

Russellville Planning Commission Minutes

September 28, 2020 @ 5:30 p.m.

The Russellville Planning Commission held a virtual meeting on Monday, September 28, 2020 at 5:30 p.m.

Members Present

Chairman- Wendell Miller
Vice-Chairman Don Jacimore
Secretary Nathan Barber
Luke Duffield
Larry Smith
Cody Black
Shirley Hatley
Council Liaison Justin Keller
Justin Cothren

Also present: Mayor Richard Harris, City Attorney Trey Smith, City Planner Sara Jondahl, City Engineer Glenn Newman, Fire Marshal Richard Setian, Planner I Victoria Marchant, Flood Manager Ben Gray, Permit Clerk Kelsey Dinkel, Public Works Director Kenneth DuVall, Jim Lynch/City Corporation, Zane Bryson/City Corporation, Sara Hann, Jason Hann, Suzanne Alford Hodges, Lisa Huelle, Betsy McGuire, Mary Cahoon, David Garza, Ivory Pearson, Andy Rotenstreich, Sarah Keathly, Bennie Gil Tomlinson, Mark Anderson, Jo Anderson, Janna Martin, Joey McGee, Pastor Tyus New Prospect Church, Pam Teague, Mark Alderfer, Don Erwin, TJ Posey, Hans Stiriz, Morgan Barret, Gregg Long, Ralph Wyngaren, Cathy Collins, Morgan Barret, Jennifer Capps, Blake Eddins, Terry Green, Jonathan Terrell, Casey Castleberry, Diane Roach, Carolyn McLellan, Marie W., Robin Thomas, Mark Tripp, Debbie Williams, Randy Hendricks, Richard Peavy Sr., David Ivy, Jennifer Ulich

Welcome Visitors

The First Order of Business is a request to review and approve the minutes of the Planning Commission August 22, 2020 Meeting.

Commissioner Duffield made the motion to approve the minutes as written. The motion was seconded by Commissioner Hatley and approved unanimously.

The Second Order of Business an application for a Special Use Permit to allow issuance of a Tower Use Permit for a 100' monopole commercial communication tower located at 634 W 5th Street in an R-3. Submitted by Cellco Partnership d/b/a Verizon Wireless on behalf of Bridge

Church. (SP.20.04.181) Item 5 was requested to be TABLED at the April, May, June, July, and August meetings.

City Planner Jondahl said this is an application being brought to the Planning Commission to construct a 100' Monopole Commercial Communication Tower by Verizon Wireless. It is proposed to be located at NE Corner West 5th Street and S Houston Place by James School Park. The existing conditions are that this is a vacant Property in a R3 zone adjacent to James School Park. All adjacent properties including the park are zoned R3. The property is located in the Glenwood Neighborhood. Within this district you see a mixture of residential from Single Family to small apartment type uses, along with residential secondary uses, such as several City Parks, the Russellville Intermediate and Middle School Campus, Churches, and is located adjacent to the Old Town Historic Neighborhood. City Planner Jondahl said there have been several meetings on this application and previous questions asked to us were about alternate locations. She said Verizon has provided information about the alternate locations, but said they did not see any information from Verizon on was the skate park location to the East of Kroger that was requested by one of the commissioners. City Planner Jondahl said she wanted to discuss a few items that staff had found as a result of the hearing that took place on May 26, 2020. The first being that initially it was thought that the setbacks were met because they did not count the Right-of-Way but the intent of the Zoning Code is that the Right-of-Way is excluded from the calculations because for safety measures they want the fall zone for any towers to be within the bounds of the property and not to fall onto adjacent properties—which is the half of the height of the pole distance from the property lines. The setback from 5th Street is not met in that it is only 30' instead of 50' from the Right-of-Way which means that the pole could potentially fall into the Right-of-Way and impact vehicles or pedestrians in that area. City Planner Jondahl says that was the intent of the Zoning Code is to ensure that the bounds of the fall area for safety concerns are met entirely in the property. The applicant stated at the last meeting—on May 25 (actually May 26)—where we actually heard testimony that this is a capacity site. This was item number two on the staff report that recommended denial based on capacity, the City Attorney did research based on comments that staff received late Friday night from Verizon and found that according FCC Order 18-133, it prohibits any kind of capacity/coverage argument that the City may have. Although staff does not believe that adequate information has been shown to indicate limiting factors that render existing towers and structures unsuitable the City does not have authority to deny an application based on the provision of extra capacity required. FCC Order 18-133 has been upheld by the 9th circuit and the ruling came out August 12, 2020. The third item City Planner Jondahl addressed was that development standards for aesthetic reasons according to Article 3.18.3 (B). She said the James School Park neighborhood and the Old Town Historic Neighborhood are in this area and the proposed Commercial Communication Tower would not be compatible with the surrounding structures. If more stealth technology such as a fully enclosed single monopole were proposed, that may be something that is more aesthetically in line with the community, however that is not the proposal that Verizon provided staff.

It is staff's recommendation to deny the application based on the following findings: 1. The front setback is not met. Article 3.18.3 2) C excludes the Public Right of Way from the calculation of the setback therefore the setback distance of 30 feet from the property line is not sufficient; and 2. The Tower is not designed to be compatible with the existing structures and surroundings of the Old

Town Historic Neighborhood and the James School Neighborhood Community therefore is not in compliance with Article 3.18.3 3) B.

City Planner Jondahl said however, as staff they do feel they need to take into consideration that if they deny this that they will have no authority to place any special conditions on a cell tower. She said she did want to provide a way for the Planning Commissioners to either recommend denial or after they hear from Verizon and citizens, if the Commissioners felt they potentially wanted to have the authority to place conditions on this, they could potentially approve the application with the conditions. Potential conditions listed included 1. Make it a proposed monopole construction that should be fully enclosed, so none of the protruding arms would not be permitted. 2. Make the applicant apply for a variance to the front setback, because that would still not be met. City Planner Jondahl said these were potential conditions for the Commissioners to consider. She said staff does recommend denial of the application but that if the Commissioners chose to approve with conditions, there were some conditions that maybe they could consider.

Andy Rotenstreich on behalf of Verizon wireless thanked City Planner Jondahl for letting them know about the capacity versus coverage issue and stated that he was taking that off the table, because it sounded like staff was taking that off the table. City Planner Jondahl confirmed that staff was taking that argument off the table. Mr. Rotenstreich introduced himself as being there on behalf of Verizon wireless and identified Gil Thomlinson who is a Radio Frequency (RF) Engineer for Verizon and was on the call mainly to discuss the capacity versus coverage issue that staff was okay with. Mr. Rotenstreich started with a little history of who they are, what they are doing, and why they got here. Verizon wireless is a cell phone company whose job is to build out its network so its customers can use its devices and nowadays it is not just cell phones, it is iPads, streaming the internet, and laptops. Especially now in the last six months it has started to become a primary source for folks that are working from home due to COVID-19, students that are studying from home and not going back to school. He said it is becoming more important for Verizon to make sure their network is working properly. Mr. Rotenstreich said this site is a very important site for them because it covers two things for them, it helps Verizon with the coverage in the area as well as their capacity issues. He explained that Verizon has sites surrounding this area but because of all the new usage on it now, they are overloaded so a new tower is needed in order to relieve the other towers and if they did not do that it would cause dropped calls, slow internet speed, 911 calls would not get through—which 80% of calls to 911 now days come through a cell phones. Mr. Rotenstreich said this is a very important site for Verizon to ensure they are maintaining their coverage in that area of Russellville. The first thing Verizon does when it realizes it needs coverage in an area, is go in and look for existing cell towers—towers that are already there that they can hang their antennas on, it is much quicker and cheaper for them to use space on someone else's tower to get their signal in air. Mr. Rotenstreich said Verizon looked for existing cell towers but there are none in this area. He shared his screen to show the aerial view of the search area that Verizon was limited to. He said they do not just say “hey look we would love a tower in this area” and then just go find a place and set it down, that is not how this works based on their technology and the city ordinance. In order to get the coverage that Verizon needs to fix the capacity and coverage issues, they have to be located somewhere in the search area. He pointed out that the search area was essentially limited to one property owner, Russellville Middle School (Russellville School District). Mr. Rotenstreich said

