

PLANNING COMMISSION MEETING MINUTES
February 16, 2022 (Council Chambers of City Hall) 5:30 P.M.

The City of Foley Planning Commission held a meeting February 16, 2022 at 5:30 p.m. in the Council Chambers of City Hall located at 407 E. Laurel Avenue. Members present were: Deborah Mixon, Larry Engel, Ralph Hellmich, Wes Abrams, Calvin Hare and Phillip Hinesley. Absent members were: Vera Quaites and Bill Swanson. Staff present were: Miriam Boone, City Planner; Chad Christian, City Engineer; Eden Lapham, Planner 1; Amanda Cole, Planning and Zoning Assistant and Melissa Ringler, Recording Secretary.

Chairman Abrams called the meeting to order at 5:30 p.m.

MINUTES:

Approval of the January 12, 2022 and January 19, 2022 meeting minutes.

Commissioner Hellmich made a motion to approve the January 12, 2022 and January 19, 2022 meeting minutes. Commissioner Engel seconded the motion. All Commissioners voted aye.

Motion to approve the January 12, 2022 and January 19, 2022 meeting minutes passes.

Chairman Abrams adjourned the regular meeting and opened the public hearing.

PUBLIC HEARING:

1. Gary Flowers- Initial Zoning

The City of Foley Planning Commission has received a request to recommend to Mayor and Council the initial zoning of 1.03 +/- acres. Proposed zoning is B-1A (Extended Business District). Property is located S. of County Rd. 12 S. and W. of State Hwy. 59. Applicant is Gary Flowers.

Chairman Abrams asked if there were any members of the public to speak on the item. There were none.

2. FDR Properties, Inc.- Rezoning

The City of Foley Planning Commission has received a request to recommend to Mayor and Council the rezoning of 1.97 +/- acres. Property is currently zoned B-3 (Local Business District). Proposed zoning is R-1A (Residential Single Family). Property is located at 21311 County Rd. 12 S. Applicant is FDR Properties, LLC.

Chairman Abrams asked if there were any members of the public to speak on the item. There were none.

3. Carolyn Mullis- Minor

The City of Foley Planning Commission has received a request for approval of the Carolyn L. Mullis Subdivision a minor subdivision which consists of 7.9 +/- acres and 3 lots. Property is located W. of State Hwy. 59 adjacent to Abbey Ln. Applicant is Carolyn L. Mullis.

Chairman Abrams asked if there were any members of the public to speak on the item. There were none.

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4. Resubdivision of Lot 1 of Foley Crossroads- Minor

The City of Foley Planning Commission has received a request for approval of the Resubdivision of Lot 1 of Foley Crossroads a minor subdivision which consists of 138.68 +/- acres and 3 lots. Property is located at the SW corner of the Foley Beach Express and County Rd. 20. Applicant is Byrd Sons Residual Trust.

Chairman Abrams asked if there were any members of the public to speak on the item. There were none.

5. *The Cove at Cotton Bayou Phase 1- Minor

The City of Foley Planning Commission has received a request for preliminary approval of The Cove at Cotton Bayou Phase 1 which consists of 35.27 +/- acres and 53 lots. Property is located E. of County Rd. 65 and N. of Arbor Walk Subdivision. Applicant is RAM-Cotton Bayou Subdivision Partners, LLC.

Ms. Karen Berryhill resident of 10321 County Rd. 65 asked the Commission to look at the big picture of what is happening in the area. She stated within a half mile radius 518 homes/lots have been approved. She asked the Commission to give consideration in making sure that an increase in the transportation plan and traffic flow is looked at when developments are being approved. She explained County Rd. 65 is currently an extremely busy road.

Commissioner Hellmich explained the subdivision is outside the city limits but within the city's extra territorial jurisdiction. He stated Baldwin County is currently doing traffic studies in the area. He explained the future County Rd. 20 extension will help alleviate some of the traffic on County Rd. 65. He stated the city does work with the developers and accel, decel or turn lanes are added when needed.

Ms. Berryhill stated she feels the County Rd. 20 extension will increase the traffic on County Rd. 65.

Commissioner Hinesley explained he also lives off of County Rd. 65 and it is a nightmare trying to pull out on County Rd. 65.

Commissioner Engel stated the timing of installing the required turn lane was discussed at the work session.

