

**PLANNING COMMISSION MEETING MINUTES
OCTOBER 7, 2008**

The Planning Commission held its monthly meeting Tuesday, October 7, 2008 at 7:00 P.M. in the City Council Room at the Municipal Complex. The following items were on the agenda:

1. Approval of minutes from last meeting

**PLANNING COMMISSION ADJOURNS
BOARD OF ADJUSTMENTS CONVENES:**

2. Public Hearing per request of Mayor Bob Freeman and the City Council to revisit the rezone request to rezone property located at 1119 Pointer Trail East, Lot 4B-1, The Plaza, from C-2 to R-3 for the purpose of constructing multi-family housing
3. Public Hearing on rezone request by Van Buren Housing Authority for property located from 2200 Kibler Road to 2500 Kibler Road, (between 22nd and 25th Streets), to rezone property from C-2 to R-3
4. Tabled rezone request to be reviewed for property located at 11 North 3rd Street, to rezone this property from I-2 to C-2, owner/developer Steve Matthews, Super Check, LLC
5. Variance request by Garry E. Floyd to change side yard setback from the required 7.5 feet to 5 feet on property located at 31 Alpine Drive

**BOARD OF ADJUSTMENTS ADJOURNS
PLANNING COMMISSION RECONVENES:**

6. Public Hearing to discuss and take input on City of Van Buren Master Street Plan
7. Public Hearing to discuss and take input on sidewalks, using the Master Sidewalk Map.
8. Any other business that comes before this commission

PRESENT: Andrew Dibble, Chairman
Philip Bagby, Co-Chairman
Jay White

John Symonds
Mark Evans
Sue Moore
Woody Nelson

ABSENT: Dorvan Wiley
Frank Newman

OTHERS

PRESENT: Cami Brown, Recording Secretary
David Martin, Chief Building Inspector
Brad Baldwin, City Engineer
James Griffin, Fire Marshal
Don Jenkins, City Attorney
Ronnie Hawkins, Hawkins-Weir Engineering, Inc.
John Rupe, Jr.
Gary Miller
W.I. Goff
Art Sellers
Rebecca & Jerry Porter
Gary & Ann Merrell
Bill Batz
Derek Goodlin
Hill Alexander
C.E. Dougan
Lonnie Myers
Al Prieur
Dan Kelly
John T. Evans
Garry Floyd
John Hemisera
Trenton Lee
Robert G. Lee
Ralph W. Scott
John S. Johnson
Bill Swaim
J. R. Crowson
Marlo Crowson
Benny & Debra Adkins
Sandy Franks
Edna F. & Omer L. Coble
B. J. Collins
Ricky Turney
Gail Rouw
Alice Medlock
William Allison

Jerry West
Johnny Ragsdale
Lewis Ballard
Linda & Paul Gant
Walter & Dorothy Coleman
Teena Sagley
David Moore
Jim Petty

Chairman Andrew Dibble called this meeting to order at 7:00 P.M. The first item of business was approval of minutes from the last meeting. Mr. John Symonds made a motion to approve the minutes as written, and his motion was given a second by Philip Bagby. The motion carried with a unanimous vote.

