

Gastonia Planning Commission January 6, 2022 Meeting Minutes

The Gastonia Planning Commission meeting opened at 5:31 p.m. on Thursday, January 6, 2022 in the Council Chambers at City Hall, 181 S South Street of Gastonia, NC.

Present: Commissioners Jim Stewart, Anthony Gallant, Carl Harris, Bob Cinq-Mars, Kristie Ferguson, Chad Ghorley, and David Wilson

Absent: Commissioner Rodney Armstrong

Staff Members Present: Charles Graham, Quentin McPhatter, Jason Thompson, Rusty Bost, Jana McMakin and Chrystal Howard

Item 1a: Role Call / Sound Check

Item 1b: Calls/Contacts to Planning Commission Members

Commissioners Wilson, Ghorley, Cinq-Mars, and Ferguson received contact. Remaining commissioners were not contacted.

Item 1c: Approval of December 9, 2021 Meeting Minutes

Commissioner Cinq-Mars made the motion to approve the December 9, 2021 minutes and Commissioner Gallant seconded the motion. The motion was passed (7-0).

Chairwoman Ferguson explained the rules of procedure and time limitations.

Item 2: Public Hearing – Horsely Holdings, LLC (File #202100276)

Subject hearing involves a request to rezone approximately 16.03 acres from C-1 (Neighborhood Commercial District) to RMF CD (Multi-family Residential Conditional District). The subject property is located at the intersection of S. New Hope Road and Cramer Woods Drive. The property is owned by Horsely Holdings, LLC.

Chairwoman Ferguson opened the public hearing and recognized Jana McMakin, Senior Planner, for the purpose of staff presentation. Ms. McMakin displayed the rezoning map and explained the location of the subject property, the current zoning, adjoining properties and zoning, and that Kaplan Residential submitted the request for RMF CD. She displayed the rezoning plan submitted with the application. Ms. McMakin stated the acreage, the request for a maximum of 102 townhomes units with a mix of front and rear garage load units with an amenity area, and proposed access points on S. New Hope Road and Cramer Woods Drive. A Traffic Impact Analysis (TIA) was required, an executive summary, and proposed findings and proposed mitigations were included in the packet. She stated six zoning conditions were proposed and information was provided on the S. New Hope Road widening. The Future Land Use Map adopted as part of the 2025 Comprehensive Plan indicates residential land use as suitable for the subject property. Staff recommended the request for rezoning be approved as presented. Mr. Bost, Director of Development Services, stated he was available to answer questions about the TIA, as well as, the consultant with Kimley Horn. Mr. Bost explained that this development does not meet required thresholds; however, understanding the sensitivity of the neighborhood and traffic on New Hope Road, staff asked for a TIA.

Chairwoman Ferguson recognized Attorney John Russell with Mullen Holland & Cooper P.A., 301 S. York Street of Gastonia, NC. Time limitation was discussed. Attorney Russell emphasized that the applicant spent a lot of time with the review process and responded to comments from various departments with the City and NCDOT, and the applicant went beyond the minimum requirements and held two neighborhood meetings in an attempt to work through issues, take questions and respond to concerns. He stated the extra effort shows a commitment to the project and a desire to be a good neighbor. Attorney Russell highlighted areas relevant to the project and to conditional rezoning asking, “What are the benefits, improvements or additions that the project brings to the community?” and, “How does the project benefit the community from a planning standpoint?”. He shared the need for different types of housing, emphasized this was a rent by choice, and explained that townhomes front Cramer Woods Drive and S. New Hope Road from a design and utility standpoint. He explained the site plan features, such as preservation of wetlands and stream buffer, open space and tree space save, and almost an acre of storm water detention. A rendering was displayed and Attorney Russell noted architectural features and building materials as brick and stone on the first floor. He commented that the 2025 Comprehensive Plan indicated residential land use as suitable for the subject property, the project allows for the expansion of

Gastonia Planning Commission January 6, 2022 Meeting Minutes

New Hope Road, and the project is consistent with the city's long-range plan. Attorney Russell noted the property is under contract and other party's interest in the land.

