

**COOKEVILLE PLANNING COMMISSION
MINUTES
JULY 23, 2012**

The Cookeville Planning Commission met on Monday, July 23, 2012 at 5:30 p.m., in the Council Chambers, 45 E. Broad Street, Cookeville, Tennessee.

MEMBERS PRESENT: Jim Stafne, Dr. Roy Loutzenheiser, Judy Jennings, Chris Wakefield, Aaron Bernhardt, David Webb, and Jim Woodford.

MEMBERS ABSENT: Randy Dalton and Dr. Angelo Volpe.

STAFF MEMBERS PRESENT: James Mills, Jayne Barns, and Ken Young.

STAFF ABSENT: Jim Shipley.

OTHERS PRESENT: Dean Cobb, Opal Nichols, Geneva Spear, Margie Wall, Nancy Archard, O. C. Brown, Phyllis Brown, Paul Pippin, Edwina Doran, Ronnie Kelly, Chuck Johnson, Tray Plant, Tim Huddleston, Richard Gerhart, and Amye Wright.

CONSIDER FOR APPROVAL THE AGENDA AS SUBMITTED. Dr. Roy Loutzenheiser made the motion to approve the agenda as submitted. Jim Woodford seconded the motion and the motion carried unanimously. **APPROVED.**

CONSIDER FOR APPROVAL THE MINUTES OF JULY 23, 2012. Jim Woodford made the motion to approve the minutes of July 23, 2012. Chris Wakefield seconded the motion and the motion carried unanimously. **APPROVED.**

CONSIDER FOR ACTION AMENDMENTS TO THE ZONING CODE RELATIVE TO HOSPICE HOMES. REQUEST SUBMITTED BY CONNIE MITCHELL. James Mills stated that the Planning Department has prepared for consideration amendments to the Zoning Code relative to hospice residence homes.

Recently the Planning Department was approached by Ms. Connie Mitchell regarding the conversion of a residential structure located at 570 State Street to a hospice residence home. Such a use is currently not specifically addressed in the Zoning Code. "Hospice house" is included in Section 234, Chart of Permitted Uses by Zoning District as a permitted use in the MS, Medical Services district, but is not expressly mentioned in the provisions for the MS district. Additionally, there is no definition of "hospice house" included in the definitions section of the Zoning Code and the use is not specified in the definitions of related uses such as "assisted living/residential care facility", "elderly group home/residential home for the aged", and "nursing home". The primary differences between these three (3) categories of land uses have to do with the level of care needed for the residents, with the residents in an elderly group home/residential home for the aged requiring the least care, those in a nursing home requiring the most care, and those in an assisted living/residential care facility falling between the two.

Hospice care is generally defined as a program that provides palliative care and attends to the emotional and spiritual needs of terminally ill patients at an inpatient facility or at the patient's home. There are establishments in the Cookeville community that provide in-home hospice care, but, to the knowledge of the Planning Department, there are no hospice centers. In the opinion of the Planning Department the closest related facility in the Zoning Code would be a nursing home.

In correspondence to the Planning Department, Ms. Mitchell explained why, in her opinion, there is a need for a hospice residence home in Cookeville. The Planning Department concurs that there is a need for such uses within the city. The primary concerns would be in which zoning districts should such facilities be located and should there be different levels, in terms of occupancy, for such facilities.

The operation of hospice services is regulated by the State of Tennessee and is specifically addressed in Tennessee Health Services and Planning Act of 2002 found in Title 68, Chapter 11, Part 16 of the Tennessee Code. A Certificate of Need must be issued by the state to open a hospice facility. According to Ms. Mitchell the approval of multiple hospice facilities in the Cookeville area would be unlikely based on the state's parameters for issuing Certificate of Needs.

In reviewing this issue the Planning Department is of the opinion that there should be two (2) classifications for residential hospice care, based on the number of patients. The first could be defined as a hospice residence home and would be limited to no more than eight (8) patients. The second could be defined as a hospice center which would allow more than eight (8) patients. To address these proposed uses the following amendments to Section 202, Construction of Language and Definitions, of the Zoning Code are recommended.

- Inserting a definition of Hospice Residence Home to read as follows:

HOSPICE RESIDENCE HOME. A home licensed by the State of Tennessee and operated by a certified hospice agency, which is residential in character and residential in physical structure, and is operated for the purpose of providing hospice care to no more than eight (8) hospice patients. Such facilities caring for more than eight (8) patients shall be defined as a NURSING HOME.

