

DRAFT OF MINUTES PROPOSED FOR ADOPTION BY THE GREENVILLE PLANNING AND ZONING COMMISSION

November 16, 2010

The Greenville Planning and Zoning Commission met on the above date at 6:30 p.m. in the Council Chambers of City Hall.

Mr. Allen Thomas - *
Mr. Dave Gordon - * Ms. Linda Rich - *
Mr. Tony Parker - * Mr. Tim Randall - *
Mr. Bill Lehman - * Mr. Godfrey Bell, Sr. - *
Ms. Shelley Basnight - * Mr. Hap Maxwell – *
Mr. Charles Garner - * Ms. Cathy Maahs – Fladung - *

The members present are denoted by an * and the members absent are denoted by an X.

VOTING MEMBERS: Thomas, Gordon, Parker, Lehman, Basnight, Rich, Randall, Bell, Maxwell,

PLANNING STAFF: Harry Hamilton, Chief Planner; Chantae Gooby, Planner; Valerie Paul, Secretary

OTHERS PRESENT: Calvin Mercer, Council Member; Thom Moton, Assistant City Manager; Dave Holec, City Attorney; Tim Langley, Animal Control Supervisor; Jonathan Edwards, Communications Technician

MINUTES: Motion was made by Mr. Parker, seconded by Mr. Randall, to accept the October 19, 2010 minutes as presented. Motion carried unanimously.

NEW BUSINESS

Rezoning

Ordinance requested by LakeSide Sports, LLC c/o James F. Hopf, Attorney to rezone 74.53 acres located along the southern right-of-way of Old Pactolus Highway, adjacent to Santree Mobile Home Park and north of the Tar River from R6MH (Residential-Mobile Home) to CH (Heavy Commercial).

Ms. Chantae Gooby, Planner, gave the presentation for this proposed text amendment. This was a follow up rezoning request to the Land Use Plan Map amendment that came before the Commission a couple of months ago. Ms. Gooby presented the staff report to the Commission. The property is located in the eastern section of the city, north of the Tar River on Old Pactolus Road. It is adjacent to Santree Mobile Home Park. The property is currently vacant and it is considered part of the Regional Focus Area on the intersection of Greenville Boulevard/Highway 264. Based on possible uses permitted by the requested rezoning, the proposed rezoning classification could generate 2,000 trips a day with 90% of that going back towards the bypass. The Future Land Use Plan Map recommends commercial (C) along the southern right-of-way of Old Pactolus Road, east of Greenville Boulevard, and in the interior areas transitioning to conservation/open space (COS) toward the Tar River. In staff's opinion the request is in compliance with Horizons Plan and the Land Use Plan Map.

Mr. Parker asked who would be responsible for enforcing noise ordinances.

Ms. Gooby answered that the Greenville Police Department would handle it because it is in the city limits.

With there being no further questions from the Commission, Chairman Thomas opened the Public Hearing.

Jim Hoff spoke on behalf of the petitioner. Mr. Hoff listed surrounding properties and said that they would work with the residents of Santree Mobile Home Park if the request was approved. The request is in compliance with the Horizons plan, the Future Land Use Plan Map, and is compatible surrounding zoning patterns. As the Horizons Plan encourages commercial in the Focus Area, they feel that this request is appropriate. Mr. Hoff listed neighbor properties and said that they would work with staff with regard to bufferyards for nearby properties. Going on traffic reports done in the area, the roads would be able to handle increase in traffic. They acknowledge environmental conditions and limitations and they feel it would be an asset in terms of use of their use for the property.

There were no questions from the Commission for Mr. Hoff and there were no other speakers for or against the request, so Chairman Thomas closed the public hearing.

Mr. Gordon made the motion to approve the request, Mr. Parker seconded and the motion passed unanimously.

Rezoning

Ordinance requested by Stow Management, Inc. and Vintage Associates, LLC to rezone 9.143 acres located near the northwest corner of the intersection of North Memorial Drive and Staton House Road from IU (Unoffensive Industry) to CH (Heavy Commercial).