they approached the school district months ago and went back and forth for months trying to find a location on school property where they could place the tower. He said when the school finally came back to them after months of talking—he then presented an email from the school district—the school district said “Unfortunately with the space that is requested and the length of the leave our administration has decided not to move forward with the agreement with Verizon.” Mr. Rotenstreich said that became a problem because they couldn’t build a tower or find an existing tower in the area and because there is no existing tower, their only option was to build a new one. He said with the school board not letting them build a new one because they would have to have a lease with them and that lead them to an alternative. He pointed out on his presentation that if you looked at the surrounding area it is all residential. He then illustrated where the proposed location is and showed how they were trying to get as close to the search area as possible. He then said there is an existing tower not shown on his map that they looked at trying to collocate on. Mr. Rotenstreich then began a presentation. He showed why they needed the tower, which had been stated earlier. He said the other tower is a CenturyLink tower. He showed an engineering map that showed Verizon’s proposed location and other existing Verizon tower sites on different towers. Mr. Rotenstreich pointed out on the map that the CenturyLink option is too far out to the north and east so it does not relieve their capacity issue from the site to the west. It offloads too much from the site to the north—the University site—which is the least overloaded of these four and because it is to the east of the desired area it will not sufficiently offload the tower on Skyline Drive. So the existing CenturyLink site—which they would love to get in on because it is quicker and cheaper—will not work for them, this is why Verizon cannot use the CenturyLink site. Mr. Rotenstreich pulled up a coverage map to show why the site is needed. He showed the four towers Verizon is currently on which were surrounded by the red coverage, he explained that on the illustration the red and yellow coverage is what they are trying to achieve. The red is in building coverage and the yellow is referred to as in vehicle coverage—meaning your phone may work in a car but not necessarily in a building—he pointed out the third color (blue) is what they are trying to avoid. He said this is their 700 megahertz band, and this is the coverage they are trying to get. Mr. Rotenstreich then pulled up another coverage map showing what the coverage would look like if they were allowed to turn on this site. He then showed another coverage map illustrating a high frequency band that Verizon also operates on, showing the same sites contrasting the current coverage to the proposed coverage. Mr. Rotenstreich said Verizon could not fill that gap with existing towers (the CenturyLink site), so their only alternative was to go back and look for the school which said they would not give them a site on their property. So now Verizon has found a site on a church property, with a willing land owner, and one of the only available properties that they can use because everything else is a residence. Mr. Rotenstreich then began addressing the setback issue brought up by staff. He said Verizon is okay with the condition—if they are recommended approval—that they will go get a variance from the Board of Adjustment. He said that is a fair request and they are happy to do that. He said Verizon has hardships they can show for why they cannot meet the setback, the bottom line issue being that they are 25’—or 30’ as City Planner Jondahl pointed out—from the property line and they need to be 50’. Mr. Rotenstreich then presented a Fall Zone letter—City Planner Jondahl mentioned that the Ordinance requires a fall zone of any tower to be within the parent tract—that shows the tower will be designed to meet the fall zone the City Planner is requesting. The letter is from Heritage Engineering and they are saying they are going to design this tower—the proposed 100’

monopole—to have a 25’ fall zone to keep the tower within the parent tract. Mr. Rotenstreich reiterated that the tower will be designed to meet the fall zone. He then began addressing staff’s issue that the tower was not compatible with the surrounding neighborhood. He said Verizon is offering up a monopole tower, which is the single pole design. He then showed an illustration of the pole, reiterating that it is a single pole that does not have the big guide wires or the big three legged lattice structure. It is a single pole design with antennas on top. Mr. Rotenstreich said this is the least obtrusive design that Verizon has, and that is what they are proposing because of where they are. He said they are also not asking for any more height than they need, they need 100’ to get the coverage that he showed on the maps and that is all they are asking for. Mr. Rotenstreich asked to look at what is compatible with surrounding neighborhoods, this is a pole because it is only 100’ tall the FAA is not requiring that they put a light on top of the tower so it will not be lit. He said there will be no lights, no noise, no dust, no odor, no fumes, and no traffic with the tower. He said this is about as compatible with any other design as you can get. Mr. Rotenstreich said Verizon would contend that it is compatible with most any use, it is a pole and they cannot hide the fact that it is a pole but it will be surrounded by some trees based on the distances and how far away you are. There will be a fence around the compound that will be locked and gated. He said they think they meet the compatibility as much as they can. Mr. Rotenstreich wanted to address some concerns about safety, he said the fall zone letter that he showed solved that issue with the way that the tower is going to be designed. He said there have been some questions about property value and said that Verizon solicited an MAI certified appraiser to do a report for this site. The appraiser’s conclusion after going out there was “In [his] judgement, the proposed monopole structure will be compatible with existing land uses in the subject neighborhood and we do not believe nearby homes or properties will suffer any measurable impact in the form of lower values or decreased marketability.” Mr. Rotenstreich asked how the appraiser came up with that statement. He said this appraiser went around in Pope County to other towers—he showed a map of one in Russellville in Pope County, a 300’ lattice tower, two across from the tower went up for sale and one (93 Dug Road) sold for \$93,000 only on the market for 65 days. He said “the agent representing the buyer said she helped her granddaughter purchase the property and that the nearby tower had no influence on the purchase or price.” Mr. Rotenstreich then showed an image of this tower. He then showed another tower in Pope County a 329’ lattice tower on Bells Chapel Road, built in 2000 a house sold across the road in July of this year for \$141,900 at 91% of the list price. He then showed an image with the tower in proximity to the home. Mr. Rotenstreich said looking at examples in Pope County there is no evidence that property values will be negatively affected by the cell tower. He then showed another example in Pope County of a 124’ monopole and its proximity to a recent home sale and said there is no evidence that the price was lower because of the tower. Mr. Rotenstreich said with that said Verizon will certainly agree to the condition that they get a variance—they think they meet the requirements and that Federal Law will give them that—and that he would be happy to try to answer any questions and that he would like to hear some opposition and be able to respond.

Don Erwin thanked the Planning Commission for the privilege to make a statement regarding the Tower Use Permit request by Verizon Incorporated to erect a 10-story monopole at 634 W 5th Street. He said he was grateful that Verizon is one of the four providers of wireless communications services in the community, the others being AT&T, Sprint, and T-Mobile. They provide an essential service for the community and the community benefits from the competition between these

providers. He said they should keep in mind, however, that these providers are not non-profit entities and they are not benevolent agencies. In the arena of their competitive industry it should be understood that they will seek for every opportunity to promote their gain. It should be understood that they will seek to exploit every loophole to secure a prime position in the market. It should be understood that they will be aggressive in protecting their investment in providing services. For these reasons, their engineering presentation should be validated by third party expert consultation. Mr. Erwin said he says all that to underscore the fact that they should not let Verizon drive this conversation and they should push back against Verizon's request on the basis of substantial evidence. There are two substantial evidence arguments in opposition to Verizon's permit request. 1. The site for the tower is out of compliance with the setback requirements. 2. The tower as configured is not in compliance with aesthetic considerations. Mr. Erwin quoted the State of Arkansas Standard on Public Opinion in Zoning Cases saying, "Aesthetic impacts may be considered and can constitute substantial evidence." The aesthetic considerations are four-fold: 1. The sanctity of the residences and occupants immediately adjacent to the tower. 2. The integrity of the public park directly across the street from the site. 3. The character of the Old Town Historic Neighborhood directly to the east of Glenwood. 4. The intentions of the ReImagine Russellville 2040 project, which foresees the Glenwood area being residential. Mr. Erwin said to keep in mind that aesthetically a 10-story monopole is the visual equivalent of a 20th century industrial smokestack. It poses a perceived and actual threat—in the case of a collapse—to public safety. He said there are civil rights considerations, Verizon stated that their first choice for a tower would have been in the Russellville Middle School site in the Deer Run residential area. That area is their stated reference point for the service they seek to provide. Mr. Erwin asked why Verizon was not seeking a special permit in the Deer Run residential area? Why are they pursuing a special permit in the James School Park area? He said this situation is right for a Federal discrimination lawsuit against the City and Verizon. Mr. Erwin urged the Planning Commissioners in the interest of their neighbors and the city to vote against Verizon's request for a tower use permit at 634 W 5th Street.

Suzanne Alford-Hodges said she was currently at the James School Park area with some of her neighbors and behind them was the proposed site for the tower. She said that she is a resident of the Old Town neighborhood on Commerce and that she also serves as a member of the Russellville Historic District Commission. She thanked the Commission for their attention to their opposition. She said with the COVID-19 crisis our lives have been disrupted and our democratic process. However, she said their neighborhood has experienced some unexpected benefits, along with learning about cell tower legislation and the negatives for neighbors, meanwhile existing friendships between their neighbors have been strengthened. She said they have organized outdoors and electronically, they have shared histories of period homes lost to urban renewal or erased for parking lots, some of them learned more about significant historic buildings like James School—which at one time stood in James School park during segregation and was the only school for African American children between Morrilton and Fort Smith. Close by and still standing is the Nationally Registered, Latimore Tourist Home listed in the 1930's Green Book, finally being considered for restoration and, meanwhile, next door the Old Town neighborhood is at the point of becoming a fully registered Historic District. Ms. Alford-Hodges asked a series of questions. Could it be that certain neighborhoods are targeted by cell tower companies because they do not look like they would fight back? What do the church property owners of the proposed location have to say about their

neighbor's opposition to their leasing or selling a portion of their property to Verizon? She asked if the previous question was irrelevant. Could it be that areas with modest homes—Old Town and James School Park neighborhoods—along with one of the busiest city parks in town indicate that residents would not protest a tower looming over their neighborhoods? Could it be that a mix of well cared for historic homes along with next door ill managed rental properties indicate too few organized homeowners to protest? There are not. Ms. Alford-Hodges said she values City codes and considers Special Use Permits red flags that something may not be good for the health, safety, and welfare of the City. Why does Russellville not require—as some cities require—a public hearing for Special Use Permits? Is Verizon's application for a Special Use Permit on file with its appraisal of the effect on their neighborhood and their City Park, is this public information?

