

DRAFT OF MINUTES PROPOSED FOR ADOPTION BY THE GREENVILLE PLANNING
AND ZONING COMMISSION
September 20, 2011

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

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| Mr. Tim Randall - * | |
| Mr. Godfrey Bell - * | Mr. Dave Gordon - * |
| Mr. Tony Parker - * | Ms. Linda Rich - X |
| Mr. Hap Maxwell - * | Ms. Ann Bellis - * |
| Ms. Shelley Basnight - * | Mr. Brian Smith - * |
| Mr. Doug Schrade - * | Mr. Jerry Weitz - * |

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

VOTING MEMBERS: Bell, Parker, Maxwell, Basnight, Gordon, Bellis, Smith, Schrade

PLANNING STAFF: Merrill Flood, Community Development Director; Chris Padgett, Chief Planner; Andy Thomas, Planner; Valerie Paul, Secretary

OTHERS PRESENT: Dave Holec, City Attorney; Rik Dicesar, Traffic Engineer; Tim Corley, Engineer; Jonathan Edwards, Communications Technician

Chairman Tim Randall welcomed Mr. Jerry Weitz to the Commission and he excused him from the remainder of the meeting due to personal reasons.

MINUTES: Motion was made by Mr. Bell, seconded by Mr. Smith, to accept the August 16, 2011 minutes as presented. Motion carried unanimously.

NEW BUSINESS

Preliminary Plat

Request by EMW Properties for a preliminary plat entitled "Arlington Acres (2011)". The property is located west of Arlington Boulevard at its intersection with the railroad track. The property is further identified as Pitt County Tax Parcel 07116. The proposed development consists of 1 lot on 8.3772 acres.

Mr. Andy Thomas presented the item to the Commission; an aerial map and a zoning map were provided. The parcel is currently zoned MO (Medical Office) and the Future Land Use Plan Map designates it as O/I/MF (Office/Industrial/Multi-Family). It is not impacted by any flood plain and it is located along a major thoroughfare, Arlington Boulevard. Mr. Thomas said that a preliminary plat for the same property had come before the Commission in 2005 and it was denied because the Commission determined that a new public street needed to be constructed to serve the land-locked parcel located to the north. The Planning Division staff did not object to the request made in 2005 because in staff's opinion, the land-locked portion could be served by

the extension of Gabriel Drive to Arlington Boulevard, tying in with the driveway at Physicians East; staff sees this as being the primary point to access for this area. As was the case in 2005, staff's opinion is to remain a proponent of an interconnected street network and they would not object to a new public street being constructed to the property to serve the landlocked property to the north; however, staff continues to see the extension of Gabriel Drive as the primary corridor to provide a street connection to this area. The application was presented as a Preliminary Plat because of the Commission's ruling in 2005 that a public street should be required through the property; for that reason, it is staff's belief that any application to develop the property without subdivision would be an attempt to circumvent the previous Commission's decision. The current applicant is asking that the Commission rethink that previous decision.

Ms. Ann Bellis said that she had two maps and she did not see any subdivision on them; they both presented it as one piece of property.

Mr. Thomas answered that she was correct and that is why it was brought before the Commission. Since the Planning & Zoning Commission had already made a ruling on this piece of property, it is only the Planning & Zoning Commission that can revisit that decision; when the applicant brings in a site plan, although it is a legally subdivided parcel, staff cannot circumvent the previous decision of the Planning & Zoning Commission.

Ms. Bellis asked if it is subdivided.

Mr. Thomas answered that they have a legally divided parcel of land. There is a provision in the site plan regulations that states if a site plan is brought forward then must comply with all regulations including subdivision regulations.

Mr. Hap Maxwell asked if the property behind the piece of land is zoned to allow multi-family.

Mr. Thomas answered that at this point in time it is zoned RA-20, Residential-Agricultural. The Future Land Use calls for Office, Intentional or Multi-Family.

