CITY OF CONWAY
PLANNING COMMISSION MEETING
THURSDAY, SEPTEMBER 5, 2013
COUNCIL CHAMBERS – 5:30 P.M.

Present: Larry Foye, Hank Grabarz, Tammy Hughes, Fran Humphries, David Jordan

Absent: Gerald Wallace, Chris Guidera, Brantley Green, Bill Gobbel

Staff: Michael Leinwand, Planning Director; Barbara Tessier, Secretary

Others: See Attached List

I. CALL TO ORDER

Vice Chairman Foye called the meeting to order at 5:35 p.m.

II. APPROVAL OF MINUTES

Grabarz made a motion, seconded by Hughes, to approve the August 1, 2013 minutes as written. The vote in favor was unanimous. The motion carried.

III. REZONING

A. Request by Wendell L. Cooper to rezone approximately 1.3 acres of property located at 418 Wright Boulevard, Whitts Alley, and Smith Street from Medium Density Residential (R-2) to Highway Commercial (HC).
   (TMS# 137-05-15-044)

Leinwand said the lot was odd-shaped, and had frontage on Wright Boulevard, Whitts Alley, and Smith Street. He said the piece fronting Wright Boulevard had traditionally been used as Highway Commercial. He said the Future Use Land Map identified the entire property to be Highway Commercial (HC).

Leinwand said it was staff’s recommendation for the R-2 zoning remain for the 0.70 acre portion of the parcel that fronted both Smith Street and Whitts Alley. Staff also recommended rezoning the 0.60 acre portion that was addressed as 418 Wright Boulevard to Highway Commercial (HC).

Judy Phillips, a Smith Street resident asked if she understood they wanted to rezone the property from residential to commercial. Leinwand said the proposal from the property owner was to zone the entire parcel to Highway Commercial (HC). He said that would include the portion that had frontage on Smith Street. She asked what the plans were for the parcel. Leinwand said he had seen no plans for development. He said right now it was just a request for a change of zoning.
Humphries showed on the enlarged map what portion staff had recommended to remain as residential.

The owner of 410 and 411 Smith Street said he was against the portion near Smith Street being rezoned to Highway Commercial (HC). He was not clear on who was making the request to change the zoning. Leinwand explained the property owner had requested a change in zoning. He said that started a process in which the Planning Commission was the first step. He explained the Planning Commission was an advisory board, and their recommendation would be presented to City Council. He said City Council would make the final decision on whether to rezone the entire parcel or just a portion of it. He said staff was making the recommendation to only rezone the portion of the parcel that fronted on Wright Boulevard to Highway Commercial (HC). The owner said there was a daycare on the Cherry Hill Baptist Church property. Hughes asked if the church had any obligation to do fencing. Leinwand said they would if there was a use change. He said as of right now, nothing would be required.

Billie Carter Williams of 408 Smith Street said she was against rezoning the portion by Smith Street to commercial because people raised their children and grandchildren there. She said she was also concerned about crime.

Clara Owens was present for Clara Wilson of 412 Smith Street, who was against the rezoning.

Greg Faulk, owner of Faulk Auto Sales, located at 416 Wright Boulevard, was present. He said he leased property from the owner of the property for his car lot. He said he might purchase the property that was proposed to be rezoned. He said the only reason he wanted the rezoning was in case Whitt’s Alley was closed. He said he had no intention of putting any buildings on the property across Whitts Alley. He said he might park overflow of cars on the property. He said there was a large Oak tree on the property that would keep him from building on it.

Jordan asked Faulk if he would be opposed to the parcel being split. Faulk said he was concerned about traffic on Wright Boulevard, and wanted to be sure he could get off the property through the back.

Jordan asked Leinwand if the city would close the alley. Leinwand said City Council could close it, but they would listen to the property owners first. One of the Smith Street residents said he did not want Smith Street as an entrance if Whitts Alley was closed. Jordan said he thought the Fire Department had been against the closing of Whitts Alley.

Jordan said he thought the R-2 zoning could have a drive through, which would be a solution if Whitts Alley was ever closed.

Jordan made a motion, seconded by Hughes, to follow staff’s recommendation, which was to rezone the portion of the property that fronted Wrights Boulevard to Highway Commercial, and to leave the portion of the property that fronted Whitts Alley and Smith Street zoned Medium Density Residential (R-2).

Faulk said he would have a problem with not being able to park cars on that portion of the parcel. Jordan asked why he didn’t purchase the grassy area. Faulk said he wanted the parcel behind his business.

