

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

October 19, 2010

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

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

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

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

**PLANNING STAFF:** Merrill Flood, Community Development Director; Harry Hamilton, Chief Planner; Chantae Gooby, Planner; Tom Wisemiller, Planner; Valerie Paul, Secretary

**OTHERS PRESENT:** Calvin Mercer, Council Member; Marion Blackburn, Council Member; Dave Holec, City Attorney; Jonathan Edwards, Communications Technician

**MINUTES:** Motion was made by Mr. Lehman, seconded by Mr. Gordon, to accept the September 21, 2010 minutes as presented. Motion carried unanimously.

**NEW BUSINESS**

**Text Amendments**

Ordinance proposed by the Community Development Department, at the request of Councilmember Blackburn, to amend the Future Land Use Plan Map to designate all City of Greenville owned parkland as CO (conservation/open space).

Mr. Tom Wisemiller, Planner, gave the presentation for this proposed text amendment. Areas zoned CO usually applies to parklands, areas that are prone to flooding, or other lands that have been deemed inappropriate for development. They can be used as buffers that can be used to separate potentially conflicting land uses. Most of the greenways and greenway connectors are included under the City’s current Future Land Use Plan Map under the CO category. The Future Land Use Plan Map is not intended to be dimensionally specific, rezoning requests and other development proposals might alter these assumptions. If the proposed ordinance was adopted, all City parkland or land purchased for that purpose would automatically be designated as CO on the Future Land Use Plan Map. Properties sold, or no longer designated as park use would automatically revert back to its previous use. The proposed ordinance would not affect private property and it would not prevent the City from using the property for other uses in the future. There are only a few areas that would be affected as there are only a few parks that have not been included into the CO category.

Mr. Randall asked if Greenville Aquatics & Fitness Center and other parks that are developed with buildings be designated as CO. He asked for the reasoning behind this.

Mr. Wisemiller answered that it is part of the property that's defined as that park facility. The goal is to designate a whole park area.

Mr. Randall asked if the City would be hindered by the CO category if they wanted to expand the Greenville Aquatics Center or build something else on the park areas.

Mr. Wisemiller answered that it would not hinder the building of a recreational facility.

Mr. Gordon asked if the Greenville Aquatics & Fitness Center would revert back to its previous use if it were sold.

Mr. Wisemiller answered that yes, it would revert back to its previous use.

Mr. Gordon said it was a possibility somewhere down the line.

Mr. Bell asked if we currently have any parkland that would fit that description.

Mr. Wisemiller answered that staff is not aware of any that are currently under consideration.

Mr. Lehman asked what kinds of restrictions are foreseen with this new zoning.

Mr. Wisemiller answered that it is not a zoning category; it's more like a type of use. For the most part, areas that are designated CO are mostly city-owned areas, in the floodway, or don't have development potential.

Mr. Lehman asked to confirm that staff did not see any restriction as far as the land use goes.

Mr. Wisemiller said that CO designation would not add any restrictions.

Mr. Lehman asked if another park besides the Aquatics Center wanted to add a picnic area, would the construction of that be restricted in any way.

Mr. Wisemiller said that it would not.

Mr. Parker asked if River Park North be considered a Conservation/Open Space. He asked if the City would be able to improve upon parkland if the City saw it fit.

Mr. Wisemiller answered that was correct.

Ms. Fladung asked what "improves" means, and asked if there are restrictions for types of improvement on parkland.

Harry Hamilton, Chief Planner, answered that it does not affect zoning and when it is included in the CO designation, the City can build anything. It does not affect property rights of anyone and it does not limit the City's right to use the property in any way.

Mr. Parker asked if this would make it more of a consistent Future Land Use Map.

Mr. Hamilton answered that first of all the map illustrates environmentally-sensitive areas and it includes all city parks as a separate category, but also under the umbrella of CO and all staff is doing, at the request of City Council, is to include all city parks within this category.

Chairman Thomas asked why this was not come up during the Horizons Plan Update process.

Mr. Hamilton answered that the language that was presented by Mr. Wisemiller was the language that is in the existing plan, but only certain parts were illustrated in the maps presented. It would include current parts and any future parts.

Mr. Randall asked if a private owner had property categorized as CO, could they build anything that they wanted on the property.

Mr. Hamilton answered that City governmental uses are allowed in all zones.

Mr. Randall said that he had not been aware that the City could do that.

There were no speakers either for or against the proposed amendment, so Chairman Thomas closed the Public Hearing and opened it up for Board Discussion.