Chairman Randall asked if this was outside of the area that they had designated as the Medical District.

Mr. Thomas answered that this is still within the confines of the Medical District.

Chairman Randall said that staff could not approve the site plan because it did not have a street and this Commission had decided 5 years ago that it needed a street.

Mr. Thomas said that was correct.

Mr. Maxwell asked what if there are guidelines about adding a street that close to a railroad since it would add traffic.

Mr. Rik Dicesar answered that he has had preliminary conversations with NCDOT regarding minimum separation from the railroad with an access drive and or street, but he has not received any answers yet. They hope that any access drive would be placed opposite one of the existing driveways across the street; preferably the right-in, right-out driveway to minimize left turns on the main artery.

Chairman Randall said that the permits for drive-way cuts would come from NCDOT and not the City.

Mr. Dicesar said that the site plan would come in but it would be bound by the City's guidelines.

Mr. Steve Spruill, surveyor for the applicant, spoke on the applicant's behalf. He said that they had an issue with the wording of the ordinance; it talks about "the new roads in your proposed subdivision", but this subdivision has new roads and if the ordinance had intended to put a new road in, it should read "a new road in your proposed subdivision." He said that the owners have lost out on potential sales due to the cost of extending a public road, so it appears that it has been economically prohibitive. Mr. Spruill said that maybe the Commission recognizes that the strict interpretation of the ordinance as Mr. Evans reads it is unjust in some cases since the Commission had approved some plans that did not require road extension, such as this past June for the V-SLEW property. Mr. Spruill referenced the Future Roadway Plan and pointed out the connection extending from Gabriel Street to Physicians East; he said that they believe that this will be the primary connector. They contend that the division of the Evans tract could have been accomplished to give all the owners road frontage on all of the tracts. Mr. Spruill provided a picture of Mr. Evan's access drive to his property to show that he does have adequate access. He said that Mr. Evan's developed a piece property that is one tract away and they did not extend those roads to the adjoining property so they think that he is asking for something that he did not give.

Attorney Jim Hopf spoke in favor of the application. He addressed Ms. Bellis's earlier question and said that in their view it is not a traditional subdivision; it's one lot and all of it fronts Arlington Boulevard. He said that the ordinance assumes that there is going to be a road, but they do not fall into this category so it is not appropriate to force the owner to build a road since they have a relatively shallow lot and adequate access. He said that the adjoining owner who has objections to this request had adequate access as well; he provided a copy of the deed to show the Commission.

Mr. Eddie Evans spoke in opposition to the request. He said that their problem is that they have no access to a public street which would prevent them from developing their property. Mr. Evans said that they were not contacted EMW Properties to see if they could resolve the issue before coming before the Commission; he said that this is the same situation that has come before the Commission except that they have removed two lines and it is still the best access to his and his brother's property. He said that there have been no plans proposed to build Gabriel Street and traffic would have to go through a street on their Aunt Catherine's property, but she has no interest in developing her property. He said that not requiring a public street would create a hardship on him and his brother because it would land-lock their property. He said that he and his brother had a few requests: they requested that the Commission ask EMW Properties to provide connecting access to their adjacent property; that the Commission agrees to make the construction of an access road to their property a specific condition to this preliminary plat approval; that the Commission make it an express condition of any preliminary plat approval and that any future site plan from EMW Properties provide a connecting access to their adjoining property. He asked that the conditions be included in the minutes and for them to be expressly stated on the preliminary plat.

Mr. Jimmy Evans spoke in opposition. He said that he has access to get to his house, but he does not have access to develop his 16 acres; he said that he will need a 60 ft. street to get back there and develop the property and they would like to develop it as Medical Office. He provided the preliminary plat that was denied in 2005 for the Commission.