Sarah Hann said the proposed cell tower would be less than a block from her house, so she is directly impacted by it. She said the residents of their neighborhood and the residents of Russellville do not want this cell tower. Mrs. Hann said in her opinion what Verizon is asking for is unprecedented. Not only do they want to put the tower in a residential zone, but they have chosen a lot that is too small next to a historic public park. She said that City Planner Jondahl already shared about how the tower does not meet the setback and said that she would protest that in some of the other areas Mr. Rotenstreich showed the homes and the properties are more spread out and in the historic district their homes sit close to the property lines. Mrs. Hann said she knows he is talking about the safety and how they designed the pole to break at a different point but that they cannot guarantee what will happen in a storm and that we do get storms in this area. She said if the cell tower should fall in its entirety, it could fall on top of three separate residences. She said the lot is entirely too small and that it is unacceptable. As far as the property value, all of the properties that Mr. Rotenstreich showed were in more spread out areas, she said in this scenario they are talking about a pole sitting on a lot that is smaller than normal. She explained that the lots in their neighborhood are smaller—only around 80'x120'—and that it is a more densely populated area and she believes that the property values (including hers) would be directly affected. Mrs. Hann said she did not know about the validity of Mr. Rotenstreich's study but urged everyone to ask themselves if they came to purchase a home and walked out of the front door and saw a tower would they want to buy that home. She said she thinks they would not and that many people would not want to buy a home with a cell phone tower that close. Mrs. Hann said that the tower is 100' tall and there are no structures within their neighborhood that even come close to that height, and that the tower could not be hidden, no matter if they have it enclosed or not. She said that they are talking about a very large, very tall industrial structure that they cannot obscure. The closest thing in height would be the Glenwood house which is only five stories and this cell tower would be the equivalent to a 10-story building. Mrs. Hann said Verizon is an outside company that does not know Russellville and she does not believe they fully understand the history of James Park and what it means to this community. She does not think they truly understand and want to meet the citizens' concerns. Mrs. Hann said allowing this would set a horrible precedence for what the City will allow in the future and she believes it would drive a wedge of division in the community, the repercussions of which may have lasting effects. She asked that the Commissioners please vote against this Special Use Permit. She said that she cannot solve Verizon's problem of how to have a better coverage area, but she knows the proposal is bad for the City and that it will cause many problems for the future.

Jason Hann had a question for Verizon, whenever they looked at alternate sites, when they were looking at commercial properties did they take into account the fact that they could make the pole 50' taller and that additional height would mitigate some of the loss in the signal?

Lisa Huelle said thank you for the opportunity to speak and said she lives about a block and a half from the proposed site. She said they have been working on their house—it celebrated its 100th birthday this year—and doing some updating and one of the things they have been talking about doing is putting a back deck on their house. By putting on a back deck, they would be hiring local construction people to put it on. She said if they go out to their back deck and all they can see is a big cell tower, she is not sure if they are going to put that deck on. Ms. Huelle said when Mr. Rotenstreich said that it would not impact the property values, yes it would because she would not invest in her house like she would have if the tower was not there. Also the places where they showed houses not being impacted—according to Mr. Rotenstreich—by towers were all rural areas and this is not a rural area, they are right in the middle of town, in the downtown area. She said the homes that Mr. Rotenstreich showed were not 100 year old houses like hers. Ms. Huelle said she gets the feeling that Verizon kept delaying this every month hoping that they would lose their voices. She said they have not lost their voice, they are here and they do not want the cell tower in their neighborhood.

Mary Cohoon said thank you for the opportunity to provide community input. She said this issue is important to all of Russellville's aging housing areas and subdivisions. She lives in an aging subdivision that was built in the 1960's and her house is 54 years old. Ms. Cohoon said if you agree that a healthy town remembers and nurtures its inner city housing areas as it grows outwardly then consider what this nurturing means. For starters, you do not start nibbling away at the area zoning designation and code enforcement, these help give a neighborhood stability and encourage home ownership. She continued that it is well known that when a high percentage of an area is residents own their homes, it contributes to neighborhood stability. Ms. Cohoon said this proposed cell tower is a commercial use, and the company and landowner will profit from its installation and it will not enhance the livability or stability of the area. She asked that the Commissioners please support the areas residents that are putting their money and elbow grease into upgrading and maintaining their property, and require Verizon to find a more suitable location for their tower if they consider it to be vital to their operation.

Ivory Pearson said she lives in the Independence neighborhood and she has been in her house for 54 years. She said she does not want to look out of her back door and see a 100' cell tower. Located right across from James Park where they have a lot of family reunions and there are a lot of people at this park probably more so than any other park in the City. She said she does not want to see the cell tower across from their park and their homes.

Sarah Keathley said she did not plan on speaking on this application, but she said she lives in the Old Town neighborhood. She said her house is almost 100 years old and the park, all these residents, and this neighborhood are very special. She said she is totally against the cell tower.

Janna Martin said she lives about a block away from the proposed site. She said she was right across the street from the proposed cell tower location with some fellow residents. She said that the maps Verizon provided were not going to capture that everyday there are people in the park and the

disruption that this would cause the old homes. Ms. Martin said this is not good for the community and she asked that the Commissioners deny this application.

Pastor Tyus from New Prospect church said he believes that everyone has expressed their sentiments for themselves. He said he was concerned for the wellbeing and welfare of the people in the community and he supports their decision.

Randy Hendrix said what Verizon does not understand is if you dig and dig long enough you will always find something that is right for you. He said what is right for the neighborhood is for Verizon not to be there. He said they know what Verizon is about, he said they know Verizon has no face, no soul, and no history like the history they are talking about in their community. Mr. Hendrix said you cannot put a price on the way you feel, and that Verizon cannot send someone out to discover how they feel. He said no one has been around and asked them anything. He said Verizon is going on conclusions and going on determining things, when Verizon can give these people money and they can determine anything they want to. He said they are talking about their history and their kids playing in this park, they are talking about the future. Mr. Hendrix said everything that is good always ends up bad and if they think it is good to put a 100' cell tower in a neighborhood—they're not as country as you think, he said they love being the simple people that they are, but don't take them for granted and think that they are dummies that are just going to lay back and let Verizon do this. He said it is not on the community, because if it was up to them, there would be no conversation. He said that they are counting on the City Council, he said they are the people that they voted in to fight people like Verizon. He told them not to be scared because the citizens are behind them.

Richard Peevy Senior said he has been in the City for 45 years and that he thinks that he does not see why they would put a tower this close to a mountain because they always put a tower on top of a mountain so that they can get better signal. He said that in this valley he says no, and do not mess up their park.

Mayor Harris pointed out to the Planning Commission that Reverend Tyus contacted him that afternoon in regards to their consideration of donating the Latimore House to the City for preservation. Mayor Harris said if they make that work, the location they are looking to move the house—which is on the National Register—is to the James Park area. He said in fact he was looking at a video of some citizens standing in the area where the City is looking to put that house which would be right across the street from the proposed cell tower. Mayor Harris said he thinks it should be considered by the Planning Commission that as they move forward in trying to preserve that neighborhood and preserving the City's historic landmarks in the community they want to make sure that they are not doing anything within the community to disservice or diminish the preservation of those. He reiterated that right across the street from where that tower is proposed is where they are looking to potentially move the Latimore House.

Betsy McGuire said everyone has said everything so extremely well and there was not much she could add but she did want to say that the neighborhood residents of both the Old Town Neighborhood and the James School Park Neighborhood have demonstrated how their ongoing efforts to revitalize these areas are huge to the revitalization and ongoing welfare of the core of the community. She said the construction of a 100' monopole cell tower—the equivalent to a 10 story

smoke stack as Don Erwin pointed out—will do nothing but undermine these ongoing efforts in both these neighborhoods and on behalf of the City as well. Mrs. McGuire said this is an economic and community development issue and the citizens have spoken about what their concerns are in regards to this.

Andy Rotenstreich said he would respond to the questions that were asked and he would be happy to try to answer anything else. He said he took some notes while citizens were speaking and that he was going to try to address as much as he could. Mr. Rotenstreich said he understands everyone's frustration and said certainly Verizon is not trying to come in and disrupt a city or a neighborhood, this is not their intent. Their intent is to provide Russellville with the best communications that they can, just like they do in many of the neighborhoods of Russellville and surrounding areas, they are trying to do that here. Mr. Rotenstreich said to say this is a civil rights issue, they are trying to get better coverage into these areas and in order to get that coverage they have to have the infrastructure in that area. Verizon cannot put the infrastructure somewhere else and get the coverage that they are trying to get. They are trying to make this part of Russellville have the same communications as other parts of Russellville. Mr. Rotenstreich said in regards to the questions about historic properties, in order to build a cell tower anywhere in the United States they have to get permission from various Federal and State agencies, one of which being every state's State Historic Preservation Office (SHPO). In Arkansas the SPHO is part of the Department of Heritage and it is the Arkansas Historic Preservation Program. Mr. Rotenstreich then shared a letter that Verizon received from the Arkansas Historic Preservation Program when they originally looked at this site. He said in regards to this particular location with the proposed tower at 100' plus a 10' lightning rod the letter said based on the information provided and the results of the cultural resources survey that they did, the state agency found no historic properties affected by the proposed tower. He said he wanted to make sure that the citizens know that Verizon did not just come in and say this is a great place and they do not care what it looks like, he said these are the types of state agencies that they have to get permission from which they have done. He then addressed the concern of putting this tower next to this particular neighborhood and not putting it in other neighborhoods. Mr. Rotenstreich then showed an image of a 160' tower in the Norristown Residential Area in Skyline Drive. He said this is just under two miles away from where they are looking now, it is west of the proposed site and was shown on the colored map of current towers reference earlier in the meeting. Mr. Rotenstreich said it is an existing monopole tower and then pointed out another tower right next to it. He then showed images of the towers in reference to homes in the Norristown area. He said to say they are trying to place it in a lower income area or make it a civil rights issue, is just not the case. Mr. Rotenstreich also pointed to—on the aesthetics side—a 100' tower also on Skyline Drive (which is one mile south of the proposed location) which is surrounded by residences. He showed an image of this tower and said it is a self-support tower. He pointed out all the equipment at the bottom of the photo and noted how it is not screened like how they are planning on screening the proposed tower. Mr. Rotenstreich then showed a photo of the same tower with a residence right next door to it. He said they are going to do what they can to make the proposed tower a lot prettier than the one in the photos he was sharing. He said they are going to make it a single pole design and put proper fencing around it to ensure it is as compatible as they can make it with the goal of getting the signal into the areas they need to get the signal into. Mr. Rotenstreich said Mrs. McGuire mentioned revitalization of a community and he said part of revitalization is making sure that you have the basic utilities, and that is what this is, it is