Mr. Chad Christian stated staff is working with the developer on the timing of installing the turn lane. He explained the traffic study shows it needs to be installed with phase 3. He stated staff is requesting the turn lane be added with phase 2.

6. Cypress St./Crimson Land Development- Rezoning

The City of Foley Planning Commission has received a request to recommend to Mayor and Council the rezoning of 17 +/- acres. Property is currently zoned B-1A (Extended Business District), PO (Preferred Office District), AO (Agricultural Open Space) and R-2 (Residential Single Family and Duplex). Proposed zoning is R-3 (Residential Multi-Family). Property is located S. of Michigan Ave. between Cypress and Bay St. Applicant is Crimson Land Development LLC.

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Mr. Nick Wilmott explained a new rendering has been provided to show sidewalks have been added as requested by the Commissioners. He explained there is a portion of sidewalk to the south on Bay St. that should not have been added to the rendering. He explained there is no other sidewalk in that area to connect to and it would essentially lead to a utility building.

Commissioner Engel asked about the height of the buildings to be located on the east side of the property.

Mr. Wilmott stated the buildings on the east side will be two stories.

Ms. Michelle Deerman resident of 1225 S. Bay St. stated there are two approved developments, Heritage Lakes and Bay Street Village within two blocks which total 192 homes. She explained the traffic is already an issue on Juniper St. She asked if there were any plans and improvements for the intersection.

Commissioner Hellmich stated a traffic study will be done to determine if any improvements will be required. He explained there are plans for a traffic light or circle to be added at the Michigan Ave. and Juniper St. intersection. He stated the timing of the signal lights on State Hwy. 59 are controlled by ALDOT. He explained the city has to routinely contact ALDOT when the timing needs to be adjusted.

Ms. Deerman explained she owns a business in Orange Beach and purchased a home in Foley because she did not want to deal with traffic. She stated the addition of apartments will devalue her property and bring in shady people to the area. She asked the Commission to keep the area single family residential.

Commissioner Engel stated there are several developments currently going in the area which will increase the traffic.

7. Magnolia Landing LLC- Rezoning

The City of Foley Planning Commission has received a request to recommend to Mayor and Council the rezoning of 19 +/- acres. Property is currently zoned R-1D (Residential Single Family) and B-2 (Neighborhood Business District). Proposed zoning is PUD (Planned Unit Development). Property is located W. of Hickory St. and N. of County Rd. 12. Applicant is Jade Consulting.

Mr. Trey Jinright explained after receiving comments from the Commissioners and citizens there have been modifications to the plan. He stated the modifications include placing two smaller buildings and a clubhouse on the north side of the property. He explained the buildings were pushed back to approximately 135' to 145' from the north property line. He stated there will be no windows or balconies located on the north side. He explained the owner and developer have agreed on balconies where there were concerns of having a north view and a shaded permanent structure would be installed. He stated the vegetation has not been cleared on the north property line because he is working with the developers who are handling the road. He stated the intent is to maintain the existing valuable vegetation and add more plantings to create a thicker buffer. He stated they will be adding a berm, fencing and planting larger mature trees to create a blockage of sight. He explained there was discussion of dropping the buildings to two stories. He stated in

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order to drop the buildings to two stories a third building would need to be added. He explained they are trying to keep the impervious surface to a minimum.

Mrs. Connie Kelly resident of 1086 Crown Walk Dr. explained she is taking care of her disabled husband and daughter. She stated her daughter cannot handle construction noises and they are being forced to move. She explained her home is for sale but no one wants to buy it once they find out a three story apartment will be in the backyard. She stated traffic in the area is horrendous. She asked if the Commissioners would want apartments in their backyard. She explained she has used her life savings to buy her home. She stated the birds, trees and sitting in her back yard is her only peace. She stated this request is because someone wants to make more money and take away her investment and peace.

Mr. Jim Wallace resident of 1141 Crown Walk Dr. explained they are creating a berm between this development and Crown Walk. He stated this area is a watershed and they are filling it in and pushing the water onto Crown Walk. He explained the proposed little ponds aren't big enough for all the water and will keep the developers land dry and everyone else's wet.

Mr. Jinright explained the berm is being created as a visual and sound buffer. He stated they will be catching the drainage in the area and bringing it into their retention ponds. He explained what they are doing will help the watershed and Crown Walk.

