

**Spartanburg City Planning Commission Meeting Minutes  
Thursday, February 21, 2019**

*City Hall Council Chambers  
Spartanburg, South Carolina*

The City Planning Commission met in City Hall Council Chambers on Thursday, February 21, 2019 at 5:30 P.M. The following City Planning Commissioners attended this meeting: Jared Wilson, Howard Kinard, Bob Pitts, Mike Epps, Dr. Phillip Stone, Reed Cunningham and William "Luke" Quillen. No one was absent. Representing the Planning Department were Natalia Rosario, Planner III. and Julie Roland, Administrative Assistant. City Attorney, Bob Coler also attended the meeting.

***Roll Call***

Mr. Wilson, the Chair, stated that notice of this meeting was posted and provided to the media 24 hours in advance as required by the Freedom of Information Act.

Mr. Wilson noted that all seven Planning Commissioners were present, constituting a quorum; and he went over the rules and procedures for conducting a public hearing.

Dr. Stone moved approval of the Agenda for tonight's meeting; and he was seconded by Mr. Epps. The motion was approved by a vote of 7 to 0.

**There were no meeting minutes ready for approval.**

***Old Business – None.***

**New Business**

**1. Rezoning Request to consider amending the City of Spartanburg Zoning Ordinance and Comprehensive Plan Land Use Element, by amending Section 206, changes to District Boundaries, of one property, Specifically Parcel #6-21-02-127.01 located on 1041 W.O. Ezell Boulevard that is currently zoned R-15, Single Family Residential District to zone R-12, General Residential District in order to allow the owner to build one or two duplexes on the property. Yevgeniy Prigodin, Property Owner.**

Ms. Rosario, Planner III came forward and was sworn; and she submitted the meeting packets the Board Members had received via email, tonight's presentation and slides into evidence as Exhibit A. Ms. Rosario said for the record, that they as a City could not move forward with this request because the City had been made aware yesterday by Councilman Anderson that the property fell under the Covenants and Restrictions of the Woodland Heights Neighborhood. She informed the Board Members those restrictions preclude any single lot from having more than one residential unit on it. The applicants have been made aware of that and they would go back to the drawing board. Ms. Rosario said Staff still wanted to open the meeting and if there was anyone in attendance that would like to get up and ask questions or speak on the original proposal that would be welcome, just so we could get it on the record, and also so the applicants could communicate with them moving forward. Ms. Rosario said if the Board Members had any questions for staff she would be happy to answer them.

**Planning Commission Questions:**

- Dr. Stone asked how many neighborhoods in the City they were aware of that had covenants like this.
- Ms. Rosario said she did not know because it was not something that they directly managed, and that the City Attorney Bob Coler could go into more detail on that. She said when Staff was made aware that covenants applied, at that point they could not legally move forward with any change in zone that would act against the covenants. She said it may be all neighborhoods, that some had expired and specifically for Woodland Heights; they had gone back in 1986 and put in new covenants and restrictions which still stand to this day; and every ten years they had been renewed.
- Mr. Kinard asked Ms. Rosario were these recorded in the Register of Deeds Office.
- Ms. Rosario explained they were.

- Mr. Cunningham asked if the neighborhood covenants took precedent over all other statutes.
- City Attorney, Bob Coler came forward and explained there was a state law that said if they as a City became aware of covenants and restrictions that were going to conflict something that the petitioner wished to do; the City needed to essentially stand down. He said if they became aware of them from the applicant themselves, either by the application they submitted; (he informed the Board Members they were actually required by law to ask that on their applications whether or not there are any covenants and restrictions) or if Staff got information from them during the investigation process, or if Staff became aware in any other way; they were required to stand down. City Attorney Coler said they could only issue a permit if the applicant provided proof to the City that the covenants and restrictions had been waived by anyone that had the ability to do that or some valid court order had been placed. The City Attorney said that often times the applicant and the neighborhood would have to go to court regarding something like this; and at that time the City would be in a position to move forward. He said State Law did not require them to go looking for these covenants, which was specifically stated in the law, but if the covenants and restrictions came to the City, either solicited or un-solicited, the City was required to stand down and not permit the application until such time they were satisfied that the covenants did not prevent them from doing so.

Planning Commission Questions:

- Mr. Cunningham asked the City Attorney would it be pertinent for the City to be aware of all such neighborhood covenants and require neighborhood associations to file them with the City Planning Department.
- City Attorney Coler said they satisfied the legal requirements at the time they were recorded; and he was not sure; but they would probably need to discuss this more in an executive session for legal counsel of a future City Council Meeting; and he was going to suggest they table the answer to that question and discuss that in an executive session at a future meeting of Council at the Planning Commission's leisure or pleasure.
- Mr. Quillen asked about the name of the body they were speaking of.
- City Attorney Coler said the Home Owner Association.
- Mr. Quillen asked could the Home Owner Association have the ability to waive any covenants.
- The City Attorney said he was not sure; and he thought each case would stand on its own and they would need to look at whether or not they were satisfied that the neighborhood as a group was not enforcing it. He said there was probably language in each covenant that speaks to that regarding how much of a vote would be needed regarding each one.
- Mr. Quillen asked did each home owner association have a specific set of by-laws.
- The City Attorney explained that they varied; and there were some that were very detailed, and others that were very vague.
- At this time Ms. Rosario had the Woodland Heights Neighborhood Association's covenants pulled up on the screen, which she said stated that over fifty percent of the neighborhood would be required in order to change them.
- Dr. Stone asked that the particular lot in question was not large enough to subdivide and still be R-15 lots.
- Ms. Rosario said this was something they had discussed with the applicant today, regarding they would need to get an easement from the property owner next door for a fifty foot easement or right-of-way on Arrowhead Drive to be able to split the property that would allow for the construction of one house per lot, and that may be an option they could end up pursuing.
- Mr. Quillen had another question for the City Attorney regarding how far back the covenants and restrictions might go.

