

Gastonia Planning Commission
May 3, 2018

Chairperson Pamela Goode declared a quorum and the Gastonia Planning Commission meeting opened at 5:32 pm on Thursday, May 3, 2018, in the Council Chambers at City Hall.

Present: Commissioners Rodney Armstrong, Kristie Ferguson, Mark Epstein, Pamela Goode, Jim Stewart, Bob Cinq-Mars, and Bob Biggerstaff

Absent: Commissioner Jerry Fleeman

Staff Members Present: Charles Graham, Assistant City Attorney; Jason Thompson, AICP, Planning Director; Jana McMakin, AICP, Senior Planner; Chrystal Howard, Secretary

Item 1a: Role Call / Sound Check

Item 1b: Calls/Contacts to Planning Commission Members

Commissioners stated there were no contacts.

Item 1c: Approval of April 5, 2018 Amended Minutes

Commissioner Epstein made the motion to approve the April amended minutes as written and Commissioner Stewart seconded the motion. The motion was approved unanimously.

Chairperson Goode explained the rules of procedure and time limitations.

Item 2: Public Hearing – CW Holdings of Gaston, LLC (File # 8965)

Subject hearing involves a request to rezone approximately 23.74 acres from RS-12 (Residential District-Minimum 12,000 sq. ft. lots) to RS-8 CD (Residential Conditional District-Minimum 8,000 sq. ft. lots). The property is located off of Stowe Road in The Enclave at Cramer Woods. The property is owned by CW Holdings of Gaston, LLC.

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

Ms. McMakin thanked the Commissioners for being present this evening. Ms. McMakin stated the Live Well Homes submitted the rezoning request on behalf of the owner, CW Holdings of Gaston, LLC. Ms. McMakin stated the site description and background of the subject property and she displayed the rezoning map and site plan. The applicant submitted a request to rezone to RS-8 CD (Residential Conditional District, minimum 8,000 sq. ft. lots) for a portion of The Enclave at Cramer Woods subdivision. The preliminary plat had 44 lots proposed and the street network has not changed from the original preliminary plan approval. The only difference would be a maximum of 18 lots for this portion based on the lot size from 12,000 sq. ft. to 8,000 sq. ft., requiring stormwater control measures based on density. Ms. McMakin stated that this will need to go through Engineering and construction documents would need to be renewed and reviewed. The applicant submitted proposed zoning conditions provided in the agenda packet. The applicant has also submitted various ranch and two-story elevations that can be offered in the subdivision, as well as, conditions that would be used to review the elevations submitted with the building permit. Ms. McMakin displayed the rezoning map and briefly explained the adjoining properties and land use trends. The Future Land Use Map in the 2025 Comprehensive Plan indicates residential for the subject property and surrounding properties. Ms. McMakin reminded the Commissioners that the request is for a rezoning to the RS-8 CD district for a difference of up to 18 additional lots than what was approved following the RS-12 subdivision approval. The street layout will remain the same as approved on the original preliminary plan. The applicant has shown that the lots will meet the RS-8 standards which include the same 30 ft. front and 30 ft. rear setback as RS-12 lots. The side setbacks would be reduced from 12 ft. to 8 ft. Also the applicant has indicated that the models offered on the RS-12 zoned lots will also be offered in the RS-8 CD portion if approved. The conditional district also includes additional conditions submitted by the applicant that will be used during building permit review. Staff recommends that the request be approved as presented.

Commissioner Epstein requested confirmation that the homes offered in the RS-12 district will be offered in the RS-8 district and Ms. McMakin answered according to the applicant, Chris Robusto with Live Well Homes, that this was the indication that the same types of homes currently being built or offered would be offered on the 8,000 sq. ft. lots. Commissioner Epstein asked if they are

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indicating that or was that a condition. Mr. Thompson read *Proposed Zoning Condition 2. xii. Conceptual Architectural Elevations for homes currently being built in the Enclave at Cramer woods are being presented, these plans may be built in the future, other elevations will be introduced creating additional diversity. The intent of the owner shall be to evolve the designs to meet market demand.* Ms. McMakin referred the Commissioners to the representative elevations that show several homes being offered.