Mrs. Charlotte Travis resident of 1057 Crown Walk Dr. stated good people live in the Crown Walk community. She explained most are retirees who have spent their life savings to buy a home in a peaceful area that a developer is going to destroy. She stated she would like the Commissioners to think about the people in the area.

Mr. Jim Travis resident of 1057 Crown Walk Dr. explained the development will affect the drainage, privacy and the traffic in the area. He stated most of Crown Walk residents are retirees who are widows and veterans that have saved and bought homes in a nice area. He explained when purchasing their homes they were told the abutting property was zoned single family residential. He stated the Commission needs to think about the people in the area.

Mrs. Brenda Wallace resident of 1141 Crown Walk Dr. stated she has lived in Crown Walk for five years with her disabled husband. She explained the flooding in the subdivision has increased over the years due to new construction in the area. She stated the development will take away the privacy of the homeowners. She explained they want newcomers to enjoy the area but also want to preserve their right to safety. She stated a lot of owners have had to rip out carpet and sheetrock due to previous flooding. She explained the amount of rainfall has not been average recently and any help the city can provide to the residents is appreciated.

Ms. Linda Kious resident of 1038 Crown Walk Dr. stated she has pictures from 2017 showing the rainwater inches away from her doorsteps. She explained the improvements that have been made are appreciated but the flooding issues in the area are not resolved.

Mr. Steve Mudge resident of 1145 Crown Walk Dr. stated when he purchased his home he was told the property next to his was zoned residential single family. He stated the residents would like the property to stay as it is zoned today.

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Mrs. Boone stated the property is currently zoned B-2 and R-1D. She explained the R-1D zone allows 5 units per acre and a minimum lot width of 60'.

Commissioner Hare stated the property is 19 acres so they could build 95 residential homes under the current zone.

Commissioner Hellmich stated the buffer would not be required if single family residential is built on the property.

Commissioner Hare asked about the road being installed on the north side of the property.

Mrs. Boone stated the road was approved as part of another development as a secondary access for emergency vehicles.

Mr. Jinright stated if the apartments are not approved he has been told the property will be developed into residential rental homes.

Mr. Tim Etheridge resident of 1081 Crown Walk Dr. stated he moved to the area from Gulf Shores because of the reputation Foley has for caring about their people. He asked the Commission to leave the property zoned single family. He explained a change in the zoning will not benefit any of the current homeowners.

Mr. Wallace asked if anyone present was a qualified hydrologist. He stated if there was a qualified hydrologist reviewing the project it would be denied.

Mr. Christian stated a detailed drainage design will be provided by the engineer of record with the land disturbance permit.

Ms. Janis Stone explained she is extraordinarily disturbed and disheartened at the lack of due process. She stated seven people received revised plans 15 minutes before the meeting. She explained there was no time to study, learn, understand and prepare for such a meeting. She stated she is sick to her stomach, this is emotional, unfair and there is absolutely no due process. She explained she believes there is always a way but not given adequate time she feels the item should be tabled to allow them the opportunity to understand it better and prepare.

Mrs. Boone explained the process of the rezoning and recommendation by the Commission to Mayor and Council.

Ms. Stone stated last time the item was tabled and unfortunately now there are new plans. She explained they were told there was no need for them to come to the previous planning commission meeting since the item was tabled. She stated they did not show up and the reason they were told not to come is because no one wanted to hear what the residents had to say.

Commissioner Hellmich stated the item was not discussed at the Planning Commission meeting when the item was tabled. He explained the item was tabled so Mr. Jinright could respond to concerns and revise the plans due to residents' concerns.

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Ms. Stone stated the plans pouring in ten minutes before the meeting is traumatizing to the residents.

Mr. Jinright explained he received letters from the residents up until as late as yesterday and it took time to make adjustments to the plans to address the concerns.

Commissioner Mixon stated the holding ponds in the area are filled with debris and need attention.

Mr. Jinright stated the ponds for the development will be wet features which will be privately maintained by the apartment owners.

Ms. Stone asked Mr. Jinright if he was the owner of the property. She stated you can look online and see there is a lot going on that is under the surface and not truthful. She explained Mr. Owner/Developer was asked previously about the intent for this property and he said it would be left as single family residential. She asked why it is changing and stated he needs to be truthful.

Commissioner Hellmich stated he wanted to make it clear there is nothing going on underhanded. He explained it is very common for the firm handling the project to be listed as the applicant and to represent the owner.