Chairwoman Ferguson recognized Ryan Welch with Kaplan Residential, 2411 Eva Drive of Concord, NC. Mr. Welch shared Kaplan Residential's background on communities built and demographics. He displayed exterior and interior pictures of a twenty-five-year-old community in Atlanta Georgia, and noted the maintained maintenance. He briefly shared pricing of monthly rent.

Commissioner Harris asked if the building will have hardiplank or vinyl. Mr. Welch replied that brick was added on the lower half to blend with the existing community and vinyl siding on the upper half. He commented that they are not particular on hardiplank or vinyl siding. Mr. Welch briefly shared the units' exterior features, their square footage ranges, the subject property having a twenty-five-foot buffer with trees and vegetation plus additional twenty-feet of backyard, and the retention pond on a portion of the north side allowing for a two-or-three-hundred-foot buffer. Commissioner Gallant asked Mr. Welch what he thought was the big push back from the community. Mr. Welch mentioned the two push backs from the community were impact of traffic and the types of people that would be living in a rental property. Commissioner Cinq-Mars commented about the neighborhoods having red brick homes and asked why red brick was not being used. Mr. Welch replied that it was proposed by the interior design group, but the firm would not have anything against using red brick. He stated brick was being used to add a nice touch and blend with the community. Commissioner Ghorley asked about any other opportunity for a buffer to the community to provide privacy and Mr. Welch replied that the buffer will include current and/or future vegetation. Commissioner Ghorley encouraged them to review the buffer if the project is approved. Commissioner Gallant asked Mr. Welch if they would consider red brick and Mr. Welch replied that they would consider red brick. Discussion ensued on the topography and material from the southern portion of the property to be used for the northern portion.

Chairwoman Ferguson requested assistance with the Planning Commission's scope or purview on building material and Mr. Thompson replied that the Planning Commission can consider adding a zoning condition and the applicant would need to state in the meeting that they would be willing to do it. Commissioner Stewart stated he was not in favor of vinyl siding and recommended hardiplank and brick. Mr. Thompson stated the Planning Commission can consider adding this as a zoning condition and the applicant would need to state in the meeting that they would be willing to do it.

Chairwoman Ferguson transitioned to those in opposition. She reiterated time limitation, read through the names in opposition, and allowed each speaker to decide if they want to speak or donate their time to another speaker.

Chairwoman Ferguson recognized Denise McKellar, 7229 Pompano Place of Gastonia, NC. Ms. McKellar stated she moved from California because of this type of request. She shared a concern on existing traffic going to and from the freeway, middle school traffic, safety of children at intersections, and increase of taxes. She requested the Planning Commission to not allow the multi-family homes.

Chairwoman Ferguson recognized Barry Stringer, 5305 Old Town Lane of Gastonia, NC. Mr. Stringer thanked the board and staff for the opportunity to speak. He stated he was representing three hundred and twelve families who are opposing the request and the consensus of owners in Cramer Woods was that rezoning an apartment complex was not the best use of the property. He shared that neighbors moved to Cramer Woods for retirement homes, convenience of the city, school, churches close by, large amount of trees, quiet atmosphere, and a safe and enjoyable place to raise a family. Mr. Stringer noted an apartment complex would change the entrance to the community and would not fit with the community's plan. He asked the Planning Commission to zone the property in a way to preserve the charm and consistency with single-family home neighborhoods and smaller commercial spaces. Mr. Stringer stated homeowners shared concerns at their community meeting in August and noted a second community meeting was also held. He commented on single-family neighborhoods existing in this area not an apartment complex, and neighborhoods properly maintained by HOAs. A concern raised was traffic safety from existing heavy traffic, as well as, the increased traffic of approximately two hundred or more cars on Cramer Wood Drive and on New Hope Road from the new development. Other concerns were children's safety, motorist's safety, the accuracy of the TIA of normal traffic flow was questioned, no other complex on S. New Hope Road, Cramer Woods currently being used as a cut-through to

