



**PINE BLUFF**  
**BOARD OF ZONING ADJUSTMENT**  
**SEPTEMBER 29, 2009**  
**4:00 p.m.**  
**Council Chambers**

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- I. CALL TO ORDER
- II. CONSIDERATION OF MINUTES: August 25, 2009
- III. OLD BUSINESS: None
- IV. NEW BUSINESS:
  1. Variance request by Dewitt Hill to place a sign closer to the side yard property line than allowed by ordinance.
- V. ADJOURNMENT

**RECOMMENDATION  
TO THE  
PINE BLUFF BOARD OF ZONING ADJUSTMENT**

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**SUBJECT:** Variance request to place a sign closer to the side yard property line than required by ordinance.

**APPLICANT:** Dewitt Hill

**REVIEW COMMENTS**

- The applicant has constructed a new funeral home on the property at W. 6<sup>th</sup> Avenue and Bois D'Arc. He is getting close to opening, and he desires to place a sign showing the name of the business on the property. He is requesting a variance to the side yard setback in order to place the sign closer to the side property line than required by ordinance.
- There is room at the front of the site to place the sign at a higher elevation, however, the applicant wants to place the sign at a lower elevation so it will be more aesthetically pleasing. In order to erect a lower sign, the sign has to be placed farther back from the street. However, the sign can't be placed farther back from the street and still meet the side yard setback because then the sign will be in the middle of his driveway. In order for the lower sign to have the sufficient setback from 6<sup>th</sup> Avenue and not end up in the middle of the driveway, the sign will have to be moved from 20 feet east of the western property line as required to within the 10-foot green space located between the driveway and the property line.
- We feel there is sufficient reason to grant a variance because there is a large drainage ditch that abuts the subject property on the west side, the sign will not impact any development to the west, and aesthetics can be factor when reviewing zoning issues.

**RECOMMENDATION**

The Planning Staff recommends approval of the Variance request.



**PINE BLUFF**  
**PLANNING COMMISSION**  
**SEPTEMBER 29, 2009**  
**4:00 p.m.**  
**Council Chambers**

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- I. CALL TO ORDER
- II. CONSIDERATION OF MINUTES: August 25, 2009
- III. OLD BUSINESS: None
- IV. NEW BUSINESS:
  1. Rezoning request by Frank Henslee to rezone 2.8 acres from R-1 Residential to B-3 Highway Commercial, located at 6713 Sheridan Road.
  2. Use Permitted on Review request by Robert Knott to operate “The Jazz Parlor”, a restaurant that will also be a private club, located at 522 W. Barraque Street.
  3. Amending the Zoning Code to provide for definitions for mobile home, manufactured housing, modular homes, and mobile/modular offices, and to determine the proper zoning classification in which said homes can be located.
  4. Amending the Zoning Code to remove the term *institutional and non profit uses* as a permitted use and add same as a Use Permitted on Review in the B-3 Highway Commercial and B-4 General Commercial zones.
  5. Salvage yard regulations referred to the Planning Commission from the City Council. (This is not a public hearing.)
- V. COMMITTEE REPORTS
- VI. PLANNING DIRECTOR’S REPORT
- VII. ADMINISTRATIVE MATTERS
- VIII. OPEN DISCUSSION
- IX. ADJOURNMENT

**RECOMMENDATION  
TO THE  
PINE BLUFF PLANNING COMMISSION**

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**SUBJECT:** Rezoning request to rezone 2.8 acres located at 6713 Sheridan Road from R-1 Residential to B-3 Highway Commercial.

**APPLICANT:** Frank Henslee

**ZONING AND LAND USES:**

ZONING:	North:	R-1 Residential	LAND USE:	North:	Vacant Wooded
	South:	R-1 Residential		South:	Small single family house
	East:	R-1 Residential		East:	Vacant wooded
	West:	B-3 Highway Commercial		West:	Vacant wooded

**REVIEW COMMENTS**

- The applicant desires to rezone the subject site to highway commercial. The site is located adjacent to commercial-zoned property that is located on the corner of Jefferson Parkway and Sheridan Road.
  
- Most of the subject site is vacant, wooded property. There is a house located on the site that appears to be vacant. The properties that abut the subject site on either side are both vacant. The property located north of the subject site is also owned by the applicant. Across Sheridan Road from the subject site is a residential subdivision. There are some vacant lots along the highway in the subdivision as well as several small homes, although there is only one small home across the street from the subject site.
  