phone service. He said landlines eventually are going away and if you do not have wireless coverage in your neighborhood you are not going to have phone service. Verizon is trying to make sure they are getting the right phone service to all parts of Russellville. Mr. Rotenstreich said Jason Hann asked a question—which he thought was a good question and thanked him for asking—about looking to place towers in alternate areas that are commercial so that they could build the tower higher. Mr. Rotenstreich said if they were just looking at coverage issues that may work in this case and they certainly looked at that, however the problem here is that they have a capacity and coverage issue. So in order to eliminate both of those issues, they needed the tower at 100' tall and they needed it where they are proposing it. Mr. Rotenstreich said they are not making up this location, the signal dictates where the sites need to be and where the infrastructure needs to be, that is how they got to this location. He said when they could not get the school board to let them on their property, they had no alternative but to look outside, and when they looked outside this was the closest they could get to the search area with a willing land owner with a vacant piece of property that was not where a house was located. Mr. Rotenstreich said that in regards to the aesthetics discussion that Don Erwin had he would point Mr. Erwin and others to the Federal Law on this issue. He said they have been given a set of rules by the City of Russellville and they followed those rules, they can meet the setback requirements after they get a variance which they will show meets the ordinance. Verizon has the tower designed to stay within the parent tract to meet the fall zone, they are building the least visually obtrusive tower that they can in order to make sure they are getting the coverage to this part of Russellville along with other parts where the other towers are. Mr. Rotenstreich then said he wanted to make sure to show these and put these in the record, he said he appreciates everyone's comments and they are certainly not trying to do something that they would not do anywhere in any other town to try and get coverage in this area. Verizon thinks they meet the intent of the ordinance and satisfied the Federal and State requirements and they would ask that the Planning Commission gives a positive recommendation to the City Council for the Special Use Permit.

Betsy McGuire asked if she could address the Section 106 review letter that was shown. City Planner Jondahl said she could. Mrs. McGuire said she believes the date on the letter presented by Mr. Rotenstreich was October of 2019 and since that time the Arkansas Historic Preservation Program has become more aware of the ongoing discussion about the restoration of the Latimore Tourist Home. She also state since that time as well the City of Russellville has received a grant for the architectural resources survey of the Old Town neighborhood district, when they spoke with the representative from AHPP they said that had that application come forth regarding the Section 106 review they probably would have sent a different letter because of the ongoing revitalization and restoration efforts that they were not previously aware of. She said she just wanted everyone to be aware of that.

City Planner Jondahl asked Mr. Rotenstreich a question saying that he pointed out that there is a lightning rod on top of the monopole. She said the maximum height in a residential district is 100' maximum. City Planner Jondahl asked if the pole was a 90' pole with a 10' lightning rod or if it is a 100' pole with a 10' lightning rod? She said if the second option is the case, then there is a variance requirement that is going to be needed to the height because the maximum height allowed in a residential zone is 100'.

Mr. Rotenstreich said the way the ordinance reads it says the tower is supposed to be no more than 100' it does not include the appurtenances, he said they can certainly talk about the lightning rod and how tall it needs to be. He said that all towers have lightning rods on them for all the right reasons because they are the tallest structure in the area typically. Mr. Rotenstreich said they can certainly look at that and will include that in their variance request if required, but the way the ordinance was reading it was saying the tower not the appurtenances.

City Planner Jondahl said her understanding, and she may need the City Attorney to weigh in on this, is that it is a maximum of 100' in a residential zone. She quoted Article 3.18.3(1) (B) saying "WCF with Support Structures shall have a maximum height of 200 feet in industrial and agricultural zones, 150 feet in commercial zones, and 100 feet in residential zones." City Planner Jondahl asked the City Attorney if he knew or could confirm her understanding is correct that would be a maximum with all appurtenances in that residential zone.

City Attorney Smith said they would need to look to be sure but the way it reads it says that the tower shall adhere to as City Planner Jondahl quoted 100' in residential zones. He said he thinks that is the total height of everything on the tower that was his initial view on it. City Attorney Smith said he would be happy to look at it further.

Councilman Keller asked Mr. Rotenstreich when they are talking about it is not just coverage, but it is coverage and capacity for certain areas, which areas are the areas that are having problems with coverage and capacity that this would alleviate.

Mr. Rotenstreich said he would point to some additional information that had been provided to staff to point that out. He showed a slide listing reasons that Verizon needs the proposed site, the first being the purpose of this site is to offload existing sectors that cover the area, as well as to improve in-building coverage and improve speeds. Mr. Rotenstreich pointed to the second point which said the sector to the South, Russellville Paper Mill site is currently operating at over 105% of its target utilization. He then pointed to this site on a map stating that it is at 105% capacity for the area that it is covering. He went on to say the sector to the East is currently operating at over 145% of its target capacity. Once again he referenced the site on a map. Mr. Rotenstreich said the sector to the West, Russellville Skyline—the tower in the Norristown area—is currently operating at over 360% of its target utilization. Mr. Rotenstreich said three different sites the east, west, south sites—he then referenced the three sites on a map—are currently overloaded. Identifying the tower in the west in Norristown as being the most overloaded. He then illustrated how their proposed site would offload all three of those sectors and therefore meet the engineering needs to make sure that these towers do not get overloaded and when citizens need coverage and 911 services that they are not dropping calls and are able to connect as well. Mr. Rotenstreich said those are the reasons for the overload and specifics as to why and how much they are overloaded.

Councilman Keller asked over on Skyline it is currently at 360% capacity—he said he is not an engineer and he does not know the technical aspect of this and asked they forgive him of his questions—would it not make more sense to then put a pole where you are getting 360% capacity to alleviate that as opposed to putting it at this site.

Mr. Rotenstreich said that was a good question and it makes perfect sense, he said the ordinance requires they build as few towers as possible. In order to do that and follow the ordinance to build one site that offloads three instead of building three additional sites that is how they got to this area. Also due to the coverage issues shown earlier, Verizon ended up at this site.

Councilman Keller said he understands the citizen's feelings on this that there is a problem on Skyline, so they are going to put a tower at James Park. He said he completely and totally understands why they are upset about it. He said he is a non-voting member on this body but to him it seems like it would make more sense for them to find a work around in the rules to put something on Skyline to benefit those on Skyline, as opposed to putting something at James Park to benefit those on Skyline.

Mr. Rotenstreich said that it is only the signal issues to the east that they are trying to alleviate. He said that the signal dictates where they need to be vs Verizon picking an area and putting a tower there.

Councilman Keller stated that he believes there has to be another solution to take care of this overload problem with the signal in the east and that they could find another place to put this tower.

Don Erwin stated that Mr. Rotenstreich sounds like he is speaking as if Verizon is the sole provider in this area. We are not hearing from AT&T, Sprint, or T-Mobile and if they are having the same problems. And we are all suffering from the fact that none of us have the technical expertise to respond to what Andy Rotenstreich is presenting. We need a 3rd party consultation to validate and confirm the engineering points that he is presenting to us. He stated that he talked to Don Gale who is a professor at UCA. He was responsible for UCA implementation of a new cell phone system on their campus. He discovered that they can use micro towers situated around the campus that are non-intrusive, and virtually invisible and Andy is presenting one set of technology based upon a 100 ft tower, when there are other possibilities that need to be researched.

Diane Roach asked if Andy Rotenstreich could explain again why the school district turned the proposal.

Mr. Rotenstreich explained that he has an email from the school district that he could present. There were several locations with the school district that were brought up. Mr. Rotenstreich showed a map that showed that areas that Verizon had proposed to the school district. The email from the school district stated that they were not planning to move forward to allow Verizon to construct the tower on the property.

Lisa Huelle stated that Mr. Rotenstreich was indicating that this was a pressing issue that needed to be taken care of and constructed immediately. However, she added that she remembered in a previous meeting it was a project that wasn't going to be started or completed for 3-4 years. She also wasn't sure why Mr. Rotenstreich stated they wanted to "hide" the tower in the woods, but that they are ok putting it in a neighborhood and she had an issue with that. And lastly Lisa Huelle said that Mr. Rotenstreich mentioned adding this tower to a building down town but it was never discussed in detail and that there is now a whole new school board and maybe this should be brought to their attention again since it hasn't been discussed in over 2 years.

