CITY OF CONWAY
CITY COUNCIL PLANNING AND DEVELOPMENT
COMMITTEE MEETING
MONDAY, AUGUST 19, 2019 – 4:00 P.M.

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

STAFF: Adam Emrick, City Administrator; Kevin Chestnut, Public Works Director; Jessica Hucks, Zoning Administrator; Taylor Newell, Public Information Officer; Barbara Tessier, City Clerk

OTHERS: Barb Eisenhardt; Kathy Ropp

CALL TO ORDER: Council Member Timbes called the meeting to order.

APPROVAL OF AGENDA: Motion: Timbes made a motion, seconded by Anderson, to approve the August 19, 2019 agenda. Vote: Unanimous. Motion carried.

APPROVAL OF MINUTES: The minutes for the June 15, 2019 meeting were not approved as a quorum was not present at this time.

ITEMS FOR DISCUSSION

A. Discuss taking ownership of a 640' segment of Live Oak Street from SCDOT. Chestnut advised the committee that SCDOT owned a small segment of Live Oak Street (640' sq. ft.) between Ninth Avenue and Bayside Avenue. All remaining segments of Live Oak Street are owned by the City. The City has funding for a drainage project on the SCDOT portion of Live Oak Street, and to connect the sidewalk from Leonard Avenue to Ninth Avenue. To install the sidewalk, SCDOT requires curb & gutter which then requires milling and resurfacing the asphalt to match the curb grade, thus doubling the cost of the project. The asphalt is in good condition and does not need resurfacing. Staff recommends a grass separation between the sidewalk and asphalt. This eliminates the need for curb & gutter and resurfacing. Staff recommends accepting ownership of Live Oak Street between Ninth Avenue and Bayside Avenue. Motion: Anderson made a motion, seconded by Timbes, to move this item forward to Council with their recommendation. Vote: Unanimous. Motion carried.
B. 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). Emrick informed the committee that the property was already within the City limits. Part of this rezoning request is a development agreement with the City to lock in zoning and to provide to the City impact fees on a per unit basis along with the willingness to do a special tax district of some type to offset future infrastructure costs. Emrick introduced Mike Wooten with DDC Engineering to talk about the project.

Wooten informed the committee that their client purchased the tract that was zoned R1, but wants to meet the marketing demand for smaller lot sizes. In order to protect the adjacent subdivision (Ridgewood West) a part of the tract would be left zoned R1. This piece would be included in the development agreement. As part of the agreement, the developer will pay the City a fee of $500 per unit above and beyond the building permit fee to be used for infrastructure, additional fire or police stations, to increase staff or whatever the City has need for. In addition to the development agreement, there is also a stipulation that the City may pass a MID (Municipal Improvement District) tax of 4 mils in perpetuity on the property. In addition, the developer would gift land to the City on which a park could be established on the parcel that is remaining zoned R1.

Wooten commented that even though there would be buffering between the new development and Ridgewood West, there would have to be points of ingress and egress between the developments per City requirements.

The lots designed on the current plan shown as multi-family will most likely be built as single-family units as there is not much demand for multi-family units in the City. Anderson inquired how many units would be in each of the multi-family units. Wooten replied six, but that these multi-family units were just place holders at this time.

Wooten indicated that the benefit of a development this large was to have a master plan that addressed all the City’s requirements right from the start. City staff has reviewed the plans several times and Wooten noted that the pros outweigh the cons in proceeding with this development.

There was discussion relating to the property being a long distance for fire and police to travel. Emrick explained that putting a fire station at this property would make it isolated. Moving the current Fire Station # 2 from where it is now a bit further up Main Street closer to Hwy. 65 would give better coverage to existing locations as well as to this proposed development. Moving the fire station would not require additional staff or additional fire trucks and apparatus. Wooten noted that it would be at least five years before a new station would be needed.

Wooten was asked about the number of units that would be in the development. The current plans show 1,347 single-family lots and 636 multi-family units for a total of 1,983
units. The rezoning request will allow developers to build about 250 additional residences than the current R1 zoning district allows. However, this location will see development with or without the requested rezoning.

Questions about traffic were asked and Wooten commented that results from the traffic study would have to be received before answers were available.

**OUTCOME:** Wooten will meet with Council members and more discussion will be had at the September 16th Planning & Development Committee Meeting. Wooten will facilitate a Community meeting will take place September 9, 2019 at the Recreation Center.

**C. Discussion on the draft of the Future Land Use Map of the City of Conway Comprehensive Plan.** Hucks informed the committee that under state law, the Comprehensive Plan, including all its elements, must be updated at least every ten years. The Housing and Population Elements were updated in 2017. The Community Facilities, Cultural Resources, Priority Investment, and Economic Development Elements were updated earlier this year. Natural Resources and Transportation Elements will be presented at upcoming meetings.

A committee comprised of the Planning Commission and members of the public were appointed to draft the Land Use Element. After the committee met several times to gain input and make recommendations, two public meetings were held. An online survey has also been advertised with many responses being received.

The results from the public meetings and the survey will be discussed by the Land Use Committee and their recommendations will have a public hearing at a Planning Commission meeting prior to a public hearing at City Council.