Commissioner Epstein presented a hypothetical situation for lot 38 currently zoned RS-12 on the rezoning map to be rezoned to the RS-8 district and Mr. Thompson confirmed that this could happen. Commissioner Epstein asked how many additional homes could go on this lot zoned as RS-12 and as RS-8. Ms. McMakin answered that 35 lots are currently approved on the preliminary as the RS-12 district. Staff was unable to provide answer for the RS-8 district without a comparison and the removal of lots because of stormwater control measures. Commissioner Epstein asked if the total count of Phase 1 map 1 and 2 was 31 lots with an increase of an additional 18 lots and Ms. McMakin answered yes. Discussion ensued on lot count and the difficulty to determine a count.

Ms. McMakin stated that on the original preliminary plan showed 2 lots, not connected, at cul-de-sac on Spindle Ridge Lane have been removed for the RS-8 CD and is now a common open space. Commissioner Epstein asked if she was referring to lot 1 and 41 on the rezoning map and Mr. Thompson answered that these lots already exist. Discussion ensued the location of the additional plots shown at the end of the cul-de-sac.

Commissioner Cinq-Mars inquired about the connector between 2 cul-de-sacs through the open space and Ms. McMakin thought it was a sewer line and not a connection or continuation of a road. Commissioner Cinq-Mars asked if the area has a Homeowners' Association (HOA) and Ms. McMakin answered that this may be in the builder's name and referred these questions to the applicant. Commissioner Cinq-Mars inquired if sidewalks are on both sides of the street and Ms. McMakin answered yes. Commissioner Cinq-Mars asked if the width of the roads accommodate parking on both sides of the street and Ms. McMakin answered that the roads meet the residential standard 50 ft. right-of-way. Mr. Thompson commented that street cross sections would be discussed in the next agenda item.

No further questions were asked by the Commissioners.

Chairperson Goode recognized Mr. Chris Robusto, 862 Harvest Pointe Drive of Fort Mill, SC. Mr. Robusto stated he is the President of Live Well Homes and provided the business background and its current projects. Mr. Robusto thanked the Commissioners for allowing them to present their request. Mr. Robusto stated that the proposal is to have the ability to reduce basically a 90 ft. lot width within the subdivision to the minimum 60 ft. lot width and stated that the approximate lot size was 11,240 sq. ft. Agenda page 2-5 was displayed. Mr. Robusto stated they are not proposing to rework the network of the road system. Mr. Robusto stated a HOA was established in the subdivision and he is the President of the HOA. The request this evening is to increase this portion by 18 units and he explained that when exceeding 2 units per acre, water quality or stormwater treatment is required; therefore, the requested 18 lots will be reduced. Stormwater control measures are not on the current plans and are being discussed. The lots to be expected from the request is 12 to 15. The density from approved to current is 0.8 unit per acre. Mr. Robusto acknowledged Commissioner Epstein's comment about tract 1C that it is about 1/3 of total acreage smaller than what is currently being proposed providing roughly an additional 9 to 10 more units. However, stormwater control measure may not net 9 to 10 units. Mr. Robusto continued that their sales representatives have provided customer feedback requesting smaller yards; thus stemming the rezoning request. Mr. Robusto stated that the product home base plans currently offered and the introductory plans start at around \$300,000. Homes are closing between \$325,000 and \$330,000 to \$350,000 and \$360,000 and the intent is to stay with the same pricing model on smaller lots. Increase in material costs was explained. Mr. Robusto acknowledged 19 vacant lots. Lastly, Mr. Robusto stated that if the rezoning request is approved, they will reengineer and resubmit to staff for review and approval with an expected 3 to 4 months to complete and construction starting around September or October. He continued that the existing product is approximately 50 ft. wide creating a minimum lot width of 66 ft. and acknowledged a product coming that will be approximately 46 ft. wide allowing for a variation of lot widths for customers to choose.

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Mr. Robusto talked about the 50 ft. wide Samuel II Master floor plan as inquired by Commissioner Ferguson.

Commissioner Epstein asked if the 46 ft. wide base home plan would suffice for a 60 ft. wide lot and Mr. Robusto answered that the lot width would need to be 62 ft. wide.

Commissioner Cinq-Mars asked if the property was serviced by city water and Mr. Robusto answered that they are in the city limits and have access to all city services.

No further questions were asked by the Commissioners.

Mr. Thompson informed the Commissioners that signed statement of opposition letters were received from the public this evening.

