

**COOKEVILLE PLANNING COMMISSION
MINUTES
JULY 22, 2013**

The Cookeville Planning Commission met on Monday, July 22, 2013 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, Randy Dalton, David Webb, Jim Woodford, and Kay Starkweather.

MEMBERS ABSENT: Dr. Angelo Volpe.

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

STAFF MEMBERS ABSENT: Jim Shipley.

OTHERS PRESENT: Peggy Fragopoulos, Harriett Rowland, Tony Kennedy, Selene Kitchens, Yutaka Maeda, Tereasa Maeda, Hugh Adams, Aaron Bernhardt, Chris Knox, and Laura Militana.

CONSIDER FOR APPROVAL THE AGENDA AS SUBMITTED. Chris Wakefield 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 JUNE 24, 2013. Jim Woodford made the motion to approve the minutes of June 24, 2013. Kay Starkweather seconded the motion and the motion carried unanimously. **APPROVED.**

CONSIDER FOR ACTION REZONING 665 E. 22ND STREET FROM RM8 (MULTI-FAMILY RESIDENTIAL) TO CL (LOCAL COMMERCIAL). REQUEST SUBMITTED BY TONY KENNEDY ON BEHALF OF CHARLES SOARD. James Mills stated that Mr. Tony Kennedy, on behalf of property owner Charlie Soard, has submitted a request to rezone from RM-8, Multi-Family Residential to CL, Local Commercial property located at 665 East 22nd Street and identified as Parcel 24.00 on Map 40C, Group F.

The property proposed for rezoning is contiguous with CL zoning to the west, with CL and CI, Commercial Industrial Mixed Use zoning to the north, with LM, Light Manufacturing zoning to the east, and with RS-10, Single Family Residential Zoning to the south. It consists of approximately 4.6 acres and has frontage on both East 22nd Street and Denton Avenue. Located on the property are 39 dwelling units consisting of three (3) single family dwellings and 36 multi-family units located in eight (8) structures. Mr. Kennedy indicates in his application that the purpose of the rezoning request is to allow the construction of 11 additional multi-family dwelling units in three (3) new structures on the property for a total of 50 dwelling units. He also indicates in the petition that the new units

would be of all brick construction. It should be noted that the city's current architectural standards were not in effect at the time the existing multi-family dwellings were built.

The RM-8 zoning district allows multi-family development at a density of 5,000 square feet per dwelling unit. With a total land area of 4.6 acres or approximately 200,000 square feet, a total of 40 dwelling units could currently be located on the subject property. The CL zoning district allows multi-family development at a density of 3,000 square feet per dwelling unit. Should the proposed rezoning be approved a total of 66 dwelling units could potentially be located on the property.

Prior to 2005 the subject property was zoned as RS-10, Single Family Residential. A request to rezone the property to LM, Light Manufacturing was denied by the Planning Commission in October of 2004. In November of 2005, following the acquisition of the property by Mr. Soard, a request was submitted to rezone the property to RM-14, Multi-Family Residential. Consideration of this request was postponed until December of 2005 due to concerns regarding spot zoning. Between November and December 2005, Mr. Soard acquired additional contiguous properties increasing the area to be considered for rezoning to approximately five (5) acres when including adjacent street right-of-way, which in the Planning Department's opinion reduced the potential for the rezoning to be considered as a spot zone. In December 2005 the Planning Commission denied RM-14 rezoning but approved the current RM-8 zoning. In recommending for RM-8 zoning in lieu of the requested RM-14 zoning, the Planning Department expressed concern regarding the density of development that would be permitted with RM-14 zoning on properties accessed by streets of less than collector status.

A total 36 multi-family units were built on the property following the rezoning to RM-8. The eight (8) structures erected to house the 36 units appear to have been situated in such a manner that additional units could be built on the property if it was rezoned for higher density. In May of 2007 the Planning Commission denied a request from Mr. Soard to rezone the property from RM-8 to RM-14 so that additional units could be built on the property. Primary concerns specified for denying the request were the traffic impact on the local streets accessing the property and the potential negative impact on the contiguous single family residential area to the south. Mr. Soard appealed the Planning Commission's denial to the City Council and the Council denied the request in September of 2007.

The twice previously requested and denied RM-14 zoning requires a minimum of 3,000 square feet per dwelling unit which is the same as currently requested CL zoning. The Planning Department has the same concerns regarding potential density with the current request that it had with the request in 2005. However, the current request does differ in at least some factors from the previous requests. First, according to a submitted preliminary site plan, the additional planned units would be accessed from East 22nd Street which connects to North Washington Avenue, a major arterial street. Architectural design requirements are now in place, which apply to the development of multi-family units. Lastly, the petitioner has indicated that he intends to construct only 11 additional units.

While the petitioner indicates that only 11 more multi-family units are planned for a total of 50 dwelling units, which is approximately 16 less than could be developed under the requested CL zoning, there is no assurance that additional units would not be built in the future. The proposed 50 units represent an approximate density of 4,000 square feet per dwelling unit, which is between the minimum lot area requirements of the current RM-8 zoning (5,000 square feet per dwelling unit) and the requested CL zoning (3,000 square feet per dwelling unit).