**OUTCOME:** The Planning & Development Committee will review the first draft of the Future Land Use Map Element.

**D. Discussion on liquor store proximity requirements.** Hucks informed the committee that the Planning Department had approved an addition to the Quik Mart at 1813 Wright Blvd. in March 2019. The purposed use of the addition is for a liquor store, which is a use permitted in the Highway Commercial zoning district where this business is located. Although the City has no proximity requirements for liquor stores, planning staff alerted the applicant to contact the state concerning liquor license requirements. STATE LAW: (Sec. 61-6-120) Proximity to church, school or playground; exception: States the department (state) shall not grant or issue any license provided for in this Article, Article 5, or Article 7 of this chapter, if the place of business is within 300 feet of any church, school or playground situated within a municipality or within 500 feet of any church, school or playground situated outside of a municipality. Such distance shall be computed by following the shortest route of ordinary pedestrian or vehicular travel along the public thoroughfare from the nearest point of the grounds in use as part of such church, school, or playground, which, as used herein’’. The City of Conway follows the state requirements.
Though not required as part of the City review process, planning staff contacted SLED directly to clarify if the existence of the S.O.S Child Development Center, located directly behind this establishment, would prevent the applicant from obtaining the required state license. Staff was informed that because it was not a “PUBLIC” playground, the distance requirement would not be applicable to the daycare.

Several residents have complained about the location and its proximity to churches and schools, and staff was directed to research proximity requirements.

Hucks was asked if the City could have a more stringent requirement than the state. Hucks commented that it would be best to have the City attorney do research on the subject.

OUTCOME: Staff will ask the City attorney to do research to determine if the City has the authority put into place requirements that are more stringent on this matter than the state requires for future liquor stores.

E. Discussion on Temporary Signage. Hucks informed the committee, that the City’s UDO regulates signage for the City and provides for several types of temporary signage. One of those provided for temporary subdivision signs with certain provisions. One of the provisions is that one temporary off-premises subdivision sign may be permitted by the Planning Commission if the subdivision is located in such a way that it does not receive direct access from a collector or arterial street. If approved, the off-premises temporary signage shall be located at the nearest intersection of the subdivision access road and the collector or arterial street. The sign shall be located on property owned by the developer or by written consent from the property owner. The signs shall not be located in the right-of-way nor in any required sight distance triangle.

The City has received complaints concerning the location language, specifically “shall be located at the nearest intersection of the subdivision access road and the collector or arterial street. Developers would prefer to locate these signs offsite on larger roads, such as Church Street, to offer more visibility to potential homebuyers, which would in essence, allow billboards. Amending the language to state “shall be located at the nearest practical intersection or location” could address these complaints. Should this amendment be approved, the Off-Premises Sign ordinance would also have to be addressed.

Hucks noted that this issue also leads to the larger discussion concerning temporary signage and the U.S Supreme Court case “Reed vs. Town of Gilbert”. A pastor of a small church in Gilbert, Arizona faced several obstacles to erecting temporary signs directing its members to services held in different locations. The court sided with the church and the pastor ruling that the municipal ordinance placed stricter limitations on the size and placement of religious signs than other types of signage was an unconstitutional content-based restriction of free speech. The court cited the regulation was content-based if it applies to a particular speech because of the topic discussed or idea or message expressed. The Town of Gilbert’s ordinance had different height, size, and direction requirements for political signs or and signs providing direction to an assembly or event. The Reed Ruling means that any sign ordinance with differing rules for different categories of signs is, in fact, content-based as long as the categories are defined by topic, content or subject matter
of the sign message. An example would be if a political sign was permitted to be 12 square feet, but limits temporary directional signage to 6 sq. feet, the ordinance is content-based. If signs are prohibited without a permit, but provide exceptions for historical markers, real estate signs, etc., that is considered content-based.

Hucks continued that what makes this ruling extremely difficult in terms of regulating temporary signs is all that all content-based regulations are subject to strict scrutiny, meaning the reviewing courts can only uphold the regulation if the government demonstrates that it is the least restrictive means of achieving a compelling government interest, which can be difficult to demonstrate. An option for the City is to delete the temporary sign ordinance in its entirety, prohibit signs in the right-of-way, and consider adopting a stand-alone political sign ordinance.

Hucks commented that this ruling came about in 2014-2015 and staff needed recommendations on how Council would like to proceed.

Emrick noted that ruling said that municipalities would still have the right to govern onsite vs. offsite signage; however, if you have to read the signage to determine if it’s onsite on offsite signage, then it’s content-based. It was a messy case and it made all municipalities ordinances messy. Emrick also noted that the easiest thing to do would be to throw out the temporary sign ordinance entirely and not permit signage in the right-of-way. That then allows for a huge amount of the stick-in-the-ground signs on someone’s property that looks unsightly. Finding a common size and number of signs permitted was discussed. Emrick commented no matter what was decided it was not an easy task. OUTCOME: Further discussions will be needed on this subject, and staff will contact the Municipal Association to find if they have a draft ordinance the City may follow.

**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 16th day of September, 2019.

Barbara A. Tessier, City Clerk