Chairperson Goode recognized Ms. Mary Norris, 1207 Jackson Road of Gastonia, NC. Ms. Norris is in opposition of the request and thanked the Commissioners and staff for their time this evening. Ms. Norris is a North Carolina real estate broker and the Vice-President of Property Matters Realty, who is the Association Management Company for The Enclave at Cramer Woods Phase 2 and 3 HOA. Ms. Norris stated that on February 28, 2018 the North Carolina Secretary of State administratively dissolved CW Holdings of Gaston LLC. As of May 3, 2018 the Secretary of State website showed this status remained. The authority to make changes to this land including this rezoning is given to the declarant by Declaration of Covenants, Conditions, and Restrictions (CC&Rs) of The Enclave at Cramer Woods. Ms. Norris stated that the Declaration of CC&Rs has been recorded and read the declarant. Ms. Norris asked the Commissioners if the Commission can approve this request, and should this process start over since the application was signed by Mr. Robusto on March 12, 2018, twelve days after CW Holdings of Gaston LLC was administratively dissolved because CW Holdings of Gaston LLC is no longer a North Carolina corporation. Ms. Norris deferred her remaining speaking time to the Ms. Heather Eastburn, the next speaker. No questions were asked by the Commissioners.

Chairperson Goode recognized Ms. Heather Eastburn, 4316 Spooler Court of Gastonia, NC. Ms. Eastburn is in opposition of the request. Ms. Eastburn stated she has lived in Cramer Woods for 11 years, she is a member of the Phase 2 and 3 HOA Board of Directors, and she is representing the association board in opposition of this request. Ms. Eastburn stated she realized the difficult choices and time commitment of the Commissioners. Ms. Eastburn informed the board of the calls she received regarding a Gaston Gazette advertisement leading some homeowners to believe the Planning Commission already made a rezoning decision, and she thanked the Commission for showing them that the headline was incorrect. Ms. Eastburn stated she read a 2035 Comprehensive Plan and she appreciated its recognition of the rural character of the southeast section of Gaston during development. Ms. Eastburn requested the Commission to stand by and keep their RS-12 decision of September 3, 2015. Ms. Eastburn recognized that the citizens have filled the Council Chambers and overflow room and stated that an opposition petition was online with over 425 signatures, as well as, printed opposition statements. Ms. Eastburn recognized the presenter at the September 3, 2015 Gastonia Planning Commission meeting and stated the Gastonia Planning Commission's recommendation. Ms. Eastburn shared these concerns; the changed parcel of common space from Tract 1B to Track 1A on the map is different from the rezoning map, the proposed density, and potential water runoff, zoning change possibilities for other areas, increased traffic, and an increase of student in schools. Ms. Eastburn asked the Commission to reaffirm their September 3, 2015 decision and thanked them for their time and service to the citizens of Gastonia on behalf of the owners of Cramer Woods.

Commissioner Epstein thanked Ms. Eastburn for appreciating their challenge. Commissioner Epstein commented that this development will occur and homes will be built, traffic will be worse, schools will have new students, and these cannot be stopped. He then provided a reduction of the expressed concerns as the approximate 10 to 12 extra homes, water runoff from increased surface areas, and lastly precedent for adjacent parcels to accelerate a process of 10 to 30 percent more homes than already approved. Commissioner Epstein asked if he was correct and Ms. Eastburn answered yes. Commissioner Cinq-Mars stated his appreciation for the summary and thanked Ms. Eastburn for her time and effort. No other questions were asked by the Commissioners.

Chairperson Goode recognized Mr. John Forgan, 5465 Spindle Ridge Lane of Gastonia, NC. Mr. Forgan is in opposition of the request and stated that he lives at lot 1 on the rezoning map. Mr. Forgan stated he is aware that things are going to happen such as traffic, but his biggest concerns

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for the community are the following; can they control what their community looks like, can they control the type of homes that end up in the community, the price point and purchases of homes, and the school. Mr. Forgan recognized the school next to the community and growth as a positive. He commented on matters that cannot be solved today, such as growth and insufficient money for this growth. Mr. Forgan gave positive recognition to the Planning Commission's help with the original approval of The Enclave at Cramer Woods. Lastly, Mr. Forgan stated that to change this midstream, to change the types of homes, to change the type of community is concerning to him. No questions were asked by the Commissioners.

Chairperson Goode acknowledged the signed statement of opposition letters were received from the public this evening.

Chairperson Goode recognized Mr. Mike Tweed. Mr. Tweed was not present; therefore, the Chair recognized the next speaker.

