CITY OF CONWAY
PLANNING COMMISSION MEETING
THURSDAY, JANUARY 2, 2020
CITY HALL CONFERENCE ROOM – 229 MAIN STREET – 5:30 P.M.

Present: Brantley Green, Brian O’Neil, Kendall Brown, John Thomas, Gloria Robinson-Cooper

Absent: Chris Sansbury, Chris Guidera, Mark Stanley

Staff: Mary Catherine Hyman, Deputy City Administrator / Planning & Development Director; Alicia Shelley, Planning Assistant; Kym Wilkerson, Zoning Administrator

Others: Jimmy Jordan, Rusty Helm, Barb Eisenhardt, Kathy Ropp

I. CALL TO ORDER
Chairman Green called the meeting to order at 5:30 p.m.

II. ELECTION OF OFFICERS
Robinson-Cooper made a motion to elect Brantley Green as Chairman. O’Neil seconded the motion. The vote in favor was unanimous and the motion carried.

Robinson-Cooper made a motion to elect Brian O’Neil as Vice Chairman. Green seconded the motion. The vote in favor was unanimous and the motion carried.

III. APPROVAL OF MINUTES
O’Neil made a motion, seconded by Thomas to approve the December 3, 2019 minutes as written. The vote in favor was unanimous. The motion carried.

IV. PLANNED DEVELOPMENT AMENDMENT

A. Request to amend a portion (49.5 acres) of the Wild Wing Planned Development (PD) identified as PIN 38313020072, PIN 38416010030, PIN 38300000321, PIN 38313020070, and PIN 38300000337 from the City’s Tree Ordinance.

Hyman stated that on October 11, 2019, staff received a request from Jimmy Jordan, agent for Carolina Properties LLC and JP Jordan and Associates LLC to amend the Wild Wing Planned Development (PD) (PIN 38313020072, PIN 38416010030, PIN 38300000321, PIN 38313020070, and PIN 38300000337) to include the Institutional Zoning classification, including its uses and height restrictions as well as an exemption
from the City’s Tree Ordinance. At the Planning Commission meeting on November 7, 2019, Planning Commission recommended approval to City Council to include the Institutional zoning classification (including its uses and height restrictions) and the shifting of densities between the parcels. However, the Commission deferred the request for exemption from the City’s tree ordinance until a tree study was conducted and brought before them for review. The original PD was passed in 2000, and the tree ordinance was adopted in 2007. However, the original PD states “all plans for development within this PUD shall be in accordance with the current City of Conway Land Development Regulations in effect at the time of permit approval.”

Hyman said that staff has received a tree survey, protected only tree survey and a conceptual site plan for one of the five parcels.

Hyman announced that Jimmy Jordan, applicant was present.

Jimmy Jordan further explained the request. He stated that the first map is a tree survey with everything excluded except the trees that are protected and some of those trees aren’t protected because they are below the caliper that aren’t protected. The linear pattern through the property shows the lowest area in the property and that is characteristic of a lower area of a property that has hardwoods on it. This is the swell, old drainage, that held water and that is why those trees were like that. That is a characteristic of this entire piece of property, not just this, 7 acres. I want to make this clear that we are asking for this exemption for the whole 49 acres. The county, city and the state all require stormwater and that you cannot develop a piece of property without holding your own water on site. In order to do that you have to regrade the property because you cannot dig a pond with trees on a lot. We cannot save these trees under any circumstances if you have to do stormwater because this property is about a foot and a half lower than the rest of the property. In order to grade the property so that the water will go where you want it to go to the storm ponds on the perimeter or wherever you put them, you have to move the trees. It really is not our fault that the trees have to come out and that you have to have stormwater. There is a conflict between the stormwater ordinance and the tree ordinance as you cannot have trees and ponds in the same place. How can you be charged a fine to clear a piece of property if you have no choice? I’m not sure 100% what the calculation is but it is around $150,000.

Hyman stated that if you plant any of them anywhere else and any are dead, dying or in bad shape, they would not count towards that.

Jordan stated that the perimeter of the property is 25 feet with a buffer around it, according to the PD that was done in 2000. This property is already saving 195 trees on the perimeter of the property as the site plan shows those in the perimeter buffer. If there are any trees that can be saved, they will. We also have to landscape this property according to city standards so we have to plant trees anyway. I know that the PD says that it will adhere to the regulations but I don’t think anybody envisioned a tree ordinance that would compromise the entire tract when they put the
25’ buffer around the perimeter. The buyer will find another site when told we are fined $149,000 or you can pay for that. $149,000 on a million-dollar sale is 14% of the value of the property. We pay a 4% commission, 20% in income taxes when we sale the property. I, personally don’t think that the City of Conway deserves 14% of the value of this piece of property. I see this as a tax and not a tree ordinance. This is our case.

Hyman further explained the maps and stated that every parcel that develops in the city has some sort of buffer but they may vary in width.

Green asked if there would be any additional planting in the buffer. Jordan said he would agree to put 15 trees per acre of buffer area. Jordan said in addition, they would be putting landscaping in all over the site to meet the city’s regulations.

Robinson-Cooper asked if something like this has been requested before. Hyman said not here and that was part of a larger request or planned development. She said that the City of Conway does have a tree board that usually handles tree mitigation. This was a little different because it was a planned development but the tree board is usually the entity that works with the developers on the mitigation fees.

Jordan said it has not been done like this because we have not had this situation come up since the tree ordinance was in place. His personal opinion is that someone needs to take a look at it as I think the ordinance is too strong. He has talked to several lawyers and there are tree ordinances out there that have been shot down are in the process of being redone by the legislature because of such a broad approach.

