MINUTE BOOK 23, PAGE 045
CITY COUNCIL MEETING – February 16, 2009
COUNCIL CHAMBERS – CITY HALL – 7:30 P.M.
STATESVILLE, NORTH CAROLINA

Mayor Kutteh presiding:

Council Present: **M Johnson, Matthews, Eisele, J Johnson, Huggins, Stallard, Gregory**

Staff Present: **Gaines, Craddock, Stephens, Pressley, Currier, Smyth, Hites, Hutchens, Quick, Anderson, Bullins, Miglin, Anthony, Ashley**

Media: J McNally – Record & Landmark; David Vieser – Charlotte Observer

Visitors: 62

Invocation

The invocation was given by the City Clerk.

Pledge of Allegiance

Pledge of Allegiance was led by Girl Scout Troop #726 of First Presbyterian Church.

Public Comment

There were no speakers.

CONSENT AGENDA

A. Approve minutes of the pre-agenda meeting of January 29, 2009 and Council meeting of February 2, 2009.

B. Second reading of an ordinance to condemn the structure at 1327 4th Street as unfit for human occupancy. (Ord. #4-09)

C. Consider first reading of an ordinance to amend Article II. Section 2-18 of the Statesville City Code to change meeting time of the regular meetings of City Council from 7:30 p.m. to 7:00 p.m.

D. Revised Sidewalk Encroachment for Maestro's Cafe

E. Approve a change to the City of Statesville Personnel Policy.

F. Approve changes to Article VI, Section 14 of the City of Statesville Personnel Policy

G. Approve reclassification of two positions in Parks and Recreation Department

H. Consider a request from Statesville High School for a $ 1,000 donation to the art department to purchase supplies for the mural to be painted on the wall at the Farmer's Market parking lot.

Upon a motion by Council member Eisele, seconded by Council member Stallard, the Consent Agenda was unanimously approved.

REGULAR AGENDA

Conduct Public Hearing and consider passing first reading of ZC09-03 filed by Maxtel, LLC for the property located off Murdock Road; Tax Map 4742-54-0512 from Iredell County RU-R to R-8MF.

Rezoning Request

Planning Director Currier stated the tract is owned by Maxtel, LLC and is approximately 26.21 acres. The city annexed this property on January 12, 2009. The applicant, Mr. Max Spear is requesting the rezoning from Iredell County RU-R (Rural Residential) District to the City of Statesville's R-8MF (Medium Density Multi-Family Residential) District to construct 216 apartment units.

Evaluation

Currently the property is vacant except for a cell tower and a natural gas line running through the property. The R-8MF District would accommodate up to 9 units per acre. The proposed development proposes a density of 8.2 units per acre in 9 buildings (24 units per bldg.) up to 3 stories in height. Amenities such as a clubhouse, pool and detached garages are shown to be provided. Access to the site would be from Murdock Road.

Currier reviewed the surrounding zoning districts and land uses. He reviewed other residential projects that are in various stages of planning and development. He advised there are a total of 4,976 proposed housing units and two (2) million square feet of commercial space. Currier stated the apartment complex would be ideal to provide housing to the people involved in the construction of the Larkin project.

Staff Recommendation

The 2005 Land Development Plan projects this area to be medium density residential at a maximum of 6 units per acre. However, major changes have occurred within this area since the Land Development Plan was adopted such as the Larkin Project and the outlet shops at Exit 45. In addition, just north of the site, several properties have been rezoned to R-8MF, the Fox Den subdivision, the Pine Forest subdivision and the Wildwood subdivision. Based on the location of this site being in close proximity to the Exit 45 interchange, multi-family residential is a good transition between commercial and single family residential. Therefore, staff's recommendation is **favorable** to rezone from Iredell County RU-R to the City of Statesville's R-8MF District. Staff would also recommend updating the Land Development Plan for the southern portion of the city around exit 45.

Planning Board Recommendation

The Planning Board's recommendation is unanimously **unfavorable.** Discussion focused on the density being out of character with the existing neighborhood.

Council member Matthews asked if there was a comparable site located within the city. Currier stated it would be comparable to Foxcroft or Signal Hill Apts.

Mayor Kutteh declared the public hearing open.