Mr. Gordon made the motion 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 to address plan consistency and other matters. Mr. Parker seconded his motion and it passed unanimously.

### **Text Amendment**

Ordinance initiated by City Council to establish a minimum waiting period between the date a petition to amend the Future Land Use Plan Map is denied and the initiation of a subsequent similar petition, and to consider revision to the minimum waiting period between the date of denial of a petition to amend the Zoning Map and the initiation of a subsequent similar rezoning petition.

Chantae Gooby, Planner, said that this request was initiated by City Council. The Commission was being asked to decide on two things: establish a minimum waiting period between the dates when a Future Land Use Map amendment has been denied before it is initiated again; and to consider revising the current waiting period for a rezoning amendment. Currently when a Future Land Use Map Plan amendment has been denied, applicants are allowed to come back the very next month and ask for the change again. Currently with rezoning, if the request has been denied, the applicant would have to wait 6 months before they could apply again, provided that it is for the same property and it is a similar request. The proposed amendments would establish a 6 month, or 12 month waiting period to resubmit your request for a Future Land Use Plan Map amendment; the other would be to possibly leave the current waiting period of 6 months for a rezoning amendment, or extend it to 12 months.

Chairman Thomas opened the Public Hearing.

There were no speakers in favor of the proposed text amendment.

Mike Baldwin came forward to speak in opposition. He said that he was present as a property

owner and as a representative of other property owners in Greenville.

Mr. Baldwin asked Mr. Hamilton how long has the 6 months policy for rezoning been in effect.

Mr. Hamilton said that it has been in place for many years – about 35 – 40 years.

Mr. Baldwin asked Mr. Hamilton how long the Land Use Plan Map change been in effect.

Mr. Hamilton said that there is no waiting period for Land Use Map Plan amendments. He pointed out that the way the ordinance is written, any re-application for any Land Use Plan Map change affecting the same property or any portion of it, would be delayed under this proposal. With respect to the existing re-zoning process, it's the same zoning affecting the same property or portion thereof. For example, if someone applied for Heavy Commercial and it got denied, they could apply for General Commercial with no delay, but they could not come back for Heavy Commercial until 6 months later.

Mr. Gordon asked Harry to explain the part about the Future Land Use Plan Map again.

Mr. Hamilton said that the Future Land Use Plan Map amendment process would be in effect for any change affecting the property. With this proposal, if you have submitted a request under the Land Use Plan Map amendment process and it has been denied, you cannot come back at all for any change to that property until 6 or 12 months depending on what the Commission decides.

Mr. Baldwin asked Mr. Hamilton if staff has looked into what other cities of our size and growth potential support.

Mr. Hamilton said that Ms. Gooby had looked into it.

Ms. Gooby answered that she had entered this question on the list serve, but she did not get a lot of feedback. There was one town that had a 12 month waiting period and it did match their re-zoning process.

Mr. Baldwin said that this is a shot in the foot as far as trying to get the housing and the economy in Greenville back on its feet. He said that he has never seen a due diligence period of one year. What would happen if a re-zoning request is turned down and a month later the opposing parties strike a deal – why should they have to wait? Why after 35 years has this request come now? We should not be forced to re-submit a request of substantial change just to get a deal closed to get some activity in Greenville and get us out of this slow spot. He thanked the City Council for bringing the request, but he asked that the Commission deny this request.

Jim Ward, a developer, came forward to speak in opposition to the request. He brought up an example of how Raleigh passed similar restrictions on development, but then had to hire consultants to bring the developers back because their tax base deteriorated. When a petitioner and an adjoining landowner reach an agreement that fits everyone, should be efficient to approve a Land Use Plan Map amendment if City Council is inclined. We are 3-4 years from coming out of this economic state, and any impediment that we place on development plans that would bring about growth in a smart way to this city is detrimental to the citizens. He asked the Commission to deny the request.

Mr. Randall asked Mr. Ward if 6 months would be that much of a burden due to that fact that since 1997, there have been six Land Use amendment requests that have been denied with only one coming back within a six month period.

Mr. Ward said that he believes that 6 months should be the most because not many landowners are going to tie up their property for much longer than that.

Mr. Bell asked if he thought it would encourage both the landowner and the one coming in to work with the neighborhood associations a lot better.

Mr. Ward answered that he feels that it is certainly in everyone's best interest to work it out that way and he believes that it is already being done.

Chairman Thomas asked Attorney Holec if a three minute rebuttal could still be offered since there was no one speaking in favor of the request.