Ms. Gooby presented the staff report to the Commission. She showed the Commission maps of the location and pointed out adjacent properties and their uses. The property is proximal to a Focus Area located at the intersection of Memorial Drive and Belvoir Highway and she noted that commercial is encouraged in these types of areas. In staff's opinion, this request is in general compliance.

There were no questions from the Commission for Ms. Gooby so Chairman Thomas opened the public hearing.

Mr. Mike Baldwin spoke on behalf of Stowe in favor of the request. Mr. Baldwin had observed the area and he found very few commercial uses out there. There are some retail uses under Heavy Commercial that they feel would be beneficial to the people that work in that area. It is in compliance with the Comprehensive Plan, it is compatible with neighboring uses, there is no anticipated traffic increase, and it is outside the recognized Industrial area.

There were no questions from the Commission for Mr. Baldwin.

With there being no further speakers for or against the request, Chairman Thomas closed the public hearing.

Mr. Bell said that he is in favor of more retail uses in that area.

Mr. Randall made a motion to approve the request, Mr. Bell seconded, and the motion passed unanimously.

Text Amendment

Ordinance amending the zoning regulations to include definitions of "beekeeping; major use", and "beekeeping; minor use", and to include applicable table of use provisions for each category.

Mr. Harry Hamilton, Chief Planner, presented the proposed amendment to the Commission. The only portion of the amendment that the Commission has jurisdiction over is the zoning portion, but because it also references the animal control regulations, staff would explain that portion as well. The three major concerns are the aesthetics, the habitat, and nuisance control. Staff gave the Commission some background on the request. They had received complaints about two sets of beehives earlier this year and they sent notices requesting that the beehive owners move their hives to the backyard because they are regulated as an accessory uses. One of the owners wanted to keep their beehives where they were and discussed the matter with members of City Council and the City Manager's Office. Currently the only zoning regulations that the City has are that the beehives are considered accessory structures and the only animal control regulation is that they are given water. It was decided that there needed to be more comprehensive beehive regulations. Staff has proposed that the zoning ordinance be divided into two categories. Proposed definitions are as follows:

- "Beekeeping; major use. Use of any lot or building for the keeping of more than six (six) hives."
- "Beekeeping; minor use. Use of any lot or building for the keeping of not more than six (six) hives."

The two proposed beekeeping categories (major and minor) are differentiated only by the number of hives located on the property. There is no regulatory distinction concerning recreational beekeeping and commercial beekeeping, or the physical size of any individual hive. Any bee hive in any district may (i) produce honey for sale, and (ii) may be transported and used for agricultural production in accordance with applicable zoning and animal control regulations. Beekeeping; minor use (6 or fewer hives), is recommended to be a "class one (1)" use for bufferyard and vegetation screening purposes - i.e. no zoning related vegetation screening required. Beekeeping; major use (7 or more hives), is recommended to be a "class four (4)" use for bufferyard and vegetation screening purposes - i.e. zoning related vegetation screening required in accordance with the attached bufferyard and vegetation chart. This proposed screening requirement is the same standard as is applicable to a "kennel", defined as the keeping of four (4) or more dogs. "Beekeeping; minor use" is recommended to be a permitted use (by-right) in the RA20 (residential-agricultural), R15S, R9S, R6N, R9, R6, R6A, R6MH, MR, MRS (residential), CDF, CG, CH (commercial), and IU, I (industrial) districts. "Beekeeping; major use" is recommended to be a special use (Board of Adjustment approval required) in the RA20 (residential-agricultural), CH (commercial), and IU, I (industrial) districts. With respect to special use permit dependent uses, the Board of Adjustment may attach additional reasonable conditions to the permit when determined necessary by the Board in the particular case. Typically the animal control regulations would only apply within the city limits, but because this ordinance would reference some of the animal control regulations, this ordinance will apply

within the city limits and within the extraterritorial jurisdiction (ETJ). Mr. Hamilton presented the proposed animal control provisions to the Commission.

Mr. Randall asked why the City picked six beehives.

Mr. Hamilton answered that they would address that later in the presentation.