Laura Edminsten Bowles 115 Silo Dr., Troutman –stated that she expected development but thought it would be single family homes. She is concerned with land values. Another huge issue is crime. They can't afford to build fences about 10 – 26 acres of land. Normally, transient people live in apartments. Keeping rent at $700 – $800 will help but crime is based on low income. She noted that there will be approximately 800 people in these apartments; almost half the population of Troutman. This presents the potential of 400 cars in and out daily.

Dennis Murdock – 537 Murdock Road – lives in the middle of this property. He stated that he feels the developers looked at Larkin and saw this as an opportunity to increase their revenue by putting in apartments. They were able to get the City of Statesville to annex them so they could get higher density. There is no problem with the property being developed with the RUR zoning. Building single family houses is fine but Mr. Murdock noted that he didn't appreciate the rezoning. Mr. Murdock advised his property is 3 acres and he has been there for 10 years.

Doug Murdock - 548 Murdock Road – lives straight across from the property in question. The Murdock family has been in this area over 245 years. It is reasonable to build single family homes but the multi-density development is not what we want to happen. His areas of concern were density, crime, fall radius of the cell tower, infrastructure, etc. He stressed that all homes in the area are single family homes and noted the Murdock family farm (220 acres) is in the farmland preservation district.

Barry General – 160 Hoover Road, Troutman – stated that he came to the courtesy hearing for the Planning Board. The developers explained what they were going to do. They were going to have 216 apartments that would rent for $ 600 monthly. His major concerns were increased crime, increased traffic and decreased property value. When he bought this property a year ago he didn't expect apartments to be 1/8 mile up the road.

Todd Middlesworth 112 Hoover Road – basically lives across the street of the proposed site. He noted that he bought this 5 acre property 3 years ago to raise his family. He doesn't want a subdivision or apartment complex in front of his house. His major concerns were traffic and crime.

There being no other speakers, Mayor Kutteh closed the public hearing and asked for a motion from Council.

Council member M Johnson made a motion, seconded by Council member Stallard, to approve first reading of the rezoning.

Council member M Johnson spoke to comments that were made tonight. Regarding the Planning Board his impression was that the information given to them was not as comprehensive as what Council received. The City of Statesville has worked on a boundary with the Town of Troutman since March, 2007. The boundary was further defined about 3 months ago. In both of those cases the public hearings were announced by Troutman and Statesville. The advertisement was run on the television (local channel) and in the newspapers. What we have in this area expresses complete agreement between Troutman and Statesville. In the re-alignment Murdock Road will be a major thoroughfare road in the State Transportation Improvement Plan. When staff came to the Planning Board and made the presentation for R-8MF zoning that is the typical zoning adopted by Council. This is indeed a buffer against Gemsite's 65 commercial acres that the city has agreed to provide sewer and water. How could the city have publicized plans for this area better? Mr. Currier stated that we could not have done better. Currier added that each of the uses shown in this development plan for the area have been before Council. As an experienced 30-year planner Currier agreed that having multi-family against commercial area is appropriate zoning.

Mayor Kutteh asked about proposed use for the Gemsite 65 acres. Currier replied this was proposed as a commercial site.

Council member Huggins asked if these are the only apartments in the area. Currier replied yes; to the west of the site they do have a series of duplexes.

Council member Matthews asked if this land could be developed with single home sites just like it is now. Currier replied yes.

There was some discussion about the maximum number of units that could be built on the property for single family verses the proposal.

City Manager Hites confirmed that the property has been annexed and regardless of whether or not it is rezoned the property will remain in the City of Statesville. The annexation isn't related to the zoning. If Council denies this request staff will return with another zoning.

Mayor Kutteh asked for a vote on the motion.

Ayes: M Johnson, Stallard, Eisele, J Johnson
Nays: Huggins, Matthews, Gregory

Conduct Public Hearing and consider passing first reading of ZC09-04 filed by the City of Statesville for the properties located along the Highway 115/Shelton Avenue Corridor from R-5MFM, B-2, B-5 and HI to H-115.

