CITY OF CONWAY
PLANNING COMMISSION MEETING
TUESDAY, MAY 1, 2012
CITY HALL CONFERENCE ROOM – 5:30 P.M.

Present: Gerald Wallace, David Jordan, Brantley Green, Bill Gobbel, Hank Grabarz, Chris Guidera, Fran Humphries

Absent: Larry Foye, Charles Byrd

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

Others: Raymond Tiller, Rivertown Row

I. CALL TO ORDER

Chairman Wallace called the meeting to order at 5:30 p.m.

II. APPROVAL OF MINUTES

Grabarz made a motion, seconded by Green, to approve the April 5, 2012 minutes with a change on page 9 in the first full paragraph to read 12.1.7.C instead of 12.1.7.4.C. The vote in favor was unanimous. The motion carried.

III. ANNEXATION/ REZONING

A. Request by Creola Harrelson to rezone approximately 0.2 acres of property located at 1512 Oak Street (TMS# 123-14-25-027) from Medium Density Residential (R-2) to Professional (P).

Leinwand said there was a vacant structure on the property. He said the structure was once used as a day care. He said the property owner wanted to rezone it to Professional to increase the types of uses that could be marketed for the property.

Leinwand said the Long Range Plan recommended the property to be Neighborhood Commercial (NC), but there was a Professional zoned property adjacent to it. He said staff had no issue with it being rezoned to Professional.

Guidera asked if the structure was set up as a house. Leinwand said he believed that it was.

Green asked if there would have to be landscaping done because of the rezoning. Leinwand said if they changed the use, they would not have to do more
landscaping as long as the moratorium was in effect. He said if they added additional parking they would have to landscape that.

Grabarz made a motion, seconded by Jordan, to approve the rezoning. Wallace, Jordan, Grabarz, Green, Humphries, Gobbel voted in favor. Guidera voted against. The motion carried.

IV. LETTERS OF CREDIT

A. Rivertown Row

Leinwand said there were currently 78 vacant lots in Rivertown Row. He said 10 homes had been built. He said the last building permit issued was in April 2012. He said the owner and developer had asked for an extension of another year. He said the original letter of credit was issued in 2009. He said it was for sidewalks, a trail made out of landscape mulch and street trees.

Gobbel made a motion, seconded by Guidera, to approve a one-year extension. The vote in favor was unanimous. The motion carried.

B. Rosehaven Phase 1

Leinwand said there had not been much activity in this subdivision. He said the last building permit was issued in February 2012. He said there were still 71 vacant lots out of the 85 lots available. He said the original letter of credit was issued in 2008. He said staff recommended the extension of this letter of credit for another year.

Gobbel asked if staff was notifying the developers that this might be the final year that their letters of credit could be extended. Leinwand said at the last meeting, the Board decided to take these existing letters of credit, for at least this calendar year, to extend them for another if requested. He said the following year there would be more pressure to draw on the letters of credit if 5 years had passed, unless the applicant could show some type of hardship. He said staff had been notifying the developers/owners.

Wallace asked if Leinwand was telling the developers/owners about the new policy. Leinwand said that he was. He said he told them it was in their best interests to attend the meeting when the letter of credit was on the agenda.

Gobbel asked about the letter of credit that had been drawn on a few months earlier. Leinwand said the letter of credit for Forest Glen had been drawn on. He said he thought the property was in the process of foreclosure. He said the bank was trying to find a developer to purchase the property. He said it was in limbo because the roads had not been dedicated to the city. He said until the roads were dedicated, the city could not go onto the property and put in the infrastructure. Gobbel asked where the money
went. Leinwand said it was in a bank account. He said there was a note that the funds were to be used for Forest Glen.

Green made a motion, seconded by Humphries, to approve the one-year extension of the letter of credit. The vote in favor was unanimous. The motion carried.

V. TEXT AMENDMENT

Leinwand said he had taken the list of nine issues that the Board had been concerned with and addressed each of them in his issue paper. He said he could go through all nine of them, and then they could have a discussion. Wallace said they should go over one at a time.

Leinwand gave the background on this text amendment. He said in January 2012 there was a first reading on bringing in a property that had a mobile home on it. He said City Council wanted to get a legal opinion, and for staff to do further research on how to treat nonconforming uses if they were annexed into the city. He said the ordinance currently prohibited the use of mobile homes. He said they asked the attorney for the city to draft an ordinance that would permit a way to bring in the type of uses but not put a substantial hardship on them. He said for example, if one burned down, it could be put back based on how the proposed ordinance was currently written.

Leinwand said the first issue the Board had was how did mobile homes and mobile home parks become nonconforming. He said he explained in Article 5 there was a section that this type of use was prohibited. He said it was staff’s opinion not to change the ordinance any further since it was already stated in another article of the UDO. He said there had been discussion about putting this language in the new section, but since it was already in Article 5, he did not think it was necessary to state it again. Grabarz asked for there to be a reference back to Article 5.4.1 from 12.1.7. Leinwand said he would make a note of that. Wallace thought it would be a good idea.