**PLANNING COMMISSION ADJOURNS
BOARD OF ADJUSTMENTS CONVENES:**

The next item on the agenda was a public hearing to revisit the rezone request for property located at 1119 Pointer Trail East, Lot 4B-1 to rezone from C-2 to R-3 for the purpose of constructing multi-family housing. The first one heard on this matter was Ronnie Hawkins, Hawkins-Weir Engineering, Inc., representing John Rupe, Sr. and John Rupe, Jr. Mr. Hawkins commented that according to the city zoning regulations the 3.75 acres that they were requesting to rezone to R-3 for the purpose of multi-family dwellings would house 102 one & two bedroom units, and these units would rent for approximately \$585.00/month for 1 bedroom and \$685.00/month for two bedroom, point being it would not be low-rent or subsidized housing, it would be a very nice complex. He commented the infrastructure was in place to service this development. Mr. Hawkins commented this did not come at a small price to the Rupes, as there was an additional 1200 feet of sanitary sewer they put in behind the nearby school and behind the Catholic church to connect to the existing sewer line there. The Rupes put in a 10-inch line and connected to the existing 8 inch line, leaving more that adequate availability for growth. Mr. Hawkins commented what would be needed for fire protection was also in place. Mr. Hawkins also commented that he knew there were legitimate concerns about traffic congestion on Pointer Trail. Mr. Hawkins compared an office complex built on this site, 8,000 square feet, possibly employing 96-100 employees who would be coming to work around the same time as school traffic would be present, and these employees would be going home during a busy time in the evening, to the traffic generated from such an apartment complex existing on this property. Mr. Hawkins commented the Rupes have the right at this time to develop this property with commercial businesses that could generate more traffic than an apartment complex would generate. Mr. Hawkins commented that if this city street needs to be widened, this is strictly up to the city, and is not in the hands of the developer. In summary, Mr. Hawkins commented the multi-family complex would not impact the traffic on Pointer Trail as badly as commercial development (that could begin tomorrow) would impact the traffic on this road. Mr. Hawkins also pointed out the R-3 zoning is traditionally considered an appropriate transition from commercial to single

family zoning. At this time Mr. Hawkins offered to answer any questions anyone had, and he chose to yield the floor for further comments.

Mr. John Rupe, Jr. produced a sketch of this proposed complex, and a color rendering of the complex for the audience to view. Mr. Rupe commented you look at classifications of the markets and you've got some very ugly, run-down apartments out in this country. He commented there is no doubt this has given apartments a very bad reputation. Mr. Rupe commented he wouldn't want those apartments in his community, and he wouldn't put them in any community, as he wouldn't invest in such property. He commented the apartment complex he is proposing is a very nice project, and that it is something that is needed in this community. Mr. Rupe went on to say at some point, somewhere this is going to happen. He then commented he thought this was a great transition from the commercial development they have put in to residential development. Mr. Rupe commented never, ever in his dreams did he think this project would have caused this kind of controversy. He commented he understood the concern, and that causing such concern was never his intention, as he was looking for something the community needed and again a nice transition barrier. He commented this community would be gated, with clubhouse and swimming pool, very upscale, a lot of landscaping, and would be valued at a higher price point to make sure they were quality tenants and long-term tenants, because when you invest 6-7 million dollars in a project, you want to make sure it is done right. Mr. Rupe assured the group he would see the project was done right, and that the intention was to own the development long-term, and that it was their intention to be a member of this community long-term. Mr. Rupe commented he has really enjoyed the last three years they have been here. He has enjoyed building and working with the city, with the people in the community. Mr. Rupe went on to say that they have really tried to keep emphasis on the importance of using local contractors, and have been fortunate to be able to do so, especially in these economic times. Mr. Rupe commented he appreciated the citizens coming out to this public hearing and expressing their concerns and appreciated the opportunity to answer any questions.

Andrew Dibble verified the two hotels already constructed were on 1.75 acres, and the occupancy total for one is 68 and for one is 58. At this time Mr. Dibble opened the floor to comments. The first citizen to speak was John Evans who lives in Legacy Park. Mr. Evans commented his concern was not only Pointer Trail, but Navajo and Legacy Blvd. which is now a major thoroughfare due to Wal-Mart, and as traffic increases on Pointer Trail, it is going to make this even worse. He then commented he would like to know what happened to the restaurants that were proposed to be built there. He also commented he did not think the city could provide the funds to widen Pointer Trail, and the traffic was going to be horrible. He commented he didn't think this would be feasible.

