CITY OF CONWAY
CITY COUNCIL PLANNING AND DEVELOPMENT
COMMITTEE MEETING
MONDAY, SEPTEMBER 16, 2019 – 4:00 P.M.

PRESENT: Mayor Barbara Jo Blain-Bellamy, Council Members Tom Anderson and Jean Timbes, Shane Hubbard, William Goldfinch

STAFF: Adam Emrick, City Administrator; Mary Catherine Hyman, Deputy Administrator/Planning and Development Director, Kevin Chestnut, Public Works Director; Jessica Hucks, Zoning Administrator; Taylor Newell, Public Information Officer; Barbara Tessier, City Clerk

OTHERS: Barb Eisenhardt, Mike Wooten, Alex Hyman, John Mock, Jessica Wise, Devin Parks, Matthew Richardson, Kathy Ropp

CALL TO ORDER: Mayor Blain-Bellamy called the meeting to order.

APPROVAL OF AGENDA: Motion: Anderson made a motion, seconded by Timbes, to approve the September 16, 2019 agenda. Vote: Unanimous. Motion carried.

APPROVAL OF MINUTES: Motion: Timbes made a motion, seconded by Anderson, to approve the July 15 and August 19, 2019 meeting minutes. Vote: Unanimous. Motion carried.

ITEMS FOR DISCUSSION

A. Discussion on request to rezone, 673.25 acres of property located on Collins Jollie Road (portion of TMS 111-00-03-039 | PIN 295-00-00-0010 from City of Conway Low/Medium Density Residential (R1) to Planned Development District (PD)). Hyman informed the committee that this issue had come before them at the August 19th committee meeting, that a community meeting was held on September 9th, and the request had been heard by the Planning Commission on September 12. At that time, the Planning Commission recommended approval of the rezoning. The first reading before Council was scheduled for October 7th; however, the agent for the developer has requested the first reading be deferred until the December 2, 2019 meeting.

A concern was raised that this rezoning would be considered contract zoning and that perhaps the committee should hear from an attorney before moving forward with this item. Emrick shared with the committee his thoughts on the subject, and he could have the City Attorney speak to them. Emrick commented that the difference between this request and contract zoning was that the Development Agreement spells out all the obligations of the City and the developer, which set forth a specific time and date, and followed the state ordinance that allows for Development Agreements. The state ordinance provides for cases
like this. The City’s Planned Development Ordinance, which is taken from a state enabling act ordinance standpoint, allows for setting forth certain zoning districts to have unique features different from other zoning districts. Should this parcel stay zoned R1 and the developer asked for certain concessions, that would be considered contract zoning. The downside of this is that the development that has a Development Agreement abides by the ordinance in place when the agreement is signed and remains so until the expiration of the agreement. Wooten addressed the committee on the subject commenting that contract zoning would be if the developer offered to give the City a park if the City zoned the property as the developer asked. Enabling legislation specifically requires that if an agreement is entered into, it would have to include some quid pro quo. Wooten also noted that there would have to be two readings of not only the rezoning request, but two readings for the Development Agreement.

A question was raised about the agreement having a tax for infrastructure. Wooten indicated that Emrick had requested the tax money go to the City’s General Fund. Wooten noted that the development would impact the City, and by taxing the entire project and not just the PD, would help the City help provide them with better police and fire protection.

Hyman made note that the City attorney has been involved with the development agreement and is very well versed on it, but he could be made available to talk to the committee. Hyman was asked if the City had been involved in Development Agreements before. Emrick commented that there had been. It was noted by the committee that development agreements did not always work. Emrick commented that development agreements were in place for a specific time before they expired and often times there has been a change in staff, leaving unanswered questions about why certain parts of the agreement were in place. However, that was with 20-year development agreements while this one was only for a ten-year period, and he hoped that current staff would still be in place throughout its duration. Council; however, would probably change in some way over the next ten years.

**Outcome:** Staff will arrange for Sam Graves, the City attorney, to attend a workshop along with full Council to discuss any legal concerns they might have on November 18, 2019.

B. **Discussion regulations pertaining to short term rentals (STR) in certain areas of the City.** Hucks informed the committee that home sharing sites, such as Airbnb’s and VRBO (Vacation Rental by Owner) have become very popular in recent years. The City does not have regulations in place for this type of rental, but does have regulations pertaining to bed and breakfast establishments.

Complaints have arisen concerning this use, and staff reviewed the ordinances from various locations including Charleston, New Orleans, and Asheville. The general consensus is that absent appropriate controls of this use, neighborhoods can be harmed by undue commercialization and disruption of the primary purpose of a neighborhood. Other cities; however, found that these types of accommodations can be beneficial under certain circumstances, and if properly regulated, helps keep properties in good order and repair.
Staff has found approximately 15 properties within the City limits currently being used as short-term rentals. Staff does expect this number for fluctuate.

