

FAYETTEVILLE CITY COUNCIL
AGENDA BRIEFING MINUTES
LAFAYETTE ROOM
OCTOBER 23, 2013
4:00 P.M.

Present: Mayor Anthony G. Chavonne (departed at 4:30 p.m.)

Council Members Kady-Ann Davy (District 2); Bobby Hurst (District 5); William J. L. Crisp (District 6); Valencia A. Applewhite (District 7)(arrived at 4:15 p.m, departed at 5:15 p.m.); James W. Arp, Jr. (District 9)(arrived at 4:45 p.m.)

Absent: Council Members Keith Bates, Sr. (District 1); Robert A. Massey, Jr. (District 3); D. J. Haire (District 4); Wade Fowler (District 8);

Others Present:

Ted Voorhees, City Manager

Kristoff Bauer, Deputy City Manager

Rochelle Small-Toney, Deputy City Manager

Karen McDonald, City Attorney

Scott Shuford, Development Services Director

Karen Hilton, Planning and Zoning Manager

Eloise Sahlstrom, Urban Planner – Planning Department, Development Services

Will Deaton, Planner

Pamela Megill, City Clerk

Members of the Press

Mayor Chavonne called the meeting to order at 4:00 p.m.

City staff presented the following items scheduled for the Fayetteville City Council's November 25, 2013, agenda:

Amendment to City Code Chapter 30 to modify zero lot line (ZLL) standards and allow it in additional zoning districts

Mr. Scott Shuford, Development Services Director stated the proposed changes to zero lot line standards reflect extensive discussion with the development community. ZLL standards are used in a relatively unique way in Fayetteville to provide significant flexibility in setback and lot area standards and, in many instances, some increase in actual density as well as greater ease in achieving the maximum allowed density because of the increased options in lot layout. The flexibility in setback requirements is essential in (re)development of smaller sites in established areas -- "infill development." Because of concerns about infill on small lots in established residential areas and the potential to be incompatible with the existing development pattern, the current standards require a Special Use Permit (SUP) for development sites of less than three acres. Because of the time and the uncertainty associated with the two hearings for the SUP, they are seeking a reduction or elimination of the special use process for smaller ZLL developments. Under the former code, a neighborhood meeting and one public hearing before the Planning Commission were required for infill projects. ZLL currently is allowed only in SF-15, SF-10, SF-6, MR-5, OI, NC, LC, and CC districts. The development community has asked for ZLL to be available in the AR Agricultural District. The Planning Commission heard two speakers in favor of the proposed amendment at its meeting on September 17, 2013. The Commission voted unanimously to recommend approval.

Amendment to City Code Chapter 30 to modify the requirements associated with mid-block connections and block lengths

Ms. Karen Hilton, Planning and Zoning Manager presented this item and stated in developing the block length and midblock connector standards that are currently in the UDO, city staff and the consultants were guided by a philosophy of pedestrian connectivity. Shorter block lengths are more pedestrian friendly than longer block lengths and provide greater pedestrian interest. They also improve emergency access and efficient delivery of public services and, in providing more options, they help ease congestion. The previous code allowed up to 1800 feet.

Comparisons were made with standards established in other communities and with best practices. The maximum length generally was 500 – 800 feet, although Wilmington allows 1000 feet with through, connecting streets. The maximum for more urban areas or traditional neighborhoods is 350-500 feet. At 800 feet, Durham requires a public alley or pedestrian “mall.” The initial draft for the new code established a block length maximum of 800 feet average, with a midblock connector when longer than 700 feet, and under certain conditions a longer length (up to 1,000 feet) could be approved. Through negotiation with the development community, a 1000 foot maximum block length was established with a mid-block connector required for anything over 800 feet, with similar administrative waiver options. This represented a compromise that appeared to be acceptable to all parties. The development community has become leery about using the mid-block connector option because of maintenance issues and impacts on the marketability of lots which adjoin the connectors. Consequently, they asked for the block length and mid-block connector issue to be reconsidered. Discussions between staff and the development community revolved around providing block length flexibility while preserving the goal of enhanced pedestrian connectivity. Ultimately, another compromise was reached, whereby individual blocks could be as long as 1200 feet, but the average block length would not exceed 800 feet; mid-block connectors continue to be required when a block exceeds 800 feet but would not be required when all lots are within 1,500 feet of common open space (thereby maintaining reasonable pedestrian interest).

Amend City Code Chapter 30 to incorporate definitions and standards to establish rules on when and where food trucks may operate within the City of Fayetteville as an accessory use in specified business districts.

