

MINUTES ADOPTED BY THE GREENVILLE PLANNING AND ZONING COMMISSION  
September 16, 2014

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

Ms Shelley Basnight –Chair-\*

Mr. Tony Parker - *(Vice Chair)	Ms. Chris Darden – *
Mr. Jerry Weitz – *	Ms. Margaret Reid - *
Ms. Ann Bellis - *	Mr. Torico Griffin - *
Mr. Doug Schrade - *	Mr. Terry King –*
Ms. Wanda Harrington-*	Mr. Brian Smith -X

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

**VOTING MEMBERS:** Parker, Schrade, Darden, Griffin, Bellis, King, Weitz, Harrington

**PLANNING STAFF:** Thomas Weitnauer, Chief Planner; Chantae Gooby, Planner II; and Amy Nunez, Staff Support Specialist II.

**OTHERS PRESENT:** Dave Holec, City Attorney; Merrill Flood, Director of Community Development; Tim Corley, Civil Engineer II; and Jonathan Edwards, Communications Technician.

**MINUTES:** Motion was made by Mr. Parker, seconded by Ms. Harrington, to accept the August 19, 2014 minutes as presented. Motion carried unanimously.

**NEW BUSINESS**

**TEXT AMENDMENTS**

ORDINANCE TO AMEND THE ZONING ORDINANCE BY ADDING A REQUIREMENT THAT SIDEWALKS MUST BE CONSTRUCTED ALONG MAJOR THOROUGHFARES, MINOR THOROUGHFARES AND BOULEVARDS IN CONJUNCTION WITH THE CONSTRUCTION OF ANY NEW DEVELOPMENT OF NON-RESIDENTIAL DEVELOPMENTS, MIXED-USE DEVELOPMENTS AND MULTI-FAMILY RESIDENTIAL DEVELOPMENTS ON EXISTING LOTS. - CONTINUED

Mr. Thomas Weitnauer, Chief Planner, presented the text amendment. As part of a continuing effort to implement recommendations outlined in Horizons: Greenville’s Community Plan, the Planning Division developed this text amendment for consideration that would require the installation of sidewalks. Currently, sidewalks are not required to be installed when commercial development is constructed on vacant lots. Over the last several years, the City of Greenville has adopted numerous plans and studies that include directives that support this text amendment

requiring sidewalks when commercial development is constructed. On January 21, 2014, Planning Division Staff presented a discussion item to the Planning and Zoning Commission for its input for a text amendment that would require sidewalks. The text amendment was also presented to the Bicycle and Pedestrian Commission for their input. The last ordinance amendment to require sidewalks was in 1997 where it stated that developers were required to construct sidewalks in conjunction with public street extensions and subdivisions. Currently, when a developer builds a new commercial project on a vacant lot, the installation of a sidewalk is not required. He stated he worked with the Public Works Department, planners, and the City Attorney's Office on the proposed amendment. It was decided to put the amendment in the zoning ordinance rather than the subdivision ordinance where sidewalk requirements are already adopted. Proposed text amendments to require construction of sidewalks along major thoroughfares, minor thoroughfares and boulevards when new commercial development is built on existing lots are as follow:

**SEC. 9-4-281- SIDEWALKS REQUIREMENTS ALONG MAJOR THOROUGHFARES, MINOR THROUGHFARES AND BOULEVARDS.**

Construction of sidewalks shall be required along major thoroughfares, minor thoroughfares and boulevards in conjunction with the construction of any new development of non-residential developments, mixed-use developments and multifamily residential developments in accordance with the provisions of this section. The sidewalk requirements in this section are in addition to sidewalk requirements set forth under Art. 5: Subdivisions, Sec. 9-5-123.

- (a) Sidewalks shall be provided along both sides of major thoroughfares, minor thoroughfares and boulevards as designated on the adopted Highway Map from the Highway Element of the Comprehensive Transportation Plan, as amended, excluding: freeways; expressways; US-264 between NC-11 and NC-33; and Stantonsburg Dr. from B's Barbeque Rd. westward. The developer shall provide the sidewalk on the side of the street where the development is located in conjunction with the new development on existing lots.
- (b) Construction of sidewalks required by this section shall be accomplished along the entire length of all property of the development abutting major thoroughfares, minor thoroughfares and boulevards.
- (c) Sidewalks shall be constructed in accordance with the *Manual of Standard Designs and Details*. The specific design and location of all sidewalks shall be reviewed by the Director of Public Works. The Director of Public Works may vary the required width of sidewalks from the *Manual of Standard Design and Details* in certain locations of the City.