Next to speak at the public hearing was Lewis Ballard, citizen, resident, and businessman. Mr. Ballard worked in real estate, insurance, and appraisal of property since 1964. He served on boards for Veteran's Administration and for HUD. He built subdivision across from the property in question. Mr. Ballard produced a petition against this rezone with a total of 281 signatures from residents in the three subdivisions, North

Park Place, Park Place, and Heritage that are opposed to this rezone request. Mr. Ballard went on to address the commission as to why he and many property owners were coming to this public hearing to voice their opinion about this rezone request. Mr. Ballard commented his professional opinion putting this multi-family unit in this area would depreciate the value of the 292 single-family homes that surround it. He commented that with this apartment complex in place, an appraiser would “red-flag” a property to an underwriter. He commented he was asking the commission to do a good job, use some good common sense in their vote. He commented this group was soundly and strongly opposed to this rezoning.

At this time Co-Chairman Philip Bagby addressed Mr. Ballard with two questions. Bagby asked Mr. Ballard if, as an appraiser, was it his opinion that it would be better to leave this property commercial. Mr. Ballard responded in his opinion it was better, and that you may have the same number of people, but people in the proposed complex would more than likely be working, and they would be more than likely going to work around the same time that moms and dads are trying to get their children to school. He commented he did not have charts or data on this, and personally he had never seen any printed, and he contacted appraisers in Fort Smith, still in the business, and could not find any written data on this, but the experience he had was the lender wanting more money up front on a loan due to a multi-family dwelling that was next to single-family dwellings in Fort Smith. Instead of loaning 95-97%, the lender wanted 20% upfront, so the seller might have to take less to make the difference in the percent. Mr. Ballard commented the property should stay commercial because that was what was agreed to in the beginning. Mr. Bagby commented if they were to put in an auto repair shop, or a strip mall with a couple of beauty salons and nail salons, would that, as far as the value of the property, cause greater depreciation to properties than the proposed multi-family housing. Mr. Ballard did not comment on this.

Alice Medlock, realtor, addressed the commission next. Ms. Medlock commented that the traffic situation is already too congested on Pointer Trail. She commented that she felt like this was going to ruin the value of their property in the next few years. Ms. Medlock also commented that a home is the biggest investment you make. She commented she would like to appeal to the commission to not let this happen. Ms. Medlock commented she was concerned about the loss it might bring to property owners, and about water and sanitation in this area. Philip Bagby addressed Ms. Medlock, asking her with its present zoning, C-2, as a realtor did she see it better, more palatable for people if it remains C-2 to which Alice Medlock responded yes. She then commented first of all as expensive as property will be in this location, it would have to be a business that was going to stay due to the big investment that would have to be made, and secondly you would have a property owner that would care about the appearance of the property, and they would maintain it.

Next to speak was Johnny Ragsdale. Mr. Ragsdale commented he never dreamed we would have a traffic problem like we have. He commented he did not think apartments was a proper thing for Pointer Trail, and as far as cars, it is 2 ½ cars per apartment, and that is the deal, it would not be 60 to 80 cars, it would be 2 ½ per apartment.

Next to address the commission was Ralph Scott, 1508 North 11th Street. Mr. Scott commented the reason he lives in Van Buren is on account of apartment complexes. He went on to say he owned property in Ft. Smith, and an apartment complex went up next to this property, and while it was a beautiful complex the first year, the second year they couldn't keep it rented, so they started renting it through HUD program. He commented this filled the complex up, but the police were there almost every night. Mr. Scott commented fortunately he was able to move, and they came to Van Buren. He is hopeful they don't have to move again. Mr. Scott respectfully asked the commission to deny this rezoning request.