Mr. Will Deaton, Planner II, presented this item and stated the purpose of this item is to establish rules on when and where food trucks may operate within the City of Fayetteville on commercially zoned property. Currently, the City of Fayetteville Zoning Ordinance does not address food trucks. They are used at various times throughout the year at special events and other locations. Having no ordinance and/or regulations in place does not serve the City of Fayetteville and does not reflect the growing trend of food trucks over typical brick and mortar restaurant establishments. These uses generally require significantly less initial startup costs for an individual or corporation and provide alternative food sources where restaurants are not traditionally located. With the booming popularity of food trucks selling creative, cutting-edge cuisines, as well as a sagging economy, interest in street selling is perhaps greater than ever. Food trucks will be allowed as an accessory use in most business districts to include the commercial, downtown and industrial districts. The proposed standards will be in place to address spacing from traditional brick-and-mortar restaurants as well as separation from driveways, sidewalks, building entrances and residential zoning districts. The number of food trucks permitted per site will be based on current site acreage. Sites that are less than a 1/2 acre will only be allowed 1 food truck, sites from a 1/2 acre to 1 acre will be allowed 2 food trucks, and sites greater than an acre will be allowed a maximum of 3 as long as all other criteria are met. At the Planning Commission meeting there were a total of 2 speakers and both spoke in support of the text amendment. A unanimous vote of approval was taken to allow food trucks as an accessory use in accordance with the proposed ordinance.

Amendment to City Code Chapter 30 to clarify clear-cutting standards and provide options for mitigation of related violations

Ms. Eloise Sahlstrom, Urban Designer, Planning and Zoning presented this item and stated a clear-cutting permit is required for the removal of existing trees from an undeveloped lot or site that has not yet received site plan, subdivision plan or building permit approval. Individual single family residential lots are exempt. There are two aspects of the existing standards being addressed: 1) Mitigation for removal without a permit; 2) Increased flexibility in review and granting of permits.

Existing Standards:

1) Current mitigation standards require inch-for-inch replacement for tree removals undertaken on parcels where a clear-cutting permit was required but not obtained. Such mitigation is

unrealistic and unworkable.

2) Additionally, discussions with a developer's advisory committee have highlighted the desire for increased flexibility in the standards utilized for reviewing and granting clear-cutting permits. Currently, a thirty foot buffer of existing trees is required to be maintained along all property lines and a fifty foot buffer is required along all street frontages.

Proposed Standards:

1) Proposed mitigation standards require replacement derived from the total removal in caliper inches multiplied by twenty percent. Replanting or payment in lieu is required. Specimen trees and public trees are differentiated from other removals and incur a separate fee. 2) Proposed language related to the buffer requirement allows the required buffers to be eliminated if it is the intent of the applicant to submit development plans within a six month period. Should development plans not be submitted within the allotted period, the applicant is responsible for replanting of the buffers as identified in the text.

The Planning Commission held a public hearing on this amendment on October 15, 2013. There were no speakers. The Commission recommended approval.

Amendment to City Code Chapter 30 to clarify "redevelopment" and make minor adjustments to open space standards

Ms. Karen Hilton, Planning and Zoning Manager, presented this item and stated the revised standards adopted in July 2013 for parkland, open space and tree save areas are, collectively, significant reductions from the previous standards calculated separately for those three elements. That amendment included changes expanding the features that can be used to meet the requirements. These changes were considered necessary because, combined with other infrastructure such as stormwater and streets, a significant amount of developable area was lost. Since some usable open space is an important component of residential environments, the new standards clearly indicated that a minimum of 10% for sites greater than one (1) acre and up to five (5) acres had to be provided on site for residential development. However, it did not make it clear how residential development fits relative to "redevelopment." Another aspect of this amendment is some concern that for some small residential sites, there still could be problems providing the mandatory 10% on site. Infill sites are often challenging in their configuration or constraints on site. Staff therefore proposes an additional change to allow consideration of a reduction or elimination of the on-site open space through a hearing process (special use permit). The mandatory 10% on site was acceptable to the development committee; staff has recommended this additional flexibility but only through a process that emphasizes the importance of open space/recreational facilities as part of residential development. The public hearing for this amendment was continued from the September 2013 Planning Commission meeting to allow further discussion about a very different aspect of these standards -- the portions of footnotes 4 and 5 that refer to a penalty (or, more accurately, a 'surcharge') for sites that have been cleared prior to submittal of development plans. The intent was to discourage speculative clear cutting, even with a clear-cutting permit, because of the high public value of keeping tree cover and undisturbed land areas as long as possible to help with reducing heat island effects, improving water and air quality, and providing habitat. The UDO provides seven standards of review for proposed text amendments. Each standard is listed in the attached staff report, along with analysis of how the proposed changes relate to the evaluation standards. At its meeting on October 15, 2013, the Planning Commission recommended approval of the amendment. There were no speakers for or against the proposed amendment.