- Sheridan Road in White Hall has been developing commercially, while Sheridan Road in Pine Bluff has not, primarily because there is sporadic residential development along the Pine Bluff stretch. At some point in the future, Jefferson Parkway will begin to develop commercially, and it is expected that the Sheridan Road/Jefferson Parkway corners will develop first. Since the subject property is a nice sized parcel and is located near this corner, it may be more attractive as commercial property than residential. The fact that there is little residential development near the site helps make its case as commercial property. However, we feel that this parcel is the point at which commercial development should stop as you go east on Sheridan Road from White Hall to Pine Bluff because additional rezonings will infringe on existing residential development

**RECOMMENDATION**

The Planning Staff recommends approval of the rezoning of the subject site from R-1 Residential to B-3 Highway Commercial.

**RECOMMENDATION  
TO THE  
PINE BLUFF PLANNING COMMISSION**

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**SUBJECT:** Use Permitted on Review request to operate “The Jazz Parlor”, a restaurant that will also be a private club, located at 522 W. Barraque Street in a B-4 General Commercial zone.

**APPLICANT:** Robert Knott

**ZONING AND LAND USES:**

ZONING:	North:	B-4 General Commercial	LAND USE:	North:	Apartment complex
	South:	B-4 General Commercial		South:	Vacant, then duplex
	East:	B-4 General Commercial		East:	Vacant
	West:	B-4 General Commercial		West:	Vacant, then single family

**REVIEW COMMENTS**

- The applicant desires to operate an establishment on the site that offers breakfast, lunch, dinner and a full bar as well as after hours live or recorded music.
- The subject site is located on the southeast corner of W. Barraque Street and Laurel Street in a former warehouse-type building. There is a chainlink fence around the site. The building is 29 feet wide (along Barraque Street) and 100 feet deep. The property contains two lots and measures 120 feet by 152 feet. The applicant also owns a 41-foot by 60-foot parcel south of the subject site (across an alley) that is located on Laurel Street.
- While the area currently contains mixed uses including a large apartment complex, vacant lots, single family dwellings, and a cabinet shop/commercial building, it is all zoned B-4 Commercial and can contain a variety of commercial uses such as auto sales, grocery stores, strip malls, and medical clinics. Restaurants are permitted, however, private clubs and bars must obtain a UPOR. The subject site is about two blocks west of the downtown district, so the site is near the area that would be part of the Old Town District. It is also only two blocks from Walnut Street, which provides the main entrance from the Martha Mitchell Expressway to the downtown area. Barraque Street is a wide, curbed street that provides good access to the area between Cherry, Main, and the Martha Mitchell. The only close neighbors of the subject site are the apartments across the street.
- Restaurants and night clubs require 15 spaces per 1,000 gross square feet of floor area. The building contains 2,900 square feet, and will require 43 spaces. It appears that the part of the subject site located east of the existing building and the area owned by the applicant located south of the alley will provide the space needed for the required parking.

**RECOMMENDATION**

The staff recommends approval of the site subject to: 1) the applicant submitting a site plan that satisfies the off-street parking requirement, and 2) all patron parking shall occur within this off-street parking area. If this parking is insufficient, the applicant will be required to develop additional off-street parking near the site.

**RECOMMENDATION  
TO THE  
PINE BLUFF PLANNING COMMISSION**

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**SUBJECT:** Staff initiated amendment to the Zoning Code to provide for definitions for mobile home, manufactured housing, modular homes, and mobile/modular offices, and to determine the proper zoning classification in which said homes can be located.

**REVIEW COMMENTS**

The current Zoning Code contains only an outdated definition of a mobile home and does not contain definitions for manufactured housing, modular homes, and mobile/modular offices. The Code needs to be updated to include uses such as manufactured housing and modular homes because 1) homes that are termed “mobile homes” have not been built since 1976 when HUD took over the construction standards and created “manufactured housing”, 2) currently a mobile home has been interpreted to mean any structure that is built on a chassis, and as such governs the placement of the older mobile homes, manufactured housing, and mobile/modular offices, 3) modular housing, much of which has the appearance of a manufactured home, can be located in any residential zone if it does not contain a chassis and is moved on a flatbed trailer, and 4) mobile/modular offices have either been allowed if they don’t have an undercarriage or denied if they do. Lately, the City has had many requests to locate modular housing in the City, and in the past there have been a number of requests for mobile/modular offices. We feel the Zoning Code needs to be changed so that these uses can be properly governed.