- The City Attorney explained some of them went way back; and his best advice would be to stand down unless otherwise directed by a court of law.

Ms. Rosario said she would go through the application anyway; and she felt it would be worthwhile to allow the property owners that had come out to the meeting to express their opinions anyway tonight, even though the Planning Commission would not be able to take any action tonight. Mr. Rosario said the proposal was to add two duplexes on the property that would be an additional four units that would be approximately 1000 to 1200 square foot each and she pointed out on a slide where they would have been placed on the property. Ms. Rosario said if this had of been a possible development scenario, it would have needed to also go through the whole site plan review process with the City, and meet all the requirements which would need to include a bufferyard for their neighbors to the east and have a full entrance on to the site that met fire apparatus specifications.

Planning Commission Questions:

There were no more Planning Commission Questions at this time.

Mr. Wilson asked the applicant if he wished to come forward at this time that he could, but did not need to.

The applicant did not wish to come forward at this time.

Mr. Wilson opened the public hearing portion of the meeting just to hear the neighbors' concerns, and he asked anyone who wished to speak to come forward and state their names and addresses for the record.

- Ms. Jo Ann Brown of 121 Arrowhead Circle came forward and said she lived on the corner opposite of the proposed property. She asked what would be the access to that property if it was to be developed, would it be from Arrowhead or Sweetbriar, regarding where the traffic from the two duplexes would come in and out.
- Mr. Wilson, the Chair said it would have been accessed off of Arrowhead.
- Mr. Scott Glover of 107 Sweetbriar came forward and said his questions would have been directed to the Site Plan that Ms. Rosario had mentioned earlier that would have been required. He said the back of his property had a huge slope and he had spent thousands of dollars having drainage put in and had water moved away from the back of the house and he had previous flooding issues. His concern would be runoff from the new duplexes onto his property. He said one of the drawings that was sent to him by email from Ms. Rosario had an existing drive; and he said there was not an existing drive.
- Ms. Rosario apologized and said that was her mistake; that there was actually an access drive that came up from another property; that Mr. Glover was correct there was not an access drive off this property.
- Mr. Glover said he was glad, because Sweetbriar was such a narrow street anyway. He said he was o.k. with them building there if they ever could as long as there was some type of barrier there between his property and theirs.
- Ms. Rosario said she would like to enter into the record that Mr. & Mrs. Matthew Myers who lived at 105 Sweetbriar Court had actually left the meeting after hearing there would not be a vote taken for the request; and they were in opposition to the request and they felt that duplexes would take away from some of the charm of the single family aspects of the neighborhood.
- Ricky Eason of 1045 W O Ezell Boulevard came forward and said he would have no problem with them building if the fencing was in place and the drainage was in place.
- Councilman Sterling Anderson came forward and said he lived on that side of town and he had looked at this and talked to the neighbors, and he understood Ms. Rosario was going to take into consideration the covenants and the other thing; he said there was talk about the plan exiting on Sweetbriar, but he felt the best way that would have been to exit would be on Arrowhead.

Mr. Wilson asked if there was anyone else who wished to speak to come forward.

No one else came forward.

Mr. Wilson closed the public hearing portion of the meeting; and there was not a motion they could move on.

Dr. Stone asked Staff about what the Board should do regarding the request.

The City Attorney said the best thing would be to make a motion to table the request.

Dr. Stone moved to table the request, and he was seconded by Mr. Epps. The Board Members voted 7 to 0 to table the request.

Mr. Wilson said for the record, the rezoning request was tabled.

**Site and Landscape Plans Approved (information purposes only) since the January 17, 2019 Meeting.**

- East Main Street Starbucks, Spartanburg – 1544 E. Main Street.

**City Council Updates (FYI) Since Last Mtg. of Planning Commission on January '17, 2019 Meeting.**

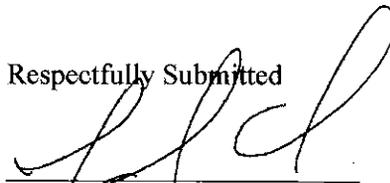
Ms. Rosario went over the updates that were listed on the Agenda.

**Staff Announcements**

- Ms. Rosario informed the Board Members that at the last Planning Commission meeting regarding Cleveland Hall, Staff had received a petition signed by ten residents to have the HARB Board consider recommending to Council that the property be placed on the Local Historic Pending List; and that a Special HARB Meeting would be held on February 27, 2019 at 5:30 P.M.
- Ms. Rosario informed the Board Members the Planning Department had a new Planner coming on board hopefully sometime next month and she would be coming from Santa Cruz, California.

The meeting adjourned at 5:55 P.M.

Respectfully Submitted



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Jared Wilson, Chair

Minutes by Julie Roland, Administrative Assistant