- (d) All required sidewalks shall be installed prior to any occupancy, including temporary occupancy, of new development.
- (e) If special conditions make sidewalk construction unnecessary or undesirable, and such conditions have been verified by the Director of Public Works, the requirement to construct sidewalks along major thoroughfares, minor thoroughfares and boulevards in conjunction with the construction of any new building on existing lots may be waived. Such waivers shall be granted upon written application to and approval of the Director of Public Works. Appeals of decisions made by the Director of Public Works may be made by the developer to the Board of Adjustment.”

The standard width for sidewalks is 5 feet. Examples of exceptions are the Convention Center and the downtown area. Consideration of any modification to the city zoning ordinance should include a review of Horizons: Greenville’s Community Plan and other officially adopted plans that are applicable. Staff reviewed the Plan and the following is an example regarding consistency between the proposed text amendment and the Plan:

IMPLEMENTATION ELEMENT

*Transportation, Objective 3: Reduce traffic congestion and safety problems.*

*3(g) Require sidewalks and landscaping ([public] trees in particular) throughout the City and use sidewalks to connect all major activity centers within the City.*

In 2012, the City of Greenville and Pitt County reviewed land use-related plans and development standards to identify policy recommendations and requirements that have an impact on the built environment and physical activity of the city’s residents. Through a series of meetings with a project work group, the Development Code Review and Policy Gap Analysis to Improve Greenville’s Health, Design and Appearance was produced and the City Council adopted the study in 2012. The study’s outcome produced a prioritized list of regulatory reforms the project work group believed would produce the most positive impacts on making Greenville a healthier community. Here is a recommendation from the Plan:

“The following regulatory language items were identified as the top five (5) priority elements having the most positive impacts on making Greenville a healthier community...

*5. Adopt language to require commercial developments to install sidewalks.”*

In staff’s opinion, the proposed Zoning Ordinance is in compliance with Horizons: Greenville’s Community Plan. On September 3, 2014 when the information was presented at the Bicycle and

Pedestrian Commission, they gave unanimous approval to endorse the proposed ordinance with suggestions reported on page 10 of the staff report.

Mr. Parker asked why the Bicycle and Pedestrian Commission recommendations were not included.

Mr. Weitnauer stated that one recommendation was to add a provision that gives the public the authority to appeal decisions of the Director of Public Works to City Council when the public disagrees with the Public Works Director waiver of sidewalk requirements. He stated that Staff does not overstep their authority when drafting text amendments. Also there were no other peer communities that had anything similar. Another recommendation was to require sidewalks when residential structures were converted to non-residential uses. Text amendments do not include every situation. He stated the Planning and Zoning Commission could consider them and try to integrate them.

Mr. Flood, Director of Community Development, stated the appeal process for zoning related items is with the Board of Adjustment.

Mr. Parker asked if properties would be grandfathered.

Mr. Weitnauer stated the amendment applies to vacant lots or lots where the building is torn down and rebuilt. The last recommendation from the Bicycle and Pedestrian Commission was if there was a property for which is not on a major or minor thoroughfare or boulevard but is designated as such later, the owner should install sidewalks. It would be a tough surprise of anyone involved to plan for it or maintain it.

Chairwoman Basnight opened the public hearing.

No one spoke in favor or in opposition of the text amendment.

Chairwoman Basnight closed the public hearing and opened for board discussion.

Mr. Weitz stated that in the minutes from the January (2014) meeting he made a comment about suggesting to include requirements for commercial and office developments to link up or attach to public sidewalks. He stated he does not see it in the draft. He wanted to include "sidewalks on individual properties must connect to the sidewalk system within the public road right-of-way" and other language. He wanted to know if it was possible to include.

Mr. Weitnauer stated an ambitious and lengthy process is about to begin to write commercial design guidelines, architectural and potentially site design. He stated that might be a good time to integrate Mr. Weitz's request. It is possible that sidewalks could be picked up during the site plan review process. Every site plan is different but instructions would need to be prepared in order to include it properly in the site plan.