Background Information

Planning Director Currier stated that several plans have been conducted for the south Statesville area in the last several years including a study conducted by Appalachian State University and the Warren Marketing Study. Recently, the Downtown Master Plan committee in conjunction with the Planning Department recommended some changes to this area such as land uses, parking, setbacks and signage to help facilitate redevelopment within the Highway 115/Shelton Avenue due to it being a "gateway" corridor into the downtown and because of growth coming from the Charlotte area. The city has also hired LandDesign to develop a Land Use Plan as a result of the Warren Study for both the Downtown and Highway 115/Shelton Avenue Corridor which is to be completed later this year.

Rezoning Request

The map indicates the boundary of the proposed H-115 District. There are approximately 118 parcels that make up 92.76 acres in the proposed district. Staff is requesting rezoning from R-5MFM, B-2, B-5 and HI to H-115. The purpose of the district is to promote retail sales and services, restaurants, office and residential uses. New automotive repair type uses, manufacturing and uses with a majority of outdoor storage would not be permitted in the new H-115 district.

Evaluation

Staff has conducted a land use inventory for each parcel in the proposed district. This spreadsheet indicates the status of the existing uses if the new H-115 District is adopted. A total of 8 uses are currently non-conforming and will continue to be non-conforming with the application of the H-115 District. Eighteen uses that are not currently permitted will now be allowed and 25 uses currently allowed will become nonconforming. All of the nonconforming uses in the proposed H-115 District will be allowed to continue "as is" provided the use does not cease for more than 6 months but these uses will not be permitted to expand.

Mr. Currier reviewed the surrounding zoning districts and land uses for the proposed H-115 District.

Staff Recommendation

The 2005 Land Development Plan projects most of the area along Highway 115/Shelton Avenue to be commercial. The plan projects the area between Whites Mill Road and Amity Hill as Mixed Use. The residential is projected to be medium density at a maximum of 6 units per acre even though the existing zoning allows for a higher density. The H-115 District can accommodate the majority of the projected uses in the Land Development Plan. In addition, there are several goals in the land use plan that the new H-115 District along with the new Land Use Plan could accomplish. These are enhancing the appearance of community gateways, corridors and neighborhoods, maintain appropriate landscaping, setbacks, and design standards for development

along entry corridors, encourage existing auto dominated strip commercial areas to compact, mixed use places with enhanced walking connections between destinations (see pages 59, 60 and 63 of the 2005 Land Development Plan). Therefore, staff's recommendation is **favorable** to rezone from R-5MFM, B-2, B-5 and HI to H-115.

Mayor Kutteh declared the public hearing open.

Cindy Godfrey of Godfrey Lumber stated that when this process began they fought it passionately. On February 10th they met with two members of Council and key staff. After this meeting they changed to support the rezoning. Godfrey Lumber can keep up with volume and intensity of business. The square footage must remain the same. New building of same material can be built. Godfrey Lumber now looks forward to the new vision for Statesville.

Mayor Kutteh clarified that while there is no time frame on when the credit can be taken there will be a time within which you destroy a building and begin to construct one to take it place. Ms. Godfrey agreed that she understood that process.

Ray Anderson of John Woodies Enterprises stated that if they can't grow their business that they will be forced to go another route. He noted they currently have 13 full-time employees and hired 3 new employees in the last 120 days. He advised they provide service all over the world.

Scott Tomlin of J & J Towing on Shelton Avenue stated that he is limited by not being able to grow his business.

Mayor Kutteh advised there is no limit on expanding current operations; there is no limit on swapping for credit by replacing an existing building. There may be some limitations with types of use. No current uses will be changed.

Russell Rowe - 1840 Shelton Avenue stated that he is happy to see improvements to south Statesville. He has issues with expansions because he needs more yard space. We are still growing; we currently employ 25 people. When the market turns around we are ready to continue providing services to TN, VA, NC and overseas. In order to grow we need more yard space. If we don't get that when the market turns around we will have to relocate.

City Attorney Gaines advised they can expand the yard space. There is no limitation for continued expanded use as long as it is consistent with the same purpose.

John Woodie of 1836 Shelton Avenue explained his biggest issue is room for expansion and the time constraints for building due to the economy. He stated that he is selling a business in Asheville and plans to expand this facility. He understands that he could get a permit for a building now but asked for time due to the economy.

David Meachem, executive director of Statesville Housing Authority praised the comprehensive district and those who worked on it.

