

DURHAM CITY COUNCIL WORK SESSION
Thursday, April 7, 2011 – 1:00 p.m.
Committee Room – 2nd Floor – City Hall

Present: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Absent: None.

Also present: City Manager Thomas Bonfield, City Attorney Patrick Baker and City Clerk D. Ann Gray.

SUBJECT: Alvan L. Robinson

To receive comments from Alvan L. Robinson regarding relocation from Rolling Hills.

City Attorney Baker stated Mr. Robinson comments maybe related to the purchase of his property by the city and discouraged the council from hearing this matter publicly to avoid having direct negotiations with the property owner.

City Manager Bonfield stated it was the council's decision whether or not to hear from the citizen, but asked that the council not to engage in any kind of discussions or negotiations that would impact their discussions with Mr. Robinson.

Motion by Council Member Clement seconded by Council Member Woodard not to receive comments publicly from Mr. Alvan Robinson due to the comments by the City Attorney and City Manager.

The motion was approved unanimously.

Mayor Bell informed Mr. Robinson that the council would not be entertaining comments from him on the item and asked that he continue his conversations with the administration.

SUBJECT: STEPHEN HOPKINS

To receive comments from Stephen Hopkins regarding the Mayor's Summer Youth Work Program.

Stephen Hopkins spoke in support the Mayor's Summer Youth Work Program. He commented on the positive impact it has had own his family members who have participated in this program.

Kim Moss provided a status report on the 2011 Mayor's Summery Youth Program. Also, she reported on companies in past years who have hired summer youth.

April 7, 2011

At this time, certificates of completion were presented to several employees of the Public Works Department for completing HEO Track Excavator Training.

Also, a three-minute video was presented by the Stormwater Division entitled “Stormwater Dollars at Work.”

SUBJECT: ANNEXATION OF “Donut Hole” Properties

To receive a presentation on the Annexation of “Donut Hole” Properties.

Deputy City Manager Ted Voorhees gave a powerpoint presentation highlighting the following:

Contiguous “Donut Hole”
City-Initiated Annexation Procedures

Four Types of Annexation

- Legislative Act (General Assembly annexes to the City)
- Voluntary petitions contiguous to the city limits (by property owners, often they are developers)
- Voluntary petitions not contiguous to the city limits (often called “satellite” annexations) (still by property owners, often they are developers)
- City Initiated – referred to as the standards and services method

City Charter allows some special exceptions to these basic methods.

City Annexation History

Donut Hole Characteristics

- Durham has 44 separate “holes” within the contiguous city limit
- 753 total acres of donut holes
- Range in size from 262 acres to 261 square feet
- Total assessed tax value of \$71.4 million

City-Initiated Annexation Authority

- City Charter Section 2.1 authorizes the annexation of any area, or part thereof, that is surrounded by the corporate boundaries of the City of Durham
- City Charter Section 2.5A provides an expedited procedure for the annexation of a street that is bordered on its two opposing sides by property within the City.

Right-of-way

- Five “donut holes” are street rights-of-way that can be annexed through the expedited procedure established in Charter section 2.5A

April 7, 2011

Small Areas Partially in the City Limits

- Five “donut holes” are properties partially in the City and already receiving City services

Isolated Small Parcels

- The majority (21) of the “donut holes” are small, isolated parcels which will have little or no service impacts

Small Subdivisions

- Eleven “donut holes” are small, subdivisions which may require some limited new City services

Larger Areas

- Two of the “donut holes” are larger areas which will require new City services

Resolution of Consideration

- Approved by the City Council or Planning Commission
- Must identify area under consideration (metes and bounds description or map)
- Notify persons subject to annexation of legal rights
- Effective for two years after adoption
- Not required if the effective date of the annexation will be at least 1 year after passage of the annexation ordinance

Resolution of Intent

- Must be passed by City Council at least one year after the resolution of consideration
- Must include: area under consideration; date of public information meeting (45 to 55 days after passage; date of public hearing (60 to 90 days after passage)

City-Initiated Annexation Process – Option 1

- Resolution of Consideration
- Notice to Affected Owners
- Resolution of Intent
- Service Plan Adoption
- Public Information Meeting
- Public Hearing
- Annexation Ordinance

City-Initiated Annexation Process – Option 2

- Resolution of Intent
- Services Plan Adoption
- Public Information Meeting
- Public Hearing

