-conforming use that has been in existence before 2006 is grandfathered in. Stating as long as the use of the property has remained the same the

businesses would not be required to apply for a Conditional Use Permit. Mr. Lester then explained that Mr. Ata has been working to accommodate these businesses in with the new planning zoning code.

Jerry Napier approached the podium and questioned the definition of a Conditional Use Permit.

Brian Lester explained that a Conditional Use Permit is for a non-conforming use. This varies against the current zoning of the property that allows the property owner to use the property for something other than Single Family Residential or Agricultural use that is applied to the land.

Leigh Turner approached the podium and questioned changes to the three zones that are established (residential, commercial, and industrial). If this would include multi-use zones that would be shown on a map that the public can access and review.

Brian Lester responded stating the current zones can be reviewed on the Public Web Map that is available on the Washington County's website. Mr. Lester further explained that there have been technical changes that have been made for the new planning zoning code but what is shown on the Public Web Map have all remained the same. If a property that is undeveloped falls within a commercially zoned area residential and agricultural use are still allowed within this zone.

Dan Smith approached the podium and questioned if the new planning zoning code would be up for a vote.

Brian Lester stated that this code will go before the Quorum Court at their next available meeting, which will be held on September 19, 20224.

Dan Smith questioned if there would be any consideration in focusing commercial zoning at the intersections rather than alongside the road.

Sam Ata explained that all areas that are to be zoned are outside of the city limits and three hundred feet outside of the main corridors. Mr. Ata stated that residential uses are still allowed in commercial areas and that the taxation on the property is dependent on the usage of the property rather than the zoning that is applied to the land.

Dan Smith reiterated stating if the County would be willing to concentrate the commercial zoning to major intersections rather than having commercially zoned areas spread out through the County.

Brian Lester stated that Quorum Court would be able to consider this option. The plan put forth presently is focused on the main corridors to establish these zones to create space for the growth coming into the County.

Dan Smith questioned the density of residences in a commercial and residential zoned area.

Sam Ata explained that within the residential zoning it is one residential unit per acre. This will be the same for the commercially zoned areas as well if there is a residential usage on the property. Mr. Ata then highlighted that when it comes to sanitation and septic is controlled by the State of Arkansas.

Dan Smith questioned how the new process will vary against the current process of the Conditional Use Permit.

Brian Lester explained that the property owner would have to be approved with a rezone before continuing with the project. Then the property owner would have to proceed through the Planning Department's review process before coming to the Planning Board for conditions to be placed on the approval of the project.

Loren Shackelford questioned how the Quorum Court would handle spot zoning for commercial use moving forward.

Brian Lester stated that the Quorum Court would have to recognize that spot zoning is illegal. The new planning zoning code would direct potential businesses to the designated main corridors.

Sherry Main approached the podium and questioned the meaning a quote on page 10 "Quorum Court desires that building contractors acting as a consultant be included in professional services that do not require competitive bidding."

Brian Lester responded stating that the Quorum Court passed an ordinance as it relates to competitive building. The statement is exempting building contractors acting as consultants from competitive building.

Sherry Main stated that she wanted to make sure that this statement only applied to professionals applying for a Conditional Use Permit.

Brian Lester stated this statement is referring to what the County has to use competitive building for.

Sherry Main questioned that the Conditional Use Permit would come back to the Planning Board for approval in the new process regardless of obtaining an approval for new zoning on the property by the Quorum Court citing page 102.

Brian Lester directed Sherry Main to the table listed on the page that some industrial items do not require a Conditional Use Permit or conditions. Mr. Lester gave examples of service stations, schools, or restaurants that are permitted by right and would not require conditions.

Sherry Main clarified that notifications to send out to neighboring property owners fourteen (14) days before the Planning Board meeting date will now be the responsibility of the applicant. That the applicant will now have to provide proof that certified mail was sent to all individuals within the 300 foot radius of the property within question.

Sam Ata explained that this is a service that the Planning Department does currently that the applicant would pay additional fees for. Mr. Ata went onto explain that due to the size of the department and the work load that this is not feasible moving forward. Mr. Ata pointed out that within the State of Arkansas Washington County is the only county that assists with sending out notifications prior to the next available Planning Board meeting.

Sherry Main pointed out the work load placed on the Planning Department and the current size of the department. Stating that the County Judge should appoint a Planning Administrator to enforce ordinances and regulations and to follow up on public complaints. Mrs. Main expressed concern for the Planning Department to be able to hire an additional member to take care of these tasks.

Diana Dickerson approached the podium questioning if the public would still retain the right for an appeal.

Brian Lester stated that the public has the right to appeal a zoning decision to the Circuit Court. Since an appeal is a legislative act it can only be appealed to the Circuit Court under the arbitrary capricious and unreasonable standard.

Diana Dickerson questioned if the three zoning areas have been established on the public web map.

Brian Lester stated these properties can be seen on the public web map for further review.

Dina Dickerson questioned if the half a mile notification radius would be applied to both industrial and commercial projects.

Sam Ata stated that this will not change regardless if labeled industrial or commercial.

Sherry Main approached the podium questioning during the Large Scale Development that goes through the planning process if public comments are only allowed for preliminary and final hearings.

Sam Ata stated that public comments are heard during the preliminary hearings for the Large Scale Development permits. Mr. Ata went on to further explain that no public comments are heard during the Final Large Scale Development hearings.

Inis Bardella approached the podium questioning who would get notified and the time frame that they would have to respond to the notification.

Sam Ata responded stating that 300 feet from the property within question is the standard distance for notification to be sent out. This has been in effect and would not change. Within the city they send notifications out either 100 feet to 200 feet based on the density of the area. The recipients of the notifications then have fourteen days to respond and submit comments to the Planning Department before the upcoming Zoning Board of Adjustments and Planning Board meeting.

Patricia Anslow approached the podium questioning if there is a comparison of the previous zoning map to the new zoning map indicating the changes by acreage and by type with the new zoning available to the public to review.

Brian Lester responded stating that there is no comparison sheet available at this time. Mr. Lester then reiterated stating the only changes to county zoning will be the commercial zones along the main corridors.

Patricia Anslow stated that turning a property from residential to commercial has the potential for significant tree loss. This could increase water retention.

Sam Ata explained that the flood zone is established by FEMA and is a federal requirement. This does not affect the zoning process or ordinances. Mr. Ata explained that any development that falls within the flood plain is required by the federal government to apply for a flood plain permit. The property owners then have to meet both the federal and state standards.

Patricia Anslow questioned how the county analyzed the potential zoning changes on the effects that it would have on flooding and environmental impacts.

Brian Lester stated that the County analyzed the most likely places to experience growth for these zoning areas alongside the main corridors. Mr. Lester went on to explain that the County Engineers look into the water runoffs and how much a parcel of land, and the area around the property within question, would be able to withstand or handle the developmental impacts. Mr. Lester stated that the water flow and infrastructure alongside the main corridors are better equipped to withstand these commercial buildings than rural areas within the County.

5. OTHER BUSINESS

- Reminder of upcoming the Quorum Court Meeting:
 - September 19th, 2024

6. ADJOURN

Brian Lester closed the public hearing and informed the public that if there are more questions or concerns they can submit these comments to the Planning Department for review. This will be provided to the Quorum Court for their September 19th, 2024 meeting on their agenda.

Approved by the Planning Board on:

_____ Date: _____
Loren Shackelford, Planning Board Chairman

[Special Planning Board YouTube Live Stream Archive for August 28, 2024 Meetings](#)

Minutes submitted by: Kiera Southern