Mr. Parker asked if the sidewalk ordinance would be part of site development.

Mr. Weitnauer stated it would be appropriate, under commercial design standards, as an incentive or requirement. It would balance the goal with other site requirements.

Mr. Weitz stated Staff did a great job. It is a thorough citation of all the plans and it is consistent. He questioned the terminology of the roads and using the term boulevard.

Mr. Tim Corley, Civil Engineer II, stated the only existing boulevard is NC Hwy 11. He stated he is unaware of NCDOT's designation difference between thoroughfare and boulevard, but possibly related to traffic and the demand on those roads. The missing piece right now, regarding sidewalks, is the major and minor thoroughfares. The 10 Year Sidewalk Plan doesn't designate boulevards from the major thoroughfares but regardless of the definition, it covers both entities.

Mr. Weitz asked if minor thoroughfares, defined as collecting traffic, are collector roads.

Mr. Corley stated that the ordinance change references the map. If it is designated as a minor thoroughfare on the map then it qualifies. Some collector roads that enter residential areas may not be covered under this ordinance because they are residential. There are some collector streets in commercial settings that are not covered under this ordinance. The map indicates what is to be included in the ordinance which indicates where pedestrian safety is most needed. The sidewalk master plan is designed around those needs.

Mr. Weitz asked if it is on the map, it would have sidewalks.

Mr. Corley stated yes.

Mr. Weitz stated he has concerns with the Public Works Director's authority to vary the width of sidewalks and to waive a sidewalk requirement. He believes there could be circumstances where it would need to be deferred, but not waived. There should be criteria for an administrator to make such decisions. He stated it should be up to the Board of Adjustment. He stated an in lieu fee, or escrow account, would be suitable for deferment and therefore used at a more appropriate time. It should be a situation that should be anticipated and language for it should be included in the ordinance.

Mr. Corley stated designating actual areas for specific widths would make it harder to have requirements for developers if there were reason to include different widths. Five feet is the minimum.

Mr. Weitz stated the ordinance language states “varies the width”. He stated that could indicate more or less width. The language could allow for a sidewalk width to be reduced. The language should be changed to “expand the width” rather than “vary”.

Mr. Corley agreed and that changing the verbiage is something to be looked into.

Mr. Weitz asked if there would be a situation where a reduction in width would be necessary.

Mr. Corley stated no.

Mr. Flood stated it helps with flexibility if there was a situation like at a traffic signal or utility box. He stated the language is taken from the Manual of Standard Designs and Details. The authorities granted to the Director of Public Works are for extenuating circumstances where flexibility is needed. It is carryover of past language in the manual.

Mr. Corley stated they will never go below ADA Standards.

Mr. Weitz asked if the waiver was needed and if so, if standards can be added.

Mr. Corley stated he believes there are other things in the ordinance where the Public Works Director is granted final authority. The developer could have circumstances, like right-a-ways, curb/gutters or ditches that incur expenses, which would need a waiver request to complete a project.

Attorney Holec stated the language is to give the greatest flexibility. A generalized standard, similar to a variance, could be included. It should not be as stringent, but yet still general to provide flexibility.

Mr. Weitz asked if the Public Works Director deferred a request, could money be collected and put in an escrow account so that work could be done later if the circumstances warrant.

Mr. Corley stated they do have a bond process in place for other types of improvements.

Attorney Holec stated there are payments in lieu options.

Mr. Weitnauer stated research indicated a few cities that have in lieu payment options. He stated he wanted to keep the ordinance simple. The Finance Department would need to get involved to create such account. The idea is to encourage developers to build the sidewalks and not delay it. He stated if there were reasons the Public Works Director wanted to delay or waive, it would be a rare. It could be incorporated or done as a text amendment later.

Mr. Weitz asked if situations requiring a waiver are to be anticipated. If so, standards are needed instead of leaving it to the discretion of the Public Works Director.

Mr. Corley stated they do have a surety bonding process in place. If something was to come up, the temporary certificate of occupancy would not be issued into the sidewalks were in place. There is a way to issue a temporary certificate of occupancy through an improvement agreement in which the developer would place a bond. This would insure that a sidewalk gets placed.