Obviously the addition of eleven (11) more dwelling units would have much less impact than the potential development of 27 more units. The concern for the Planning Department is the inability to limit the additional units to the proposed eleven (11) units should the property be rezoned. One potential method to limit the number of units on the property would be the property owner's voluntary enactment of a deed restriction limiting the density on the property.

Another possibility would be to split the zoning of the property. For example, rezoning enough of the property to CL, or possibly RM-14, so the desired additional 11 units could be constructed with the remainder down zoned to possibly RS-10, Single Family Residential would limit the development density. The future density of development could be significantly limited by rezoning approximately 50,000 square feet of the western portion of the property, which would include two (2) of the existing single family detached dwellings, to contiguous RS-10 zoning, and rezoning the remaining approximately 150,000 square feet of the property, where all the existing multi-family are located and where the petitioner has indicated the additional units would be located, to RM-14.

The Planning Department had been contacted by nearby property owners opposed to the rezoning request. The primary concerns specified were increases in density, traffic, and stormwater runoff detrimental to the area. The petitioner has submitted a letter from the Pastor of the Life Church indicating that the church was not opposed to the location of additional apartments on the subject property

Staff recommended denial of request for CG zoning and conditional approval of rezoning approximately 50,000 square feet of the western portion of the property to RS-10 and the remaining eastern portion of the property to RM-14, subject to a survey being submitted by the petitioner indicating these boundaries, with the purpose of limiting additional development to no more than 11 more dwelling units.

Jim Stafne stated that the Planning Commission looks to the future about 10-15 years, and if you look at the RM8 and RM14 zones, they each have 8 uses associated with them, but the CL has 358 uses which could be detrimental to the neighborhood.

Jim Stafne read a letter that was presented to him prior to the meeting from Mark & Regina Lee, who had to work and were unable to attend the meeting. The letter reads the following: "We are very much against this. We have too many apartments in this area already. This was a nice neighborhood and now it is turning into an apartment zone. The water that runs from 22nd Street runs across my property and at times it is quite a lot. If an

apartment complex is built thru there, it would flood my house that is at the dead-end of N. Maple @ 2150 North Maple. That house backs up to the one on 22nd Street, so please, no more apartments around that area. We are already flooded with apartments in that area.”

Tereasa Maeda, property owner at 626 E 21st Street, stated that there has been a lot of flooding from the apartments on Denton and it runs down to their property. Mosquitos are a problem in this area. Also, there will be more noise, trash, and additional water from future development. The house on the corner of Denton and 21st hasn't sold, because of the multiple times that it has been flooded. Mrs. Maeda added that they do not want more commercial or apartments in the neighborhood, and that her & her husband Yutaka, were both opposed to the rezoning request.

Peggy Fragopoulos stated that her sister, Harriet Rowland, lives at 2132 N. Maple Avenue and she is opposed to the rezoning request. When Mr. Soard first applied for rezoning at the December 19, 2005 Planning Commission meeting, the developer stated that they would build a privacy fence next to her house, which they didn't do, but instead they planted trees along her property line, some of the trees died and they have not been replaced. Some of the other reasons for opposition were trash being dumped on her property, traffic, and noise.

Chris Knox, property owner at 561 Ryan Circle, stated that he lives across from the apartments on Washington Avenue and that he was opposed to more apartments being built. Mr. Knox stated that he has problems with noise from college students late at night and traffic. There is only one dumpster and it is always overflowing and they don't have adequate parking. There is a house in his neighborhood that hasn't sold because it is across from the apartments.

Hugh Adams, brother to Harriet Rowland, stated that he hates to see a residential area become overshadowed and blocked out by apartments. It used to be a quiet neighborhood. The retention pond for the apartments is filled up with trash. Mr. Adams requested that the property not be rezoned.

Jim Stafne stated that he was concerned about the traffic on 22nd which is a dead end street and that Denton Avenue is a very narrow road. He was also concerns about deed restrictions because the City cannot enforce them.

Jim Woodford shared his concerns that the adjoining property was single family residences. Mr. Woodford added that the purpose and intent of zoning is to improve the appearance of the community, to ensure compatibility of the land uses and to preserve the resources and character of the area. He felt that this request for rezoning does none of the above and could de-value the property of the neighboring property, which infringes on the rights of others.

Jim Woodford made the motion to deny the rezoning request. Kay Starkweather seconded the motion and the motion carried unanimously. **DENIED REZONING REQUEST.**

Jim Stafne stated that Mr. Soard has the right to appeal the decision by submitting a written request to the Planning Department within 30 days from tonight's meeting.

CONSIDER FOR ACTION AMENDMENTS TO THE ZONING CODE RELATIVE TO TOWNHOUSES AS PERMITTED USES WITHIN THE RD & RS-5 ZONING DISTRICTS WHEN LOCATED IN AN RAO DISTRICT. REQUEST SUBMITTED BY STAFF. James Mills stated that the Planning Department has prepared for consideration amendments to the Zoning Code to allow single family attached dwellings (townhouses) as uses permitted on review in the RS-5, Single Family Residential and RD, Single and Duplex Residential zoning districts.

