

**PLANNING COMMISSION
MEETING MINUTES NOVEMBER 8, 2023
(Council Chambers of City Hall) 5:30 P.M.**

Page 1 of 8

The City of Foley Planning Commission held a meeting on November 8, 2023 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, Vera Quaites, Wes Abrams, Calvin Hare, Bill Swanson and Tommy Gebhart. Absent members were: Ralph Hellmich and Phillip Hinesley. Staff present were: Wayne Dyess, Executive Director of Infrastructure and Design; Miriam Boone, City Planner; Chad Christian, City Engineer; Angie Eckman, Environmental Manager; 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 October 11, 2023 and October 18, 2023 meeting minutes.

Commissioner Swanson made a motion to approve the October 11, 2023 and October 18, 2023 meeting minutes. Commissioner Engel seconded the motion. All Commissioners voted aye.

Motion to approve the October 11, 2023 and October 18, 2023 meeting minutes passes.

AGENDA ITEMS:

1. Streamline Addition to Foley Plat No. 2- Minor

The City of Foley Planning Commission has received a request for approval of Streamline Addition to Foley Plat No. 2 a minor subdivision which consists of 2.18 +/- acres and 2 lots. Property is located W. of State Hwy. 59 and N. of County Rd. 20 W. Applicant is Joseph A. Schneider.

Public Hearing:

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

Planning Commission Action:

Mrs. Miriam Boone stated staff is recommending approval of the requested minor subdivision.

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

Motion to approve the requested minor subdivision passes.

2. Equity Trust Resubdivision of Lot 3- Minor

The City of Foley Planning Commission has received a request for approval of Equity Trust Resubdivision of Lot 3 a minor subdivision which consists of 10.02 +/- acres and 4 lots. Property is located S. of Breckner Rd. and E. of Bodenhamer Rd. Applicant is PLS Group Inc.

Planning Commission Action:

Mrs. Miriam Boone stated staff is recommending approval of the requested minor subdivision.

Note: *Denotes property located in the Planning Jurisdiction

**PLANNING COMMISSION
MEETING MINUTES NOVEMBER 8, 2023
(Council Chambers of City Hall) 5:30 P.M.**

Page 2 of 8

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

Motion to approve the requested minor subdivision passes.

3. Peace Subdivision-Minor

The City of Foley Planning Commission has received a request for approval of Peace Subdivision a minor subdivision which consists of 29 +/- acres and 3 lots. Property is located E. of the Foley Beach Express and E. and N. of Roscoe Rd. Applicant is Weygand Wilson Surveying.

Public Hearing:

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

Planning Commission Action:

Mrs. Boone explained the request is meeting the required regulations and staff is recommending approval. She stated staff had noted the 30' flag would preclude them from subdividing Lot 2 in the future.

Commissioner Gebhart made a motion to approve the requested minor subdivision. Commissioner Swanson seconded the motion.

Commissioner Engel asked if they were subdividing the lot in order to sell one of the lots.

Staff was unaware of the future plans for the lots and a representative was not present.

All Commissioners voted aye.

Motion to approve the requested minor subdivision passes.

4. Fairfield Inn & Suites- Site Plan Extension

The City of Foley Planning Commission has received a request for a site plan extension for Fairfield Inn & Suites. Property is located S. of County Rd. 20 and E. of S. McKenzie St. Applicant is Anil Badve.

Planning Commission Action:

Mrs. Boone explained there have been no changes in the regulations since the site plan was approved. She stated the applicant has been working out details regarding an easement. She explained the building and drainage plans have been reviewed by staff.

Commissioner Engel made a motion to approve the requested 6 month site plan extension. Commissioner Gebhart seconded the motion. All Commissioners voted aye.

Motion to approve the requested 6 month site plan extension passes.

**PLANNING COMMISSION
MEETING MINUTES NOVEMBER 8, 2023
(Council Chambers of City Hall) 5:30 P.M.**

Page 3 of 8

5. Terry Prince Family Division- Minor

The City of Foley Planning Commission has received a request for approval of Terry Prince Family Division a minor subdivision which consists of 2.09 +/- acres and 2 lots. Property is located E. of County Rd. 12 and S. of Aqua Ln. Applicant is Andrew Grant.