Mr. Parker asked if there is a mechanism to cover that currently.

Mr. Corley stated yes.

Mr. Weitz stated that process should be incorporated into the language of the ordinance.

Mr. Flood stated that process conflicts with one of the provisions of the existing ordinance. Referencing the bonding and when the Public Works Director would vary the widths are changes that need to be made and brought back to the Commission.

Mr. Weitz commented on the suggestion from the Bicycle and Pedestrian Commission regarding item number 2 (Add a provision that requires the construction of sidewalks when residential structures are converted to non-residential uses).

Mr. Weitnauer stated as the ordinance is drafted right now, if someone makes a conversion of residential to non-residential and they are on one of the designated thoroughfares, they would not have to put in a sidewalk. He replied, if you wanted that, it would have to be added to the amendment.

Mr. Weitz asked if no sidewalk was needed if on a thoroughfare when a property is converted from residential to non-residential.

Mr. Weitnauer stated no if a business was to occupy the property without any changes to the property.

Attorney Holec stated the sidewalk is required in connection with a site plan review and development of the property. Site plan review would be necessary in order to impose the sidewalk requirement.

Mr. Flood stated a change of use from residential to a higher use classification that requires a parking lot and therefore a site plan would require sidewalk installation. There is no legal hook for sidewalks if existing parking meets standards and no site plan review is needed.

Mr. Weitz stated the Bicycle and Pedestrian Commission also suggested applying a sidewalk requirement retroactively. He asked if it was problematic.

Attorney Holec stated yes. The sidewalk requirement would be hooked in when the development occurs.

Mr. Parker stated it would be unfair to make the requirement retroactive.

Mr. Weitz stated the Bicycle and Pedestrian Commission was concerned with the appeal process and wanted to introduce public opportunity if there was a waiver. He asked what could be done with this suggestion.

Attorney Holec stated it is a question of who can bring the appeal and being a party of interest. The person would need to be limited to the development and not just any member of the public. The process is to go in front of the Board of Adjustment where there would be a public comment period.

Mr. Weitz asked if someone disliked the Director of Public Works decision to waiver, they would have to have standing in order to appeal it to the Board of Adjustment.

Attorney Holec stated yes and the ordinance language is limited to the developer who has the interest if the sidewalk requirement is or is not waived. The Public Works Director would need to make a decision based on the interest of the public. When the appeal is waived, it really is not an appeal. It is only an appeal if the requirement is not waived.

Mr. Weitz stated he would like to elect to continue this item until the October meeting so Staff will have time to review the changes suggested. The suggestions are: general standards for the Public Works Director to follow on waiver decisions, changing the language if necessary on varying the width of sidewalks, any items relating to an escrow of funds or in lieu payment, and Staff address and formally remark to the Bicycle and Pedestrian Commission recommendations.



Mr. Flood stated it can be acknowledged in an amended Staff Report the recommendations of the Bicycle and Pedestrian Commission.

**Mr. Weitz made a motion, seconded by Mr. Parker, to continue this item until the October meeting with the following suggestions: General standards for the Public Works Director to follow on waiver decisions, changing the language if necessary on varying the width of sidewalks, any items relating to an escrow of funds or in lieu payment, and Staff address and formally remark to the Bicycle and Pedestrian Commission recommendations. Motion passed unanimously.**

#### **LAND USE PLAN MAP AMENDMENTS**

ORDINANCE REQUESTED BY V. PARKER OVERTON TO AMEND THE FUTURE LAND USE PLAN MAP FROM A HIGH DENSITY RESIDENTIAL (HDR) CATEGORY TO COMMERCIAL (C) AND OFFICE/INSTITUTIONAL/MULTI-FAMILY (OIMF) CATEGORIES FOR THE PROPERTY LOCATED SOUTH OF FIRE TOWER ROAD, ADJACENT TO DUDLEY'S GRANT TOWNHOMES AND WEST OF COREY ROAD CONTAINING 85 ACRES.- APPROVED