Briefly, the proposed amendment does the following:

1. Changes the definition of a *mobile home* to reflect a moveable, year-round home built prior to 1976 (not a travel trailer or recreation vehicle).
2. Changes the definition of a *mobile home park* to include the term “manufactured housing”.
3. Adds the definition of *manufactured housing* to mean a home substantially built in a factory to HUD standards.
4. Adds the definition of *modular housing* to mean a home substantially built in a factory to current City building standards.
5. Adds the definition of *mobile or modular office* to mean a portable building for office use that is designed to be transported after fabrication to a nonresidential construction site to be used for office or security purposes during the construction period.
6. Allows mobile homes, manufactured housing, and modular housing to be located in the R-4 Residential zone only. (Currently, mobile homes are allowed in the R-4 zone only).

City of Pine Bluff  
City Council

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING THE ZONING CODE  
OF THE CITY OF PINE BLUFF, ARKANSAS

1

2           WHEREAS, the City of Pine Bluff Planning Commission held a public hearing on  
3 September 29, 2009 as provided for in Section 6, Act 186 of the Statutes of the State of  
4 Arkansas, the purposes of which was to hear any and all persons interested in amending the  
5 Zoning Code of the City of Pine Bluff to provide new definitions and regulations for mobile  
6 homes, manufactured homes, modular homes, and mobile or modular offices; and

7           WHEREAS, it has been expressly stated by the City Council of the City of Pine Bluff  
8 that the Zoning Code should be amended to provide for said definitions and regulations.

9           NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE  
10 CITY OF PINE BLUFF, ARKANSAS:

11           SECTION 1: The Mobile Home and Mobile Home Park definitions set forth in Section  
12 29-2 shall be amended to read as follows:

13           *Mobile home.* A movable or portable structure built prior to June 15, 1976, the  
14 effective date for the Federal Mobile Home Construction and Safety Act of 1974, which  
15 is larger than three hundred twenty (320) square feet, and designed to be used as a year  
16 round residential dwelling unit. This shall not be construed to be a travel trailer or other  
17 form of recreational vehicle.

18           *Mobile home park* shall mean a tract of land of a minimum of six (6) acres,  
19 designed and developed for the placement of mobile home and manufactured home  
20 residential units thereon, and to be used for dwelling purposes only except as provided  
21 herein. A mobile home park shall meet the particular requirements for the zone in which  
22 the park is to be located and meet the requirements of a mobile home park subdivision as  
23 set forth in chapter 25 of the Code of Ordinances.

24           SECTION 2: Section 29-2 shall be amended by adding the following definitions:

25           *Mobile or Modular Office.* A portable building for office use that is designed to  
26 be transported, after fabrication, on its own wheels or on a flatbed or other trailer, or have  
27 detachable wheels. A mobile or modular office may be allowed only on a nonresidential

1 construction site during the term of construction activity for which a valid building  
2 permit has been issued and maintained and to be occupied by persons having construction  
3 or security responsibilities over such construction site. Manufactured housing, mobile  
4 homes, or modular homes shall not be considered as a mobile or modular office, except  
5 that manufactured housing may be used as a permanent office on manufactured housing  
6 sales lots.

7 *Modular Home.* A residential dwelling unit constructed in accordance with the  
8 standards set forth in the City of Pine Bluff Building Code and composed of components  
9 substantially assembled in a manufacturing plant and transported to the building site for  
10 final assembly on a permanent foundation with permanent water and sewer connections.  
11 The term modular home shall not include a manufactured or mobile home whether or not  
12 same be equipped with undercarriage.

13 *Manufactured Housing.* A detached single-family dwelling unit fabricated on or  
14 after June 15, 1976, in an off-site manufacturing facility for installation or assembly at  
15 the building site as a permanent structure with transport features removed, bearing a seal  
16 certifying that it is built in compliance with the Federal Manufactured Housing  
17 Construction and Safety Standards Code. This Code means the standard for construction  
18 design and performance of a manufactured home as set forth in the Code of Federal  
19 Regulations, Title 24, Part 3280, 3282, 3283, and 42 USC 5401, ET SEQ, as mandated in  
20 the United States of America and as administered by the United States Department of  
21 Housing and Urban Development.

22 SECTION 3: Section 29-104 (b) (3) shall be amended to read as follows:

23 Mobile home, on any lot subdivided and recorded as of the effective date of this chapter  
24 provided setbacks and parking standards can be met, and on any lot of over fifty (50) feet in  
25 width at the building line subdivided after the effective date of this chapter, when established in  
26 accordance with this Section.

27 SECTION 4. Section 29-104 (b) shall be amended by adding the following:

28 (8) Modular homes.