Planning Commission Action:

Mrs. Boone stated staff is recommending approval of the requested minor subdivision.

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

Motion to approve the requested minor subdivision passes.

Commissioner Hare joined the meeting.

6. Wolf Creek Village- PDD Modification

The City of Foley Planning Commission has received a request for a PDD modification for Wolf Creek Village. Property is located N. of County Rd. 20 and E. of Foley Beach Express. Applicant is SCP BPG Magnolia Holdings, LLC.

Planning Commission Action:

Mrs. Boone explained staff has worked with the applicant on the requested PDD modification and is recommending approval.

Commissioner Gebhart made a motion to approve the requested PDD modification. Commissioner Engel seconded the motion. All Commissioners voted aye.

Motion to approve the requested PDD modification passes.

7. Satsuma Two- Minor

The City of Foley Planning Commission has received a request for approval of Satsuma Two a minor subdivision which consists of 1.37 +/- acres and 2 lots. Property is located at 410 W. Persimmon Ave. Applicant is Charlie Guy.

Public Hearing:

Chairman Abrams stated a letter was received regarding the request. He asked if there were any members of the public to speak on the item.

Mr. Bill Bruton resident of 1101 N. Oak St. stated his property is contiguous to this property. He explained he has sent several pictures to staff showing the flooding on the property. He stated the two lots are not a problem. The problem is any time it rains there is 3' of water on the property. He explained that to approve the subdivision would be the wrong thing to do without a detailed engineer report showing what will happen to all the water that is currently going onto this property.

Mrs. JaNay Dawson resident of 420 W. Satsuma Ave. explained she has lived in the area for 33 years. She stated the property doesn't just have standing water but has over flowing water which

Note: *Denotes property located in the Planning Jurisdiction

**PLANNING COMMISSION
MEETING MINUTES NOVEMBER 8, 2023
(Council Chambers of City Hall) 5:30 P.M.**

Page 4 of 8

has caused road closures. She explained not too long ago the culvert on Section Ave. collapsed due to the flooding. She stated her property and this property are not currently in a flood zone. She explained if this property is built up and the water has nowhere to go they will become a flood zone which will require them to have flood insurance. She stated she understands certain requirements have to be met. She asked when it becomes a requirement to look at the impacts it will have on the citizens. She asked when the citizens get protect as much as the applicant.

Mr. Wayne Hollis resident of W. 412 Satsuma Ave. stated this property is 4 to 6' below the sea level. He explained he is not sure how much fill it will take to bring up to a buildable level. He stated they will remove all the trees currently on the property.

Mr. Marvin York stated he has lived in the area for 20 years and has been through many storms. He explained the water has come inches from coming into his home. He stated he understands development but not unmanaged growth. He explained he has complained about the drainage which has been unresolved. He asked how this will affect the surrounding properties if it gets built up. He explained there is currently nowhere for the water to go. He stated until the drainage issue in the area is addressed the request needs to be denied.

Mr. Danny McHenry resident of 1105 N. Oak St explained he has lived in the area for a year and has already seen the drainage issues. He stated the water comes up into his back yard and is close to coming into his home. He explained if anything is built on the lot it will make the issues worse.

Chairman Abrams closed the public hearing.

Mrs. Boone stated as requested by staff the applicant has provided a drainage analysis for the lot and minimum pad elevations.

Mr. Wayne Dyess stated the Commissioners have heard a lot of testimony tonight regarding the citizens' concerns. He explained he feels it is a reasonable approach to request additional information on the offsite impacts on adjacent properties. He stated the Commission and City is to look at the public's health, safety and welfare. He stated if the Commission feels the testimony is accurate and credible he thinks it is a reasonable approach for the item to require additional review.

Mr. Charlie Guy explained he understands the comments. He stated the lot is twice as big as required for the zone. He explained he is wanting to subdivide the 1.3 acre lot into two buildable lots. He stated he is not a builder and purchased the property as an investment. He explained there is a common drainage issue in the area. He asked if it would be the property owner's responsibility to correct the current drainage issue.