Ms. Chantae Gooby, Planner II, delineated the property. The property is located in the southern section of the City, south of Fire Tower Road, between Corey Road and Dudley's Grant Townhomes. The request is broken into two separate tracts - Tract 1 is 35 acres for commercial and Tract 2 is 50 acres for office/institutional/multi-family. The change of the Future Land Use Map is usually a precursor to a rezoning. The property is located in the city limits. The entire property is vacant except for Fire Tower Mini Storage on Tract 1. Windsor Subdivision is to the east and Bedford, Chesapeake and other subdivisions are to the north. There is vacant property to the south. There are two points of ingress/egress via Bayswater Road that are both signalized, which will eventually connect and create a continuous loop. The property was brought into the city limits in 1988. At that time, there were two mobile home parks and it was zoned for mobile homes. In 2009, a preliminary plat was approved for the property. There will be sidewalks on the outer loop of Bayswater Road with the storm water retention area inside of the loop. In 2004, the Future Land Use Plan recommended office/institutional/multi-family along Fire Tower Road and high density residential (HDR) to the south. In 2004, there was Future Land Use Plan Map amendment to change that area to commercial. The request was approved. There was a subsequent rezoning approved for 24 acres of neighborhood commercial. In 2012, there was a rezoning request for the previously approved neighborhood commercial zoning and a portion mobile home zoning to general commercial. The request was for 32 acres and was approved. Currently, about 80% of Tract 1 is already zoned commercial. The remaining residential zoning is about 12 acres. The Tract 2 request would allow an office option. Fire Tower Road is considered a residential corridor between Corey Road and Evans Street. The Horizons Plan

states that any kind of commercial or office should be restricted to the commercial node, keeping it concentrated into one cohesive spot and no linear expansion. There is a focus area at this particular location. This request could generate a net increase of 3,000 trips per day in a worst-case scenario. The property is impacted by the floodway and the 100 and 500-year floodplains associated with the Fork Swamp Canal. There can be no development in floodway. There are regulations on development in the 100 and 500-year floodplains. The canal is located to the east and south of the property and creates a natural barrier to the residential areas. There is a 50-foot greenway easement. The net 12 acres in Tract 1 could accommodate about 160 multi-family units. Under the commercial designation, it could accommodate 120,000 square feet of retail, ministorage, or conventional restaurant. The current and proposed designations for Tract 2 allow the same density of multi-family units, but would allow an office option. The conservation open space (COS), that runs on the east and south sides, is not included in the request. The Horizons: Greenville's Community Plan provides criteria in determining if a change to the Future Land Use Plan Map (FLUPM) is compatible. A request will be construed to be "compatible with the comprehensive plan" if:

- (i) The proposed amendment is determined by Planning and Zoning Commission and City Council to be necessary as a result of changed conditions in the local development pattern, street pattern, environment or other major feature or plan, which impacts the site in a manner or to a degree not previously anticipated at the time of adoption of the Current FLUPM; and
- (ii) The location of the proposed classification(s) supports the intent and objective of the current FLUPM, Focus Area Map, and Transportation Corridor Map and other contextual considerations of the comprehensive plan; and
- (iii) The resulting anticipated land use is properly located with respect to existing and future adjoining and area uses and the proposed change is not anticipated to cause undue negative impacts on localized traffic, the natural environment or existing land and future neighborhoods and businesses within and in proximity to the area of proposed amendment; and
- (iv) The amendment is anticipated to result in a desirable and sustainable land use pattern to an equal or greater degree than existed under the previous plan recommendation.

Other items to consider:

*Uniformity:* the property must be treated like other properties. It would need to have the same transitional zoning as expected and as seen in other parts of the City.

*Functionality:* the proposed category serves the necessary function and it does not interrupt or interfere with other uses. It creates a desirable transition.

*Mobility and Connectivity:* The use does not unduly burden or disrupt existing or planned transportation systems.

*Efficiency:* The use does not place an undue financial burden on the adjacent land owners or the public.

*Integration:* the proposed use category should be evaluated in terms of long term goals.

In staff's opinion, the request could be considered compatible with Horizons if the requested change is the result of changed conditions in the local development pattern, street pattern, environment or other major feature or plan, which impacts the site in a manner or to a degree not previously anticipated at the time of adoption of the Current FLUPM, the property is properly located with respect to existing and future adjoining land uses and is not anticipated to cause undue negative impacts on localized traffic, the natural environment or existing and future neighborhoods and businesses within and in proximity to the area; and the change is anticipated to result in a desirable and sustainable land use pattern to an equal or greater degree than existed under the previous plan recommendation.