Grabarz asked if they were just establishing the fact that they were being accepted as a nonconforming use when annexed into the city, but with certain amount of regulations to be imposed upon them which were delineated in Section 12.1.7. Leinwand said that was correct.

Leinwand went on to the second issue, which dealt with the way the value of a mobile home was calculated. He said the intent of this section was to allow the property owner or the tenant to rebuild even if there was damage exceeding 50% of the value. He said there was really no need to know the value of the mobile home. He said regardless of whether it was more or less than 50% damaged, it could be rebuilt based on how this was written. He said other conditions would still have to be met, such as re-establishing within 180 days, the replacement mobile home would have to be 5 years old or less, and the same size or smaller. He said they didn’t feel they needed to amend the ordinance in this case.
Leinwand said these provisions for mobile homes did contrast with what was stated in Section 12.1.2. He said other structures that burned more than 50% of the value, could not be put back. He said this made it easier to put it back if it was a mobile home or mobile home park. Garbarz said it would cost more to fix a mobile home than to replace it. Jordan said the rest of nonconformities could not be replaced or fixed if the damage was over 50%. Leinwand said that was correct. Most of the Board considered this to be unfair.

Humphries asked if you could get an appraisal on a mobile home. Jordan said he just looked it up on Kelly’s Blue Book.

Wallace said this section was how to determine 50% damage. He said if they were not worried about that, it could stay the way it was. Jordan said if it was over 50% damaged then it should be brought into conformance. Wallace said if a single mobile home in a mobile home park burned down they should be allowed to replace it, but probably not in a residential neighborhood where the mobile home was on its own lot.

Gobbel said he did not think there was enough differentiation between a mobile home and a mobile home park. He said they were two different things. He did not understand why they would want to bring in mobile homes when the city had been opposed to them for as long as he could remember. Humphries said there was no tax value to them.

Guidera asked what the benefit was to bringing in a mobile home park. He asked if there was revenue or if they would be a drag and start pulling down funding that should be spent on other streets and recreation, etc. Leinwand said the goal was to try and not put a burden on the mobile homes as they brought them in. He said they hoped that over time the next use for the property would be for something else.

Gobbel said he thought they were talking about a mobile home park that did not conform to existing county subdivision regulations or anything else. He said they would be faced with roads less than 50 foot right-of-ways, substandard conditions all the way around. He said it would be a burden. He said if they annexed a mobile home park that had been through the county regulations, had the required right-of-way, and had the required green area, then they would be well off. He said he was not sure why anyone who had a mobile home park would want to annex. Guidera thought it would be a tax drain on the mobile home park owner. Gobbel said there would be no advantage to the mobile home park owner. He said there was no mobile home park zoning ordinance so he didn’t think water and sewer could be denied. He said he thought it could be taken to court, and the park owner could get services without annexing.

Grabarz said they were looking at two different things, one of which being to be able to get city services without annexing. Leinwand said that was not the city’s policy. Gobbel said again that he thought a mobile home park owner could go to court and win that battle. Grabarz said they should be looking at some way to establish an ordinance that would address the hooking up of a contiguous property to the City of Conway.
without being annexed into the city if it was, in fact, a mobile home. He said they were trying not to encourage mobile homes annexation. Gobbel said the city would be better off to go ahead, and provide the services at a double rate.

Humphries said he did not know all the laws, but he said they did not want to draft legislation in response to litigation. He said it was better to anticipate litigation and draft the legislation than to do it in response. Gobbel said it was always better to have provisions to control something.

Wallace said this ordinance addressed nonconforming mobile homes and mobile home parks. He said at an earlier meeting they decided they really didn’t want mobile home parks, and they didn’t want to establish precedence of having a section addressing mobile homes in the city. Gobbel asked why they should take this one. Grabarz said if they didn’t address it, there would be no control over it. Wallace said this had been brought up at the suggestion of City Council. He said it had to come before this Board for a recommendation. Gobbel said this ordinance really became a liability to the city.

Jordan said he thought the ordinance should go back to the attorney. He said he knew it had been gone over with the City Administrator and been tweaked. Leinwand said it had not been tweaked much, and it was pretty much word-for-word what the attorney had written. Jordan said this was not the first time this issue had been dealt with in South Carolina, and other ordinances should be looked at.

Guidera asked if a mobile home park was brought into the city, would the park be required to put a water tap on each single lot rented. Leinwand said they would probably use the existing meter. Guidera said he had a master meter on his business and five meters behind it for each unit that was rented. He said he didn’t see why mobile home parks couldn’t do something similar. He said he thought they should be brought up to the standard that all other people in the city were being held to.