City Planner Sara Jondahl stated that we would allow the commissioners to ask questions and make comments.

Commissioner Luke Duffield asked on the study of other locations outside of your target area, one of them was the skate park and it was only going to be 95 feet because of the area. However, the commercial zoned space that is located near Kroger has some green space available. Commissioner Duffield asked if that location would possibly eliminate the over load issue to the east.

Mr. Rotenstreich, shared a map to demonstrate the areas that they took into consideration. He stated that that area is located in a flood zone. This area was also located too far north to help with the capacity and over load issue.

Commissioner Hatley reiterated that the citizens have spoken against this tower and that the other areas that were shown in the presentation were rural areas. She also stated that she believed there needed to be more research completed on this tower construction and other areas and resolutions needed to be considered and looked at.

Commissioner Black thanked Mr. Rotenstreich for speaking in front of the commissioners but stated that he believed the real-estate research that he did to demonstrate the property value of homes and areas located around other existing towers was a bit misleading. The examples were all located in more rural areas and this neighborhood in question was very unique with its historical presence. He also asked if there were any thoughts given to making the pole or tower a more esthetic use or appearance to community.

Mr. Rotenstreich stated that that was the reason for the monopole design. It will not be a three legged lattice design or have guide wires. In other areas, they have tried to disguise them as a tree, but this would not be in a wooded area and that they believed the tree design would look worse. They are willing to put up a privacy fence to hide the ground equipment. But this is the least intrusive design.

City Planner Sara Jondahl stated that after speaking with the City Attorney, they would not include the lightning rod as part of the structure. The structure itself would need to be 100 ft or less.

Commissioner Smith stated that Verizon has still not met the setback and that they will need to apply for a variance.

City Planner Sara Jondahl stated that it is staff's recommendation to deny the application based on the following findings: 1. the front setback is not met. Article 3.18.3 2) C excludes the Public Right of Way from the calculation of the setback therefore the setback distance of 30 feet from the property line is not sufficient; and 2. The Tower is not designed to be compatible with the existing structures and surroundings of the Old Town Historic Neighborhood and the James School Neighborhood Community therefore is not in compliance with Article 3.18.3 3 B. Also, Jondahl stated that if after discussion they want to recommend to City Council to approve with conditions that included the need for a variance and a special use permit that allows us to add strict stipulations.

Commissioner Keller asked if Verizon has thought about disguising this tower as a tree.

Mr. Rotenstreich stated that they did not consider the tree disguise since it is not in a wooded area and that also the branches would stop them from adding other carriers to the pole. The ordinance states

that they must allow co-location of other carriers so there would be no way that they could use the tree disguise due to the weight limit of the monopole.

Larry Smith asked how we can move this to the Council but also deny the item.

City Planner Jondahl stated that either way the vote lands, the decision is a just a recommendation to the City Council to deny or approve with conditions.

Commissioner Luke Duffield made a motion to deny based on staff's recommendation. Commissioner Smith seconded the motion and the motion was carried unanimously with Commissioner Barber abstaining.

The Third Order of Business a vacation of a 15-foot easement, located at 1310 Venus Drive. Submitted by Kathy Collins.

City Planner Jondahl explained that this staff report focuses on three items, 1. Public Trust; 2. Land Use Impacts; and 3. Public Benefits. Does the vacation impair circulation, access, utilities, open space, and/or views?

No, the easement was created for the purpose of allowing the location of utilities and the utility companies have all responded that there are no utilities currently in the area in question, and they have no objection to vacating the easement. Concurrently, there are no concerns. The impact is that the property owner has development rights over this area of the property, ensuring that the structure previously constructed is not located within an easement. There are still area requirements that prohibit the construction of any addition or new structure that will ensure that distances from property lines to the structures are maintained. And is there a public benefit? There is negligible benefit, if any, given that we are not currently utilizing this easement and as noted by the concurrence to close by utility companies there is not an identified need in the future.

City Planner Jondahl concluded that staff recommends forwarding this application to the City Council for approval to vacate the utility easement as a result of the findings listed as: There is not an impact to the public trust, land use impacts, and no adverse effects to the public benefit. There were no objections filed by any utility company, and lastly no current installations within the easement prohibiting the vacation of the easement.

Commissioner Smith made the motion to approve the minutes as written. The motion was seconded by Commissioner Hatley and approved unanimously.

The Fourth Order of Business is a vacation of two right-of-way, located in Brookview Estates. Submitted by Barrett & Associates on behalf of William Thornsberry.

This application is being brought to the Planning Commission to vacate S Tulsa and S Utah Ave south of 4th Street rights-of-way. This item was found during last month's meeting and had not been noted that the right-of-way had previously been vacated. Items to consider when vacating an easement are 1. Public Trust; 2. Land Use Impacts; and 3. Public Benefits.

1. Does this vacation impair circulation, access, utilities, open space, and/or views? No, these right-of-ways were created prior to the creation and construction of Brookview Estates phases I through

V. Brookview Estates Phase 1 and Phase IV were constructed in such a manner that did not include access to the existing rights-of-way for either S Tulsa or S Utah, although both of these subdivisions adjoin the existing rights-of-way for these streets. Since the rights-of-way were not included in previous connections to the south, vacating the right-of-ways would not impair circulation and would allow for development of this area in a manner consistent with the other phases of Brookview Estates.

2. What are the land use impacts regarding the vacation of the utility easement? The impact is that the property owner has development rights over this property, ensuring that the proposed new homes on lots 2, 3, and 6 of the proposed final plat of Brookview Estates Phase VI would be developed in similar fashion to the other lots in the subdivision. There are still area requirements that prohibit the construction of any addition or new structure that will ensure that distances from property lines to the structures are maintained.

3. What Public Benefit is received by vacating the easement? There is negligible benefit, if any, given that we are not currently utilizing this right of way and as noted by the concurrence to close by utility companies there is not an identified need in the future.

City Planner Jondahl concluded that it is staff's recommendation to forward this application to City Council for Approval to vacate the right-of-way for both S Tulsa and S Utah as a result of the findings below:

1. There is not an impact to the Public Trust, Land Use Impacts, and no adverse effects to the Public Benefit.
2. No objections filed by any utility company.
3. No current installations within the easement prohibiting the vacation of the easement.

Commissioner Lanier made the motion to approve the minutes as written. The motion was seconded by Commissioner Duffield and was approved with Commissioner Black abstaining.

The Fifth Order of Business is a final plat of Brookview Estates Phase VI. Submitted by Barrett & Associates on behalf of William Thornsberry.

City Planner Jondahl explained that the application is to finalize the preliminary plat for Brookview Estates Phase VI. Staff does know that there are outstanding items with this final plat but they do foresee those punch list items will be completed before it is taken to city council. There are a few items that we will require as part of the conditions, but the final plat substantially complies with the preliminary plat and it is staff's recommendation to forward this to city council for approval with the following conditions:

1. Existing right-of-way south of 4th street for South Tulsa and South Utah avenues shall be vacated prior to City Council approving the final plat.
2. ALL sidewalks must be located in the Public right-of-way.

3. Unless specifically engineered, all easements shall only be utility easements.
4. Property pins shall be located for each lot and property boundary.
5. Bill of assurance shall be submitted to staff for review and approval.
6. Performance bond for the improvements not yet complete shall be required prior to City Council approval.

As a result of the findings below:

1. The final plat substantially conforms to the preliminary plat.
2. Utilities have been installed

Dave Garza from Barrett & Associates explained that he has inherited this project from a different engineering firm and the developer was unable to get them back so he requested the assistance of Barrett & Associates. He added that Barrett & Associates uncovered several items that had not been taken care of early in the beginning when the preliminary plat was approved and they didn't take into consideration the right-of-ways, and that has caused a delay in trying to get this thing approved. Another thing that he mentioned was the issue with the sidewalks that would be going on East 4th Street going south. South Seattle originally had a 40ft right-of-way not a 50ft right-of-way and from the information that he has received from both the city and the developer, it shows that there are multiple designs. Garza added that the preliminary plat from August of 2018 shows that the developer was going to add storm drainage all the way south to the existing ditch. And that they were going to do a cross pipe. Later as this situation progressed, the preliminary plat, which was approved in March 2019, they reduced the storm drainage and added a ditch going south from the intersection, but they didn't remove the sidewalk. Garza additionally stated that he understands that the city wants the sidewalk to be located in the right-of-way, but we don't have the right-of-way with a ditch there to be able to do that.

However, Garza believes they have an idea that would keep the sidewalk in the right-of-way and still allow a ditch section there that would work and have the proper slope. Garza stated that he wasn't sure how to handle these situations but he believed in the Board of Adjustment's minutes from September 24th of 2018, this was brought as a business item as an exception that 3 of the lots on the north side would not meet the 9,600 square feet requirement for the lot. Kirk presented it and the city planner didn't have a problem with it and it was approved. But as you look at the preliminary plat, the bottom corner lot is also short in size being 9,267 square feet. However Garza stated that it is not listed anywhere in the minutes showing where that lot was taken care of in the 10 %. All of the other lots are 9,600 sf, but that one is 9,267 sf which would give room for the sidewalk, and Garza is asking that when the Planning Commission approved the plat did that inadvertently approve that one lot to be smaller as well?

