

Gastonia Planning Commission
March 9, 2017

Chairperson Pamela Goode declared a quorum and the Gastonia Planning Commission meeting opened at 5:34 pm on Thursday, March 9, 2017, in the Council Chambers at City Hall.

Present: Commissioners Alec Long, Jerry Fleeman, Mark Epstein, Pamela Goode, Bob Cinq-Mars, Jim Stewart, and Bob Biggerstaff

Absent: Commissioner Rodney Armstrong

Staff Members Present: Charles Graham, Assistant City Attorney; Jason Thompson, AICP, Planning Director; Jana McMakin, AICP, Planner II; Joe Gates, CZO, Zoning Administrator, and Chrystal Howard, Secretary.

Item 1a: Role Call / Sound Check

Item 1b: Calls/Contacts to Planning Commission Members

Commissioner Jim Stewart received one phone call.

Item 1c: Approval of February 9, 2017 Minutes

Commissioner Cinq-Mars made a motion to approve the February minutes as written and Commissioner Fleeman seconded the motion. The motion was approved unanimously.

Chairperson Goode explained the rules of procedure and time limitations.

Item 2: Public Hearing – James R. Latta (File # 8724)

Subject hearing involves amending the C-1 CD (Neighborhood Commercial Conditional District), File #106-03, for approximately 1.07 acres. The property is located at 512 S. New Hope Road. The property is owned by Poffie Girls Properties, LLC.

Chairperson Goode opened the public hearing and recognized Jana McMakin, AICP, Planner II for the purpose of staff presentation.

Ms. McMakin stated applicant, Mr. James R. Latta, is requesting amending an existing rezoning of one tract currently zoned C-1 CD (Neighborhood Commercial Conditional District). The property is owned by Poffie Girls Properties, LLC. This property at the Grayland Business Park was rezoned in 1991 to the C-1 CD and comprises of six (6) parcels. There were two subsequent amendments to the CUP in 1992 and 2003. Several zoning conditions and one condition was very specific to the rear setback to the Poffie Girls Properties, LLC property stipulating a zoning condition that states “No principal buildings, with the exception of the existing garages, shall be erected any closer than one hundred sixty (160’) feet of the rear property line (Banner residence line); except one (1) of the buildings on the Harris property described in paragraph 11 may be erected no closer than ninety (90) feet of said rear property line as depicted on the site plan.” Mr. Latta submitted a request, met with staff and held a neighborhood meeting. The applicant submitted a survey showing a proposed 30 feet x 30 feet two-story addition located to the rear of the existing building. The proposed addition would be approximately 144 feet from the rear property line. In the event the building would need future expansion or the applicant may expand the existing garage, the applicant is requesting to revise this original condition to reduce the rear setback to the existing garage location which is approximately 80 feet.

Proposed Zoning Conditions

1. The “Special Terms and Conditions” from City of Gastonia Case File #106-03, recorded in Book 3882 Pages 659-668 will remain in effect, except as modified below.
2. This item 2 will revise the rear setback of item 12 in the City of Gastonia Case File #106-03 from 160 feet to 80 feet.
3. Exterior building materials and appearance of addition shall be consistent with the existing building.
4. All other specifications and general provisions shall be met as required by the City of Gastonia Unified Development Ordinance.
5. In no instance shall the zoning conditions exempt a project from other development requirements.

Ms. McMakin briefly explained the agenda documents pertaining to this request and results from the neighborhood meeting. Staff recommended approval of this request.

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Chairperson Goode recognized Mr. James Robert (Bob) Latta, 2206 Hearthstone Drive of Gastonia. Mr. Latta provided a brief history of the property, their business growth, and requested the Planning Commission to consider approving the request.

Commissioner Cinq-Mars asked if the request, to revise this original condition to reduce the rear setback to the existing garage location which is approximately 80 feet, will also include the Harris property. Ms. McMakin answered that this request is for the Latta property. The 2003 amendment modified the Harris property rear setback to 90 feet.

No further questions were asked by the Commissioners.

Commissioner Fleeman made the motion to approve the request as presented and Commissioner Stewart seconded that motion. The motion was approved unanimously.

Chairperson Goode recited the statement of consistency and reasonableness: The proposed rezoning is consistent with the 2025 Comprehensive Plan and is in harmony with the current zoning and development in proximity of the subject property. Therefore, the Planning Commission considers an affirmative vote to be reasonable and in the public interest.

Item 3: Preliminary Major Subdivision Plat – Elizabeth Commons (File #8664)

Subject hearing involves Preliminary Major Subdivision Plat for John Doster.

Chairperson Goode opened the public hearing and recognized Keith Lineberger, Land Development Project Manager for the purpose of staff presentation.