Mr. Dyess stated more information is needed in regards to the impacts on the surrounding properties if this lot is built up.

Mr. Chad Christian stated the applicant did provide pad elevations for the new structure. He explained more detail is needed to show the effects the elevation will have on surrounding properties.

**PLANNING COMMISSION
MEETING MINUTES NOVEMBER 8, 2023
(Council Chambers of City Hall) 5:30 P.M.**

Page 5 of 8

Chairman Abrams stated he doesn't have an issue with the subdivision; the issue is the loads of dirt that will be brought in and additional water on the surrounding area.

Commissioner Engel stated he has no issue with the lot sizes. He stated the drainage in the area is a mess.

Mr. Guy asked if the city would look into correcting the drainage issue.

Mr. Dyess stated the analysis cost would be borne by the applicant developing the property and the applicant would be responsible for the fees.

Mr. Guy requested the item be carried over.

Planning Commission Action:

The Planning Commissioners accepted the request to carry the item over.

8. Riviera Plaza Division 1- Preliminary

The City of Foley Planning Commission has received a request for preliminary approval of Riviera Plaza Division 1 which consists of 16.32 +/- acres and 2 lots. Property is located E. of S. McKenzie St. and S. of County Rd. 20. Applicant is Stacey Ryals.

Public Hearing:

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

Planning Commission Action:

Mrs. Boone stated a memo was provided from staff stating the final plat can be signed once adequate utilities are provided and the road is completed and open to the public.

Mr. Christian stated the current sewer is inadequate for future development. He explained the City is in the process of building the road. He stated staff is ok with a conditional approval and the plat will not be signed until the road and utilities are in place.

Commissioner Hare made a motion to approve the requested preliminary contingent upon the road and utilities being in place. Commissioner Gebhart seconded the motion. All Commissioners voted aye.

Motion to approve the requested preliminary contingent upon the road and utilities being in place passes.

9. *Scurlock Subdivision- Minor

The City of Foley Planning Commission has received a request for approval of Scurlock Subdivision a minor subdivision which consists of 5 +/- acres and 4 lots. Property is located W. of Nall Rd. and N. of County Rd. 16 and is located in the City of Foley Planning Jurisdiction. Applicant is Weygand Wilson Surveying.

Public Hearing:

Note: *Denotes property located in the Planning Jurisdiction

**PLANNING COMMISSION
MEETING MINUTES NOVEMBER 8, 2023
(Council Chambers of City Hall) 5:30 P.M.**

Page 6 of 8

Mr. Jim Coleman stated he is representing Amy and Gregory Campbell. He explained a lawsuit has been filed in Baldwin County with the complaint that the presented lots are subject to covenants and restrictions that would prevent the requested subdivision. The lawsuit was filed a month ago and Mr. Scurlock has been served notice. He stated he has communicated with the city by letter and spoken with the city attorney Casey Pipes in regards to the suit. He explained there are deed restrictions placed on the property that prevent the applicant from doing what is being requested. He stated he would like to ask the Commission to deny the application or at least delay it until the lawsuit reaches some kind of resolution. He explained if the request is approved they will have to file a temporary restraining order and injunctive relief which is inefficient and a waste of resources. He stated at this time they are awaiting drainage information regarding water being directed onto the Campbell's property. He explained based on the information they receive from the drainage information the complaint may be amending the suite to include trespassing of diverted water. He stated they are asking the Commission to delay or deny the request due to the case pending in circuit court.

Mr. Dyess explained he has spoken with Mrs. Campbell several times in regards to the offsite drainage and driveway location and intersection concerns. He stated the covenants and deed restrictions are outside of the city's authority. He explained based on the property and topography it is a low area. He stated based on the comments he has received from neighboring properties additional review may be necessary to ensure it will not cause any off site impact on neighboring properties. He explained additional information can be requested.

Chairman Abrams asked if anyone was present to represent the applicant or item. There was no one present.

Mr. Dyess stated the Planning Commission has to take action on the item within 30 days

Mr. Coleman stated if necessary they can request the item to be moved up on the Circuit Court docket.