Chairwoman Basnight opened the public hearing.

Mr. Durk Tyson, representative of the applicant, spoke in favor of the request. He stated 10 years ago this property was two mobile home parks. The economy has changed and multi-family was not developed. The property has been vacant for 10 years. There is more interest in commercial and office use based on the evolving market. About two months ago, there was a rezoning request for commercial within Tract 1. Development is about to start and they realized they did not have enough land. He stated they approached the City about additional commercial. Also, there is another group interested that needs office zoning. City staff stated the rezonings were in a piecemeal fashion and needed to be approach comprehensively. That is why they are requesting all of Tract 1 to be commercial and Tract 2 to be office.

No one spoke in opposition.

Chairwoman Basnight closed the public hearing and opened for board discussion.

Mr. Weitz stated recent rezoning requests show the trend to be toward commercial for this area. Regarding a land use point, the request is appropriate but he stated he had concerns. The staff report stated that the area must be restricted to the associated focus area. In his view, it is going outside the focus area. The Focus Area Map shows this area has a limitation of 20,000 to 40,000 square feet and this is inconsistent to the request. He suggests if the proposed amended map is approved then the Focus Area Map should also be amended to alleviate an inconsistency and he would like to incorporate that in the motion to approve.

Ms. Gooby stated that when commercial is increased on the Future Land Use Plan Map staff considered the size of Focus Area to be increased by de facto. Staff has discussed requiring the size of the Focus Area designation to be changed when the commercial designation is increased

on the Future Land Use Plan Map when Horizons Plan is updated. The size of focus areas are not intended to be static.

Attorney Holec stated the change to the Focus Area Map would need to be advertised before it goes to City Council because it also amends the Comprehensive Plan.

Mr. Weitz stated he would recommend advertising the additional change since the motion to approve is based on consistency and if the change is not done then it would be inconsistent.

Ms. Gooby asked what designation it should be.

Mr. Weitz stated he would leave the decision up to staff.

Mr. Parker asked if they would still vote on the item or could it be addressed after the fact.

Attorney Holec stated the better process would be to go forward with the request, then let the Planning and Zoning Commission initiate an amendment and have Staff bring it back at the next meeting.

Mr. Weitz agreed but stated he was a little uncomfortable.

Mr. Parker stated he is not uncomfortable with it and that it would be the right thing to do. There is no reason to delay the applicant.

Mr. Weitz stated he has supported commercial zoning but had concerns regarding the criteria of undue traffic impact. The traffic report stated Fire Tower Road has a design capacity of 35,000 vehicles a day. Currently, it is 33,000. The high estimated increased trips would be another 3,000. The fact is Fire Tower Road will be over capacity and it already is a 4-lane divided highway.

Mr. Schrade asked if staff stated it was consistent with the Comprehensive Plan.

Ms. Gooby stated the map is part of the Comprehensive Plan therefore they need to rely on the text of the Horizons Plan. It still has transitional zoning, the depth of the commercial is increasing versus the width and it is somewhat insulated because of the Fork Swamp Canal. There will not be connections to other neighborhoods.

Ms. Darden asked if there would be a buffer between the request and Dudley's Grant.

Ms. Gooby stated there will be a vegetation buffer.

**Motion made by Mr. Parker, seconded by Mr. Schrade, to approve the amendment to the Land Use Plan Map. Motion passed unanimously.**

Mr. Weitz stated he was uncomfortable with the motion to approve and hoped to have another motion to include his concerns.

**Motion made by Mr. Weitz, seconded by Ms. Darden, to initiate an amendment to the Comprehensive Plan to increase the size of the focus area designation, regarding the proposed request, on the Focus Area Map. Motion passed unanimously.**

Mr. Schrade asked if the size of the focus area was going to be increased during the Horizons update.

Ms. Gooby stated yes.

**With no further business, a motion was made by Ms. Darden, seconded by Mr. Griffin, to adjourn. Motion passed unanimously. Meeting adjourned at 8:01 p.m.**

Respectfully Submitted,

Merrill Flood, Secretary to the Commission  
Director of Community Development Department