Garza asked if City Attorney Trey Smith could weigh in on this question of can that one lot be approved as being smaller, if so they can definitely do the sidewalk. If not then there is going to be a problem because the sidewalk will not fit in that right-of-way. There would not be a 50 foot right-of-way. It would be shorter and closer to just 45 feet with the way it is designed right now. And to make that lot a 9,600 square foot lot there is only that 45 foot right-of-way and it would cause a problem. So he was wanting to know from City Planner Sara Jondahl and City Attorney Trey Smith if lot 9 was approved at 9,267 sf and if so they can make the sidewalk work.

City Planner Jondahl explained that she took a look at the September 24th, 2018 minutes from the Board of Adjustment and it looked like we only did the special exception on lots 11, 12, and 13 and there is nothing showing where we approved lot 9, which would have been the lot in question at the time.

Garza added that he doesn't have the original application that was submitted to staff in 2018 so it is unknown if lot 9 was mentioned. Garza stated that in the past he has read minutes from meetings that did not include information that was actually included in the application. So without going back to the application, it is unknown. Garza stated that he is also open for suggestions since he submitted the final plat with the sidewalk easement, but City Planner Jondahl and City Engineer Glen Newman do not want the sidewalk on private property, they want it to be located in the easement.

Chairman Miller suggested that this item be tabled for obvious reasons.

Garza added that this property would still be going to City Council due to the right-of-ways and he did not want it to continue to be delayed since it has been delayed already but not at fault to the staff. He stated that the owner does have a developer that is ready to build on 9 of the lots.

City Engineer Glenn Newman stated that he came in a little late as a new hire with the city and he believed that in 2019 the primary reason for the re-plating, and that he was under the impression that they were taking a lot out on the other side of Seattle more or less and that was the only thing changing and that was his understanding as to how the item was presented, but as we dug into this situation, there were some changes in the grading plan that took away the curb and gutter on Seattle that was originally there. As construction went on, it was determined that the sidewalk from their design engineer was not included or thought about and it would have been best if all of those discussions would have been with the design engineer when they were presenting changes to the original plat to allow everyone to understand what their implantations were when they were asking to take the other lot out. He asked Dave Garza if he had minutes where they specifically discussed the drainage on lot 9 or discussed changes in the drainage plan. But it was Engineer Newman's understanding to remove the lot that was in the previous plat that is on the other side of Seattle. But they didn't design the drainage at the time and it seems that David is in the position now where he has to try to make pieces of the puzzle fit. He stated that this would be the only section that would have an open ditch and they try to not allow an open ditch in this location with a sidewalk.

David Garza said there have been other instances where they have had to put ramps in that have to do with the paths for jogging. He mentioned that the city has previously allowed easements for those corners and thought they would allow an easement here for the sidewalk, but that staff does not want an easement. They want that sidewalk in the right-of-way and that has caused a challenge.

Mayor Richard Harris stated that he has been listening to this item of business that is being presented and that items that need resolution don't need to come to the Planning Commission. He added that the planning commission deals with issues that have an up or down vote. So he stated that he is really disappointed that it has been brought before the Planning Commission in the manner that it has been presented. Mayor explained that he understood that the Planning Commission has the right to forward to the Council with recommendation to approve or forward to the Council with the

recommendation to not approve, but you may have the opportunity to forward this item to the Council with no recommendation. He stated that if they have this option then they could send this on with no recommendation. He said that he would get with his staff and they will make sure that there is a firm recommendation on this issue before it gets to the Council.

Chairman Miller stated that if it does not need a positive or a negative and this item just needs to be moved on, then he did not think that it would require the Planning Commission at all. He said that he just thinks that is something that staff could forward without an approval, but since it was already listed as an agenda item, he asked the Mayor what action needed to be taken on this issue.

Mayor Harris said he would defer that question to City Attorney Trey Smith or City Planner Jondahl to see how we need to proceed.

Dave Garza added that maybe this item needs to go back to the Board of Adjustments next month on that one lot to get a variance for the 10 % and then we can put the sidewalk in exactly where staff has wanted it and also make the ditch work.

City Planner Jondahl asked City Attorney Trey Smith that if they were able to move forward with the Board of Adjustment for a Variance Special Exception to the 10% reduction on that lot to allow that lot to be within the right-of-way?

City Attorney Smith stated that there wouldn't be a special exception included in the final plat if it went directly to City Council without being processed through the Board of Adjustment.

Chairman Miller stated that this order of business needs to be on the agenda for the Board of adjustment and not with the Planning Commission.

Commissioner Smith made a motion to table the item until next month. Commissioner Hatley made a motion to second the tabling and was tabled unanimously.

The Sixth Order of Business is the rezoning of a property from R-3 to C-4, located at 303 & 305 East 2nd Street. Submitted by Hans Stiritz.

City Planner Jondahl stated that where this property is located, immediately to the west, south, and east are zoned R3. The property directly to the north is zoned C4.

There are two structures on the property that are currently used as rental property. This is located east of the Courier, NE of the Post Office, north of the housing authority and west of rental properties.

City Planner Jondahl continued to add that when considering a zone map adjustment careful consideration needs to be made in regard to the future land use of the area, the Comprehensive Plan recommendations and the uses in the surrounding area. Properties in the Detroit District are located close to the downtown district and are a good mix of commercial and residential uses. The 2020 plan identifies the predominant type of land uses for all properties within the planning area most likely to be urbanized over the next two decades. The Draft 2040 plan shows that this area will be a mix of residential and inner city offices. Given the nature of the commercial businesses

and residential properties this rezone application is in line with both what we physically see out at the property and is in alignment with both the current and the Draft ReImagine Russellville 2040 Draft Comp Plan.

City Planner Jondahl stated that staff recommends forwarding the request to rezone the property from R3 medium high density residential zoning to C4 neighborhood and quiet business for approval by City Council as a result of the findings below:

1. The proposal aligns with both the current and proposed comprehensive plan; and
2. Is in line with existing uses within the neighborhood.

Commissioner Lanier made a motion to approve the item. Commissioner Duffield made a motion to second the item and was approved unanimously.

The Seventh Order of Business is a commercial building design waiver located at 4109 West Main Street. Submitted by Barrett & Associates on behalf of Jo Anderson.

City Planner Sara Jondahl stated this application is being brought to the Planning Commission to request a waiver to the commercial building design requirement. The property immediately to the south is zoned R1. The property directly to the east is zoned R4 while this property and the other surrounding properties are C2.

There are several structures on the property including a residential home where the applicant lives. There is a mobile home park across the street and north and south of the property are commercial businesses including several mini storage businesses and a boat repair/sales business.

City Planner Jondahl continued to add that the proposed use of the property being a Home Business remains in line with the Land Uses for a Highway Commercial Interchange District. Within this type of district you would expect to find a variety of different uses, such as restaurants, hotels, churches, gas stations, mini marts, and repair shops. You will note that adjacent uses include a variety of various mixed uses including residential, storage businesses and an adjacent mobile home park in a R4 zone.

Article 3.20 states that “Applicants who do not meet the specifications of 3.20.2(1) above shall submit an application for approval of a Non-Standard Commercial Building”. The Planning Commission Shall approve the submittal of the Non-Standard Commercial Building permit after reviewing the proposed submittal and determining:

1. The proposed design represents an innovative use of non-standard building materials to the extent that it is in harmony with the visual aspects of the location, area, and community as a whole;

Due to the proximity to the ROW the visual aspects of the construction are minimal, however the applicant has not demonstrated that the visual aspects of the proposed construction are in visual harmony with the location or area. Additionally, the applicant stated that there is a

slotted fence that will shield part of the structure from the ROW, which is not demonstrated by the pictured shown here as provided by the applicant.

2. No discernible public benefit would be gained by requiring an alternative design; The location of the structure being over 300 feet from the ROW initially provided a level of comfort that an alternate design would be permissible, however, a design meeting commercial building design is advisable.

3. The size and bulk of the proposed building is comparable to other buildings within the immediate area;

The size of the proposed structure is NOT comparable to other buildings within the immediate area.

4. The proposed construction meets the spirit and intent of this section of the Zoning Code. The construction does not meet the spirit and intent of the zoning code and a façade that meets commercial building design would be advisable.

City Planner Jondahl added that it is Staff recommends denial of this commercial building design waiver as a result of the findings below:

1. The proposed structure is not in visual harmony with the surrounding buildings, area, or community; and

2. The size and bulk of the proposed structure are not comparable to other buildings in the area; and

3. The construction does not meet the spirit and intent of the zoning code.

Dave Garza stated that there is a slotted fence that does shield part of the building. To the north on Tacoma, Off Road Tire has a similar building that is a little bit larger than what the applicant is wanting to build. Also, there is a boat repair shop with a metal building. Garza stated that the metal building that the applicant is proposing is 328 feet off of the right-of-way and is also very similar to the surrounding companies and wouldn't be as visible as staff is making it out to be. Garza is asking for the variance to be approved and sent to City Council.

Commissioner Smith made a motion to approve the item base on where it is located. Commissioner Duffield made a motion to second the item and it was approved unanimously.