A significant portion of the area located west of North Willow Avenue identified within the Cookeville 2030 Plan as being in need of redevelopment or revitalization is zoned as RS-5, Single Family Residential or RD, Single Family and Duplex Residential. Single family attached dwellings (townhouses) are not permitted uses within these zoning districts. There is some concern that the inability to construct townhomes in these zoning districts will discourage utilization of RAO, Redevelopment Area Overlay zoning in the area west of North Willow Avenue where RS-5 or RD is the underlying zoning.

To address this concern the Planning Department proposes amending the provisions of the RS-5 and RD Districts to allow townhouses as uses permitted on review only when located within an approved RAO District. The specific amendments would be as follows:

Insert in Section 213, RS-5, SINGLE FAMILY RESIDENTIAL DISTRICT, Section 213.3 USES PERMITTED ON REVIEW, the following provisions:

213.3C Single family attached dwellings (townhouses) when located within an approved RAO, Redevelopment Area Overlay District

Insert in Section 214, RD, SINGLE FAMILY AND DUPLEX RESIDENTIAL DISTRICT Section 214.3 USES PERMITTED ON REVIEW the following provisions:

214.3D Single family attached dwellings (townhouses) when located within an approved RAO, Redevelopment Area Overlay District

Staff recommended approval of the amendments.

Dr. Roy Loutzenheiser made the motion to approve the amendments. Randy Dalton seconded the motion and the motion carried unanimously. **APPROVED AMENDMENTS.**

CONSIDER FOR ACTION FINAL PLAT OF UNIVERSITY SQUARE, 36 LOTS LOCATED BETWEEN NORTH WILLOW AND LAUREL AVENUES AND WEST 7TH AND WEST 8TH STREETS. REQUEST SUBMITTED BY JERRY GAW. James Mills stated that Mr. Aaron Bernhardt, on behalf of Bernhardt LLC, Jerry C. Gaw, Inc. and

Pat Fitzpatrick, has submitted for approval a Final Plat for University Square. University Square is a 35 unit townhouse (single-family attached) development located west of North Willow Avenue and east of Laurel Avenue between West 7th and West 8th Streets currently under construction.

The Planning Commission, at its May 2013 meeting, approved a Preliminary Plat for the proposed development of 35 single family attached dwellings with setback reductions. In March of 2013 the Planning Commission recommended that the City Council enact an RAO (Redevelopment Area Overlay) zone for the area depicted in the submitted RAO Plan. Ordinance Number O13-04-08, establishing the RAO district for the subject area, was approved on second and final reading at by the City Council at its May 16, 2013 meeting and it became effective on May 31, 2013. The Final RAO Plan was recorded on July 11, 2013.

The subject property is identified as Parcel 24.00 on Tax Map 400, Group A and consists of approximately 1.75 acres. The approved Preliminary RAO Concept Plan depicted the development of 35 townhouses which was an increase of approximately 10 units over what could be constructed under CL zoning. Approved floor plans indicated that the dwelling units would consist of two (2) story dwellings with kitchen, living, and dining areas on the first floor and two (2) bedrooms and two (2) baths located on the second floor. The approved plan also included reduced setbacks along West 7th and West 8th Streets and Laurel Avenue.

In the opinion of the Planning Department the Final Plat substantially conforms to the Preliminary Plat and Final RAO Plan. The plat depicts the 35 townhouses clustered into three (3) groups of nine (9) units and one (1) group of eight (8) units. Sidewalks along West 8th Street and Laurel Avenue are under construction as well as the rain garden for storm water detention in lieu of a detention pond. All of the units are accessed and addressed from the private interior drives and parking areas. No direct vehicle access from public streets to any dwelling has been provided. Canopy trees will be planted along all street frontages and street signage will be installed. Refuse collection will be provided with the enclosed dumpster area. A common mail area will also be provided. Final paving is anticipated to be completed by the first week of August. No financial guarantees are required due to the private nature of all of the infrastructure components. A Homeowners Agreement (HOA) regarding the maintenance of the private streets, utilities and common areas is required within 15 days after the plat is recorded.

Staff recommended conditional approval of the Final Plat subject to the submittal of the recorded Homeowners Agreement (HOA) and the completion of any corrections or additions to the plat as determined necessary by the applicable city departments.

Jim Woodford made the motion to grant conditional Final Plat approval subject to the submittal of the recorded Homeowners Agreement (HOA) and the completion of any corrections or additions to the plat as determined necessary by the applicable city departments. Chris Wakefield seconded the motion and the motion carried unanimously.

CONDITIONAL FINAL PLAT APPROVAL.

STAFF REPORTS:

(1) MINOR PLAT APPROVALS:

- HASSLER DIVISION – 1 LOT LOCATED ON LOCUST GROVE ROAD – LLOYD HASSLER.

ADJOURNMENT: 6:15 P.M.

SUBMITTED FOR APPROVAL

SUBMITTED FOR RECORDING

**JAYNE BARNS CPS
PLANNING ASSISTANT**

**JIM STAFNE, CHAIRMAN
COOKEVILLE PLANNING
COMMISSION**