Mr. Hamilton gave the Commission a copy of a survey that addressed beehive regulations from other cities in North Carolina that staff had compiled last summer. Fayetteville, Jacksonville, Rocky Mount, and Raleigh do not have any regulations with respect to zoning for beehives. In Asheville, beehives cannot be any closer than 100 ft. to another household. In Chapel Hill it is allowed as an accessory use in the residential low-density district and there is a minimum lot size requirement. In Goldsboro there is a minimum setback requirement. In Wilmington you have to have a minimum tract of 40,000 sq. ft. Durham, like Greenville, also views it as an accessory use. The Animal Control ordinance is not in the Planning & Zoning Commission's jurisdiction, but comments would be taken and forwarded to City Council. The zoning ordinance amendment would become effective 60 days after City Council adopts it. Planning & Zoning is required to make a recommendation for the zoning portion only.

Mr. Hamilton addressed Mr. Parker's question of why six beehives was decided upon. It was his understanding that six was arrived at because that was generally the most beehives that someone would have in a smaller operation.

Mr. Parker said that it sounds like it was six beehives and under would be considered a hobby.

Mr. Bell voiced his concern that passing citizens would aggravate the beehives similar to the way that citizens would aggravate dogs that are chained up in a yard. He also asked if the City would require a permit to have keep bees.

Mr. Hamilton answered that Mr. Holec would address those requirements in his presentation.

Mr. Bell said that he would be more comfortable if those that were interested in keeping bees were to sign up for a class, or at least sign up saying that they are interested and receive literature on beekeeping.

Mr. Hamilton said that there are some very specific requirements on that.

Mr. Bell asked if the homeowners would be liable for the beehives.

Mr. Hamilton answered that he believed that would be the case.

Mr. Dave Holec, City Attorney, presented the animal control portion of the ordinance. Currently the only animal control provision that the City has on beehives is that you provide an adequate water supply. He presented the proposed animal control provisions:

1. No more than 6 (six) hives will be permitted on a lot except those lots classified as beekeeping, major use, by zoning regulations for which a special use permit has been issued for those lots classified as a form by zoning regulations.

2. Each hive must have an adequate water supply at the hive. The water supply must be unobstructed that allows for easy access for the bees.

Mr. Parker asked if the beehives that were shown met the adequate water provision since they did not see a water supply, but the beehives were allowed by the City to remain in place.

Mr. Holec answered that it was his understanding that the beehives met the requirements.

3. No hive shall be located in a front yard, and no hive shall be closer than 25 feet from any exterior property line.
4. The hives shall be fully enclosed by a fence or wall with the height of the fence or wall being no less than six feet. The fence or wall must be solid so that it will not allow the bees to fly through, but over.
5. All bee equipment and hives must be maintained in good order and condition.

Animal Control would be in charge of enforcing permits, inspections, and violations.

Mr. Randall commented that the Department of Agriculture requires an inspection that the beekeeper would have to obtain and he assumes that there would be a fee associated with it.

Mr. Holec said that Mr. Leonard would be the best one to confirm that. To his understanding, there is not an annual inspection requirement by the Department of Agriculture, but there is a requirement if you do certain things, like if you want to move the hives.

Mr. Randall said that it does say that permit must be renewed annually and a copy of the health inspection report by the Department of Agriculture.

Mr. Holec said that it is the City permit that must be renewed annually.

Mr. Holec reviewed the proposed fines and the methods that the City would use to enforce the animal control provisions. Animal Control would only be able to enforce within the corporate limits. Zoning officers would be able to enforce zoning provisions within the corporate provisions and with the ETJ.

Mr. Parker asked if community gardens would be able to go ahead set up beehives or if they would need to go under the ordinance regulations.

Mr. Hamilton answered that a community garden would be able to have a beehive because it would be considered as an accessory use to farming.

Mr. Maxwell mentioned the Tar River plots that are rented out and used for the year.

Mr. Hamilton said that you would have to have some type of agriculture activity going on and not just rent out the lot for the beehives. Also, there are rules as far with respect to the flood damaged buyout properties as far as what you can put on them.