The Eighth Order of Business is a special use permit to allow operation of Bulk Fuel Service Station in a C-2 located on the 1900 block of South Arkansas Avenue. Submitted by Barrett & Associates on behalf of Mike Miller.

City Planner Sara Jondahl stated that this is a request to construct a bulk fueling station along South Arkansas Ave. Located in the Arkansas River Industrial District you find landscaping companies, Danny Russell Construction Company, Atwoods Farm Supply store, auto service station and vehicle sales, and antique stores.

The property is zoned C2, is vacant, and is surrounded by C2 zoned properties.

City Planner Jondahl continued to add that the proposed use of the property allowing the sale of bulk fuel remains in line with the land uses for a Highway Commercial District. Within this type of district you would expect to find a variety of different uses, such as restaurants, hotels, churches, gas stations, mini marts, auto sales and auto repair shops.

The table of permitted uses states that Fuel Sales are special uses within the C2 zone. A special use permit has never been issued for the site. Certain uses may or may not be appropriately located within various districts throughout the City due to their unusual or unique characteristics of operation and external effects. Given their unusual character, special consideration must be given each application so as to provide for such reasonable conditions and protective restrictions as are deemed necessary to protect the character and integrity of the area in which uses are proposed to be located. The uses listed Table of Permitted Uses as “special permit uses” are so classified because they more intensely dominate the area in which they are located than do other uses permitted in the district; however, the nature of such uses makes it desirable that they be permitted to locate therein.

Article 2.10 provides requirements for commercial zone building permit review to include all drives and parking, including handicap parking which shall include at least 1 van accessible parking space, sidewalks including any ramps for handicapped access, and drainage improvements. The area requirements and parking requirements are shown, however, the size of the structure has not been provided. It appears that the proposal intends to meet the requirement and will be a condition of the building permit. The drainage improvements will need to be reviewed and approved by the City Engineer prior to permit issuance.

The intent of Article 3.20 Commercial Building Design seeks to maintain good civic design and arrangement within commercial corridors by assuring a desired aesthetic environment. In review of the application these 4 questions must be answered:

1. Are designed to be in visual harmony with buildings either in the same vicinity or along the same commercial corridor.

The façade of the structure is proposed to be constructed of the same material used in the construction of the funeral home on East Parkway Drive, however, a material list is not provided. The material list will be required to be reviewed and approved prior to permit issuance.

2. No discernible public benefit would be gained by requiring an alternative design; and
3. The size and bulk of the proposed building is comparable to other buildings within the immediate area; and
4. The proposed construction meets the spirit and intent of this section of the zoning code.

Article 3.21 requires five (5) foot sidewalks be constructed with all new construction except within Arkansas River Industrial District, therefore sidewalks will not be required.

Article 4.1.1 outlines the minimum standards for parking requirements. Parking will be required to be striped and must include 1 ADA van accessible parking space. A parking plan has been provided however, the square footage of the area required by code will need to be provided prior to the site permits are issued for the parking lot improvements to verify that there is adequate parking for the business.

Article 4.3.4 2) requires vehicle storage areas to be screened by a 5 to 6 foot sight obscuring ornamental fence, wall, or hedge. Although none are shown on this plan, if at any time vehicles are stored on the property they will need to be located within a screened area or parked within the structure itself.

A sign permit will be required for the installation of a sign for the business in accordance with sign regulations. The existing free standing sign is within the allowable limits of our current sign regulations and will just require the review and approval prior to making any changes to the sign, dimensions will be required including overall height of the sign. City Planner Jondahl added that Public Works and City Engineer has included that any work done on the site will require a clearing and grading permit. Adequate drainage must be maintained with existing drainage being conveyed through the property.

City Planner Jondahl continued to add that it is staff's recommendation to approve this special use permit with the following conditions: 1. Material list to be provided and approved prior to Building Permit Issuance; and 2. Parking meets both ADA and City Requirements prior to Building Permit Issuance; and 3. The drainage improvements will need to be reviewed and approved by the City Engineer prior to Building Permit Issuance.

As a result of the findings below:

1. The building and use is comparable with other uses and structures in the area; and
2. Current traffic routes are constructed in such a way to handle the traffic from the business; and
3. Public Facilities already service this location.

Commissioner Hatley made a motion to approve the item with the conditions stated by staff. Commissioner Smith made a motion to second the item with conditions stated by staff and was approved by the commission with 6 voting to approve and Commissioner Duffield abstaining.

The Ninth Order of Business is a special use permit to allow operation of a storage building/container sales business in a C-2 located at 2011 East Parkway Drive. Submitted by Max Lawton.

Commissioner Cothren made a motion to table the item until next month. Commissioner Duffield made a motion to second the tabling and was tabled unanimously.

The Tenth Order of Business is a Commercial Building Design Waiver located at 2011 East Parkway Drive. Submitted by Max Lawton. (MS.20.09.103) Item was requested to be TABLED by applicant.

Commissioner Black made a motion to table the item until next month. Commissioner Cothren made a motion to second the tabling and was tabled unanimously.

The Eleventh Order of Business is an application to construct a 33,400 square foot casino annex with onsite detention, parking and landscaping located on a property 10.83 acres in size.

City Planner Jondahl explained that this property is primarily vacant with a couple of residential structures located across from Gary Lane and is located just East of the Flying J Travel Center and next to the SWN Drilling Company property on Bradley Cove Road. This property is located in the East Main Commercial District in both the front portion of the property is C2 and the back portion of the property is C5 zones.

The Uses in this area include the Travel Center, Truck Wash and Utility Company uses, along with residential county properties to the East. Due to the C5 zone on this property, this is a permitted use where casino operations are allowed in the C5 zone. This is subject to the Land Subdivision Code Pertaining to Large Scale Developments. In LSDC, section 7 states that any commercial development on 5 acres or more or building a structure that is larger than 15,000 square feet must meet the requirements for the Large Scale Development.

Jondahl states that sidewalks in the East Main Commercial District Character Area are required to be constructed. However, the applicant has submitted as part of their letter of intent requesting to build sidewalks at the time that they develop their main casino complex. This is just their temporary location, the Annex as they are calling it. They are gambling that they will be granted the license. When they build the final casino building, and they have received some revenue from their temporary operation, they will then construct the curbs, gutters, sidewalks, trails, and other items that are required by the master street plan. The staff does concur that the sidewalks can be delayed until the construction of the final resort is completed.

The façade of the structure is proposed in a manner that looks to be consistent with Article 3.20, however, a material list and or samples were not provided for review. Prior to issuance of the building permit a material list and samples ensuring that the building meets Commercial Building Design will be required.

Location of driveways, parking, and handicap access – Parking is shown on the proposed plan, however, detailed information about how they are provided in accordance to Article IV of the Russellville Zoning Code remains due.

Jondahl continued that the City Public Works Department had comments from Engineering that stated that detention is required and shall be approved by the City Engineer before the building permit is issued. The internal storm sewer network and inlet design is not required at Large Scale

Development, but will be evaluated with building permit submission. Additionally, we agree that a turn lane on Bradley Cove Road is necessary, the detail engineering to determine the length of turn lane and drainage impacts will be evaluated when sufficient geometry is provided. The improvements necessary to provide the proper rate of lane shift for a center turn lane may require roadwork beyond the east and west property boundary in the right of way. Performance bonds and any offsite easements will be required for all public infrastructure before a building permit is issued. Delayed master street plan improvements are acceptable per the owner's request.

Jondahl explained that it is staff's recommendation to approve the Large Scale Development with the following conditions:

1. Require annexation to the City of Russellville for the portion of property outside of City Limits prior to Certificate of Occupancy being issued.
2. Submit for review, approval, and recording an incidental subdivision plat.
3. Provide Material List and samples to ensure the façade of the structure complies with Article 3.20.
4. Ensure construction of the site limits the visibility of the parking spaces from the road by landscaping along the road frontage for the parking not the building.
5. Submit a detailed Storm water Management Plan per our Drainage Manual for review and approval prior to building permit issuance.
6. Street Improvements regarding the master street plan and including the trail, sidewalk, and curbs/gutters to be delayed until construction of the entire facility connecting the entire frontage of the Casino Annex property along Bradley Cove Road to the future Casino Complex plus additional requirements as required as a result of that application for the main Casino Complex.
7. The improvements necessary to provide a turn lane on Bradley Cove Road into the facility is required as part of the building permit application process for the annex.

Commissioner Miller asked if anyone had any comments.

Morgan Barrett with Barrett and Associates, the engineer for this project, stated that in attendance for the meeting was Terry Green, Jonathan Terrell and Blake Eddins the representatives for Gulfside Casino, as well as Casey Castleberry, the Legal Counsel for Gulfside Casino.

Barrett continued on to say that they felt as if City Planner Jondahl summed up the application pretty well, but that they have an issue with the Certificate of Occupancy requirement. Gulfside has every intention of beginning the annexation process and annexing into the city of Russellville. But, unfortunately Gulfside is not in control of that time frame and they do not know what may or may not pop up. But, upon approval, the annexation process will begin. Barrett stated that they do not

control when the process is finished and that they would hate to hold up a certificate of occupancy based on the annexation process, and if they were not annexed into the city limits, there would not be a Certificate of Occupancy issued anyway. They have met with staff and they have met with the Fire Marshall and will continue to work with staff, Fire Marshall, and the City throughout their plan development. So that is the only issue that Barrett said was raising a flag for Gulfside. Therefore, they are requesting that that condition be removed but they agree with all of the other conditions.