29 (9) Manufactured homes.

30 SECTION 5. Section 29-104 (f) shall be amended to read as follows:

1 (f) *Anchoring*. Each mobile home, manufactured home, and modular home lot  
2 shall be provided with anchors and tiedowns in conformance to specifications required by  
3 law or ordinance.

4 SECTION 6. Section 29-104 (g) shall be amended to read as follows:

5 (g) *Foundations*. Each mobile home, manufactured home, and modular home  
6 shall conform to specifications for mounting foundations and supports required by law or  
7 ordinance.

8 SECTION 7: All ordinances or parts of ordinances in conflict herewith are hereby repealed  
9 to the extent of such conflict.

10 PASSED AND APPROVED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2009.

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12 \_\_\_\_\_  
13 MAYOR  
14 \_\_\_\_\_  
15 SPONSOR

16 ATTEST:  
17 \_\_\_\_\_  
18 CITY CLERK

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20 APPROVED AS TO FORM:  
21 \_\_\_\_\_  
22 CITY ATTORNEY

**RECOMMENDATION  
TO THE  
PINE BLUFF PLANNING COMMISSION**

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**SUBJECT:** Staff initiated amendment to the Zoning Code to remove the term *institutional and non profit uses* as a permitted use and add same as a Use Permitted on Review in the B-3 Highway Commercial and B-4 General Commercial zones.

**REVIEW COMMENTS**

Currently, the term *institutional and non profit uses* is listed as a permitted use in both the B-3 and B-4 commercial zones. There is not definition of the term, so it has been interpreted to mean any non profit organization, regardless of what it does, is a permitted use in the B-3 and B-4 zones. As yet, no one has applied to put a type of institutional use in these zones, so we have not had to deal with that problem, but it stands to reason that any type of institutional use would also be permitted.

Allowing any non profit use to be permitted in these commercial zones can present many problems. In this day and age it seems that there are a myriad of types of non profit organizations. One of the types of these uses the City has had to deal with are substance abuse facilities. As currently interpreted, a substance abuse facility operated by a non profit organization is permitted in the B-3 and B-4 zones. This means not only office uses or medical facilities dealing with substance abuse but facilities that house substance abuse clientele currently can be located anywhere in our commercial districts. Also, with the emphasis the federal government is placing on helping homeless persons and families, if the Zoning code is not amended, homeless shelters will be also permitted to go in anywhere zoned B-3 or B-4. While we agree that these are worthwhile activities, many of our commercial locations are not appropriate areas for these types of uses. Furthermore, any type of use operated by a non profit would currently be allowed in the B-3 and B-4 zones, meaning that, conceivably, a pig farmer who attains non-profit status could put his farm anywhere zoned B-3 or B-4. In addition, since “institutional” is not defined, the Code could be interpreted to allow prisons or sanitariums to be located in the B-3 and B-4 zones. Luckily, the City has not had to deal with these types of requests.

While this can be seen as a matter of “interpretation” by the zoning official, we feel the City would be leaving itself open to legal problems by allowing certain non profit and institutional uses as permitted uses in the B-3 and B-4 zones while denying others. To alleviate this problem, the staff is recommending that the term *institutional and non profit uses* be removed as a permitted use in the B-3 and B-4 zones, and add the term *institutional and non profit uses not listed under uses permitted* as Uses Permitted on Review. This means that a use, such as offices, clinics, hospitals, nursing homes, etc., that are listed as being permitted in the zones will still be permitted even if they are being operated by an institutional or non profit organization. However, uses such as substance abuse facilities, homeless facilities, prisons, sanitariums, and pig farms, for example, that

are not listed as permitted but are proposed by institutional or non profit organizations to be operated in the B-3 and B-4 zones can be heard by the Planning Commission, which can permit them if the proposed use is appropriate for a specified location.

In the future, the zoning and planning staffs will be researching alternatives for permitting substance abuse and homeless facilities as well as creating an “institutional” zone for uses such as prisons, sanitariums, hospitals, and the like.

City of Pine Bluff  
City Council

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING THE ZONING CODE  
OF THE CITY OF PINE BLUFF, ARKANSAS

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WHEREAS, the City of Pine Bluff Planning Commission held a public hearing on September 29, 2009 as provided for in Section 6, Act 186 of the Statutes of the State of Arkansas, the purposes of which was to hear any and all persons interested in amending the Zoning Code of the City of Pine Bluff as it deals with institutional and non profit uses; and

WHEREAS, it has been expressly stated by the City Council of the City of Pine Bluff that the Zoning Code should be amended to provide for said regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PINE BLUFF, ARKANSAS:

SECTION 1: Section 29-110 (b) shall be amended by removing the following:

(23) Institutional and non profit uses.