DEMOLITION CASES

Uninhabitable Structures Demolition Recommendations

Mr. Scott Shuford, Development Services Director, presented this item with the aid of a PowerPoint presentation and multiple photographs of the properties. He stated staff recommends adoption of the ordinances authorizing the demolition of the structures. He reviewed the following demolition recommendations:

228 S. C Street

Mr. Shuford stated the structure is a vacant residential home that was inspected and condemned as a blighted structure on June 6, 2012. A hearing on the condition of the structure was conducted on June 27, 2012, which the owner did not attend. A notice of the hearing was published in the Fayetteville Observer. A subsequent Hearing Order to repair or demolish the structure within 60 days was issued and mailed to the owner June 28, 2012. To date there have been no repairs to the structure. The utilities to this structure have been disconnected since October 2010. In the past 24 months, there have been 15 calls for 911 service to the property. There have been 11 code violations cases with a pending assessment of \$153.94. The low bid for demolition is \$1,900.00.

216 Hedgepeth Street

Mr. Shuford stated the structure is a vacant residential home that was inspected and condemned as a blighted structure on April 25, 2013. A hearing on the condition of the structure was conducted on May 15, 2013, in which one of the property owners appeared. A notice of the hearing was published in the Fayetteville Observer. A subsequent Hearing Order to repair or demolish the structure within 90 days was issued and mailed to the owners on May 16, 2013. To date there have been no repairs to the structure. The utilities to this structure have been disconnected since December 2008. In the past 24 months, there have been 20 calls for 911 service to the property. There have been 11 code violation cases with no pending assessments. The low bid for demolition is \$2,500.00

1040 Kingsley Road

Mr. Shuford stated the structure is a vacant residential home that was inspected and condemned as a blighted structure on May 30, 2013. A hearing on the condition of the structure was conducted on June 12, 2013, which the owner did not appear. A subsequent Hearing Order to repair or demolish the structure within 60 days was issued and mailed to the owner on June 13, 2013. To date there have been no repairs to the structure. The utilities to the structure are still connected. In the past 24 months there has been one (1) call for 911 service to the property. There have been five (5) code violation cases with a pending assessment of \$405.82. The low bid for demolition is \$2,500.00.

2008 Overlook Drive

Mr. Shuford stated the structure is a vacant residential home that was inspected and condemned as a blighted structure on June 5, 2013. A hearing on the condition of the structure was conducted on June 19, 2013, which the owner did not appear. A subsequent Hearing Order to repair or demolish the structure within 60 days was issued and mailed to the owner on June 20, 2013. To date there have been no repairs to the structure. There is no record of utilities to the structure. In the past 24 months, there have been no calls for 911 service to the property. There have been two code violation cases with a pending assessment of \$220.12. The low bid for demolition is \$1,680.00.

2869 Owen Drive

Mr. Shuford stated the structure is a commercial structure with seven tenant spaces. The structure was inspected and condemned as a dangerous structure on May 14, 2013. A hearing on the condition of the structure was conducted on May 29, 2013, which the owner did not attend. A subsequent Hearing Order to repair or demolish the structure within 60 days was issued and mailed to the owner on May 30, 2013. The owner appealed the Hearing Order to the Board of Appeals for Dwellings and Buildings; the subsequent hearing was conducted on July 25, 2013, in which the Board of Appeals voted to affirm the Hearing Order to repair or demolish the structure within 60 days. To date there have been no repairs to the structure. The utilities are disconnected to six of the seven tenant spaces. In the past 24 months, there have been 1,156 calls for 911 service to the property. There have been 41 code violation cases with a pending assessment of \$11, 403.76. The cost of the demolition and any asbestos abatement will be determined through a formal bidding process.

P13-30F. The initial zoning of property to SF-10 Single Family Residential zoning, located on Burnside Place, and being the property of SRW Builders Inc.

Ms. Karen Hilton, Planning and Zoning Manager presented this item and stated this property is an undeveloped, wooded lot. It is located between Burnside Place in Kings Grant and the right-of-way for I295. Currently this property is zoned PND (Planned Neighborhood Development) in the County's jurisdiction. The requested action is to initially zone this property to SF-10 - Single Family Residential. This property is approximately seven (7) acres in size. Five (5) acres will become part of the home owner's association and will be used as a community park. The remaining two (2) acres will be developed as four (4) single family lots, with open space. The home owner's association acquired the park area during a land swap with the developers. In June of 2012, Zoning Case # P12-27F was approved. This case rezoned an additional 106 acres adjacent to this property to SF-15. On October 8th the Zoning Commission held a public hearing regarding this case. The Commission voted 5-0 to recommend approval of this initial zoning application. The Zoning Commission and City staff recommend approval of the proposed initial zoning based on:

- 1.The Land Use Plan calls for low density residential.
- 2.PND districts in the City are allowed to develop as residential under the SF-10 standards.