At this time Chairman asked if anyone had any other comments to add to this public hearing. Mr. Dibble then asked John Rupe, Jr. if he had anything to add. Mr. Rupe commented he would like to thank the commission for the opportunity to come and present this plan and he thanked the city for listening and expressing their concern. He commented he thought it was awesome to have a city that is willing to stand up for what they believe in and voice what their concerns are. Mr. Rupe commented he noticed the traffic problem on Pointer Trail, and that this was an issue before he started this development. He also commented that they were hopeful when they put the development in, the city would be able to increase its tax base to hopefully have the funds at some point to address Pointer Trail. He commented that the city has an opportunity to grow and grow wisely. Mr. Dibble commented that Pointer Trail has been in desperate need of improvement for a while, and it is on the Master Street Plan to be upgraded. He also commented traffic in the Legacy neighborhood is a law enforcement issue and has nothing to do with this development at this moment. He then commented that the water and sewer infrastructure are sufficient to support this project. Alice Medlock asked how long it would be before Pointer Trail would be widened, to which Mr. Dibble responded that was up to City Council, as Planning Commission can make recommendations but the decision is for City Council to make. Chairman Dibble commented the commission does not hold any purse strings. He then commented that the state highway department is doing a study that includes an interchange in this area, and that study could take up to a year. He also commented adding to the tax base would help, along with this study to maybe bring the city closer to addressing these issues.

After more discussion, Chairman Dibble commented the commission had a request for a rezoning in front of them, and they needed to act on it one way or another. He then asked for a motion. Co-chairman Philip Bagby commented he would like to give his analysis before a motion was made. Mr. Bagby commented the commission had been asked to do a rezoning. Current zoning of the property being C-2, the developer has the right to put whatever they want on that property that is commercial. Mr. Bagby then commented when he walked into the meeting this evening, he felt very strongly that whatever the developer wanted to do, as much as they have invested in Van Buren and continue to invest in Van Buren, he was behind them. Mr. Bagby commented as a lawyer the way he looks at this is what is the evidence and what is the proof. If the request is to change zoning, the standard the commission has to live by is arbitrary and capricious. If the commission makes a decision without any backup behind it, then the commission will

have a problem and City Council will also have a problem. Mr. Bagby went on to say as far as he has heard the values of property will go down, or that is what a realtor and appraiser said, and that these are the people that live there, and if that is what they want and are willing to take that gamble to have a commercial establishment in there than to have an apartment complex, it is their money they are gambling. Philip Bagby went on to comment these people signed a petition, and got people to speak on their behalf, and that they were gambling their money. Mr. Bagby commented that was the proof the commission heard and based upon that proof, he made a motion to deny this rezone request. The motion was given a second by John Symonds, and this motion carried with a vote of 4 to 2 with one abstaining from the vote. Sue Moore, Philip Bagby, Jay White and John Symonds voted to deny the request, Andy Dibble and Mark Evans voted against the denial, and Woody Nelson abstained from the vote. Philip Bagby commented they have a right to appeal this to the City Council.

The next item on the agenda was a rezone request by Van Buren Housing Authority for property located from 2200-2500 Kibler Road to rezone property from C-2 to R-3, represented by Jim Petty of Strategic Realty. This request is to construct an assisted living community. After some discussion, a motion was made by John Symonds to approve, seconded by Sue Moore, and the motion carried a unanimous decision. This rezone will be recommended to the City Council.

The next item on the agenda was a variance request by Garry E. Floyd to change a side yard setback from the required 7.5 feet to 5 feet on property located at 31 Alpine Drive in order to construct a garage. The plot plan showed the proposed structure to be a 2-car carport, so Mark Evans verified that the request was, in fact, for a two-car garage. Sue Moore asked Mr. Floyd if he would be removing the existing carport on the side of the house in the photo that accompanied the request packet, and Mr. Floyd said yes. After some discussion, Brad Baldwin commented the question would be can fire protection get around this to reach the back of Mr. Floyd's home and the back of his neighbor's home. Mark Evans commented that there also has to be a hardship in order to justify a variance on property. Mr. Evans also commented that there is enough room to build a garage, maybe not as big as he would like, but there is enough room for one. Philip Bagby addressed Fire Marshal James Griffin who was present at the meeting, and asked him to take a look at the photo of the property and give his opinion on the matter. James Griffin commented the problem for the fire department is exposure, and this is the reason for the setbacks. Mr. Griffin commented the fire department wouldn't take a truck back behind these structures. The fire department would be on foot with hoses and appliances which is why their main concern is exposure. Philip Bagby commented there is a 7.5' setback right now, if they changed that to 5 feet, would they be able to get to the back of the building, to which Fire Marshal Griffin replied the fire department would do what they had to do. Mark Evans commented the other issue would be if Mr. Floyd builds to his setback the neighbor would not be able to build to his setback because the structures would be too close together. Andrew Dibble pointed out if Mr. Floyd built this garage, the existing chain link fence that is in the back would then be an issue, as fire fighters would have a six-foot chain link fence to climb, as there were no gates for them to go through. John Symonds commented the garage with dimensions as is, and the fence that