There being no other speakers, Mayor Kutteh closed the public hearing and asked for a motion from Council.

Council member M Johnson made a motion, seconded by Council member Huggins, to approve the rezoning request. The motion was unanimously approved.

Conduct a public hearing and consider passing first reading of TA08-10 filed by the City of Statesville to amend Sections 20.15 Guidelines for Structures in the Central Business District and Central Business Perimeter District, Section 30.2 Signs Regulations, 30.6.15 Appeals and Penalties, Section 30.10 Design Standards for Non-Residential Developments, Section 40.1. General Use Districts Established, Section 40.1.2 Conditional Use Districts Established; Purposes and Section 50.2.1 Staff Reviewed Conditions to add review of the Municipal Service District and to clean up and clarify the standards for the Downtown Area and the Proposed H-115 District.

Purpose for Amendment Request

The proposed amendments are to clean up and clarify several of the standards for the Downtown, the Municipal Service District and the H-115 corridor. The changes include the following:

- The Municipal Service District will be reviewed in accordance with the Downtown Design Guidelines.
- Section 20.15 (c) is a cleanup of the language.
- Section 30.2.20 requires signs for multi-tenant buildings and free-standing monument signs in the CB, CBP and Municipal Service District to be reviewed by DRC and all signs located in the H-115 District would be reviewed by planning staff.
- Only internally illuminated signs are allowed in the H-115 District.
- The term monument was added to Free-standing signs in the CB, CBP, MSD and H-115 Districts. (However, the DRC wants to consider allowing low post signs)
- The maximum size of 100 square feet has been removed.
- Each business can have up to 3 signs on structure.
- The uniform sign information was relocated from wall sign to the uniform sign plan section.
- The H-115 District will be reviewed in accordance with Section 30.10 Design Standards for Non-Residential Developments by planning staff.
- H-115 District added to landscaping charts, general and conditional districts and staff reviewed conditions for accessory uses and dwellings.

Planning Board Recommendation

The Planning Board's recommendation was **favorable** as presented by staff.

Mayor Kutteh declared the public hearing open. There being no speakers, he closed the public hearing and asked for a motion from Council.

Upon a motion by Council member Stallard, seconded by Council member Eisele, TA08-10 was unanimously approved.

Conduct a public hearing and consider passing first reading of TA08-09 filed by the City of Statesville to amend Sections 10.4.2 Defined Words, Section 50.1 Schedule of Permitted and Permissible Uses by District and Section 50.2.1 Staff Reviewed Conditions to allow for Drop-In/Short Term Child Care

Mr. Currier stated the Planning Department would like to recommend standards to allow for drop-in day care facilities. An interest to allow this type center has been requested for the crossroads shopping center. This type child care only keeps children for 4 hours or less and children attend on intermittent unscheduled basis. Centers are usually located in malls, shopping center, medical centers or any commercial area that could use short-term child care. This type child care is not required to be licensed by the state but is required to register with the state.

Planning Board Recommendation

The Planning Board's recommendation was favorable as presented by staff.

Mayor Kutteh declared the public hearing open. There being no speakers, he closed the public hearing and asked for a motion from Council.

Upon a motion by Council member Stallard, seconded by Council member J Johnson, TA08-09 was unanimously approved.

Conduct a public hearing concerning the condemnation of 1413 7th street and consider passing first reading of an ordinance to condemn the structure as unfit for human occupancy.

This property is owned by Jeffery Hipps. It caught fire in March 2008 and is totally destroyed. He first agreed to demolish the house himself. Then he tried to sell the property but to no avail. He has agreed the house needs to be demolished but does not have the means to do so. The house is a total loss.

Structure violates city minimum housing code standards in the following manner:

The house caught fire in March of 2008. The house has been completely gutted by the fire. The house is unsafe to inspect and is unsafe to the neighborhood. The owner agreed to demolish the house himself in July of 2008 but has not started as of this date. At the hearing the owner has agreed there is no way to save this house. The owner also stated the house does need to be demolished but he is unable to do so at this time due to his current situation. The owner also agreed the house is unsafe.