Chairperson Goode recognized Mr. Lamar Anthony, 4757 McDade Lane of Gastonia, NC. Mr. Anthony is in opposition of the request and stated that traffic is his major concern. Mr. Anthony stated that Stowe Road currently is a safety problem with the school during the morning and afternoon. He commented that the increase in homes increases the number of vehicles. Once Phase 3 is complete traffic on McDade Lane will increase. Mr. Anthony commented that children in the area do not have a playground area and currently play in the street, plus the nearest playground is the elementary school approximately a mile from his home. Mr. Anthony stated that when he moved into The Enclave of Cramer Woods there was no mention of the cul-de-sac becoming a main road and if he would have known this he would not have purchased the home. Mr. Anthony inquired if the company always completes their projects as this may be an additional concern. Discussion occurred on project completion. At this time, Commissioner Epstein reiterated what the request was and what the Commissioners will need to decide upon. No questions were asked by the Commissioners.

Chairperson Goode recognized Mr. Mike Tweed and he remained unavailable; therefore, the Chair moved forward with rebuttals.

Mr. Chris Robusto corrected an earlier comment that the connector between 2 cul-de-sacs through the open space is a pump line and not a sewer line. Density for this basin is controlled by the pump station and the density is on average 11,000 sq. ft. Mr. Robusto included that they are making conditions on their product. Mr. Robusto reiterated his request to increase their portion by 18 units and reminded the Commissioners that this will be reduced to a net of 12 to 15 due to stormwater management. Mr. Robusto recognized additional homes will contribute more traffic but was unaware how nominal the traffic would be and a traffic study would provide an answer. Brief discussion ensued between the applicant and Commissioner Epstein on the average 11,000 sq. ft.

Regarding the architectural standards, Commissioner Epstein inquired if the extra architectural features agreed upon are part of the condition and was the ordinance stipulated more restrictive. Mr. Thompson answered that due to state legislation we can no longer have architectural standards in the ordinance for single family detached. Mr. Thompson referred the Commissioners to Proposed Zoning Condition 2. xii. Conceptual Architectural Elevations. Discussion occurred on how the City can work with the applicant on baseline architectural standards through the conditional zoning process, how the standards run with the land, and that the RS-12 sections would not be affected by the voluntary architectural standards. No further questions or comments were made by the Commissioners.

Chairperson Goode recognized Mr. Mike Tweed once more and he remained unavailable.

Commissioner Epstein requested counsel regarding Ms. Norris' earlier question. Attorney Graham answered that the corporation is administratively dissolved and typically occur for failure to file an annual report or failure to file an annual fee and can be corrected by filing the report. The filing then reinstates the corporation and it relates back to the original dissolution as if it never occurred. By statute an administrative or any dissolution does not change the ownership of the property and it does not prevent the corporation from bringing or defending proceedings in its corporate name.

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Chairperson Goode recognized Mr. Chris Roberto. Mr. Robusto informed the Commission that they failed to submit their annual report and it will be rectified within the week.

Chairperson Goode recognized Ms. Mary Norris. Ms. Norris provided an example of her limitations if her real estate license were to be expired and compared it to the CC&R situation for CW Holdings of Gaston LLC. Ms. Norris reiterated her earlier question based on Declaration of CC&Rs. Attorney Graham read NCGS 55-14-05 (b) The dissolution of a corporation does not: (5) prevent commencement of a proceeding by or against the corporation in its corporate name.

Commissioner Epstein reminded the public of the appeal process.

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

Commissioner Epstein commented that this is tough decision for the Planning Commission and it is a quintessential problem of having competing values such as what the neighbors want and the individual property rights of the owner. Commissioner Epstein also shared his thoughts on the additional homes that the rezoning will add, as well as, proposed conditions having two advantages over existing zoning; requirement for stormwater management and the agreement to provide a minimum look to these homes. He shared that he was sympathetic to the notion of precedent setting and arguments by developers of squeezing lots because that is where the market is going. Commissioner Epstein also shared that there are developments being built with bigger lots, bigger homes, and are more expensive and it may come more slower if it is required to have bigger lots and homes to Gaston County, but it will still come. Commissioner Epstein provided an example of a previous rezoning case that was denied. Lastly, Commissioner Epstein shared that it was difficult for him to have a compelling vote to deny because it is 12 to 14 homes, traffic will be marginally worse, the development is coming no matter what, and a fairly minor pressure on the roads and schools.