Green asked about the medians. Jordan said that the Master association maintains the existing medians and we will become a part of that and contribute. He stated that the sidewalks are already there.

Thomas asked if this could be deferred to the tree committee. Hyman said yes, it could be.

O’Neil said that he did some research today, and that this a tree thing and that the tree board comes in. This section, 3-4-5 Tree Board which covers all this and Jimmy brought it up that this site has a unique topographical conditions and this board can actually make the changes. He doesn’t think the Planning Commission should set a precedence in making a change like this. The board can make an amendment or change and negotiate with the developer. If Planning Commission approves it tonight, it still goes to City Council for approval or disapproval. At least the tree board can negotiate.

Jordan said the tree board is the Community Appearance Board. Hyman clarified that yes, it is the same people, but a separate board and would not go to council.

Thomas said this is what the tree board is set up to hear things like this.
Green said if we approve it, it still has to go to council.

Jordan said that the tree board is a juridical body and the only appeal from them is to sue the City of Conway. Thomas said he is not sure of that.

Jordan said he had rather go the route other than the tree board because he really does not want to sue the City of Conway but doesn’t know if they will be able to agree with the CAB on what is fair with this.

Thomas said anything we do here is setting a precedent.

Hyman stated that the issues needed to move to board discussion. Jordan stated that he rests his case.

Robinson-Cooper said that in order to proceed with this development, some entity has to decide if ok for him to take down hardwoods and there is a fee attached to doing that. If they do come down, he is saying that the fee is too high for him to consider to move forward.

Green said that the buffer is not an issue. Helms said that a 25’ buffer was put into place for the PD and since then the tree ordinance was put into place so now we are getting a double hit.

Hyman stated that every property that is developed in the City of Conway has a buffer and that they vary in size and usually depends on what the adjoining zoning is. When this PD was approved in 2000 it said that it had to be 25 foot and that it had to meet all the land development regulations. The tree ordinance was enacted in 2007 but every property that has been developed in Wild Wing and in the city has met the ordinance since then. Staff has offered to walk the site to see if any of the trees are dead or dying and didn’t need to count because what is on paper is not always what you see out in the field. They are not requesting a reduced fee but an exemption from the tree ordinance. So, what is before you are to make the recommendation to exempt it or not. But, what John and Brian are saying is that if it went to the tree board that they could give more lead way and it wouldn’t be all or nothing.

The board continued to discuss the tree board and the PD.

Green asked when the next tree board meeting would be. Hyman said the end of January or beginning of February. Council meetings would be after Tree Board meeting dates.

Green asked for a motion on the request.

O’Neil stated that the request now is to send to council for recommendation whether to waive the tree ordinance or not. Hyman said yes, either way it will go to council, whether you vote to recommend approval or disapproval.
Robinson-Cooper asked for clarification on the request. Hyman clarified that the request was for a portion of the overall Wild Wing Development which included five parcels.

Green stated that his concern is not yes or no but if it goes to tree board and they yay or nay it, does it then tie the city up in a legal obligation. Hyman said she would have to do more research on that issue.

O’Neil said if we yay or nay it, it would still go to council and if they wanted to they could go work with the tree board.

Thomas said if we go to council, can then council ask for a response or recommendation from the tree board. Hyman said yes.

O’Neil made a motion to recommend disapproval to City Council. Robinson-Cooper seconded the motion and the motion carried unanimously.

**B. COMPREHENSIVE PLAN**

1. **Public Hearing and Consideration of Adoption of the Natural Resources Element**

Hyman stated that next on the agenda is review, consideration and Resolution in Support of adoption of the Natural Resources Element of the Comprehensive Plan. The Natural Resources Element includes information concerning forest, land, plant and animal habitats, unique park and recreation areas, unique scenic views and sites, wetlands, soil types, the watersheds including flood plain and flood way areas, mineral deposits, air quality and water quality. The draft of the Natural Resources Element was reviewed at the December 3, 2019 Planning Commission Meeting. It has been on our website. Another public hearing will be held at City Council with first reading on January 21, 2020 and second reading on February 3, 2020.

Hyman stated that staff sent the draft to Horry County Planning, and would make some recommended revisions. The board commended staff on their efforts. Hyman further added that Jessica Hucks took the lead on this plan and gave her credit.

Green made a motion to allow staff to make the changes from Horry County as needed and a recommendation for a Resolution to City Council for adoption of the Natural Resources Element. Hyman will send the board the link once the changes are made. Thomas seconded the motion and the motion carried unanimously.

2. **PUBLIC INPUT**

Barb Eisenhardt stated that she had 2 items:
1. Eisenhardt asked about the County's Transportation Element of the Comprehensive Plan. Hyman stated that this is not part of the Natural Resources plan. Eisenhardt said that she spoke to the county engineers and that this project which goes along the railroad track at the fairways and that this is an extension of Postal Way. She asked that this ne taken into consideration with future plans.

2. Eisenhardt asked if the request for the exemption from the tree ordinance applied to all 50 acres. She thought that after he met with the community, the community thought that the tree ordinance exemption request only applied to the 7-acre parcel.

C. ADJOURNMENT

A motion was made and seconded to adjourn the meeting. The vote in favor was unanimous. The motion carried. The meeting adjourned at approximately 6:23 p.m.

Approved and signed this \( \frac{4}{1} \) day of \( \frac{E}{R} \), 2020.

[Signature]
Brantley Green, Chairman