Gastonia Planning Commission January 6, 2022 Meeting Minutes

avoid the stop light at New Hope Road and Stowe Road, and speeding. Mr. Stringer stated based on the North Carolina Department of Education Public School's report card, the three nearby schools are well above the state and district levels for enrollment. Additional concerns were property value increases and the development of a rental community negatively affecting home values. He stated the purpose of their opposition was to show how the proposed rezoning was not reasonably consistent with neighboring properties and communities, it would have a detrimental impact to traffic, the school system, nearby home owners, and this development was not the original intent of the community. He requested the current zoning district remain as planned. Mr. Stringer asked if rezoning the parcel was the wisest and best use for future investments in this community and area as a whole.

Chairwoman Ferguson recognized Yasmin Sagadevan, 5110 Summerell Avenue of Gastonia, NC. Ms. Sagadevan commented that she moved from California to the area for the neighborhood's beauty of the brick homes, woods, neighbors, as well as, the neighborhood consisting of higher income levels resulting in a much better residential area with amazing schools for the children. Ms. Sagadevan was concerned about rental properties diminishing value, safety, privacy, and issues with road and foot traffic. She commented that traffic issues currently exist from New Hope Road to the elementary schools. Ms. Sagadevan stated she was against the rezoning because it was not fit for apartments.

Chairwoman Ferguson recognized Laurie Wintz, 5329 Old Town Lane of Gastonia, NC. Ms. Wintz stated she attended both community meetings and the pictures shown were not presented at the meetings. She was also concerned about the traffic, property values, and the safety of the neighborhood. Ms. Wintz mentioned an article in the Gaston Gazette that concerned her about units having two master bedrooms that would allow multiple renters. Additional concerns were increased traffic on Cramer Wood Drive and New Hope Road and proposed conditions not being met. She talked about pride of ownership, allowing other types of uses besides the proposed, and Kaplan selling their property and not living in the community. She asked the Planning Commission to reconsider the C-1 zoning district for the benefit of the neighborhood and community.

Commissioner Gallant was concerned that he heard Kaplan may have presented something different to the neighbors than what was presented at the meeting.

Chairwoman Ferguson recognized Attorney John Russell for rebuttal. Attorney Russell stated he had no rebuttals but answered Commissioner Gallant's concern. Attorney Russell stated the renderings presented this evening were presented at both neighborhood meetings, as well as, staff in August. At the second neighborhood meeting a question was asked about the red brick and he stated that Mr. Welch has addressed this concern. Attorney Russell stated the site plan has been updated, but not the renderings. Mr. Welch noted that confusion may be from photos displayed of previous projects.

Ms. McMakin read the proposed zoning conditions and explained that, if approved, conditions will be reviewed when building permits are submitted and the applicant must adhere to the elevations submitted with the application.

Brief discussion ensued on if rental properties have a negative impact on communities and no data was available.

Chairwoman Ferguson recognized Rusty Bost, Director of Development Services to answer questions about Traffic Impact Analysis (TIA). Mr. Bost gave a brief overview of the process commenting on thresholds for new development and purpose guided by state statutes. He continued that the city can require developers to mitigate the traffic differential that is created by the development but not existing problems, but for the purpose of determining the delta for this study a one-day study was sufficient. An independent consultant, Kimley Horn, conducted a data driven analysis of the system that has no undue influence, and is clean, transparent, independent, and objective. The consultant never met with the developer until this evening. The Institute of Traffic Engineer develop the trip generation manual. Mr. Bost stated the average number of cars is 738 additional trips in a twenty-four-hour period that will be created from this new development. The city designs and models are based on peak periods and the AM peak hour was 49 new trips and the PM peak period was 61 new trips. Mr. Bost stated from this information, mitigations are created. He commented that Village of Cramerton Mills development have mitigations to do

Gastonia Planning Commission January 6, 2022 Meeting Minutes

improvements, and NCDOT's plan to widen the road abolishes the left turn lane out of Cramer Woods.