is already in place not being removed, in his opinion, does not allow for fire protection to get around the structure. Mark Evans commented Mr. Floyd could still build a 20 foot garage. Mark Evans commented the setback is 7.5 feet, and there is a reason for this, and he felt it needed to be maintained. He also commented he knew Mr. Floyd wanted to build a 22 foot garage, but the issue was only two (2) feet, and this was a preference, not a hardship, and a variance is for a hardship, such as a house that was constructed over a setback. At this time John Symonds made a motion to deny this variance request. Woody Nelson seconded the motion. The vote was six (6) for the motion to deny, and one (1) against, with Sue Moore voting against the variance denial.

A tabled rezone request for property located at 11 North 3rd Street, to rezone this property from I-2 to C-2 for the purpose of constructing office space was next for review. This rezone request was represented by Walter Goff for Super Check, LLC. After some discussion, this rezone was given a motion of approval by Philip Bagby, and seconded by Woody Nelson. The motion carried with a unanimous decision, and will be recommended to the City Council.

**BOARD OF ADJUSTMENTS ADJOURNS
PLANNING COMMISSION RECONVENES:**

Next was a public hearing to discuss and take input on City of Van Buren Master Street Plan. There was no public input on this plan. Chairman Dibble commented the Planning Commission working group identified some places that the state is also looking into as far as improvements, and the more money we can get the state to put into improvements the better. Mr. Dibble commented it would be a while before any improvements could be made. Al Prieur addressed the commission on this issue. Mr. Prieur commented the group that was at the meeting and turned away, in his opinion, a good thing for the city, would be the same group that will be back when traffic gets even worse, and the city tries to do improvement to the area they live in, like 11th Street. He commented one of the main needs of Van Buren is North-South roads. Mr. Prieur also commented the Master Street Plan was a good plan and a realistic plan. Brad Baldwin presented the master street plan map at this time with the recommendations that the working group added to the plan. After some discussion, the commission agreed to recommend this to the City Council.

Next public hearing was on input for sidewalks using the Master Sidewalk Map. Attached to these minutes is a list from 2007 for sidewalk projects that reflects what has been completed and what projects are next in line. Lonnie Myers addressed the commission on adding to sidewalk on West side of Van Buren High School on the North side of Pointer Trail from tennis courts to the West entrance of the school. Mr. Myers commented he was really pleased with the timely completion by the city of some very good projects. He also commented with the completion of the fine arts auditorium he feels the pedestrian traffic will increase. This suggestion he brought to the commission would help with this traffic. Philip Bagby asked Mr. Myers if he had a preference for the existing list, to which he felt the sidewalk for high school would be his priority, but he was speaking strictly for the school. Mr. Dibble commented the Hwy. 59@ I-40 was probably the priority, as you can see a beaten path due to the foot traffic in that area. The

commission agreed to add the suggestion from Lonnie Myers to the project list and keep the project list in its present order.

At 8:59 P.M. Sue Moore made a motion to adjourn, Philip Bagby seconded the motion, the motion carried a unanimous decision. This meeting was adjourned.

Andrew Dibble, Chairman

Cami L. Brown, Rec. Secretary