Mr. Randall asked if their comments would be directed to City Council through a copy of their minutes, or if there would be a portion of the meeting where they would go ahead and list what they want to say to City Council.

Mr. Holec answered that they could do it either through their discussion, or they could make their comments in the form of a motion.

Chairman Thomas asked for clarification if they would be voting on the item.

Mr. Holec answered that the Commission would be making their recommendation on the zoning ordinance provisions of the amendment and if they have comments about the police regulations, then they could also make those comments or take a vote on them if they wished.

Chairman Thomas asked if they would be taking public comment on the text amendment.

Mr. Holec answered yes; the Commission would be taking comment on the entire thing.

Mr. Adolphus Leonard, NC Bee Inspector gave a presentation to the Commission on the background of beekeeping and bee biology. He concluded by saying that honey bees are compatible with municipal and urban environments. They should be regulated as little as possible to encourage pollinators.

Mr. Randall asked if there is a rule from the state of how often an inspector will inspect.

Mr. Leonard said that if the beekeeper is involved in selling the bees or bee products then they will inspect on an annual basis and issue them a certificate along with a permit to sell those products.

Mr. Randall stated his opinion that the examples that they were presented with earlier seemed like hobbies to him because there were only 2 beehives. He asked Mr. Leonard for his opinion on the matter.

Mr. Leonard said that in his opinion, 15 – 20 beehives would be considered a hobby as it takes because you wouldn't make any real money off of that. In his opinion, you'd have to have about 100 hives, or at least 60. He said that beekeeping is growing as a hobby in NC.

Mr. Parker asked Mr. Leonard for his opinion about the 6 ft. fence rule.

Mr. Leonard that he thought that it was excessive and unnecessary. The 25 ft. setbacks would be enough because bees forage in a 2 mile radius.

Chairman Thomas asked why the managed bee population has been disappearing.

Mr. Leonard answered that it seems to be due to something called disappearing disease and that more research is underway.

The Board had no further questions for Mr. Leonard.

Chairman Thomas asked Mr. Hamilton how the City would enforce those that are keeping bees and if the City would have to hire more staff or would the City be putting the extra duties on current staff.

Mr. Hamilton answered that he did not think that it would be a tremendous burden, but that question would be an issue for Animal Control.

Mr. Thom Moton, Assistant City Manager, answered that staff has assessed the demand that would be generated from issuing permits and found that it would be less than a dozen. The staff present would be able to handle the work necessary. The amount of work required would be nominal.

Chairman Thomas opened the public hearing. There were no speakers for or against the request so Chairman Thomas closed the public hearing and opened the matter up for Board discussion.

Mr. Parker commented that he thought that the 6 ft. fence rule is excessive. Many hobbyists may not be able to afford the fence, but it would be good to keep the bees so his opinion is to strike the 6 ft. fence rule.

Mr. Bell said that from his understanding, there will not be anyone enforcing it unless someone was to make a complaint and it should be on the beekeeper to make it safe for everyone.

Mr. Parker said that if the complaint were made and if it were found that they did not have the fence then their bees could potentially be taken away. They would be fined initially until they were told that they would have to get rid of their beehives.

Mr. Randall asked if there were neighborhoods that would prohibit 6 ft. fences.

Mr. Parker answered that there are many neighborhoods that would not allow a fence that high.

Mr. Bell said that it would not have to be a fence and it could be something like trees.

The Board responded and said that it would have to be a solid wall so it would have to be a fence.

Mr. Moton explained how staff came to include the 6 ft. rule. He shared the Good Neighbor Guidelines and showed the Commission excerpts that addressed beekeeping.

Mr. Lehman expressed his opinion that he feels that all this interest has been generated simply because someone did not want to put their beehives in their backyard. He agrees with Mr. Leonard in the fact we should step back and not regulate bees because they are important to our economy and they are part of our natural habitat.

Mr. Randall made the observation that, taking information from the survey, there are only a few other cities that are regulating the bees. In his opinion, we should keep the current guidelines saying that they are an accessory, put them in the backyard and maybe put a limit on how many beehives you can have. Less regulation would be better.