Mr. Lineberger stated that Mr. John Doster has submitted a preliminary subdivision plat for their development to be known as Elizabeth Commons. Elizabeth Commons will contain 17 single-family lots. The property is located within the Gastonia corporate limits and is zoned RS-12 CD (Residential, 12,000 minimum sq. ft. lots, Condition District). The subdivision was rezoned in the year 2009. It is staff's opinion that the "Preliminary Plat" is in conformance with the City of Gastonia's Subdivision Ordinance and is, therefore, recommended for approval subject to conditions.

Commissioner Cinq-Mars commented that the frontage to Kendrick Road will have a berm similar to Randolph Park neighborhood. No questions were asked by the Commissioners.

Commissioner Fleeman made the motion to approve the request as presented and Commissioner Stewart seconded that motion. The motion was approved unanimously.

Item 4: Public Hearing – Amending the Unified Development Ordinance (UDO) (File # 8725)

Subject hearing involves an ordinance amending Chapter 2 Definitions, Section 12.8 Nonconforming Signs and Section 12.12 Off-Premise Signs found in Chapter 12 Signs of the Unified Development Ordinance to define and list standards and specifications for digital electronic changeable face and changing/trivison off-premise outdoor signs (also known as billboards) as well as identify in Subsection M of Section 12.8 Nonconforming Signs the certain instances when these types of signs are permitted.

This item will be heard by the City Council on Tuesday, March 21, 2017 in the Public Forum Room at the Gaston County Courthouse.

Chairperson Goode opened the public hearing and recognized Jana McMakin, AICP, Planner II for the purpose of staff presentation.

Ms. McMakin stated currently in the Gastonia Unified Development Ordinance (UDO), new installations of off-premise advertising signs (also known as billboards in the UDO) are not permitted. *Section 12.8 Nonconforming Signs* does, however, allow new installations when either (1) two (2) existing signs are removed or (2) one (1) sign is removed from certain specific geographic areas within the city. This is referred to as "consolidation" under the UDO. The only type of off-premise advertising signs currently allowed are known as static billboards (non-electronic). Over the past several years, electronic billboards have been installed in locations across North Carolina and the country.

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At the City Council's Strategic Planning Workshop held in January, there was consensus directing staff to provide further research and the text amendments necessary for their review to permit additional types of off-premise advertising signs under the current consolidation/replacement/relocation provisions of the UDO. Ms. McMakin discussed incentives for the Outdoor Advertising industry for areas, such as Central Business District, Gateway Corridors, or Historic District and referenced these areas as sensitive. She briefly explained the changes in the ordinance.

Billboards located within a certain distance from federal highways and federally-assisted primary highways are subject to the standards and permitting requirements of the Outdoor Advertising Control Act. In North Carolina these regulations are administered by the North Carolina Department of Transportation (NCDOT), which include state highways. Therefore, in addition to a local sign permit, any billboards, including for new construction and/or maintenance, must receive permit approval from NCDOT.

Proposed UDO Text Amendments

- Make electronic and tri-vision billboards eligible under the consolidation ordinance.
- Only interstate highways and other divided highways would be eligible locations for electronic and tri-vision billboards.
- Clearly stipulate distance and size requirements.
- Add the Urban Mixed Use District (UMU) to the "one-for-one" consolidation provision (currently the Gateway Overlay, the Central Business District and local & national historic districts are the only one-for-one areas).

Mr. Thompson explained on- and off-premise signs and commented that discussion this evening relates to off-premise advertising signs.

Discussion occurred amongst Commissioners and staff regarding the understanding of consolidation under the UDO, *Section 12.8 Nonconforming Signs* does, however, allow new installations when either (1) two (2) existing signs are removed or (2) one (1) sign is removed from certain specific geographic areas within the city.

Commissioner Cinq-Mars asked if an advertising agency can present discrimination for not allowing advertising in these specific locations and Mr. Graham answered no, the only probation would be if the City of Gastonia tried to regulate content. In terms of consolidation, this is voluntary on their part. Commissioner Cinq-Mars asked if there is a moratorium of no new boards and Mr. Thompson answered that other than under the consolidation ordinance, yes. Commissioner Epstein provided an example of an argument that signage is needed to attract people to businesses and restrictions of how much. Commissioner Fleeman inquired of where electronic billboards can be placed if removed and Mr. Thompson answered that as currently drafted they would be able to be placed in eligible zoning districts and along Interstate 85 or along a divided highway. Locations were shown on the City of Gastonia Existing Billboard Location map. Commissioner Fleeman and staff referred to the draft ordinance Table 12.8 Off-Premise advertising Signs, Zoning District Permitted and Location for Electronic Changeable Face or Changing/Tri-vision. Commissioner Cinq-Mars and Mr. Thompson briefly discussed about billboards that are not maintained.

Brief discussion occurred amongst Commissioners.