P13-38F. The initial zoning of property to HI – Heavy Industrial or to a more restrictive district, located at 327 Jenkins Street, and being the property of Froehling & Robertson Inc.

Ms. Karen Hilton, Planning and Zoning Manager, presented this item and stated this property is developed as an industrial research facility. It is located on Jenkins Street just south of Highway 301. Currently this property is zoned M(P) (manufacturing with a plan) in the County's jurisdiction. The requested action is to initially zone this property to HI - Heavy Industrial. An initial zoning to HI would fit the current use of the property. On October 8th the Zoning Commission held a public hearing regarding this case. The Commission voted 5-0 to recommend approval of this initial zoning application. The Zoning Commission and City staff recommend approval of the proposed initial zoning based on:

- 1.The Land Use Plan calls for heavy industrial.
- 2.The property is already developed as an industrial use.

P13-29F. The issuing of a Special Use Permit (SUP) to allow for a columbarium to be located at 906 McPherson Church Road and being the property of Village Baptist Church

Ms. Karen Hilton presented this item and stated this project will be located on the campus of Village Baptist Church at 906 McPherson Church Road. The church wishes to build a columbarium with a memorial area. The proposed columbarium would be able to house a maximum of 170 cremations or niches. When complete, the columbarium will be barely visible from McPherson Church Road. This project should have very little to no impact on the surrounding single family neighborhoods. On September 10th the Zoning Commission held a public hearing regarding this case. The Commission voted 4-0 to recommend approval of this SUP application. The Zoning Commission and staff recommend approval of the proposed SUP based on:

- 1.Minimal impact to the surrounding residences.
- 2.This project meets the City's requirements for a columbarium.
- 3.Minimal visual impact from to all surrounding properties.
- 4.There are no conflicts with any adopted policies or plans.
- 5.Conditioned on the general location and features shown on the submitted site plan.
- 6.Meets all required standards.

Case # P13-33F. The rezoning of property from SF-10 – Single Family Residential to NC – Neighborhood Commercial District or to a more restrictive district, located at the northwest corner of Stacy Weaver Dr. and McArthur Rd. being the property McLean Development Corporation. (Appeal of a Zoning Commission Denial)

Ms. Karen Hilton, Planning and Zoning Manager presented this item and stated this proposed rezoning is located at the intersection of Rosehill, Stacy Weaver and McArthur Roads. Within the past year the owners asked for and were granted a right of way abandonment for the unopened portion of Farmview Drive that bisected this property. Currently the north side of

McArthur Road is all zoned for single family development. The south side of McArthur Road, however, has both a library branch and a shopping center. The shopping center consists of a grocery store and several out parcels (two of which are currently undeveloped). A portion of the property in question does extend into the single family neighborhood to the north as well. On September 10th the Zoning Commission held a public hearing regarding this case. The Commission voted 3-1 to deny this rezoning application.

Public Hearing to Consider Request to Annex Property of Froehling & Robertson, Inc.

Ms. Karen Hilton, Planning and Zoning Manager, presented this item and stated Froehling & Robertson, Inc., has submitted a petition requesting annexation of their property located at 327 East Jenkins Street. This property is not contiguous to the City. This property consists of 1.93 acres, more or less. Froehling & Robertson is involved in environmental testing; it has been operating for some time within the area requested for annexation. It is considered to be an industrial use. On October 8, the Zoning Commission held its public hearing on the initial zoning of this area. On October 28, the City Council will hold its public hearing on the annexation request.

Public Hearing to Consider Request to Annex Property of SRW Builders, Inc.-Part of Burnside Park

Ms. Karen Hilton, Planning and Zoning Manager, presented this item and stated SRW Builders, Inc., proposes to build a new residential area to be known as Burnside Park. Burnside Park will be built on the northern side of the Kings Grant neighborhood, between a street named Burnside Place on the south and the new I-295 Outer Loop on the north. Burnside Park will consist of 13 lots; 11 lots are proposed for single-family development, so the entire development will have 11 housing units. The land to be developed as Burnside Park is only partially within the City. The developer has requested annexation of the part of Burnside Park that is not inside the City. The City staff assumes that four (4) single-family housing units will be built on the land requested for annexation. According to calculations by City staff, the land requested for annexation consists of about 1.91 acres. On October 8, the Zoning Commission held its public hearing on the initial zoning of this area. On October 28, the City Council will hold its public hearing on the annexation request.

There being no further business, the meeting adjourned at 5:34 p.m.