Commissioner Cinq-Mars shared that he drove by the old and new neighborhood and thought the homes and lots were nice and well developed. Commissioner Cinq-Mars shared his concern about higher density properties in the middle of an area with lower density. Commissioner Cinq-Mars stated that he was not really concerned about traffic or increase in schools and he sees the advantage of stormwater. Brief discussion occurred between Commissioner Cinq-Mars and Commissioner Epstein.

Commissioner Ferguson provided some MLS listings of homes currently on the market and addressed pricing of a few homes in the \$400,000 range. Commissioner Ferguson commented that based on the information she received from New Hope Elementary School, their class room sizes were the following; Kindergarten is 1 teacher to 20 students, first grade is 1 teacher to 17 students, second grade is 1 teacher to 22 students, third grade is 1 teacher to 23 student, fourth grade is 1 teacher to 24 students and no cap, and fifth grade is 1 teacher to 24 students and no cap. The feedback about ratio was that they were over capacity and do not know what to do with the expected growth. The school has one vacant classroom that is currently used by the art teacher, but may be moved to a cart.

Commissioner Stewart stated that he is for growth, but has concerns about the traffic. Discussion ensued between Commissioner Stewart and Commissioner Epstein.

Commissioner Epstein reminded the Commissioners that the county is responsible for the schools and encouraged anyone concerned about overcrowding in school to go and vote on the pending bond referendum. Commissioner Epstein stated that if the request is approved the lot will develop with approximately 30 versus 43 homes. Commissioner Epstein inquired if this was enough to keep somebody from doing what they want with their property. There are competing values and he is torn. Commissioner Epstein commented on future rezoning cases that can be presented and the precedent on the Commission votes on this item. He continued that the merits of the proposal itself make it difficult for him to deny.

Commissioner Armstrong agreed with Commissioner Epstein with the conflict of both sides and his concern is the ripple effect that their vote may create.

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Commissioner Stewart was not in a favor of the proposed zoning condition 2.b.vi. Minimum 8” roof overhang on all house (front, sides and rear elevations) and stated that he thinks the roof overhang should be at least 1’ to give more character to the home. Commissioner Stewart would also like to see 2.b.vii. No all vinyl siding front elevations allowed and would like for this to be changed. Commissioner Epstein noted that the Commissioners cannot ask the applicant to make this change; however, the applicant can volunteer these changes.

Commissioner Biggerstaff commented that his questions have been answered.

Commissioner Cinq-Mars made the motion to deny the request as presented and Commissioner Biggerstaff seconded the motion.

Commissioner Cinq-Mars amended his motion to deny the request as presented with the statement of consistency and reasonableness that the proposed rezoning is inconsistent with the surrounding property, therefore the Planning Commission considers an affirmative vote to not be reasonable and not in the public interest. Commissioner Biggerstaff seconded the amended motion.

Commissioner Epstein stated that he will be consistent with his vote from the previous rezoning which was to take an existing rezoning for a large development that wanted to make smaller lots and he voted against it, so his reasonableness and consistency will be to deny this item on the basis of the same rational. Commissioner Epstein supports the motion.

The motion to deny the request as presented with the statement of consistency and reasonableness that the proposed rezoning is inconsistent with the surrounding property, therefore the Planning Commission considers an affirmative vote to not be reasonable and not in the public interest was approved 6-1 (Goode).

Commissioner Epstein commented that if this item is appealed to City Council and the decision holds, there will not be stormwater detention in the new area, and there will be 12 or fewer lots, but without a minimum building standard re: house appearance that the rezoning would have stipulated.

Item 3: Residential Development Standards Discussion

Chairperson Goode recognized Jason Thompson, Planning Director for the purpose of staff presentation.

Mr. Thompson stated that this evening was to be the first major discussion on Residential development standards unfortunately the consultant is not feeling well and is unable to make to tonight’s meeting. As a result, staff is asking to defer this item to the June meeting. The Planning Commissioners were unanimously in favor of moving this item to the June 7th meeting. Mr. Thompson explained the room transitions that will occur at the next meeting.

Deli meal was suggested for the June 7, 2018 meeting.

Item 4: Other Business

No update on Council votes and no representative is needed for the May 15, 2018 City Council Meeting.

There being no further business, Commissioner Goode entertained a motion to adjourn the meeting. Commissioner Stewart made the motion to adjourn the meeting and Commissioner Ferguson seconded the motion. The motion was approved unanimously. Commissioner Goode adjourned the meeting at 7:24 p.m.

Respectfully submitted,

Chrystal Howard, Secretary

Pam Goode, Chairperson