Mr. Parker said that there is a natural disaster happening with beehives dying off whatever we can do to *not* regulate, would be a good thing.

Chairman Thomas said that they are voting on the definitions of the text amendment. The Commission would be able to make comments on everything else that they have read.

Mr. Hamilton said that the zoning amendment would define what small operations are and what large operations are in regards to beekeeping. If nothing is done, then it will still be considered an accessory use and it would have to be moved to the backyard.

Mr. Lehman said that some neighborhoods have small lots and you *might* get 25 ft. from the backyard to the lot line.

Mr. Hamilton said that would fall under the animal control provision and the Commission could make recommendations that would be passed on to City Council.

Mr. Randall asked if they could make amendments to the text or if they would need to vote on the amendment as presented.

Mr. Hamilton asked for clarification on what he was asking.

Mr. Lehman paraphrased Mr. Randall and asked if they could make the recommendation to say that six beehives or less would not be subject to animal control rules, and more than six beehives would be considered a major beehive operation.

Mr. Hamilton said that all beekeepers would be subject to a level of animal control provisions as our current standards state that they must provide an adequate water supply.

Mr. Bell asked Mr. Hamilton if this issue of needing a text amendment was due to someone not wanting to move their beehives into their backyard.

Mr. Hamilton answered that in a sense it was, but the regulations that we have currently are minimal so it would be good to establish something more comprehensive.

Mr. Lehman commented that six beehives is a good number given lot sizes in Greenville.

Mr. Hamilton explained that a citizen disagreed with the interpretation that staff had made. He felt that his beehive was not accessory structure, so it was felt by staff that more comprehensive regulations were appropriate.

Mr. Bell asked if Mr. Leonard had shared with staff his thoughts about the 6 ft. fence being excessive.

Mr. Moton answered that Mr. Leonard had shared his thoughts with staff of how less would be better. He said in the past, the current rules were okay because everyone complied voluntarily. This issue came to the forefront when an individual said that accessory use didn't apply to beehives. Staff felt that clarity was necessary.

Chairman Thomas asked who would vote on the 6 ft. fence rule.

Mr. Moton answered that the City Council would vote on it.

Mr. Lehman said that they could make comments to be passed on to City Council.

Chairman Thomas said that they would.

Mr. Parker said that the 6 ft. fence rule would be one suggestion that would need to be passed on.

Mr. Moton assured the Commission that the staff has every intention of creating a report based on the Commission's actions and comments to present to City Council.

Mr. Lehman said that the 6 ft. fence is a symptom of the over-regulation that they had been discussing. He listed what the Commission would like to have passed on to City Council:

- Beehives be kept in the backyard
- Less than six beehives
- The bees receive an adequate water supply.

Chairman Thomas said they would like to keep the current regulations for beehives.

Mr. Moton said that it seems that the Commission feels strongly about permitting.

Mr. Lehman said that he would consider it “registration” rather than “permitting”.

Mr. Moton agreed with Mr. Lehman. The main point of registering the beehives is to have a record of where the beehives are.

Mr. Parker said that the City is requesting that beehives be registered, so he asked if the City requires that Rottweiler be registered.

Mr. Moton answered that they are required to have dog licenses and remain on a leash. He also brought up the fact that the City even has rules about bow hunting in your backyard. As we become more urban, we try to balance behavior between being a good neighbor and individual rights as a property owner.

Mr. Parker asked if the permit would basically be a registration.

Mr. Moton answered that was correct. Staff would check if they are in the location that they are supposed to be in.

Mr. Bell made a motion to approve the proposed text amendment with recommendations from this Commission to advise that it is consistent with the Comprehensive Plan and other applicable plans and to adopt the staff report which addresses plans consistency and other matters. There was not a second so the motion died.

Mr. Bell noted that he did include “with recommendations from this Board” in his motion, which is what they are actually doing.

Mr. Gordon said that they are voting on a zoning regulation first and then they can vote on a recommendation.