Repair costs would exceed $35,000.00 and the tax value of house is $33,220.00. As the repair costs exceed fifty percent of the existing value of the house, it meets the legal requirements for demolition. 2007 -2008 Real Estate Taxes are due in the amount of $750.43

Mayor Kutteh declared the public hearing open. There being no speakers, he closed the public hearing and asked for a motion from Council.

Upon a motion by Council member Huggins, seconded by Council member Eisele, the first reading of the condemnation of 1413 7th Street was unanimously approved.

Conduct Public Hearing and consider passing first reading of ZC09-01filed by the City of Statesville for 2 properties located at 117 and 123 Martin Lane; Tax Maps 4755-85-1440 and 4755-85-0343 from Iredell County RA and R-20 to the City of Statesville's B-5.

Rezoning Request

The 2 tracts are owned by the City of Statesville and combined make up approximately 1.55 acres. The city recently annexed these 2 parcels back in October of 2008. The purpose for the city acquiring the properties is to construct a new fire station. The proposed rezoning request would be from Iredell County R-A (Residential Agricultural) District and R-20 (Single Family Residential) District to the City of Statesville's B-5 (General Business) District to permit the use and accommodate the lot dimensions.

Evaluation

Currently the property is vacant, the house and accessory buildings have been removed. The B-5 District and the size of the property would accommodate a 10,641 sq. ft. fire station and future expansions (see conceptual plan). Access to the 1.55 acres would be from Martin Lane via Mocksville Highway.

Currier reviewed the surrounding zoning districts and land uses.

Staff Recommendation

The 2 properties are outside of the 2005 Land Development Plan's study area, and therefore considered low density residential even though commercial exists on all four corners of the intersection of Mocksville Highway and Martin Lane. Fire Stations are permitted in all zoning districts within the city's jurisdiction. Staff's recommendation is **favorable** to rezone from Iredell County R-A and R-20 to the City of Statesville's B-5 District. Site plan review under this district requires only TRC approval.

Planning Board Recommendation

The Planning Board's recommendation is **favorable** with a unanimous vote.

Mayor Kutteh declared the public hearing open. There being no speakers, he closed the public hearing and asked for a motion from Council.

Upon a motion by Council member J Johnson, seconded by Council member Gregory, the first reading of ZC09-01 was unanimously approved.

Conduct Public Hearing and consider passing first reading of ZC09-02 filed by the Iredell Statesville Community Enrichment Corporation for 3 properties located at 224 Dobson Avenue, 1340 and 1352 Rickert Street; Tax Maps 4743-29-0944, 4743-19-9762 and 4743-29-2539 from R-8M to R-8MF.

Rezoning Request

The 3 tracts are owned by the Iredell Statesville Community Enrichment Corporation and combined make up approximately 5.06 acres. The applicant, Mr. David MacPherson is requesting the rezoning from R-8M (Medium Density Single-Family Manufactured Housing Residential) District to the City of Statesville's R-8MF (Medium Density Multi-Family Residential) District to construct 30 elderly apartment units and 10 multi-family units.

Evaluation

Currently the 2 parcels fronting on Rickert Street are vacant and the parcel fronting on Dobson Avenue has a house located on it that would be demolished to provide access to the site. The conceptual plan indicates a total of 40 units, 30 elderly apartments and 10 general multi-family units. The R-8MF District allows up to a maximum of 9 units per acre. This project proposes a density of 7.9 units per acre. Amenities such as a playground, walking trail and flower beds for gardening are proposed for the site. Access to the elderly units would be from Dobson Avenue and access to the remaining multi-family units would be from Rickert Street. A pedestrian pathway is proposed between the elderly apartments and the multi-family units.

Mr. Currier reviewed the surrounding zoning districts and land uses.

Staff Recommendation

The 2005 Land Development Plan projects this area to be medium density residential at a maximum of 6 units per acre. The plan also indicates that this area is a redevelopment area for which the city will seek to qualify targeted neighborhoods for grants and programs to assist with maintenance, redevelopment and infrastructure improvements; facilitate creation of pedestrian-oriented neighborhoods with compatible and supportive neighborhood goods and services; provide density bonuses for planned developments that encompass the lesser of an existing city block or 2 acres; and focus city resources on capital improvements and code enforcement activities that promote private investment and neighborhood stability. Even though all of the surrounding properties are zoned for single-family, there are several properties used as duplexes. Based on the immediate uses being similar

and/or compatible to the proposed use, the necessary infrastructure being available to support the proposed use and the potential for the site plan to accommodate pedestrians and provide open space, staff's recommendation is **favorable** to rezone from R-8M to R-8MF.