Attorney Jim Hopf spoke in rebuttal. He said that there had been some discussions between the parties. There was a suggestion through Mr. Spruill that the applicant would entertain proposals for compromise and it was understood by Mr. Spruill that they would hear from the other party before the meeting tonight, but they had not heard a response. He emphasized staff's opinion of where the most appropriate point of interconnectivity on the site would be; it is his understanding that no matter whose land is developed in that area, staff's position is that point will remain the most appropriate access point. He brought up Mr. Maxwell's concerns about constructing an access road near the railroad track and he asked that the Commission reconsider their previous decision.

Mr. Eddie Evans spoke in rebuttal. He said that the same situation will come up when Gabriel Street is constructed because it will go through his Aunt Catherine's property and she is not interested in developing the property. He feels that potential buyers will be turned off by the extra cost as is the case with the piece of land that EMW Properties owns.

Mr. Godfrey Bell said that he visited the property and he agrees that if you were to use the driveway in front of K & W it would be too close to the railroad track and it would likely cause

traffic congestion. The only other suitable driveway would be the one that staff recommends in front of Physician's East; he agrees with staff.

Mr. Brian Smith said that he also agrees with staff.

Mr. Bell made a motion to approve the request and Mr. Smith seconded.

Mr. Dough Schrade said that he does not feel that anything has been changed since it first came to the Commission in 2005 and he does not feel like this is the right thing to do because the Evans brothers would not be able to use their land.

Mr. Tony Parker asked if future developers would be required to build a road there.

Mr. Thomas answered that staff has a working map of preferred street connections and this road is on that map.

Mr. Parker asked staff to confirm that it is a recommended road and not a required road.

Mr. Thomas confirmed that he was correct.

Mr. Parker asked to confirm that there was 16 ft. easement.

Mr. Thomas answered that he was correct.

Mr. Parker said that he would need a 60 ft. easement to develop it. He asked if the 16 ft. easement was to his home or to the property that they hope to develop.

Mr. Thomas answered that the access is to his home.

Mr. Bell said that they should keep in mind that Mr. Evans first built his house he was aware that he would only have that 16 ft. access to and from his property.

Mr. Schrade said that 16 ft. access is to his house and not to the piece of property that they want to develop.

Mr. Bell said that they were also discussing the easement.

Chairman Randall said that Mr. Bell's point is if they had intended to develop this land then they should have asked for more of an easement.

Mr. Parker noted that it was a court order so there was no control over that.

Mr. Dave Gordon asked if there was a court order.

Mr. Eddie Evans answered that when his Uncle Burt died, they went to a lawyer's office, wrote down the tracts of land, and then drew them out of a hat. One of the parties did not like the piece of land that they drew so after they signed the papers, she went and had it court ordered. The court gave her the tract of land that she wanted. Mr. Evans said that there were no court orders pertaining to access.

Attorney Hopf said that he had a report of Commissioners dated May 1989 in which three Commissioners met to divide the lands. It indicates that they met on the premises, attempted to divide the land and made findings on the tract formerly labeled 3B. This was about 8 years after the easement had been given to Jimmy Evans by the family.

Chairman Randall called for a vote on Mr. Bell's motion. In favor: Brian Smith, Ann Bellis, Hap Maxwell, Dave Gordon, Godfrey Bell, Shelley Basnight. In opposition: Tony Parker, Doug Schrade. Motion carried.

TEXT AMENDMENTS

Request by F. Durward Tyson Jr, P.E. of Rivers and Associates, Inc. to modify Section 9-4-96 (F) Proximity to Streets.

Mr. Chris Padgett, Chief Planner, presented the item and its background to the Commission. Prior to 1989, the Zoning Ordinance required that all portions of all buildings be located within 600 feet of a public street. Private streets were qualified for this purpose and the distance was reduced to 500 feet in January, 1989. The standard was again modified in 1994 following an application submitted by Michael Baldwin on behalf of Vanrack, Inc. This revision allowed developments with common access drives and parking areas of sufficient design, dimension and construction for use by city fire and rescue vehicles to have all buildings located within 750 feet of an approved public or private street. The city's standards have remained unchanged since 1994 and currently read as follows:

(F) Proximity to streets.