Mr. Randall said that they should deny the text amendments to because that would send more of a message as a recommendation to City Council.

Mr. Holec suggested that they make their recommendations on the police power regulations first and then vote on the zoning ordinance. Then Mr. Bell's motion would be more acceptable to the Commission. He listed what he heard from the Commission:

- six or fewer
- Only requirement is an adequate water supply
- Place them in the backyard
- Permitting process by registration

Chairman Thomas and Mr. Bell added the regulation of a setback of 25 ft.

Mr. Randall and Mr. Lehman were in opposition to the setback.

Mr. Holec said that Mr. Leonard did promote the 25 ft. setback without the fence because it does serve a purpose.

The Commission accepted that and so it was added to the list.

Mr. Holec asked if they wanted additional regulations for the rule of six hives or more.

Mr. Parker said that they could follow staff recommendation.

Mr. Bell noted that they would also have to go through the Board of Adjustment.

Mr. Holec said that what they are basically deleting from the six-or-less hives portion is the 6 ft. fence. He asked if they would want the fence if there are more than six hives.

Mr. Lehman said that you could not have more than six hives.

Mr. Holec said that you can have six or more if you have the permit.

Mr. Lehman said that there wouldn't be any room for more than six hives.

Mr. Parker said that some may have bigger lots that would allow more than six hives.

Mr. Gordon asked why they would need a Special Use Permit.

Mr. Holec answered that the City requires a Special Use Permit when there is going to be an impact on the neighborhood. Having more than six hives would have an impact on a neighborhood so the neighbors should have a chance to voice their opinions.

Mr. Parker commented that if his neighbor were to put in forty hives in their backyard then he

would want the opportunity to give public comment.

Mr. Bell said that most subdivisions, including Tucker, have a nuisance rule that has to be applied by the home owners association and the police. More than six hives should be held to higher regulations.

Mr. Holec asked if they wanted a fence requirement for more than six hives.

The Commission responded that they did not.

Mr. Holec said that their main recommendation would be that the fence requirement be removed completely. Mr. Holec reviewed the list of animal control provisions again with the Commission:

1. No more than 6 (six) hives will be permitted on a lot except those lots classified as beekeeping, major use, by zoning regulations for which a special use permit has been issued for those lots classified as a form by zoning regulations.
2. Each hive must have an adequate water supply at the hive. The water supply must be unobstructed that allows for easy access for the bees.
3. No hive shall be located in a front yard, and no hive shall be closer than 25 feet from any exterior property line.
4. The hives shall be fully enclosed by a fence or wall with the height of the fence or wall being no less than six feet. The fence or wall must be solid so that it will not allow the bees to fly through, but over.
5. All bee equipment and hives must be maintained in good order and condition.

He said that they could take a motion to vote with their recommendation to remove requirement #4.

Mr. Randall said that they should approve the amendment and then make the recommendation.

Mr. Holec said that it would be okay to take action on that first and then make a motion.

Mr. Bell made a motion to eliminate item #4 on the list of animal control provisions in their recommendation, Mr. Lehman seconded the motion and the motion passed unanimously.

Mr. Bell made a motion to approve the proposed text amendment with their recommendation to advise that it is consistent with the Comprehensive Plan and other applicable plans and to adopt the staff report which addresses plan, consistency, and other matters. Ms. Basnight seconded and the motion passed unanimously.

OTHER BUSINESS

Review of Statutory Requirement for Planning and Zoning Map or Text Amendments.

Mr. Holec, per Chairman Thomas's suggestion gave a review to the Commission on the required motions relating to zoning maps and text amendments.

Consideration of rescheduling the December 21, 2010 Planning and Zoning Commission meeting to December 14, 2010.

Mr. Bell made the motion to reschedule the Tuesday, December 21, 2010, meeting to Tuesday, December 14, 2010. Mr. Parker seconded it and the motion passed unanimously.

ADJOURN

Mr. Bell made the motion to adjourn, Mr. Lehman seconded it, and it passed unanimously.

The meeting adjourned at 8:18 p.m.

Respectfully Submitted,

Merrill Flood
Secretary