- Revising the definition of Nursing Home to read as follows:

NURSING HOME. An extended-or intermediate-care facility licensed to provide twenty-four (24) hour housing, medical and full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves. This definition shall include rest home, skilled nursing facility, long-term care facility, convalescent facility, and hospice center.

- Revising the definition of Assisted Living/Residential Care Facility to delete the last sentence of the definition which reads: This definition includes convalescent facilities.

A hospice center would appear to be an appropriate use in all zoning districts in which nursing homes are permitted. Nursing homes are permitted uses in the CG, General Commercial and MS, Medical Services Districts. No additional revisions to the Zoning Code would appear to be necessary to address hospice centers if the recommended amendment to the definition of a nursing home is adopted.

A hospice residence home would appear to be an appropriate use in multi-family districts, and possibly certain single family residential districts, provided appropriate conditions are met. Additionally, according to current information available to the Planning Department, it is unlikely that the State of Tennessee will approve the location of multiple hospice residence homes in Cookeville therefore allowing such uses within certain single family residential districts should have minimal impact. While it is unlikely there will be multiple hospice residence homes, particular protections should be established for single family residential zones. To address the potential locations for hospice residence homes the following amendments to the Zoning Code are recommended:

- Inserting in Section 212, RS-10, Single-Family Residential District the following:

SECTION 212.4 USES PERMITTED ON APPEAL (SPECIAL EXCEPTIONS)

212.4D Hospice Residence Home meeting the following conditions:

1. Minimum lot area of 40,000 square feet shall be provided for such facility.
2. Maximum of eight (8) residents shall reside at the facility.
3. Minimum of one (1) off-street parking space per maximum number of residents and employees shall be provided at the facility.
4. No freestanding signs shall be permitted.
5. Shall be located on property contiguous with property zoned for multi-family residential purposes and shall be accessed from the same street as the contiguous property zoned for multi-family residential purposes.
6. Structure shall be compatible with nearby residential structures in terms of scale and appearance.
7. Site plan and floor plan shall be submitted to and approved by the Board of Zoning Appeals.
8. Type 2 Screen/Buffer Yards as specified in section 208 of this Zoning Code shall be provided along all property lines abutting property zoned or used for single or two-family residential purposes.
9. All requirements of the State of Tennessee that pertain to the use and operation of the facility shall be met.

- Inserting in Section 213, RS-5, Single Family Residential District, Section 213.4, Uses Permitted on Appeal (Special Exceptions) a new Section 213.4C to read as the proposed new Section 212.4D.
- Inserting in Section 214, RD, Single Family and Duplex Residential District, Section 214.4, Uses Permitted on Appeal (Special Exceptions) a new Section 214.4D to read as the proposed new Section 212.4D.

- Inserting in Section 215, RM-8, Multi-Family Residential District the following:

SECTION 215.2 PERMITTED PRINCIPAL USES AND STRUCTURES

215.2J Hospice Residence Home meeting the following conditions:

1. Minimum lot area of 40,000 square feet shall be provided for such facility
 2. Maximum of eight (8) residents shall reside at the facility
 3. Minimum of one (1) off-street parking spaces per resident and employee shall be provided at the facility
 4. Site plan and floor plan shall be submitted to and approved by the Planning Department
 5. Type 2 Screen/Buffer Yards as specified in section 208 of this Zoning Code shall be provided along all property lines abutting property zoned or used for single or two-family residential purposes
 6. All requirements of the State of Tennessee that pertain to the use and operation of the facility shall be met
- Inserting in Section 216, RM-14, Multi-Family Residential District, Section 216.2, Permitted Uses and Structures, a new Section 216.2I to read as the proposed new Section 215.2J.

The following amendments to Section 234, Chart of Permitted Land Uses By Zoning Districts are also recommended:

- Inserting under the Other Housing category Hospice Residence Home as a use permitted as a special exception in the RS-10, RS-5 and RD Districts
- Inserting under the Other Housing category Hospice Residence Home as a use permitted by right in the RM-8 and RM-14 Districts

Staff recommended approval of amendments.

Dr. Roy Loutzenheiser asked Mr. Mills if signs would be allowed in the RM8 & RM14 Districts.