Hughes said he needed to talk to the property owner about splitting the property up differently.
Jordan restated his motion to follow staff’s recommendation. Humphries seconded the motion. The vote in favor was unanimous. The motion carried.

Leinwand told Faulk that the Planning Commission was just an advisory board. He told him the item would be held by City Council on September 16, 2013, and that he could attend the meeting.

IV. ANNEXATION/REZONING

A. Request by Cohn & Cohn Investments LLC to annex one parcel, totaling approximately 3.0 acres, located between East Cox Ferry Road and Daytona Street, and to rezone the property to Heavy Industrial (HI) upon annexation. (TMS# 151-00-04-045)

Leinwand said the property owner had no immediate plans for development of the parcel, but wanted to annex into the city in case development occurred in the near future. He said adjacent properties to the west in Commerce Plaza were in the city limits and were zoned Heavy Industrial (HI).

Leinwand said staff recommended the annexation and rezoning to Heavy Industrial upon annexation.

Joe Woodle, who was there to represent Cohn & Cohn Investments LLC, said they were in the process of building a Sherwin Williams warehouse in the Atlantic Center which was in the process of being annexed by the city.

Woodle said they were looking at this as investment property. He said the plan was to build anywhere from 5,000 to 15,000 square foot building either as a spec or built to suit. He said they looked forward to being annexed.

Jordan asked why they wanted to pay city taxes. Woodle said the tax was not that high and the land was purchased inexpensively. He said without zoning you could not make any plans for the property. Leinwand was asked what the zoning was for the property at the county. Leinwand said it was Light Industrial (LI).

Grabarz made a motion, seconded by Jordan, to approve the annexation and the subsequent zoning to Heavy Industrial (HI). The vote in favor was unanimous. The motion carried.

V. SUBDIVISION AMENDMENT

A. Rivertown Row Open Space

Leinwand said this subdivision had 88 single-family lots. He said in 2007 the Planning Commission voted to approve the preliminary layout of the subdivision. He said at the time, the subdivision included a 6 feet wide walking trail around the existing pond. He said the city held a letter of credit for it to be constructed. He said it was to be made out of a mulch material. He said the developer was requesting to have the walking trail removed from the open space area.
Leinwand said staff recommended, if the trail removal was approved, something else useable for open space be provided. He said he received 5 phone calls during the week supporting the walking trail be kept.

Forrest Beverly, the developer, said feedback from the agent selling the lots was there was trouble selling the lots near the pond because of the proposed trail. He said there were 25 lots around the pond, and it seemed buyers were steering away from those lots.

Hughes asked Beverly what else could be provided instead of the trail. Beverly suggested picnic shelter(s) perhaps on the corners of the pond. Grabarz asked if the picnic areas would provide the same amount of area the trail would. Beverly said the trail at Tiger Grand was not used.

Rebecca Thompson, a resident of Rivertown Row, said she when she bought her lot, it was a premium lot for which she paid more for under the assumption there would be a walking trail. She asked if there was no trail, who would maintain the area by the pond. Beverly said the homeowners association would. Thompson said there was no homeowners association. Beverly said there was an HOA, and Beverly was taking care of the fees at this time. Thompson said when she bought, there was no HOA. Beverly said he was not involved with the subdivision when she bought her lot. She said she had called the environment agency in Conway because she had copperheads and cotton mouths because the grass had grown up. She said the dumpsters were overflowing in the area as well.

A resident named Joyce (did not sign in and last name was inaudible on the recording) said she was against trading a walkway for a pavilion and picnic grounds. She said her house was 10' from the pavilion. She said she did not buy her house to be beside a pavilion and picnic tables.

Jordan asked Leinwand if a pavilion/picnic area would be allowed. Leinwand said as long as it met the setbacks they could consider it open space. Jordan asked if playground equipment could be an alternative. Leinwand said it could, but one of the residents said the residents were all older and there were no children. Leinwand said it was up to the developer and what the Board would accept.

Donna Collins, another resident, said her lot backed up to the pond. She said she was promised a walking trail when she bought her house comparable to what was at Tiger Grand. She wanted to know what was going to be done about the property if the walking trail was not installed. She said something had to be done behind her property if the trail was not installed. She said there were people using the walking trail at Tiger Grand at 6:30 in the morning.

Jordan asked if the HOA had been formed. Beverly said it had been formed before they bought the property. He said they did not have active dues at the present time. Collins said they paid dues at closing and there was a fund somewhere. She asked if there was nothing done with the trail, did she own the property to the pond. Leinwand said around the pond was common area she did not own. She asked who was going to maintain the area. Leinwand said it would be the HOA. She said they did not have one. She asked how long it took to get it organized.