Grabarz said either way it had to be addressed. He said there had to be control over it. Jordan said there was a difference between annexing something like the Turkey Ridge Mobile Home Park and annexing a single family lot that had a mobile home put on it before zoning regulations. He said he thought they’d like to see a mobile home on a single lot be replaced with a stick built house if it were to become damaged. He said if a mobile home in a mobile home park became damaged, that was not a reasonable expectation.

Jordan said the structure of the ordinance was not set up to differentiate between mobile home parks and mobile homes on single lots that had their own tax map numbers.

Green mentioned a mobile home subdivision like on Highway 90. He said it was as nice as another subdivision. Jordan said that was because it had been done through the county. Gobbel said if a mobile home burned there, they could replace with a stick
built house. Guidera said there was a gated mobile park home on East Cox Ferry Road. He said it had streets and curbs and the lot sizes were standardized. He said that type of situation made sense. Green said he thought there was even a pool there. Jordan asked if one burned, would they have to put a house in. He said ideally they would put another trailer in. Wallace said that would bring in another issue being a subdivision. Leinwand said it was not a subdivision because it was still just one lot. Guidera thought there were several stick built homes in there as well. Wallace said they were probably modular homes. Leinwand said modular homes were permitted in the city. Green said if they didn’t have an axel under them, they were houses.

Wallace asked the Board what their consensus was regarding this nonconforming section they were talking about. Jordan said he thought it needed to go back to the attorney. He said if they were going to pass an ordinance, they needed to do it right.

Humphries said they didn’t have a clue what to do with issue 2. Jordan said he still believed they should require the information regarding the size, make, model, year and location should be on record before any annexation. Wallace said there needed to be a record of what it looked like at annexation.

Wallace said in number 3, they say they can take some pictures, and do an inventory of what was there. He said for issue 2, it was kind of hopeless trying to determine what 50% was. Wallace said 50% would be if 20 feet of a 40 foot mobile home burned. Leinwand said they would recommend that if it burned at all it could go back. He said the value really didn’t matter.

Wallace moved on to number 4, which was replacement after damage. He asked the Board if they wanted to keep their recommendation of changing the 180 days to 90 days. They agreed to keep that recommendation in place. Gobbel said he didn’t like the 90 days for a rental park. Wallace said when this went back to the attorney they were going to ask him to differentiation between a mobile home park and a single residence lot. Leinwand said it was already differentiated. Wallace said they wanted a longer time period inside a park, and a shorter time period for a single residence lot. Grabarz said he could see this being challenged. He asked if there was a building in town that wasn’t rented for 180 days, would it be null and void. Jordan said it would have to be brought up to standards at that point. Grabarz said he was not talking about something that was substandard, but something that just was not rented for 180 days. He said the economy at this point made some places not feasible to be rented.

Gobbel said his issue was what if someone decided to move out of the trailer park and take his trailer with him. He asked if that meant if the park owner did not rent out that space within 180 days, he could not ever put another mobile home in its place. Guidera said he was thinking more about a trailer that was empty but damaged and not repaired within the 180 days. Grabarz said it should be brought up to code or hauled off, but the lot should still be rentable.
Wallace told Leinwand there needed to be some language to cover something happening to an entire mobile home park, and it should be brought into conformity at that point.

Leinwand said the reason the annexation of the mobile home on Lesia Lane came up was because there had been a change in ownership. He said it is the city’s policy to annex when there is a change in ownership where the property was contiguous to the city. Jordan asked if they were getting water now while they were waiting to be annexed. Leinwand said they had water.

Wallace moved on to item 5 regarding sizes. He said the Board recommended no additional areas. He asked if anyone had an issue with that. No one did. Jordan said this went back to where the mobile home was located. Wallace said this was another one that needed a separate ordinance for a mobile home park versus a single lot. Leinwand said there was, and it was Section 12.1.7.A and 12.1.7.B. Wallace said there needed to be two ordinances.

Jordan said the neighborhood surrounding the mobile home in question on Lesia Lane was a mix of uses. He asked if a mobile home went away, wouldn’t the city want a stick built house in its place. Leinwand said the city would in the long-term, but he did not think the city wanted to put a burden on the owners immediately.

Wallace moved on to internal roadways. Staff’s comment was they did not recommend property owners to make improvements at their own expense for an existing use.

Wallace said it was the opinion of the Board that there needed to be more language or side-by-side language addressing different types of use of mobile homes.

Leinwand asked them to be specific in their motion what they wanted staff to do. Wallace said they needed to address the different installations of mobile homes three different ways – in a mobile home park that was one piece of property with multiple mobile homes installed, a mobile home single family lot where the lot would be nonconforming with a stick built house on it (a very small lot), and mobile homes on property that met current zoning for residential as far as property size.