Ms. Stone stated in a phone conversation with Mr. Jinright he was asked how he would like the apartments to be located in his backyard and his answer was he wouldn't. She stated for him to bring revised plans to the table so quickly is unethical.

Ms. Becky Oswald resident of 1157 Crown Walk Dr. asked if anyone has addressed the traffic issues.

Mr. Christian stated a detailed traffic study will be provided with the Land Disturbance permit. He explained road improvements for the intersection will be handled by Baldwin County. He stated he believes Baldwin County is currently doing a study on the intersection and is aware of the issues.

Chairman Abrams stated he understands this is an emotional item. He thanked Mr. Jinright for working with the residents and trying to resolve their concerns.

8. Subdivision Regulation Amendments

The City of Foley Planning Commission has received a request to approve the proposed Subdivision Regulation amendments to section 4.2 E.

Chairman Abrams asked if there were any members of the public to speak on the item. There were none.

Chairman Abrams closed the public hearing and reconvened the regular meeting.

NEW BUSINESS:

1. Gary Flowers- Initial Zoning

The City of Foley Planning Commission has received a request to recommend to Mayor and Council the initial zoning of 1.03 +/- acres. Proposed zoning is B-1A (Extended

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Business District). Property is located S. of County Rd. 12 S. and W. of State Hwy. 59. Applicant is Gary Flowers.

Commissioner Hinesley made a motion to recommend the requested initial zoning to Mayor and Council. Commissioner Mixon seconded the motion. All Commissioners voted aye.

Motion to recommend the requested initial zoning to Mayor and Council passes.

2. MDM Services, Inc.- Circle K Site Plan

The City of Foley Planning Commission has received a request for a site plan approval for Circle K. The property is located S. of County Rd. 12 S. and W. of State Hwy. 59. Applicant is MDM Services, Inc.

Commissioner Mixon made a motion to approve the requested site plan. Commissioner Engel seconded the motion. All Commissioners voted aye.

Motion to approve the requested site plan passes.

3. FDR Properties, Inc.- Rezoning

The City of Foley Planning Commission has received a request to recommend to Mayor and Council the rezoning of 1.97 +/- acres. Property is currently zoned B-3 (Local Business District). Proposed zoning is R-1A (Residential Single Family). Property is located at 21311 County Rd. 12 S. Applicant is FDR Properties, LLC.

Commissioner Hellmich made a motion to recommend the requested rezoning to Mayor and Council. Commissioner Mixon seconded the motion. All Commissioners voted aye.

Motion to recommend the requested rezoning to Mayor and Council passes.

4. Carolyn Mullis- Minor

The City of Foley Planning Commission has received a request for approval of the Carolyn L. Mullis Subdivision a minor subdivision which consists of 7.9 +/- acres and 3 lots. Property is located W. of State Hwy. 59 adjacent to Abbey Ln. Applicant is Carolyn L. Mullis.

Commissioner Mixon asked if the property would be cleared.

Mr. Randy McKinney the applicant's representative stated the majority of the property was already cleared a few years ago.

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

Motion to approve the requested minor subdivision passes.

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5. Resubdivision of Lot 1 of Foley Crossroads- Minor

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

Motion to approve the requested minor subdivision passes.

6. *The Cove at Cotton Bayou Phase 1- Minor

The City of Foley Planning Commission has received a request for preliminary approval of The Cove at Cotton Bayou Phase 1 which consists of 35.27 +/- acres and 53 lots. Property is located E. of County Rd. 65 and N. of Arbor Walk Subdivision. Applicant is RAM-Cotton Bayou Subdivision Partners, LLC.

Commissioner Hellmich made a motion to approve the requested subdivision with the condition that the turn lane will be added with phase 1. Commissioner Engel seconded the motion.

Mr. Jinright stated they have no problem with adding the turn lane but the request for it to be added with phase 2 was due to a timing matter. He stated there is a RV park and subdivision that will be making improvements that they will need to tie into.

Commissioner Hellmich stated his concern is the improvements not be completed and ready to tie into in a timely manner or phase 2 not being constructed. He asked if a time period for the improvements to be made could be added in the approval. He stated he wants to make sure the turn lane is added even if phase 2 is not built.

Mr. Christian stated a bond could be done with a condition that the turn lane will have to be started 360 days after phase 1 is recorded.

Commissioner Hellmich amended his previous motion, to approve the requested subdivision with the condition that a bond be issued and the turn lane be started 360 days after phase 1 plat is recorded. Commissioner Hare seconded the motion.