April 7, 2011

- Annexation Ordinance (Effective date of annexation at least one year after annexation ordinance)

Fiscal Impact

- Revenues are expected to cover new expenses because of the size and location of the “donut holes”
- Some larger expenditures may be required (street repaving for “donut hole” #7, pump station for “donut hole” #19)
- Detailed cost estimates and cost/benefit analysis will be prepared as part of the service plan

Senate Bill 27

- Would prohibit cities from approving a resolution of consideration, resolution of intent, or city-initiated annexation ordinance until July 1, 2012
- Passed the Senate on March 7
- Currently in House Committee

Next Steps – Direct the Administration to:

- Prepare expedited annexation resolutions for ROW “donut hole” annexation areas; and
- Prepare a Resolution of Intent and Service Report for all other contiguous “donut hole” annexation areas

In conclusion, Deputy City Manager Ted Voorhees stated subject to council giving any other directions, the administration is recommending that they prepare an expedited resolution for each of the donut holes that are right-of-ways [streets] and will not affect citizens and prepare a full package with the resolution of intent and a service report for all the other contiguous donut holes annexation areas.

City Manager Bonfield stated unless the council requests something different, it was the intent of the administration to move forward with the recommendation.

It was the consensus of the council for the administration to move forward with recommendations as stated.

Victoria Peterson, a citizen, commented on this item.

**SUBJECT: AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE –
COMMERCIAL INFILL DISTRICT**

To receive a presentation on the Amendment to the Unified Development Ordinance – Commercial Infill District TC1000006.

April 7, 2011

Ann Kramer, of the City/County Planning Department, gave a powerpoint presentation highlighting the following:

Text Amendment –Case TC1000006

- Commercial Infill Ordinance Amendment: to establish a new commercial zoning district for the Urban and Compact Neighborhood Tiers

Commercial Infill District – Project Origin (2009)

- Quality of Life, West Chapel Hill Street Merchant’s Alliance, Self Help
- Challenges to development and redevelopment: suburban parking requirements; wide buffers; minimum lot sizes; deep setbacks

Commercial Infill District – Project History (2010)

- Staff evaluation of small Urban Tier commercial areas
- Staff analyzed various planning tools and options
- New Commercial Infill (CI) District viewed as best tool

Commercial Infill District – Public Outreach

- Workshop May 2010 – specific questions about issues; citizen input for district regulations
- Workshop October 2010 – draft district regulations; citizen input on boundaries

Commercial Infill District – Articles 1 and 4

- Establish the commercial infill as a new commercial zoning district
- Applies in the compact neighborhood and urban tiers
- Establish Intent – pedestrian oriented; small and mixed use nodes; direct access to residential neighborhoods

Commercial Infill District – Article 5, Use Regulations

- Permitted uses similar to other commercial districts
- Focused on unique character of urban commercial nodes
- Upper story residential allowed
- Townhomes allowed

Commercial Infill District – Article 6, District Intensity Standards

- Lot Area – 20,000 square foot maximum, greater with minor special use permit
- Street Yard – 10-15 feet from the curb
- Side Yard – 10 foot maximum
- Rear Yard – 10 foot minimum
- Height – 35 feet maximum, no modification; 50 feet maximum if using 1:1 step-backs
- Other Changes – several changes to clarify and simplify the presentation of the current ordinance requirements; no new standards other than CI district

April 7, 2011

Commercial Infill District – Article 9, Landscaping and Buffering

- Required CI Buffers – 10 feet against residential districts; none against commercial districts; 10 feet against industrial districts
- Buffer alternatives – solid hedge of evergreen under-story trees; eight foot high wall
- Vehicle Use Area (parking lot) Landscaping
- Street Trees and Alternatives
- Other Changes to clarify and simplify the presentation of the current ordinance requirements

Commercial Infill District – Article 10, Off-Street Parking & Loading

- Required CI parking – use the CN Tier parking ratios; new parking to rear and side; bike parking within 50 feet of entrance; on-street loading similar to downtown
- Other changes to clarify and simplify the current ordinance requirements
- Expansion of on-street parking for the Urban Tier

Commercial Infill District – Next Steps

- Return to City Council for public hearing and adoption – text amendment; zoning map change for West Chapel Hill Street area
- Board of County Commissioners for the text amendment

Ms. Kramer stated council will be asked to consider this item at a later meeting.