(1) All portions of each building erected in accordance with this section shall be located within 500 feet of an approved public or private street, except as further provided under subsection (F)(2) below.

(2) All portions of each building located within any development which has exclusive and/or common property access drives and parking areas of sufficient design, dimension and construction, for use by fire and rescue vehicles of the city shall be located within 750 feet of an approved public or private street. For purposes of this section, the term

"use by fire and rescue vehicles" shall be construed as ingress and egress by continuous forward movement unless otherwise approved by the Chief of Fire Rescue.

Mr. Padgett presented the proposed modifications which would increase the distance buildings can be from public or private streets, as provided in subsection (F)(2) from 750 feet to 1,000 feet; to incorporate language and standards from State Fire Code related to access; and to clarify that the city retains the right to require the construction of public streets where such is desirable. These changes specifically include modifying subsection (F)(2) and creating a subsection (F)(3) as follows:

(2) All portions of each building located within any development which has exclusive and/or common property access drives and parking areas meeting the requirements of the North Carolina State Fire Code for a fire apparatus access road shall be located within 1,000 feet of an approved public or private street. The fire apparatus access road shall extend to within 150 feet of all portions of the facility as approved by the Chief of Fire and Rescue.

This section of the proposed amendment references the State Fire Code as the guiding reference, it provides specific language from the Fire Code and it makes the substantive change of going from 750 ft. to 1000 ft. Staff wanted it to be clear that when the context of development was such that you had public streets stubbing out to the property then you may be required to extend that street through the property; for that reason, the applicant also proposed another section that states:

(3) No portion of this subsection shall preclude the city from requiring the construction of a new public street or extension of an existing public street where such is necessary to provide access to adjacent property and/or provide appropriate levels of access and linkages associated with the city's street network.

Mr. Padgett presented an example to the Commission.

Mr. Gordon, using the example presented, asked if all the buildings would need to be within a 1000 ft. of that.

Mr. Padgett answered that if the property line were another 250 ft. deeper, then in order for that street to stay where it is and for the overall design to remain, it would have to be changed from 750 ft. to 1000 ft.

Mr. Bell asked if the request that was being made would only apply to the example presented.

Mr. Padgett answered that the request would be applicable to anyone that wanted to develop in the future in this manner.

Mr. Smith asked if the City was okay with this proposal.

Mr. Padgett answered that the City was comfortable with the request. The primary concern was with interconnectivity and with the language that the applicant has provided in subsection 3; staff feels comfortable with the proposed amendment.

Mr. Randall said that the parking lots are required to give adequate access for emergency vehicles, so technically it could be extended to 1000, 1200, 2000 ft.

Mr. Padgett said that the concern is that at some point you will be creating a great deal of volume of traffic that would be forced to drive through double-stacked parking lots.

Mr. Parker noted that Fire-Rescue said that 1000 ft. is fine.

Mr. Padgett said that the departments that reviewed the proposed text amendment said that 1000 ft. worked and staff did not propose any other increments.

Mr. Dirk Tyson addressed the example provided and said that it was only one of the instances where the 750 has applied; it occurs frequently in developments in Greenville. With the adoption of the current Fire Code and Appendix D, which sets standards for fire apparatus roads, he believes that separation to a public or a private street is no longer necessary. He had initially wanted to request that the City remove that, but after meeting with City staff he was able to come up with hypothetical situations where it might be necessary; he put in the last subsection so that it could not be construed to avoid extension of public streets to interconnect to adjacent properties.

No one spoke in opposition of the request.

Motion was made by Mr. Gordon, seconded by Mr. Parker, to approve the proposed amendment 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. Motion passed unanimously.

With no further business, a motion was made, seconded and unanimously voted on to adjourn at 7:20 p.m.

Respectfully Submitted,

Merrill Flood, Secretary