Mr. Thompson explained the section on messages in Table 12.8. This is the same as the current standards found in the ordinance for electronic changeable message signage. Advertising messages or information shall remain in a fixed, static position for minimum of eight (8) seconds. The change sequence must be accomplished within an interval of two (2) seconds or less for electronic changeable face or changing/tri-vision signs.

Chairperson Goode recognized Mr. Don Barkley, 3101 Whitson Road of Gastonia. Mr. Barkley stated that he drove by the Gastonia Conference Center's LED billboard at Marietta Street and Franklin Boulevard with one message referring to a having a reunion at this establishment and another message referring to the Farmer's Market. Mr. Barkley asked for clarification of On-premise and Off-premise advertising. Mr. Graham answered that this is an On-premise sign. On-premise is a sign being on the property of the person who owns it and Off-premise refers to a sign

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whose property it is located on, but owned by someone else. On- and Off-premise signs do not refer to the message or content presented on the sign.

Mr. Barkley stated that it is his understanding that the authority to zone is given to the City by the State of North Carolina. It is also his understanding that the State of North Carolina is also in the business of advertising making approximately \$4 million a year off of advertising. Mr. Barkley continued that the ordinance has a maximum size for a sign, but not a minimum size, and that the bigger the sign the safer it is to drive down the highway at a high speed and glance at the sign. The ordinance passed on October 10, 2016 prohibits things like this, yet, the State of North Carolina is not subject to City ordinance. Mr. Barkley explained to the Commission that he has to move a billboard to make accommodation for a greenway. Mr. Barkley said that the State told him that the sign is considered personal property and they will pay to move it, but will not buy it. Mr. Barkley asked the Commission if the State also gives the City authority to regulate personal property.

Mr. Epstein explained the procedure for ordinance amendments. The Gastonia Planning Commission makes the recommendation and City Council makes the decision. Mr. Epstein stated that we are trying to regulate signage inside the City of Gastonia and reduce the number of billboards over a period of time within a protected sensitive area. Mr. Epstein stated that the City is doing something independent of the State of North Carolina. Chairperson Goode stated that she believes Mr. Barkley's concern cannot be handled at the Gastonia Planning Commission. Mr. Barkley stated that he is going to court with this matter and is trying to figure out who to subpoena from the City.

Mr. Graham clarified that the pictures Mr. Barkley passed around are signs regulated by State and not the City of Gastonia. This concern is having to do with State installed highway directional signs that the City of Gastonia cannot regulate and are outside of the Gastonia Planning Commission's decision making power and jurisdiction. Regarding condemning property, Mr. Barkley stated that the State does not take the billboard, as it considers the sign personal property, but will pay to move it. Mr. Graham commented that the State's condemnation procedures are outside the Commission or the City jurisdiction.

There was discussion regarding the option of Mr. Barkley moving his sign to an eligible area. Mr. Barkley shared his testimony at a Board of Adjustment meeting.

Chairperson Goode reiterated that the Gastonia Planning Commission does not have the power or jurisdiction to rule either way on these concerns and thanked Mr. Barkley for coming this evening.

Mr. Barkley finished by stating to his understanding that the according to the State, the City of Gastonia is regulating personal property instead of real property. Mr. Barkley thanked the Commission for their time.

Mr. Graham explained to Commissioners that the ordinance amended presented this evening, whether it is approved or not approved by City Council, will not change Mr. Barkley's situation. Also, the regulation of content is not permissible by United States Supreme Court and a theoretical scenario was used as an example between Commissioner Fleeman and Mr. Graham.

Ms. McMakin asked the Commissioners if they had any other questions. No other questions were asked.

Discussion ensued amongst the Commissioners on Board of Adjustment authorities.

Commissioner Epstein made the motion to close the public hearing and Commissioner Stewart seconded that motion. The motion was approved unanimously.

Commissioner Epstein made the motion to recommend approval of these ordinance amendment requests as presented and Commissioner Long seconded that motion.

Commissioner Epstein summarized his understanding of the reasoning for this ordinance amendment with nothing in it objectionable; therefore, he made his motion to approve. Commissioner Fleeman stated it is important to comment that there is a relief mechanism available if necessary; therefore, he is supporting this motion for this reason alone. Commissioner Stewart stated that there should be some type of relief and it needs to be addressed.

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The motion was approved 6-1 (Biggerstaff).

Item 5: Other Business

The ordinance amending Table 7.3-1 Bulk and Use Chart of the Unified Development Ordinance to allow flexibility of dimensional requirements in certain instances for creating new lots located in the RS-8 zoning district was approved by City Council.

No other Council vote updates.

A representative is requested for the March 21, 2017 City Council Meeting. Commissioners Fleeman and Long will try to attend if possible.

There being no other business, Chairperson Goode adjourned the meeting at 6:42 p.m.

Respectfully submitted,

Chrystal Howard, Secretary

Pamela Goode, Chairperson