

PLANNING COMMISSION MEETING MINUTES
September 21, 2016 (Council Chambers) 5:30 P.M.

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The City of Foley Planning Commission held a regular scheduled meeting on September 21, 2016 at 5:30 p.m. in the Council Chambers of City Hall located at 407 E. Laurel Avenue. Members present were: Jeff Rouzie, Ralph Hellmich, Phillip Hinesley, Tom DeBell, Sue Steigerwald, Chad Watkins and Calvin Hare. Absent members were: Roderick Burkle and Barbara Ingram. Staff present were: Miriam Boutwell, City Planner; Chad Christian, City Engineer; and Melissa Ringler, Recording Secretary.

Vice-Chairman Hinesley called the meeting to order at 5:00 p.m.

MINUTES:

Approval of the August 10, 2016 and August 17, 2016 meeting minutes.

Commissioner Hellmich made a motion to approve the August 10, 2016 and the August 17, 2016 meeting minutes. Commissioner Rouzie seconded the motion. All Commissioners voted aye.

Motion to approve the August 10, 2016 and August 17, 2016 meeting minutes passes.

Vice-Chairman Hinesley recessed the regular meeting and opened the public hearing.

PUBLIC HEARING:

1. Riviera Square Subdivision–Request for Minor Subdivision

The City of Foley Planning Commission has received a request for approval of Riviera Square Subdivision, a minor subdivision which consists of 4 lots on 21.92 +/- acres. Property is located South of Pride Drive, between Pine St. and State Hwy. 59. Applicant is Riviera Square, LLC.

Vice-Chairman Hinesley asked if there were any members of the public to speak on this item. There were none.

***2. Kings Court Subdivision-Request for Preliminary**

The City of Foley Planning Commission has received a request for preliminary approval of Kings Court Subdivision which consists of 33.2+/- acres and 16 lots. Property is located at the NW intersection of County Rd. 26 and Grantham Rd. and is in the City of Foley Planning Jurisdiction. Applicant is Kings Court Trust.

Vice-Chairman Hinesley asked if there were any members of the public to speak on this item. There were none.

Vice-Chairman Hinesley closed the public meeting and reconvened the regular meeting.

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NEW BUSINESS:

1. Riviera Square Subdivision–Request for Minor Subdivision

The City of Foley Planning Commission has received a request for approval of Riviera Square Subdivision, a minor subdivision which consists of 4 lots on 21.92 +/- acres. Property is located South of Pride Drive, between Pine St. and State Hwy. 59. Applicant is Riviera Square, LLC.

Vice-Chairman Hinesley stated updated utility commitment letters have been received as requested at the previous work session meeting.

Commissioner DeBell made a motion to approve the requested minor subdivision. Commissioner Rouzie seconded the motion. All Commissioners voted aye.

Motion to approve the requested minor subdivision passes.

***2. Kings Court Subdivision-Request for Preliminary**

The City of Foley Planning Commission has received a request for preliminary approval of Kings Court Subdivision which consists of 33.2+/- acres and 16 lots. Property is located at the NW intersection of County Rd. 26 and Grantham Rd. and is in the City of Foley Planning Jurisdiction. Applicant is Kings Court Trust.

Vice-Chairman Hinesley stated the Kings Court Subdivision request has been withdrawn per the applicant's request.

Vice-Chairman Hinesley stated there were no other items on the agenda but understood representatives for Sherwood Subdivision are present to speak. He explained no action will be taken on the item.

Mr. Grant Blackburn with Stone, Grande & Crosby, P.C. explained he is representing the development and is aware the item is not on the agenda. He stated the final plat for the development was submitted in July and they are requesting the Commission issue a conditional plat approval. The development is virtually complete and is only lacking sidewalks and landscaping. He explained the financial security; cash or security bond can be provided within a couple of days or next week and will be based on the City Engineers approval. He stated he knows the request is out of character since it is not on the agenda.

Mr. Casey Pipes explained he does not think the Commission has the power to add the item to the agenda. He stated he has concern that approving the request with conditional items would make it invalid. He explained the City does not have the information on the financial security amount. He stated Mr. Devin Moore was going to send him the bond for review but he has not received it. He

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explained the request is highly irregular and is going beyond what the regulations require. He stated a procedure is in place and it has to be followed and this request is not something the Commission can deviate from.