Attorney Holec answered that they would first have to make sure there were no other speakers to speak in opposition, but since there have been speakers in opposition, the Commission would be able to offer a rebuttal to those in favor of the request.

There were no other speakers in opposition and there were no speakers to offer a rebuttal, so Chairman Thomas closed the Public Hearing and opened it up for Board Discussion.

Mr. Parker said that a six month waiting period would allow neighborhoods time to get organized and then be able to meet with developers, which would be best for the City.

Mr. Randall said that he has seen a lot of times where property owners and neighborhood associations come in and say that they are not prepared and need more time. His thought is that one year is too long, but 6 months should be enough time.

Mr. Gordon asked what the motivation from City Council was in making this request since there has only been one denied since 1997.

Attorney Holec gave his recollection of the discussion by City Council. When you have these requests that come to both the Planning & Zoning Commission and the City Council, it does put a burden on neighborhood and others nearby that are impacted. City Council felt that it was too much to have them continually go through the defense of the request so there should be a waiting period between requests.

Mr. Maxwell shared his experience from a number of years back when East Carolina University had proposed expansion plans that would have developed through his neighborhood. It took awhile for the neighborhood to get organized to defend themselves. From a personal experience, it would be good for there to be a six month waiting period for neighborhoods to be able to come together and organize. It is important for anyone with ideas for design to come to the neighborhoods and try to come to a meeting of the minds. Folks need time to get together and figure out what they want done to their neighborhoods.

Chairman Thomas asked if ECU came right back after their request was denied.

Mr. Maxwell answered that they had received a letter asking them to come to a meeting and at the meeting they found that they had wanted to place a parking deck where his house was.

Mr. Gordon said that the developers did do that as opposed to not having a conversation with the neighborhoods.

Mr. Maxwell said that they did do that, but then they received a copy of their minutes and nowhere in there was mention of the residents or what they would do – not saying that was the same situation here, but those types of situations can happen to neighborhoods.

Ms. Fladung said that the waiting period has something to do with smart growth. Having the time to recollect and organize is very important.

Mr. Bell asked if there are two proposals being considered: one, for a 6-12 month time span for requests denied by Planning & Zoning; and two, a 6 month or 12 month for withdrawals for requests for re-zoning.

Mr. Lehman answered that no, the proposals being considered are for future land use and for re-zoning.

Mr. Lehman said that his thought is that both proposals should be the same. He is in favor of the 6 months plan.

Mr. Bell asked if 6 months and 12 months are the only options – he asked if 3-months could be considered.

Ms. Gooby said that staff's only recommendation would be that it is not less than 6 months.

Mr. Hamilton answered that his recollection is that City Council specifically asked that the Commission consider either 6 months, or 12 months and he did not recall there being another option. That is the way that the ordinance is written so the Commission can recommend approval or denial of the ordinance including that motion that Mr. Lehman referred to.

Mr. Randall said that reading the information it says “establishing a minimum waiting period” without getting to the timing until you get further into the ordinance.

Mr. Hamilton said that City Council initiated this proposal with 6 or 12 months in mind.

Mr. Garner asked why the City should have a Land Use Plan if they are not going to follow it. It seems that developers can come back the next month and keep requesting what they want until they get it.

Mr. Lehman said that it exactly what can happen with the Future Land Use Plan because there is no limit on it and that is what they are here to consider if they want to impose a minimum limit on it.

Mr. Garner said that if you just follow the Land Use Plan then development continues in an

orderly matter.

Mr. Gordon said that in the last 13 years there has only been one denied by the City Council.

Chairman Thomas called for a motion.

Mr. Maxwell made the motion to approve the proposed text amendment to include a 6 month waiting period in the case of the Future Land Use Plan re-submissions and to not lengthen the current waiting period from 6 months to 12 months for re-zoning maps, and Ms. Fladung seconded the motion. Ms. Fladung, Mr. Parker, Mr. Lehman, Mr. Bell, Mr. Randall, Mr. Maxwell, and Ms. Basnight voted in favor while Mr. Gordon voted in opposition. Motion passed.

### **OTHER ITEMS OF BUSINESS**

Chairman Thomas requested that Attorney Holec give a brief presentation on the appropriate way to handle different types of amendments and motions at the next meeting.

### **ADJOURN**

Mr. Randall made the motion to adjourn, Mr. Parker seconded it, and it passed unanimously.

The meeting adjourned at 7:51 p.m.

Respectfully Submitted,

Merrill Flood  
Secretary