James Mills replied that the Hospice House would be treated like an apartment building in the RM8 & RM14 Districts and that signs would be allowed.

Jim Stafne explained to the audience the purpose of the Board of Zoning Appeals.

Paul Pippin, President of the Board of Directors of the Upper Cumberland Christian Homes, stated that they were not against hospice homes, but they were against rezoning the property to multi-family.

Jim Woodford made the motion to approve the amendments to the Zoning Code relative to Hospice Homes as recommended by Staff. Chris Wakefield seconded the motion and the

motion carried unanimously. **APPROVED AMENDMENTS TO THE ZONING CODE RELATIVE TO HOSPICE HOMES.**

CONSIDER FOR ACTION REZONING 570 STATE STREET FROM RS10 (SINGLE FAMILY RESIDENTIAL) TO RM8 (MULTI-FAMILY RESIDENTIAL). REQUEST SUBMITTED BY CONNIE MITCHELL

A petition by the residents who live on State Street was submitted to the Planning Commission Chairman Jim Stafne. The petition stated the following: *We the residents of State Street oppose the rezoning of 570 State Street from RS10 status. We would like to keep it as a quiet, peaceful dead end street as is. Increase traffic would be considerable with a health-care facility-whether for profit or not. Is that not a business? Manager(s); Round the Clock employees; family and friends of residents of facility (hospice patients and Mitchells); 911 calls, etc. Condition of the street surface at present, especially in that vicinity, and public money is not available to support a greater demand. Please look at the street before making a decision. Note crumbled north edge from traffic straight out of west end of 570 drive on July 13, 2012. Traffic from construction people and vehicles necessary to convert building into a hospice facility. Some realtors say there would be a negative effect in the real estate value of other properties. Did not local officials say it was a one-time thing when they approved Pacesetters and that after that it would revert to RS10 and stay that way?* There were 49 signatures on the petition from the residents on State Street.

James Mills stated that Ms. Connie Mitchell has submitted a request to rezone her property located at 570 State Street from RS-10, Single Family Residential, to RM-8, Multi-Family Residential.

The subject property is identified as Parcel 2.04 on Tax Map 53 and consists of 1.00 acre surveyed or 43,560 square feet. The parcel was created as a part of the Upper Cumberland Christian Home Division, which was approved and recorded in 2007. It is contiguous with properties zoned as RS-10 to the north, east and south and as RM-8 to the west. The Upper Cumberland Christian Home, a 33 unit senior housing complex, is adjacent to the west of the property.

The Mitchells purchased the property from Upper Cumberland Christian Home, Inc. in 2007. Upper Cumberland Christian Home, Inc. purchased the property from Satellite Homes, Inc. in 2004. The property was originally developed by Satellite Homes, Inc. in around 1982 as a group home for approximately eight (8) residents. When the property was purchased by the Mitchells they converted the structure to a single family dwelling with separate living quarters for their parents.

Ms. Mitchell indicates in her petition for rezoning that the purpose of the request is to convert her home to hospice residence home. As noted under the discussion of Agenda Item 3, hospice residence homes are currently not addressed in the Zoning Code. Also as noted, the Planning Department is of the opinion that there is a need for the requested use. The primary questions were in what zone and with what restrictions or conditions.

At the time Ms. Mitchell approached the Planning Department regarding the proposed use of her property as a hospice residence home, the Planning Department was of the opinion that such a use would best fit in a multi-family residential zoning district. Since Ms. Mitchell's property was contiguous with property zoned as RM-8, Multi-Family Residential the Planning Department recommended that a request for rezoning be submitted along with a request to amend the Zoning Code to address hospice residence homes.

In researching this request it appears that the subject property, while not used for single family purposes, has always been zoned for single family residential purposes. Prior to the adoption of the current Zoning Code in 2001 and the zoning of the property as RS-10, Single Family Residential, the property was zoned as R-1, Single Family Residential. It is assumed that the subject property was originally developed as a group home in 1982 under the provisions of TCA 13-24-101 through 104, which requires municipalities to classify as single family residences for zoning purposes group homes of eight (8) or fewer unrelated persons with disabilities, and up to three (3) additional support staff or guardians.

While the subject property could continue to be used as a group home for persons with disabilities as specified in TCA 13-24-102, it cannot be converted to a hospice residence home unless the Zoning Code amendments recommended in Agenda Item 3 are adopted. Assuming the recommendation under Agenda Item 3 to allow hospice residence homes as a use permitted on appeal in the RS-10 District is adopted, rezoning would not be necessary. The property would have to obtain approval from the Board of Zoning Appeals.