Commissioner Hellmich stated deviations have been done in the past but were for items that were on the agenda and advertised. He stated there are items that need to be worked out and was told the principal parties have setup a meeting to try and work these issues out so the item can be on next month's agenda. He explained the neighbors in the area had many concerns and he is very uncomfortable doing something outside the Commissions boundaries.

Vice-Chairman Hinesley stated he was not present at the work session meeting but is uncomfortable moving forward on the item.

Commissioner Hare asked what items are remaining to be resolved.

Mr. Will Miller stated he is an attorney who attended the same law school as Mr. Casey Pipes and Mr. Grant Blackburn. He stated Mr. Blackburn's firm is very knowledgeable and also represents the Baldwin County Commission. He explained the final plat approval request was submitted on July 25 and to his knowledge the only thing left unpaid for is \$1,000 worth of miscellaneous work. He stated the problem is they received no deficiency notices from Mr. Chad Christian until August 29. He explained the bond is less than \$60,000 and they have not gotten concurrency for the bond but are willing to put up a cash bond. He stated he will defer to Mrs. Leslie Gahagan that there are no environmental issues. He explained there is one street sign missing and a small amount of grading and a bond has been done for the sidewalks. He stated they want fair notice which has not been given. He explained there was negligence and they should have had a list of deficiencies. He stated Ms. Boutwell is very competent and would like to ask Mr. Pipes to allow Ms. Boutwell's group to give them a status and get everything wrapped up. He explained since the submission was done on July 27th disapproved or approved is a moot matter of law and the negligence took the voting out of the Commissions hands. He stated Ms. Boutwell is very fair and reasonable and when he asked her she told him her department gives fair objective notice if a building permit is denied. He explained he has a letter from Dewberry Preble-Rish stating the remaining scope of work is \$58,000 with \$57,000 of that being sidewalks. He stated two months have been lost. He explained it is not Ms. Boutwell's group that has dropped the ball but it has been dropped somewhere. He stated Mr. Pipes is correct there is not a bond because we cannot get a bond amount. The problem we have is Ms. Boutwell cannot give us the answer or we would not be talking right now. He stated they need a little cooperation and Ms. Boutwell's hands are tied and she cannot give the approval and we cannot get a response to something we submitted over 30 days ago. He stated he feels by the statute the request is deemed approved per section 11-52-32 which states within 30 days of submission the request must be approved and he is demanding for that certification since we are beyond that 30 day period.

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Mr. Pipes explained the statute could be reworded better but the Supreme Court states the 30 days starts after you hold the public hearing and the item is placed on the agenda not the date the application was submitted.

Mr. Miller stated he does not disagree with Mr. Pipes who is very competent but in most cases you get a response of deficiencies within 30 days of submittal of an application. He stated they have some extenuating circumstances and also have to take into account the fair doctrine obligation and they have not received fair notice. He asked Ms. Boutwell if she has seen a list of deficiencies.

Ms. Boutwell stated she has not seen a list of deficiencies.

Mr. Miller stated there has been blatant negligence. He stated they need a proficient objective list. He explained someone is negligent and this has pushed the development back for 100 lots and the cost of them being developed. He stated someone has got to be held responsible.

Vice-Chairman stated staff and the attorneys need to work out the issues and get the bond in place before the Commission takes action on the item.

Mr. Miller stated he is giving a formal request for the list of deficiency's and stated if they come before the Commission again next month they reserve all rights and expect to be placed on the agenda.

Commissioner Hellmich stated the Commission has made it very clear they want sidewalks installed on both sides of the street as presented in the preliminary request and approval and built up front which was discussed in several meetings.

Mr. Miller stated what is clear is we do not have a deficiency list. He stated they can document they are to the 15% completion and should be allowed to post a bond on the sidewalks which will save the City a lot of headaches down the road.

Mr. Blackburn stated he wanted to mention where his firm does represent the Baldwin County Commission this issue and item has not been discussed with them and he is not present representing the Baldwin County Commission.

Mr. Mike Thompson asked Mr. Blackburn who his client was referring to as being negligent.

Mr. Blackburn stated those were not his opinions and were Mr. Miller's comments.

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ADJOURN

Commissioner Hellmich made a motion to adjourn at 6:01 p.m. Commissioner DeBell seconded the motion.

Meeting adjourned at 6:01 p.m.

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