Hucks noted that should Council decide to implement regulations for this use, it would need to be determined if the regulations should be uniformly applied to all zoning districts or certain areas of the City, and whether additional provisions be included, such as the property being owner-occupied all the time. Other considerations could include the length of stay, size, aesthetic, parking, number of guests and signage. Should regulations be approved, an amendment to the business license requirements might be required.

The committee discussed pros and cons of short-term rentals and in what zoning districts they might be permitted.

**Outcome:** Staff will draft a short-term rental ordinance based on the committee’s input for the October 21, 2019 committee meeting for review.

C. **Discussion on residential design standards.** Hyman informed the committee that this had been discussed in June at which time staff recommended some options such as adding design standards to current residential districts, creating new zoning districts, or amending the current Conservation Subdivision ordinance. The outcome from that meeting was that staff would create a visual preference survey. This survey was reviewed by Council, City staff, and the public.

Hyman noted that all three groups that viewed the study had similar likes and dislikes. Each group preferred homes to have foundation landscaping, full front porches, hardiplank with brick, for the home to be elevated whether by an elevated slab or crawlspace, garages on the side, roads and sidewalks, but no curb and gutters, smaller street widths and larger planting strips for the trees.

Staff recommends discussion on the proposal and asks guidance on how to proceed with potential amendments to the UDO. Hyman read off a list of potential standards the developers could choose from. These included, but were not limited to, porch size, foundation landscaping, professionally landscaped yards, hardiplank and brick, outdoor lighting, elevated slab or crawlspace, side or rear-loaded garages, variety of street width, etc.

Hyman was asked if these standards would apply to already existing subdivisions to which she replied that would be something that needed to be determined. The committee leaned more toward applying these standards to new developments. Emrick commented that there could be a point system for each zoning district. For example, the smaller the lot size, the more items that would have to be selected from the list.

**Outcome:** Staff will draft a residential design standard ordinance for the October 21, 2019 committee meeting for review.
D. Discussion of a “use variance” application for 1311 Fourth Avenue to be considered at the October 24th Board of Zoning Appeals meeting. Hucks informed the committee that this was just informational and did not require any action on their part. In July staff received a request for zoning approval for a business license application for an auto repair/tire store business. Staff denied the request because the property is not zoned for auto dealerships or auto accessory store. In addition, a business known as TJ’s Tires, who acquired a business license in 2010, was previously located on the property. At that time, it was considered legal nonconforming meaning that no new business offering tire sales/replacement or auto repair services would be permitted on this property. TJ’s Tires relocated to Horry County in March, but their City of Conway business license did not expire until June 30th of this year.

The applicant contacted staff at that time to see what could be done to allow him to lease the property to a prospective tenant who intends to use the property for an auto repair shop and tire store. The applicant stated that the previous tenant had not been gone more than 180 days, which under Article 12 of the UDO, nonconforming uses may typically be re-established if they have not been discontinued for more than 180 days. In addition to the new business being a tire store, they also propose to engage in other auto repair uses, which is considered to be an increase in the level of nonconformity.

Added to this issue, the previous establishment was in repeated violation of the City’s property maintenance codes, particularly Section 6-3-8 – Storing of Refuge/Recyclables/Trash.

The applicant chose to appeal the Zoning Administrator’s decision to deny zoning approval of the business license for the new establishment based on all of these factors. At the August 22, 2019 Board of Zoning Appeals meeting, the board upheld the Zoning Administrator’s decision to deny zoning approval.

Discussion followed as to whether or not the applicant could apply for a special use permit (use variance) instead. Staff explained that the property at 1501 Second Ave had done so within the last year, and successfully received a special use permit, or use variance, as that property had proven it had been historically used as an auto garage.

Article 14, Section 14.2.1 – Duties and Powers, of the UDO, an affirmative vote of two-thirds of the Board members present and voting shall be required before a variance may be granted for a use of land, a building or a structure that is prohibited in a given district, provided however that City Council may overrule the decision of the Board within 30 days following the decision of the Board. In order to grant a use variance, the following finding(s) must be determined and made part of the record: the use requested can be documented to have been a past use of the property; however, historic use alone may not be sufficient to grant a use variance. The fact that property may be utilized more profitably, should a variance be granted, may not be considered grounds for any variance.

The applicant states that the service part has been something offered in conjunction with the current business on the property, which has been a part of Conway for several decades, and
that they have several possible tenants who would be willing to accept stringent guidelines in keeping the area in order if the use variance is granted.

The request for a “use variance” will be heard at the October 24th Board of Zoning Appeals meeting.

**ADJOURNMENT:**  **Motion:** Timbes made a motion, seconded by Anderson, to adjourn the meeting.  **Vote:** Unanimous.  Motion carried.

**APPROVAL OF MINUTES:** Minutes approved by City Council this \(21^{\text{st}}\) day of October, 2019.

Barbara A. Tessier, City Clerk