Commissioner Cinq-Mars asked if stop control meant stop signs and Mr. Bost replied, "Yes". Regarding Access 2 via Cramer Woods Drive, Commissioner Cinq-Mars asked what 420 feet west of S. New Hope Road (NC 279) meant and Mr. Bost stated it was locating access. Commissioner Cinq-Mars commented on COVID effecting traffic, the executive summary not mentioning any work being done by Ryan Homes on the other side of the road, or safety, such as an activated stop light at Cramer Woods Road where there is a traffic hazard. Commissioner Cinq-Mars agreed the roads have the capacity. Mr. Bost stated he believed there was a plan in place to address the traffic at Cramer Woods Road. He added that NCDOT will not allow a signal at this location because it does not meet warrants.

Brady Finklea, P.E. Transportation Engineering Consultant with Kimley-Horn and Associates, Inc., 200 S. Tryon Street of Charlotte, NC was recognized. Mr. Finklea performed the TIA on behalf of the City of Gastonia. Mr. Finklea stated his company addressed and included the development across the street. Mr. Finklea explained how the base line traffic volume is set, as well as, the delta. He noted that the approved developments were included in the fifty to sixty-page document; however, it was not included in the executive summary. A crash analysis, traffic signal warrants, improvements if a traffic signal was in place were looked at, and they addressed and considered a traffic signal at the Cramer Woods Road. Mr. Finklea commented that NCDOT owns and maintains the street and NCDOT will not allow a traffic signal at that location. Discussion ensued on why an actuated traffic signal would not be allowed, such as distance to adjacent traffic signals and traffic signal warrants. Commissioner Cinq-Mars requested confirmation that the middle school traffic and development across the street were incorporated and Mr. Bost replied that these were incorporated. Commissioner Cinq-Mars commented on his afternoon drive in the area and considered it not too heavy traffic with no school in attendance, and there was no visibility at intersections so safety needs to be applied. An aerial view of the subject property was displayed and lack of visibility was discussed. Staff is requesting a site distance study showing a fifty mile an hour design speed along with the engineering plans, as well as, requesting an easement to keep the area clear for site distance for anyone turning left. Mr. Finklea explained traffic cameras and tubes were used for the traffic count, and a comparison to recent counts. He noted that it was undetermined what was considered normal, and as a result, the standard practice is to use current counts. Mr. Bost and Mr. Finklea briefly elaborated on how the peak-hour scenarios were compiled. Commissioner Wilson asked if there was water and sewer and Mr. Bost replied that there was water and sewer and no offsite extensions. Commissioner Wilson asked Mr. Welch if the company builds to rent and Mr. Welch replied that he was correct, individual units are not sold, but the whole project could be sold. Commissioner Cinq-Mars asked Mr. Welch if they would be willing to remove the twenty-five apartments around the entrance leaving it maintained as forest atmosphere helping the neighborhood maintain their identity and the Cramer Woods identity. Mr. Welch replied that from a financial standpoint it would make it difficult to reduce the project by twenty-five units.

Chairwoman Ferguson asked staff to display a list of uses that would be built by right with the current C-1 zoning. Uses permitted by right, permitted by right with supplemental regulations, allowed with conditional use permit, or allowed with conditional use permit and applicable supplemental regulations in the C-1 zoning district were displayed and discussed.

