

Gastonia Planning Commission December 9, 2021 Meeting Minutes

The Gastonia Planning Commission meeting opened at 5:37 p.m. on Thursday, December 9, 2021 in the Council Chambers at City Hall, 181 S South Street of Gastonia, NC.

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

Absent: Commissioner Jim Stewart

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

Item 1a: Role Call / Sound Check

Item 1b: Calls/Contacts to Planning Commission Members

Commissioners Gallant and Cinq-Mars received one contact. Remaining commissioners were not contacted.

Item 1c: Approval of November 4, 2021 Meeting Minutes

Commissioner Cinq-Mars made the motion to approve the November 4, 2021 minutes and Commissioner Harris seconded the motion. The motion was passed (7-0).

Chairwoman Ferguson explained the rules of procedure and time limitations.

Item 2: Continued Public Hearing – Anthony Gallant (File #202100342)

Subject hearing involves a request to rezone approximately 0.38 acres from C-2 (Highway Commercial District) to C-3 (General Commercial District). The subject property is located at the southeast intersection of E. Garrison Boulevard and S. Oakland Street. The property is owned by Anthony Gallant.

Chairwoman Ferguson recognized Commissioner Gallant as recused from this hearing.

Chairwoman Ferguson opened the public hearing and recognized Jason Thompson, Planning Director for the purpose of staff presentation. Mr. Thompson displayed the rezoning map, stated this public hearing was continued from the last meeting, clarified staff's recommendation, and provided a description of adjoining properties and zoning. Mr. Thompson commented on nearby non-conditional C-3 zoning districts and C-3 zoning districts with conditions, the size of subject property limiting potential uses, the location surrounded by C-2 zoning districts, no mitigation between two commercial zones, commission having the option to rezone to a less intense zoning district, and staff's recommendation for approval.

Commissioner Cinq-Mars talked about spot zoning and shared that he was not in favor of spot zoning. Mr. Thompson explained to the commission that they have the ability to zone to a less intense district. Discussion ensued on the applicant not being present and there being no requirement for the applicant to attend a hearing. Commissioner Wilson and Chairwoman Ferguson shared their hesitation of not being able to ask the applicant questions. The unknown intent for the property was briefly discussed, as well as, this item being a general rezoning. Assistant City Attorney Graham explained to the commissioners that they need to consider all possible uses permitted with a general rezoning no matter the applicant's intent for the property, then make their decision based on what is available in C-3 and in this location. Commissioner Wilson stated he preferred C-3 versus C-2 zoning district. Mr. Thompson reiterated that the commission has the option to rezone to a less intense zoning district. Examples of uses that would be classified as retail uses were shared.

Commissioner Ghorley made a motion to close the public hearing and Commissioner Wilson seconded the motion. The motion to close the public hearing passed (6-0).

Discussion ensued that all uses listed in the C-3 zoning district need to be considered even though there was interest in the applicant's intent, other parcels zoned C-3 are in close proximity of the subject property, and the subject property is surrounded by commercial C-2 zoning districts. Commissioner Wilson requested guidance on whether this would be considered spot zoning. Assistant City Attorney Graham explained spot zoning as being disfavored but not prohibited with justification. This was an example of a classic definition and can be approved with a rational and reasonable basis, such as proximity already discussed or trending to more intense zoning.

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Commissioner Wilson shared that he did not consider C-2 and C-3 zoning districts as spot zoning in comparison to commercial and residential.

Commissioner Wilson made a motion to approve with the statement of consistency and reasonableness and Commissioner Armstrong seconded the motion. The motion was approved (4-2 Cinq-Mars and Ferguson).

Chairwoman Ferguson recognized Commissioner Gallant as present for the next public hearing item.

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.

Chairwoman Ferguson opened the public hearing and recognized Jason Thompson, Planning Director, for the purpose of staff presentation. Mr. Thompson stated staff is requesting a continuance to the January 6, 2023 meeting. Assistant City Attorney Graham commented that staff continues to research and determine how the requested changes affect the ordinance.

Commissioner Armstrong asked for confirmation that the changes to be made were comprehensive for any company that does this type of product and not for the individual. Mr. Thompson explained that a large amount of material compiled was a result of research done by and consistent with other ordinances.

Commissioner Wilson made a motion to close the public hearing and continue the item as requested and Commissioner Ghorley seconded the motion. The motion was unanimously approved (7-0).

Item 4: Public Hearing – Unified Development Ordinance Amendment (File #202100484)

Subject hearing involves a 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 will be heard by the City Council at the December 21, 2021 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 talked about changes being seen of people intending to modify existing residential structures into multi-family. As a result, staff is trying to clear up the code rules and language. Assistant City Attorney Graham shared a recent Board of Adjustment case and explained that the ordinance amendment will clarify the definition for rooming house and define a single housekeeping unit in single family zoning. Discussion ensued on examples of a rooming house, single-family dwelling, and single housekeeping unit. Mr. Thompson talked about removing Electronic Gaming Operations, also known as sweepstakes, from the Unified Development Ordinance. Due to amendments to the state statutes, continuous modifications to the machines by the gaming industry, and ongoing litigation between the industry and the state making enforcement of the criminal statutes related to the machines difficult for police, staff recommended removing the land use from the ordinance. Existing operations can continue as legal nonconforming. Assistant City Attorney Graham noted that in 2012 the city still had business privilege license, each machine could be licensed, and the City could collect a privilege tax. The state legislature eliminated the privilege license tax so that the gaming operations are no longer a revenue source for the city. Plus, the state passed statutes to make all the gaming machines illegal and as a result controversy occurs between industry and state on what is legal.

Commissioner Cinq-Mars made a motion to recommend approval as recorded with the statement of consistency and reasonableness and Commissioner Harris seconded the motion. The motion was unanimously approved (7-0).

Item 5: Other Business
Update on Council Votes

No updates available.

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Representative for December 21st City Council Meeting, if needed

No representative of the Planning Commission is needed.

2022 Planning Commission Meeting Schedule

Chairwoman Ferguson thanked staff for removing the July meeting from the schedule. Meetings will be held the first Thursday after the first City Council's Tuesday meeting date.

Commissioner Ghorley made a motion to approve the schedule and Commissioner Armstrong seconded the motion. The motion was unanimously approved (7-0).

Item 6: Adjournment

There being no further business, Chairwoman Ferguson entertained a motion to adjourn the meeting. Commissioner Cinq-Mars made a motion to adjourn the meeting and Commissioner Armstrong seconded the motion. Hearing none in opposition, the meeting adjourned at 6:33 p.m.

Respectfully submitted,

Chrystal Howard, Secretary

Kristie Ferguson, Chairwoman