Humphries asked if there was a difference between a single lot and a subdivision. Humphries said a single family on a single lot wasn’t necessarily something that resided on a property that had its own tax map number. Leinwand said that was what staff believed. He said staff believed that a mobile home subdivision was the same as a mobile home on an individual lot. Wallace said it didn’t necessarily have to be a mobile home on a single lot that would conform to the residential standards as far as lot size. He said some of the subdivisions, like Jensen’s, had lots that were not big enough to have a stick built house and setbacks. Leinwand said the city had brought in property that did not meet the R-1 standards. He said they came in as nonconforming lots. Wallace said maybe those standards should be drawn into this
nonconforming thing because if a mobile home burns down on a 20 wide lot, we didn’t let the homeowner put one back it would be an undue burden. He said on the other hand, if someone had two acres in the county and his mobile home burned down, he’d sure like to see a ranch house built there. Grabarz said you would have to allow them to put one back on a 20 foot wide lot because otherwise it would be a useless lot. Leinwand said if the setbacks were a burden for someone who tried to build something back even if it was stick built, they could apply for a variance because of an extraordinary circumstance of the size of the lot.

Gobble suggested a survey to see what was around the city now. He said any future stuff would meet the lot size and open space, etc. under county regulations. Gobbel said he thought a lot of this information could be obtained from the county as to what was currently substandard. Wallace said it was up to the Board and City Council if something unappealing wanted to come into the city, it was their job to say no.

Gobbel said if they knew there was a lot of substandard stuff out there they might be faced with, they could write the ordinances dealing with them. He said if they were not looking at an abundance of stuff, they might not need to go in that direction.

Jordan asked if the next ordinance rewrite would be in 10 or 15 years. Jordan said it could be estimated the city would not be to the Pee Dee Highway in 10 years.

Gobbel said the only legal way to deal with this was a zoning ordinance. Leinwand said City Council did not want that.

Wallace asked Leinwand if City Council mentioned anything about a mobile home ordinance versus a nonconforming mobile home ordinance. He asked if City Council had just asked him to address the nonconforming stuff. Leinwand said City Council initiated the ordinance for nonconforming mobile homes. He said he did not think they would be in favor of creating an ordinance that permitted mobile homes and mobile home parks. He said they just wanted to deal with them once they were annexed. The Board agreed that made no sense. Guidera asked why they didn’t want to make them conforming when they came in. He said the problem would be solved. Leinwand said if they did that, they could be there forever.

Guidera said the Board needed to know the major intent of the ordinance so they could make it right. He said it seemed that the ordinance was going back and forth sometimes giving a lot of leeway and in other places, if the intent was to eventually go away, they could write it as such. Wallace said the city didn’t want to put an undue burden on the property owners.

Wallace said he did not think that a mobile home park would ever disappear. Green said if they were making money why would they. Guidera said that was true especially if they were not paying taxes. Wallace said a large lot with a single mobile home on it would likely disappear as property values rise and somebody wants the lot.
Wallace said as far as the proposed ordinance, someone should make a motion regarding mobile homes in three different scenarios: Multiple mobile homes on a single property, a single mobile home on a substandard lot, and a single mobile home on a conforming lot.

Jordan made a motion, seconded by Humphries, to table for staff to have the city attorney address mobile homes in three different scenarios: Multiple mobile homes on a single property, a single mobile home on a substandard lot, and a single mobile home on a conforming lot, and have a more thorough ordinance for their next review. The vote in favor was unanimous. The motion carried.

Wallace said it was also the consensus of the Board that Leinwand should inform City Council they feel, in order to avoid future legal issues, they might have to have an ordinance just to address nonconforming mobile homes period. He also thought it would be a good idea to take photographs of properties adjoining city property.

It was noted that although mobile homes were not as prevalent now as they once were, with the economy in the condition that it was in, they might become the choice of homes for more people.

VI. PUBLIC INPUT

There was none.

VII. BOARD INPUT

Guidera asked if City Council reviewed these types of issues in private or public session. He asked how City Council became aware of the Planning Commission meeting outcomes. Leinwand told him that City Council was given copies of the minutes every month. Leinwand said City Council had not spoken publically about this issue since their January 2012 meeting. Guidera asked if the Board could have some insight on exactly what City Council was trying to achieve with this amendment.

There was a brief discussion about Board members recusing themselves and staying in the meeting room as a member of the public. It was noted there was no issue, as confirmed by the Municipal Associate of South Carolina, with a Board member recusing himself and staying in the room. It was also confirmed the recused Board member was able to make comments as part of the general public.

VIII. STAFF INPUT

There was none.

IX. ADJOURN
There being no further business to come before the Board, Humphries made a motion, seconded by Grabarz, to adjourn the meeting. The vote in favor was unanimous. The motion carried.

Approved and signed this 7th day of June, 2012.

Gerald Wallace, Chairman