Chairwoman Ferguson requested guidance on allowing rebuttal. Assistant City Attorney Graham stated it would be in the chair's discretion to allow rebuttal if she thinks there is material competent evidence that needs to be heard. Assistant City Attorney Graham talked about the city not having control and cannot decide to place a stop light somewhere on state owned maintained roads. Regarding values being affected on rental or individually owned townhomes, he shared that North Carolina has court cases that specifically state in making a land use decision that you cannot consider the form of ownership. Assistant City Attorney Graham read a portion from North Carolina General Statutes Section 160D-1402(j)(3), "The term "competent evidence," as used in this subsection, shall, regardless of the lack of a timely objection, not be deemed to include the opinion testimony of lay witnesses as to any of the following:

- a. The use of property in a particular way affects the value of other property.
- b. The increase in vehicular traffic resulting from a proposed development poses a danger to the public safety.
- c. Matters about which only expert testimony would generally be admissible under the rules of evidence."

Gastonia Planning Commission January 6, 2022 Meeting Minutes

He explained that competent substantial evidence is needed to rebut the TIA and the standard a court will use to uphold or deny the Planning Commission's decision. Assistant City Attorney stated that the chair can allow rebuttal from witnesses, but look for competent evidence to rebut what has been presented.

The meeting recessed at 7:33 p.m. and reconvened at 7:44 p.m.

Brief discussion ensued amongst the Commission that either the neighborhood or the applicant has the option to appeal the Commission's decision and the item will then be heard by City Council. Discussion ensued on the option to continue the item to allow the applicant to make modifications to their application based on the Commission's suggestions.

Commissioner Stewart suggested proposing conditions of dropping some units or reconfiguring units to make a wide entrance area into the subdivision, plus use brick and hardiplank, boxing and trim. Commissioner Cinq-Mars suggested the applicant crank out his numbers. Commissioner Gallant encouraged another neighborhood meeting. Mr. Thompson stated establishing zoning conditions can be done if the applicant is willing to agree to the proposed conditions. A continuance would be acceptable to allow the applicant time to consider changes rather than agreeing to the changes this evening. He stated the applicant is not required to hold another neighborhood meeting if there is a vote to continue, but nothing to prevent it.

Commissioner Wilson made a motion to close the public hearing and Commissioner Stewart seconded the motion. The motion to close the public hearing unanimously passed (7-0).

Commissioner Cinq-Mars suggested the brick façade be the same red coloration as the development, use hardiplank, and reconfigure the front entrance, and continue the hearing to allow the architects time to modify the plan. Commissioner Gallant stated this was a lot for the applicant to consider and encouraged having another neighborhood meeting.

Commissioner Cinq-Mars made a motion to propose three conditions to modify the front entrance and reduce the number of units, brick façade be the same red coloration similar to the neighborhood, and elevations to include hardiplank and fiber cement board siding and trim. Commissioner Harris seconded the motion. The motion was passed (6-1 Ferguson)

Commissioner Cinq-Mars made a motion to open the public hearing and Commissioner Stewart seconded the motion. The motion to open the public hearing unanimously passed (7-0).

Chairwoman Ferguson read the proposed conditions to the applicant and asked the applicant if they will agree to the conditions. Mr. Welch stated the group will accept the second and third conditions. He had a concern about the first condition from a traffic standpoint and visibility in the sight triangle. Leaving more trees in the sight triangle might cause more problems, but stated he was open to it. Currently trees will need removed in order to allow for a five-hundred-foot sight distance. After Mr. Welch and Attorney Russell briefly talked, Mr. Russell replied that he did not think they could do the first condition.

Commissioner Ghorley made a motion to close the public hearing and Commissioner Stewart seconded the motion. The motion to close the public hearing unanimously passed (7-0).

Commissioner Stewart made a motion to deny the request with the statement of consistency and reasonableness although the proposed rezoning is consistent with the 2025 Comprehensive Plan, the Planning Commission considers it is not reasonable and in the public interest because of the increased density of the development. Commissioner Gallant seconded the motion. The motion to deny with the statement of consistency and reasonableness was unanimously approved (7-0).