The Planning Department is of the opinion that Ms. Mitchell's property would be an appropriate location for a hospice residence home. Of primary concern is whether RM-8, Multi-Family Residential zoning is appropriate for the subject property. Within the RM-8 district multi-family dwellings are permitted at a maximum density of 5,000 square feet per dwelling unit. With a land area of one (1) acre the maximum number of dwelling units that could be located on the subject property under RM-8 zoning is eight (8). Based on the location of the subject property contiguous to multi-family development and its past use as a group home, RM-8 zoning would appear to an appropriate consideration.

The Planning Department has been contacted by representatives of the contiguous property owned by Upper Cumberland Christian Home, Inc. who indicated that while they were opposed to the property being rezoned to RM-8 they were not opposed to it being converted to a hospice residence home. The representatives also indicated that they had been in contact with other property owners in the vicinity and that they were of the same opinion. If the RS-10 District is amended as recommended to allow hospice residence homes as a special exception then rezoning would not be necessary.

Staff recommended denial of the request.

Dean Cobb, Director of Upper Cumberland Christian Homes, located at 790 State Street, stated that the Mitchell's have been running a business in a Single Family Neighborhood and that it is really hard to get out on Willow Avenue from State Street now. She asked if the City could put a traffic light at the intersection of Willow Avenue & State Street.

Ronnie Kelly, property owner at 529 Wade Lane, was concerned if the property was rezoned to RM8 that someone would come in and convert it to an apartment building.

Nancy Echard stated that she saw a need for a hospice home in our community and discussed it with the Mitchell's.

Dr. Roy Loutzenheiser asked Ms. Echard if there could be traffic problems in the area.

Ms. Echard replied that there could be a lot of traffic on birthdays, family reunions, or when family members come to say goodbye.

Jim Stafne reiterated to those present that the Planning Commission was not approving this location for a hospice home.

Reverend Richard Gerhart stated that he is on the Board with Connie Mitchell. The purpose of a hospice home is so that care can be given to the patient in a home setting when they are terminally ill. The shift is for quality of life for what time they have left. The homes are quieter and open 24 hours a day. The kitchen is open so that the patients can get whatever food they want to eat. There is a registered nurse available in all 3 shifts, 3 assistants, someone to help with food and laundry, Pastor, Dietitian and resident Doctor. There will be a minimum of 2 employees there 24 hours a day. There are currently only 7 Hospice Homes in the State of Tennessee.

Phyllis Brown, property owner at 501 State Street, stated when her husband was in a Hospice Home in another town that it was like Angels were taking care of him. Her mother recently passed away in a Nursing Home in Cookeville. The facility was loud and there was no compassion for the patients.

Judy Jennings made the motion to deny rezoning 570 State Street from RS10 (Single Family Residential) to RM8 (Multi-Family Residential) as recommended by Staff. Dr. Roy Loutzenheiser seconded the motion and the motion carried unanimously. **DENIED REZONING TO RM8.**

CONSIDER FOR ACTION PRELIMINARY PLAT OF THE COTTAGES, 49 LOTS LOCATED OFF MCCULLEY ROAD AND SPRINGBORO ROAD. REQUEST SUBMITTED BY TIM HUDDLESTON. MOVING THIS ITEM FROM STUDY TO ACTION REQUIRES THE APPROVAL OF THE PLANNING COMMISSION.

Dr. Roy Loutzenheiser made the motion to move this item from Study to Action. Aaron Berhardt seconded the motion and the motion carried unanimously. **APPROVED MOVING THIS ITEM FROM STUDY TO ACTION.**

James Mills stated that Mr. Tim Huddleston has resubmitted for approval a Preliminary Plat of The Cottages, a proposed 49 lot single family residential development of his property situated north of Springboro Road and south of McCulley Road. This development was originally granted preliminary approval in July 2010. Six month

extensions of the approval were granted in July of 2011 and in January of 2012. The Subdivision Regulations allow no more than two extensions of preliminary plat approval.