SUBJECT: REPORT ON FAILED AND STRUGGLING DEVELOPMENTS

To receive a report on failed and struggling development; and

To proceed with completion of the work for the failed and struggling developments in accordance with the process recommended in the report, and when necessary, bring individual failed developments requiring a special assessment back to the City Council for approval at the appropriate time.

Manager of Engineering & Stormwater Ed Venable provided background information stating the Public Works Department oversees the inspections of public infrastructure improvements that new developments are required to construct [water lines, sewer lines, streets, sidewalks and stormwater facilities]. He commented on the construction surety the city will hold as a pledge that they will eventually build the pertinent infrastructure and complete the project. He stated following the 2008 downturn in the economy, some developers have failed or are struggling. Mr. Venable stated the city is currently dealing with a number of developments that the Public Works Department has placed into four categories of financial distress as follows:

April 7, 2011

- Category 1 – Restructured Developments (15 total) developer has restructured or a new developer has purchased the project. These projects have been completed or a new viable developer with appropriate construction securities in place is performing the work toward completion of the development.
- Category 2 – Monitored Developments (12 total) there is no work going on; people are not responsive; things are at a standstill. Conservations are beginning to take place with the holders of the construction sureties.
- Category 3 – Struggling Developments (17) – these developments are the ones where the administration is actually negotiating with the holder of construction surety which is often a bank or a bonding company.
- Category 4 – Failed developments (8 total) the city has collected the construction security for the project. Currently the City is finalizing punch lists and estimating costs to complete projects in this category.

Mr. Venable provided four alternatives for the council to consider, recommending Alternative 3 for failed & struggling projects whereby Public Works proceeds with securing the available construction security funds for the development. The work to be completed will be investigated and a list of quantities prepared. An evaluation will then be made to determine what work is critical and what can be considered non-critical. A meeting with the affected property owners (including homeowners) would be conducted to review the situation and the difference in cost between the available security funds and the total project would be discussed. Through the use of the assessment process available under the City Charter or the N.C. General Statutes, the City of Durham would assess the property owners for the cost of the constructed critical work less any available construction security collected by the City.

The City Attorney's office spoke on the mechanisms in the charter regarding assessments.

James Williams, representing Stone Hill Estate, addressed the council stating the residents are frustrated that several streets are not completed in their subdivision. He asked that the state insurance commissioner be contacted and commented on the surety being paid at 100% when something fails. He stated there are 457 homeowners in Stone Hill and that's over 1,000 voters and they want to know what is going on.

Senior Assistant City Attorney Fred Lamar commented on what steps have already been taken regarding Stone Hill Estates.

Mr. Venable stated they began the process of calling the bond for Stone Hills Estates in 2008 and they continue to be in negotiations. He commented on their final offer to the insurance company telling them to go out and do the work that needs to be done by April 20th and if they do not comply, the city wants the funds to complete the work.

April 7, 2011

Mayor Bell asked if the insurance commissioner is being copied on this – have they been contacted.

Mr. Venable replied no.

Mayor Bell stated the insurance commissioner needs to be contacted.

James Williams, of Stone Hill Estates, suggested that the insurance commissioner be made aware of this matter with the insurance companies – they in turn will do a full investigation and if they are not doing their job they will not be able to provide insurance in the State of North Carolina.

Council members asked City Attorney Baker along with his staff to take a more active role in dealing with the insurance companies.

The administration will provide an update on Stone Hill Estates at the April 21, 2011 work session.

SUBJECT: R. KELLY BRYANT PEDESTRIAN BRIDGE REPORT ON LIGHTING

To receive a report on the accent lighting of the R. Kelly Bryant Pedestrian Bridge over NC 147.

Ed Venable of the Public Works Department provided a status report on why there is an outage at times on the bridge and noted what steps are underway to correct the problem. Also, he stated the lighting was under warranty.

At this time, Assistant to the City Manager Karmisha Wallace provided council with a legislative update.

City Manager Bonfield noted the items that would appear on the April 18th City Council meeting agenda.

A motion was made by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to settle the agenda as stated by the city manager.

April 7, 2011

The motion was approved unanimously and the meeting was adjourned at 3:58 p.m.

D. Ann Gray, MMC
City Clerk