Item 3: Continued Public Hearing – Unified Development Ordinance Amendment (File #202100422)

Subject hearing involves a request to amend *Section 9.4.2 of Chapter 9 General Provisions* to the Unified Development Ordinance to provide standards for electric fences in certain zoning districts. This item will be heard by the City Council at the January 18, 2022 meeting at 6:00 PM in the City Council Chambers, 181 S. South Street in Gastonia.

Chairwoman Ferguson opened the public hearing and recognized Jason Thompson, Planning Director, for the purpose of staff presentation. Mr. Thompson stated this item was presented at a

Gastonia Planning Commission January 6, 2022 Meeting Minutes

previous meeting and continued a couple times. Recommended comments at a previous meeting were incorporated into the language; therefore, this amendment is being presented with these changes.

Chairwoman Ferguson recognized Cindy Williams, 550 Assembly Street of Columbia, SC. Ms. Williams thanked staff for the changes made to height. She commented on section 1.I.2 having a minimum height of six feet and noted that some businesses may have a height of five feet based on standards. Ms. Williams stated that this language will remain the same, but wanted to bring it to the commissioner's attention that five feet is the industry's standard. Mr. Thompson recommended making the change if that is what the industry standard is.

Commissioner Cinq-Mars made a motion to approve (move forward with a favorable recommendation) the changes along with the statement of reasonableness and consistency, along with changing the height of six feet to five feet. Commissioner Ghorley seconded the motion. The motion was unanimously approved (7-0).

Item 4: Public Hearing – Unified Development Ordinance Amendments (File #202100525)

Subject hearing involves a request to amend *Table 2.7.1-Defined Terms of Chapter 2, Table 7.3-1 Bulk and Use Chart of Chapter 7 Use and Building Lot Standards* and *Section 8.1.10 Multi-family Development of Chapter 8 Supplemental Use Regulations* to the Unified Development Ordinance to amend allowances using multi-family development standards. This item will be heard by the City Council at the January 18, 2022 meeting at 6:00 PM in the City Council Chambers, 181 S. South Street in Gastonia.

Chairwoman Ferguson opened the public hearing and recognized Jason Thompson, Planning Director, for the purpose of staff presentation. Mr. Thompson stated the amendment was made to expand the allowance of multi-family in the C-3 zoning district to incentivize through ordinance regulations the possibility of multi-family development in older rundown commercial locations. This amendment will expand the ability into the I-U zoning district, which is similar in use allowances to the C-3 zoning district, and will accommodate a variety of multi-family developments and architectural configurations.

Commissioner Cinq-Mars made a motion to approve (move forward with a favorable recommendation) and Commissioner Ghorley seconded the motion. The motion was unanimously approved (7-0).

Item 5: Other Business

Update on Council Votes

Unified Development Ordinance Amendments (File #202100484) – The request to amend *Table 2.7.1-Defined Terms of Chapter 2, Table 7.1-1 Table of Uses Chart of Chapter 7 Use and Building Lot Standards, Section 8.2.45 Electronic Gaming Operation of Chapter 8 Supplemental Use Regulations* to the Unified Development Ordinance to eliminate electronic gaming and clarify definition for rooming house and to define a single housekeeping unit. This item was approved on Tuesday, December 21, 2021 by City Council.

Representative for January 18th City Council Meeting, if needed

No representative of the Planning Commission is needed.

Assistant City Attorney Graham encouraged the Commission to improve their motions to include competent evidence giving authority to make their decision.

Item 6: Adjournment

There being no further business, Chairwoman Ferguson entertained a motion to adjourn the meeting. Commissioner Ghorley made a motion to adjourn the meeting and Commissioner Gallant seconded the motion. Hearing none in opposition, the meeting adjourned at 8:21 p.m.

Respectfully submitted,

Chrystal Howard, Secretary

Kristie Ferguson, Chairwoman