The property proposed for development is identified on Tax Map 52 as Parcel 49.00 and consists of approximately 15.50 acres. This parcel was rezoned from RS-20 to RS-10 (both single family residential) in 2010. All of the adjacent properties are zoned RS-20. A new road with the proposed name of "Cottage Way" will connect at Springboro Road in the south and at McCulley Road in the north in order to provide two points of ingress and egress. In addition, the plat depicts a new cul-de-sac with a proposed name of "Cottage Lane" that will serve the lots in the western portion of the property. The new streets are proposed with integral extruded mountable curbing and gutter on both sides. At the time of the original preliminary approval in July 2010 the developer was granted a variance to reduce the required right-of-way of the new streets from 45 feet to 40 feet. At the same meeting the developer also was granted a variance to reduce the diameter of new cul-de-sac from 100 feet to 90 feet with a pavement diameter of 80 feet. A new four (4) foot wide sidewalk is proposed for construction along the front of all the interior lots.

A new six (6) inch waterline is proposed for the development which is to connect to the existing six (6) inch waterlines located in the right-of-ways of Springboro and McCulley Roads. New hydrants are proposed for the development that will meet the spacing requirements of the regulations. In 2010 the developer reached an agreement with the City regarding the provision of public sewer in the general area. This project has been completed and the plat shows the property will be served by the newly installed 8 (eight) inch sewer line. The plans for the proposed on-site sewer infrastructure have been submitted to the Water Quality Control Department and have been approved by the State of Tennessee.

As shown on the plat, existing structures located on Lot 39 are to be removed as well as a house located partially in the area of Lot 1. No portion of the subject property is located in a Special Flood Hazard Area according to the Flood Insurance Rate Maps for the area. However, a portion of Lot 39 and the area of the intersection of Springboro Road and the proposed new street "Cottage Way" are indicated as being in a sinkhole retention area according to the Sinkhole Floodplain Report prepared by TTU and adopted by the City. The elevation of this area is shown on the plat as 1,122 feet and is labeled as an unbuildable area. The plat also shows preliminary storm water retention and detention areas along the western and eastern boundaries of the subject property. The areas along the western property boundary are within a 75 feet wide TVA easement. The developer will be required to submit written approval from TVA to locate any drainage features within this area. Finally, as shown on the plat, the developer is dedicating right-of-way along both existing roads measuring 25 feet from the centerlines to the property boundary as required by the regulations.

Staff recommended conditional approval of the preliminary plat, including all previously approved variances, subject to the following:

- Developer must schedule and attend a pre-construction meeting with all the appropriate city departments.

- Developer understands and agrees that all right-of-ways must be cleared prior to any installation of utilities.
- Developer must submit written TVA approval for location of drainage features to be located within the TVA easement.
- Developer must submit a roadway construction plan and profile with storm sewer and sidewalk details to the Department of Public Works. Plan shall include typical road section, subgrade, base width, asphalt width and 3:1 slopes
- Developer will work with Public Works to establish appropriate radius at street intersections
- Developer must provide utility easements along road frontages on the new streets and along existing streets as requested by the utility departments
- Completion of corrections or additions to the plat as determined necessary by the Planning Department and/or other appropriate city departments.

Aaron Bernhardt made the motion to grant conditional Preliminary Plat approval subject to Staff's recommendations. Chris Wakefield seconded the motion and the motion carried unanimously. **GRANTED CONDITIONAL PRELIMINARY PLAT APPROVAL.**

Chairman Jim Stafne announced that Aaron Bernhardt will be abstaining from voting on the Study Item due to a conflict of interest.

Chris Wakefield made the motion to take the following item for study. Jim Woodford seconded the motion. Votes: Jim Stafne - aye, Dr. Roy Loutzenheiser -aye, Judy Jennings - aye, Chris Wakefield - aye, Aaron Bernhardt - abstain, David Webb - aye, and Jim Woodford - aye. Motion carried.. **STUDY ITEM.**

(1) CONSIDER FOR STUDY PRELIMINARY PLAT OF ST. JAMES NORTH, 5 LOT TOWNHOUSE DEVELOPMENT LOCATED OFF SOUTH WALNUT AVENUE. REQUEST SUBMITTED BY JERRY GAW, INC.

ADJOURNMENT: 6:16 P.M.

SUBMITTED FOR APPROVAL

SUBMITTED FOR RECORDING

**JAYNE BARNS CPS
PLANNING ASSISTANT**

**JIM STAFNE, CHAIRMAN
COOKEVILLE PLANNING
COMMISSION**