Jordan asked what percent of the lots had been sold so far. Beverly said less than 50 percent.

Grabarz asked Leinwand if the homeowners could go before Council and initiation some action with the HOA. Leinwand said no. Grabarz said the Board was just an advisory board. Leinwand said this issue was a land development regulation and the Board had the final word. Grabarz said he
meant as far as the HOA was concerned. He asked if Council could initiate some type of action. Leinwand said it would be up to whatever the subdivision bylaws between the developer and the homeowners outlined. Jordan said usually the developer controls the HOA until at least 80 percent of the lots were sold. Jordan said that is to protect the homeowner from having to pay dues until that point. Beverly said the dues would start when the HOA was in place. One of the residents asked what their benefit would be from having an HOA. Beverly said they would be able to maintain the property around the pond. She said the Beverly’s had been there a year already and the grass did not get mowed. Foye said they were here to talk about the walking trail and not who was going to maintain the area.

A resident named Rich (signature not legible and name inaudible on recording) said the main reason he bought the house was because he was told there was no HOA. He said he was told eventually they would have to pay something to the city to mow. Beverly said he did not know what he was referring to because there was an HOA, but it was not active. The resident said he thought the residents should have been warned about it. He said as far as the trail, he did not care. He said it was a dead pond. He said he wouldn’t want a pavilion either. He said the open space at Tiger Grand didn’t get used a lot.

Grabarz said he thought perhaps they should table the issue to see if the developer could come up with a better idea. Forrest Beverly said he was fine with that. Randy Beverly said the subdivision had sidewalks on both sides of the street. He said he thought they would want something more than more sidewalks.

Grabarz made a motion, seconded by Humphries, to table the discussion and for the builder and the homeowners get together to work out a solution and then come back before the Board. The vote in favor was unanimous. The motion carried.

VI. LETTERS OF CREDIT

A. Fairways at Wild Wing

Leinwand said this letter of credit was for sidewalks in the amount of $71,843.89. He said nothing had changed in the subdivision in the last year. He said the last permit was issued in 2010.

Leinwand said staff recommended approving the letter of credit for an additional year at the same amount.

Humphries made a motion, seconded by Hughes, to approve the extension of the Fairways letter of credit. The vote in favor was unanimous. The motion carried.
VII. TEXT AMENDMENT

A. Amendment to Article 9 of the City of Conway Unified Development Ordinance (UDO) relating to landscaping buffer requirements adjacent to undeveloped parcels.

Leinwand said when the UDO was adopted on December 12, 2011, the requirements to determine the type of landscape buffers changed. He said prior to the adoption of the UDO, landscaping buffer requirements were determined based on the adjacent property zoning district(s).

Leinwand said the current landscape buffer requirements were determined by the specific use of the property and the specific uses of the adjacent properties. He said in Article 4 Uses Table of the UDO, specific uses were determined by a Land Use Code (LUC), which was used to determine the required landscaping buffers. He said because several uses were permitted in multiple zoning districts, it made more sense to determine buffer requirements based on the specific use and not zoning district.

Leinwand said after evaluating the current landscape buffer requirements, staff was recommending the amendment of Article 9 of the UDO in order to protect undeveloped properties, particularly residentially-zoned against future development.

Leinwand gave examples of the issues staff thought might occur. Jordan said he felt if someone wanted to build they should be responsible for the buffering. He said if a vacant property never got built on, the adjacent property that did build would be responsible for potentially a lot of unnecessary landscaping.

Humphries said why should they saddle one property with a lot of landscaping when the adjacent property might stay vacant forever. Jordan said they would be taking away useable commercial land if they made them put in the larger buffers. Grabarz said this sounded site specific. He said he thought there would be an issue with the city’s doughnut holes as well. Jordan said he thought the buffer should be the responsibility of the second property built.

Jordan gave an example of the Palmetto property that recently came before the Board. He said there was nothing behind the property but pine trees and he did not see why they needed at 25 foot buffer against pine trees. Hughes asked Jordan if he was saying the second person to build should be responsible for the buffering. Jordan said that was correct.

Foye said staff recommended the approval of the proposed amendment. Leinwand said the Board’s recommendation would go to City Council.

Jordan made a motion, seconded by Humphries, to not approve the proposed text amendment and to leave the buffer requirements as they currently were. The vote in favor was unanimous. The motion carried.
VII. PUBLIC INPUT

There was none.

IX. ADJOURN

There being no further business to come before the Board, the meeting adjourned at 6:55 p.m.

Approved this 3 day of October, 2013.

Gerald C. Wallace, III, Chairman

Larry Foje, Vice Chairman
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