A resident stated he lives on Macbeth Ln. and is not involved with the item but feels the item needs to be denied until the applicant can get his stuff together. He explained since the applicant did not have the common sense to show up at the meeting it needs to be denied.

Planning Commission Action:

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

Motion to deny the requested minor subdivision passes.

10. Keystone Subdivision Phase 1- Preliminary

The City of Foley Planning Commission has received a request for preliminary approval of Keystone Subdivision Phase 1 which consists of 121.79 +/- acres and 88 lots. Property is located S. of US Hwy 98 and W. of Venice Blvd. Applicant is Jade Consulting, LLC.

Public Hearing:

Note: *Denotes property located in the Planning Jurisdiction

PLANNING COMMISSION
MEETING MINUTES NOVEMBER 8, 2023
(Council Chambers of City Hall) 5:30 P.M.

Page 7 of 8

Mr. Ted Johnson resident of 12289 Venice Blvd. stated he is a HomeOwners Association board member and property owner. He thanked the city and applicant for their cooperation with the development. He stated there have been several very beneficial meetings held. He explained they are ok with the plan other than one exception that was not previously presented. He stated the small retention area on the east side was not shown on the previous plan. He explained there was to be a 50' buffer on the entire east side of the property line. He stated the retention area is being shown in the 50' buffer area and would require removal of trees. He explained this would place the retention area up against the neighboring properties. He stated if the small pond is moved 50' to the west the plan will be in compliance.

A resident stated he lives on County Rd. 26 and is concerned about the impacts of the runoff water and increased traffic. He explained the school traffic has the road backed up for 45 minutes to an hour. He stated the traffic problems hinder the roads needed for evacuation routes. He explained there are constant accidents at the intersection.

Ms. Sam Meyers resident of 11807 Venice Blvd. stated she has lived in her residence for two years. She explained she bought the property knowing there were issues with the river and it was going to be repaired. She stated she is nervous the river is going to back up further and cause several of them to flood again.

A resident asked if the proposed roads would be tied into the roads within Plantation at Magnolia River or just used for emergency access as previously discussed.

Ms. Toche resident of 11836 Venice Blvd. asked for information regarding the builder and proposed home sizes. She asked if there would be any construction traffic coming through the Plantation at Magnolia River subdivision.

Mr. Bob Christopher stated he has concerns in regards to the retention pond location and clearing out all the trees in the required buffer area. He asked where all the runoff water will be going. He stated he is going to take legal action against the city if his property floods or is devalued.

Planning Commission Action:

Mr. Trey Jinright with Jade Consulting stated the road between the development and Plantation and Magnolia River will be gated with a Knox box and used for emergency access only and no construction vehicles. He explained they will move the slope and entire pond 50' in order to preserve the buffer area as requested. He stated approximately 49 acres of the development has been dedicated into a conservation easement.

Ms. Meyers asked about the status of the river repairs.

Mr. Dyess stated the city cannot do anything with the river since it is outside of the city of Foley's corporate limits.

Mrs. Boone stated the land disturbance permit is ready to be issued and staff is recommending approval.

**PLANNING COMMISSION
MEETING MINUTES NOVEMBER 8, 2023
(Council Chambers of City Hall) 5:30 P.M.**

Page 8 of 8

Commissioner Hare made a motion to approve the request preliminary. Commissioner Gebhart seconded the motion.

Commissioner Engel stated during the zoning process he had some reservation in regards to the lot sizes. He explained the current lots in the area are larger.

Mr. Jinright stated he would like to point out the request is matching the previously approved zoning plan.

Commissioner Gebhart stated he appreciates the applicant working with the neighboring residence in regards to the location of the pond and preserving the trees and buffer area.

Commissioner Engel voted nay. All other Commissioners voted aye.

Motion to approve the requested preliminary passes.

11. 2024 Meeting and Deadline Calendar

Commissioner Abrams made a motion to approve the 2024 meeting and deadline calendar. Commissioner Engel seconded the motion. All Commissioners voted aye.

Motion to approve the 2024 meeting and deadline calendar passes.

ADJOURN:

Chairman Abrams adjourned the meeting at 6:49 p.m.