All Commissioners voted aye.

Motion to approve the requested subdivision with the condition that a bond and the turn lane be started 360 days after phase 1 plat is recorded passes.

7. Cypress St./Crimson Land Development- Rezoning

The City of Foley Planning Commission has received a request to recommend to Mayor and Council the rezoning of 17 +/- acres. Property is currently zoned B-1A (Extended Business District), PO (Preferred Office District), AO (Agricultural Open Space) and R-2 (Residential Single Family and Duplex). Proposed zoning is R-3 (Residential Multi-

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Family). Property is located S. of Michigan Ave. between Cypress and Bay St. Applicant is Crimson Land Development LLC.

Commissioner Hellmich made a motion to recommend the requested rezoning noting that there was a small change to the section of sidewalk on Bay St. Commissioner Hare seconded the motion.

Commissioner Hellmich stated the applicant has been working with staff on the plan. He stated he feels the plan transitions and blends well with the uses on Bay St. which include duplexes and the commercial uses on State Hwy. 59. He stated the traffic is an issue not just here but everywhere and some of it is due to the tourists that come through the area. He explained the city is aware of traffic issues and is constantly looking at ways to make improvements.

Commissioner Hinesley stated he is seeing a lot of growth in the city. He explained he has concerns about the growth, density, traffic, pressure on the school systems and utilities.

Commissioner Hellmich stated you cannot stop the growth but you can manage it and address things and make improvements. He explained there have been changes made over the last 5 years to the density and storm water requirements.

Commissioner Hinesley voted nay, Commissioner Mixon voted nay, Commissioner Engel voted nay, Commissioner Hare voted aye, Commissioner Hellmich voted aye.

Mr. Casey Pipes explained since the recommendation is being denied a cleaner way to make the motion would be to make a motion for denial.

Commissioner Engel made a motion to recommend denial of the requested rezoning. Commissioner Hinesley seconded the motion.

Commissioner Engel voted aye, Commissioner Mixon voted aye, Commissioner Hellmich voted nay, Commissioner Hare voted nay and Commissioner Hinesley voted aye.

Motion to recommend denial of the requested rezoning passes.

8. Magnolia Landing LLC- Rezoning

The City of Foley Planning Commission has received a request to recommend to Mayor and Council the rezoning of 19 +/- acres. Property is currently zoned R-1D (Residential Single Family) and B-2 (Neighborhood Business District). Proposed zoning is PUD (Planned Unit Development). Property is located W. of Hickory St. and N. of County Rd. 12. Applicant is Jade Consulting.

Commissioner Hellmich stated he would like to put some conditions on the recommendation. He explained the conditions are to require a 10' berm with fence, the vegetation not to be cut in the buffer zone and to facilitate additional trees, a turn lane to be added upfront, buildings need to be perpendicular and no windows to be located on the north side not to include the club house, balcony restrictions on north two buildings and buildings on north side to be restricted to 2 two story buildings and amenities.

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Commissioner Hinesley made a motion to deny the recommendation. Commissioner Engel seconded the motion. Commissioner Mixon, aye; Commissioner Hellmich, nay; Commissioner Hare, aye and Commissioner Hinesley, aye.

Motion to recommend denial of the requested rezoning to Mayor and Council passes.

9. Subdivision Regulation Amendments

The City of Foley Planning Commission has received a request to approve the proposed Subdivision Regulation amendments to section 4.2 E.

Commissioner Hellmich made a motion to approve the requested subdivision regulations. Commissioner Engel seconded the motion. All Commissioners voted aye.

Motion to approve the requested subdivision regulations passes.

10. Moratorium on Subdivision Exemptions-

The City of Foley Planning Commission has received a request to approve the proposed moratorium on Subdivision Exemption approvals.

Commissioner Hellmich made a motion to approve the moratorium on subdivision exemptions. Commissioner Hinesley seconded the motion.

Commissioner Hellmich stated the moratorium will be for all exempt subdivisions in the city limits and extra territorial jurisdiction. He explained this will give staff time to work on the extra territorial agreement and clarify some things within the subdivision regulations regarding exemptions. All Commissioners voted aye.

Motion to approve the moratorium on subdivision exemptions passes.

ADJOURN:

Chairman Abrams adjourned the meeting at 7:46 p.m.