SECTION 2: Section 29-111 (b) shall be amended by removing the following:

(22) Institutional and non profit uses.

SECTION 3: Section 29-110 (c) shall be amended by adding the following:

(12) Institutional and non profit uses not listed under uses permitted.

SECTION 4: Section 29-111 (c) shall be amended by adding the following:

(11) Institutional and non profit uses not listed under uses permitted.

SECTION 5: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

PASSED AND APPROVED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2009.

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
SPONSOR

ATTEST:

\_\_\_\_\_

CITY CLERK

1

2 APPROVED AS TO FORM:

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4 CITY ATTORNEY

**RECOMMENDATION  
TO THE  
PINE BLUFF PLANNING COMMISSION**

**JUNE 24, 2008**

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SUBJECT: Salvage Yard Ordinance

APPLICANT: City Council Initiated Ordinance

It is our understanding that there will be several members of the City Council at this meeting to discuss this issue. As you know, at the August Planning Commission meeting, it was determined that the Planning Staff would meet with Alderwoman Roberts to refine her proposed ordinance. Due to circumstances beyond our control, that did not happen between the August Planning Commission meeting and the last Council meeting, in which Alderwoman Roberts became upset about the ordinance. We take responsibility for not meeting with Alderwoman Roberts in a more timely fashion.

However, I have attached a letter from the City Attorney that addresses her concerns about the Council taking action on new legislation for salvage yards when there is already an agreement in place concerning one of the salvage yards. She feels that the City Council should determine the direction that the City should take in reference to this salvage yard prior to enacting new legislation.

Following is a copy of the recommendations on this issue that were discussed at the August Planning Commission meeting.

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REVIEW COMMENTS:

The staff just received the attached ordinance Wednesday and was asked to have the Planning Commission review it. The proposed ordinance provides for additional fines for automobile salvage yards that are not in compliance with the proposed ordinance, makes it where no automobile salvage yards can be expanded, and if an automobile salvage yard violates these or other codes, they can be declared to be a public nuisance and enjoined by a court. This sounds all well and good, however, the staff has a major problem with the way the proposed ordinance is written if our interpretation is correct. We have not had time to go over these points with the City Attorney.

1. The proposed ordinance will make it so that no one can apply for a UPOR or Variance unless they are in full compliance with the Zoning Ordinance and other city codes. This will make it so that the City cannot give "after the fact" permits. Sometimes people do things without following the steps required in the ordinance. When this is discovered, they try to come into compliance with the ordinance by

seeking a UPOR or a Variance. In fact, we have one on the agenda today (the 3-unit apartments at 3820 Olive Street).

The proposed ordinance states “no applicant may be granted a Use Permitted On Review (UPOR) unless the applicant is in full compliance with all provisions of Chapter 29 (this is the zoning ordinance) and other applicable provisions of the city code when the application is submitted.” The way we read this, if someone has built a use that requires a UPOR, but they never received a UPOR, they couldn’t apply for one unless they tear down what they have already built. In some instances, they may need to tear it down, but in other instances the use may be appropriate. We feel it is the Planning Commission’s decision on whether or not they desire to allow the use to continue to exist.

The proposed ordinance also makes it so that no one can apply for a variance unless they are in compliance with the Zoning Ordinance. There have been times in the past where someone has built a new home, and because of a builder error, the house does not meet the setbacks of the zone. When this is discovered, the homeowner has asked the Board of Zoning Adjustment for a variance of the setback regulations so that he will be in compliance with the ordinance and so that there will not be a red flag on his deed. If the proposed ordinance is passed, the homeowner can never come into compliance with the Zoning Ordinance. At best, he will have a black mark on his deed; at worst, the City could require him to tear down his house.

It is our interpretation of the ordinance as presented that if passed, the ordinance will not allow the city to hear a UPOR or Variance in situations where a property owner has erred. The property owner’s only recourse will be to remove the structure or use and then apply for the UPOR or Variance.

2. The ordinance as proposed does not take into consideration that salvage yards can legally exist in the City. They have to be located in an industrial zone and then they must receive a UPOR. We feel that the proposed ordinance confuses this issue.

To put it simply, we feel there is a better way to incorporate what the City Council wants into the Zoning Ordinance.

AGENDA ITEM #5  
SEPTEMBER 29, 2009