Commissioner Miller addressed City Planner Jondahl to ask if the city would be able to waiver on that condition.

City Planner Jondahl stated that she was inquiring with the City Attorney, Trey Smith to see what his recommendation was since the annexation was voluntary and she believed that the Certificate of Occupancy could be issued prior to the completion of the annexation process.

City Attorney, Trey Smith, stated that the annexation that was being discussed is voluntary and petitioner driven, so if that is something that wants to be upheld as a condition, it could be, but it would be up to the commission to decide.

Morgan Barrett stated that they have no problem with that condition, but they are just concerned that something could arise that may delay that annexation and that could be out of the control of Gulfside. He continued to say that they are not concerned with the annexation, and plan to start the process as soon as possible.

City Planner Jondahl stated that the only reason they added that condition was because we do want to ensure that this property is annexed into the city so that the city can receive some benefits from this structure. She added that staff could amend the condition to state that Gulfside should apply for the annexation prior to obtaining any building permits, so that we can at least have this as close to C of O as possible.

Morgan Barrett stated that the intent is to begin construction as soon as possible with about a six month construction time frame. Again, he added that Gulfside plans to begin the process immediately and is going to try to expedite it as much as possible, but you never know what will pop up and be beyond the control of Gulfside. They are wanting to start construction immediately.

Commissioner Miller asked Barrett what is going to become of this building once the main casino structure is completed. Will it stay a casino or will it be another empty building in Russellville?

Barrett stated that there have been several discussions pertaining to that question. One discussion was about the annex building becoming a convention center to serve large venues. It would be one the largest buildings in Russellville to service that type of need. Gulfside has added curb parking and drop off. That is one potential use that Barrett stated Gulfside has discussed. But it will be part of the main campus that is onsite and includes the all of the property to the North of this building. This would be on the South East corner of the parcel. But Barrett stated that Gulfside is open to

discussion to other potential uses and they may have a use for the building themselves if it doesn't fit as a convention center, but the site has been laid out and designed as a building to be used as a future convention center.

Commissioner Miller addressed the commission stating that we have a large scale development located on Bradley Cove Road that is laid out in front of us here and we have heard from staff and engineers and he asked if anyone else had any questions for anyone.

Gregg Long from Crafton Tull added that he was shown the 700 space parking lot as part of the temporary facility, with the improvements of the turning lane. However, they have a concern with where the casino is located and where state maintenance ends right in front of Crafton Tull. Mr. Long Stated that Crafton Tull would like to request that it be required for Gulfside to submit a traffic study to make sure that the roadway and flow of traffic would be ok for the temporary facility. It is known that there will be improvements made in the master plan, but 721 space parking along with the already large amount of truck traffic could cause an issue and they just want to make sure that the traffic situation is addressed as a part of this temporary facility.

Chairman Miller added that he believed that Morgan Barrett mentioned a turning lane in his proposal and asked for Barrett to confirm that. City Planner Jondahl stated that the turning lane was mentioned in the city conditions and that the city engineer will take a look at the drainage impacts, and they will be evaluated when sufficient geometry is provided. The improvements necessary to provide the proper rate of lane shift for a center turn lane may require roadwork. And the city engineer's intent is to ensure that all existing traffic in that area will still be able to flow, and that they are working with the developer to insure that the existing traffic patterns will remain during the temporary phase of this annex building and that a full detailed traffic study will be provided as part of what they are proposing for entire facility.

Gregg Long said that those details were fine, they just wanted to ensure that the traffic issues were also being considered for the temporary annex building as well as the main facility since it is a lot of traffic that will be added to that area.

City Planner Jondahl stated that after messaging with the City Attorney, he confirmed that it typically takes 45 days to do a voluntary annexation, but that staff could definitely revise condition number one listed in the staff recommendation to require annexation of the portion of the property located outside of city limits prior to building permit issuance.

Commissioner Smith asked City Planner Jondahl who would be paying for the traffic study and City Planner Jondahl stated that the traffic study would be at the developer's expense.

Nathan Barber addressed Fire Marshall/Building Official Richard Setian and asked with anticipation that this will be annexed into the Russellville city limits, where does he stand on this issuance of the C of O and Annexation.

Fire Marshall/Building Official Richard Setian stated that he has spoken to Morgan Barrett about the fire protection aspect of this project, and we (city fire) feel confident that everything is in place to provide adequate fire protection. The recent project at the Arbors resulted in a cooperative effort because it was close to city limits, the building department still assisted with inspections and fire protection suggestions. As with the Gulfside project, Setian included that he would expect this same cooperative effort with inspections, permits and C of O since at some point it will be annexed into the city limits. We are talking about ensuring that this project at the time that it is annexed in it is designed properly it is built right and the fire protection measures are in place. The C of O is going to be a moot point unless it is annexed into the city limits.

Morgan Barrett stated that they fully anticipate the annexation to be completed by the time the construction is completed, but you never know what might pop up and could hold up that process for Gulfside. He stated that Gulfside has reiterated that they plan to work alongside the city of Russellville to ensure that this project is built to regulation and follows all the rules. However Barret expressed concern that staff would put a contingency on the recommendation that Gulfside is not in control of.

Mayor Richard Harris stated that there has been a lot of discussion on the talk of the annexation of this property into the City of Russellville. The reason we are considering the annexation is not because it is in the city limit, but because it is in the planning boundary. Mayor Harris stated that he wasn't sure that trying to hold Gulfside hostage on the approval of the large scale development in our planning boundary is appropriate in relation to the annexation issue. There is always this distrust from each party on whether or not they are going to do the right thing, but it is obviously in the best interest of the city of Russellville to have a casino that is built in Pope County to be annexed into Russellville city limits. However, if there is a point of contention here, it is not the right thing to do for Russellville to use our approval process to muscle someone into annexation. But, there may be another way to do this in which, a representative from Gulfside or Morgan Barrett can provide input, at the time that a C of O is requested, then Gulfside can petition for annexation as opposed to actually obtaining the annexation when the C of O is requested.

Morgan Barrett added that it is their (Gulfside) intention to apply for the annexation as soon as the construction process begins.

Terry Green, the owner of Gulfside Casino Partnership stated that Gulfside is 100% for the annexation of the property into Russellville City Limits and Gulfside has been discussing this with several people in the city of Russellville for the last year or so and they are planning to annex into Russellville.

Nathan Barber addresses Morgan Barrett directly to ask if they are agreeing to the other conditions listed previously by staff.

Morgan Barrett added that if it was okay with Staff, they would agree to include a contingency that they begin the annexation in a set number of days. Morgan added that he was not sure the wording that needed to be used for that condition and asked if Casey Castleberry, a representative from Gulfside Casino had any suggestions or input.

City Planner Jondahl addressed this question and stated that staff would amend the condition to state that a petition to annex would be required prior to the building permit being issued.

Morgan Barrett added that the current issue is that the property is located outside of Russellville city limits, and building permits are not required outside of the city limits and there are a few competing interest with this situation that makes it complicated with it being a split parcel and half in the city and the other half out.

City Planner Jondahl said that she would like to apologize for the confusion on the need for a building permit, and that staff could edit the condition to state the petition to be filed prior to C of O.

Morgan Barrett agreed that that condition wouldn't be a problem because Gulfside anticipates it being annexed before the C of O is issued and Terry Green with Gulfside agreed that that condition would work.

City Planner Jondahl added that staff has altered the condition to state that file for annexation to the city of Russellville for the portion of the property outside the city limits prior to Certificate of Occupancy issuance with all of the other conditions staying the same.

Morgan Barrett asked City Planner Jondahl to repeat the recommendations and conditions listed earlier in the meeting.

Jondahl explained that it is staff's recommendation to approve the Large Scale Development with the following conditions:

1. Require petition for to file for annexation to the City of Russellville for the portion of property outside of City Limits prior to Certificate of Occupancy.
2. Submit for review, approval, and recording an incidental subdivision plat.
3. Provide Material List and samples to ensure the façade of the structure complies with Article 3.20.
4. Ensure construction of the site limits the visibility of the parking spaces from the road by landscaping along the road frontage for the parking not the building.
5. Submit a detailed Storm water Management Plan per our Drainage Manual for review and approval prior to building permit issuance.

6. Street Improvements regarding the master street plan and including the trail, sidewalk, and curbs/gutters to be delayed until construction of the entire facility connecting the entire frontage of the Casino Annex property along Bradley Cove Road to the future Casino Complex plus additional requirements as required as a result of that application for the main Casino Complex.

7. The improvements necessary to provide a turn lane on Bradley Cove Road into the facility is required as part of the building permit application process for the annex.

Chairman Miller asked if Mayor Richard Harris felt comfortable with staff's updated recommendations and Mayor Richard Harris stated that he was comfortable with the recommendations and conditions presented by staff.

Commissioner Duffield made a motion to approve as presented with the listed conditions.

The motion was seconded by Commissioner Hatley and carries with 6 commissioners voting for, 1 against, and zero abstaining.

Meeting adjourned.

Chairman Wendell Miller