Mayor Kutteh declared the public hearing open. There being no speakers, he closed the public hearing and asked for a motion from Council.

Upon a motion by Council member Huggins, seconded by Council member Eisele, the first reading of ZC09-02 was unanimously approved.

Consider approving site plan for P08-12 Greylin Ridge Apartments located off North Pointe Boulevard; Tax Maps 4745-28-2364 pt. and 4745-28-4021

The site is located off North Pointe Boulevard behind Lowes Hardware within the city limits. The 2 properties combined make up 18.661 acres, the portion of the property shown as Tract 1 consists of 6.208 acres and is zoned R-5MF. The site plan indicates 80 apartment units to be housed in 7 buildings with 171 parking spaces. Amenities such as a community building, play area, picnic shelters, grills and a walking trail are also proposed to be provided. In addition, because of the grade change, a retaining wall will be constructed on the northeast and southeast sides of the property. Access to the site will be off North Pointe Boulevard via Wolf Creek Lane, the site will front on Wolf Creek Lane. The Thoroughfare Plan indicates that a loop thoroughfare known as the Museum Road Extension crosses the property to the north. However, with the construction of the Stonebridge subdivision to the north, the proposed alignment is not feasible and will have to be shifted further north when the Comprehensive Transportation Plan is updated later this year.

The TRC reviewed the site plan on November 5, 2008 and recommended several corrections and approved the site plan on December 3, 2008 with most of the corrections being made. There was a lot of discussion regarding whether Wolf Creek Lane would be public or private. Currently, North Pointe Boulevard and the streets in the Stonebridge subdivision have not been accepted as public streets. The developer is indicating that the new portion of Wolf Creek Lane will be a private street with a 50 ft. right-of-way. The developer is also requesting fee in lieu of for sidewalk along North Pointe Boulevard. Currently a small portion of sidewalk exists along the same side of the boulevard at the entrance to the Stonebridge subdivision and along the opposite side of the boulevard along the Aldi Food Store site. Otherwise, all corrections have been made and the site is in compliance with the city's development regulations with the exception of combining the lots before a CO is issued.

Planning Board Recommendation

The Planning Board reviewed and unanimously approved the site plan as presented with fee in lieu of regarding the sidewalk.

Council member Huggins was concerned with the number of rooftops in this area and one access in and out. Mr. Currier explained they have a stub out at the end of Stone Bridge. As further development occurs the stub out will be required.

Council member M Johnson noted that Wolf Creek doesn't look like a major collector. He asked if TRC had calculated the load. He stated this shouldn't be approved before knowing what the load is.

Mr. Currier stated that Wolf Creek is a private street.

Jim Chandler of Chandler Engineering – 309 S. Fuquay Avenue – Fuquay-Varina addressed Council. He stated they are currently only proposing one phase.

Council member M Johnson countered that the other two phases will be presented to Council at a later time.

Larry Pressley advised they plan to tie in to Wolf Creek if and when he develops the other two sites.

Council member M Johnson asked if this developer was willing to stipulate for future phases or go ahead and submit for right-of-way today.

Mr. Chandler stated that he has no right to speak for any property except the six acres he has currently proposed.

City Manager Hites asked if any part of site plan or rezoning process holds the developer to the elevations they showed us. Mr. Currier replied no, they would be required to meet the architectural elevations. Mr. Hites confirmed again that nothing in this process compels the developer to build to the architectural elevations as shown.

Council member M Johnson made a motion to table this site plan until we receive a clear understanding with respect to the other 2 parcels that are subject to future development. Council member Stallard seconded the motion and it was unanimously approved.

Mayor Kutteh reminded Council of the Retreat next Thursday and the grand opening of Statesville Recreation Center on Sunday.

Upon a motion by Council member Eisele, seconded by Council member Stallard, the meeting was adjourned.

Mayor

ATTEST:

City Clerk