

CITY OF CONWAY
PLANNING COMMISSION MEETING
THURSDAY, APRIL 11, 2024
Planning & Building Dept. Conference Room – 196 Laurel Street

Present: Brian O’Neil, Ellen Watkins, George Ulrich, David Sligh, Thomas J. Anderson III
Absent: Danny Hardee, Jessica Wise, Kendall Brown
Staff: Jessica Hucks, Planning Director; Brent Gerald, Planner; Katie Dennis, Planning Concierge; Marcus Cohen, IT; Anne Bessant, Planning Assistant, Paul Lawson, Attorney
Others: Jamie Steele, Roger Roy, Patrick Zukowski, Brady Gantt, Anna Lewis, & others

I. CALL TO ORDER

Chairman O’Neil called the meeting to order at approximately 5:30 pm.

II. APPROVAL OF MINUTES

Sligh made a motion, seconded by Ulrich to approve the March 7, 2024 minutes as written. The vote in favor was unanimous. The motion carried.

III. PUBLIC INPUT

There was no public input. Ulrich made a motion, seconded by Watkins, to close public input. Motion carried unanimously.

IV. SUBDIVISIONS

A. *Previously Deferred... 2208 Sixth Ave* – requesting a design modification to allow a structure to be constructed on an existing lot of record that lacks the required frontage on to a public maintained (and improved) street.

Hucks stated that the above item was initially considered at the November (2023) Planning Commission (PC) meeting but was deferred to a workshop held in December (2023) in which Planning Commission denied the applicant’s request for a design modification that would have allowed the applicant to construct a single-family structure on an existing lot of record that lacks the required frontage onto a publicly maintained street. At the February (2024) Planning Commission meeting, PC moved to reconsider the design modification.

Hucks recapped the request for Planning Commission, stating that the subdivision that resulted in the creation of the lots on Sixth Ave was created in 1941. At that time, the road was named “Myrtle Ave” and it was not labeled as being public or private. However, the right-of-way width is 40-ft. The lot in question predates municipal design standards (i.e. dimensional standards, access management standards, etc.), making the lot legal nonconforming, in that it does not meet the minimum lot width requirements for the R-1 zoning district nor does the lot meet the requirement that all lots shall front a public street that has been dedicated for maintenance by the city, county, or state, as required per the city’s residential design standards and the city’s

Total appraised value: \$1,350,000
Total acreage of development: 11.83 acres
Open Space Required (based on # of lots): 0.94 acres (45 lots x 2.6 x 0.008)
Total fee-in-lieu amount: \$107,269.65

The fee in lieu for consideration for Chapman Village is therefore \$107,269.65. This fee would be required to be paid prior to the recording of any lots, in accordance with *Section 10.3.9, E.7*, as well as all other conditions of development be satisfied. Planning Commission's recommendation for the fee-in-lieu amount will be forwarded to Council for consideration at their April 15th meeting.

Staff recommends approval of the fee-in-lieu of open space amount, consistent with the requirements specified in the UDO.

Brady Gantt, the applicant, was present and further explained the request.

Sligh made a motion to recommend approval of the requested fee-in-lieu to City Council as presented. Anderson seconded the motion and the motion carried unanimously.

V. PUBLIC HEARING(S)

A. TEXT AMENDMENTS

1. Amendment(s) to *Article 6 – Design Standards*, of the City of Conway Unified Development Ordinance (UDO), regarding design standards for residential dwellings and dimensional standards for single-family attached (townhomes) dwellings.

Hucks provided an overview of the amendment to Planning Commission. In 2022 Council approved an amendment to *Article 6-Design Standards*. This ordinance implemented residential design standards that are applicable to all residential dwelling types for major residential subdivisions, which came about as a result of growing concerns with small lot subdivision and the quality of housing being constructed within the City. Before the amendment, there were already standards in place for townhome or multifamily developments; however, the 2022 amendment included requirements for single-family detached and duplex dwellings in major developments as well. Staff has found that the current wording of the ordinance has not yielded the quality of product that was intended with the adoption of this ordinance.

Amendment #1: Dimensional Standards for Fee-Simple Single-Family attached (townhomes)

Fee-Simple Townhome Lot Depth Requirements

It has also recently been brought to staff's attention that the requirement of lots zoned Medium-Density Residential (R-2) with minimum lot depths of 120' required leans to a larger lot size being required than necessary for single-family attached dwellings, making it more feasible (financially) for a developer to construct townhome projects as "in-common" verses "fee-simple". This then causes realtors to use comparison pricing for condos (Horizontal Property Regimes HPR) rather than comparison pricing for single-family *attached* homes, and therefore the cost of the townhomes is drastically lower, resulting in a lesser quality product rather than a higher quality product when compared to developments with single-family *detached* dwellings, which tend to have higher price points.

Staff proposes reducing the lot depth to 100' from 120' for fee-simple townhome development in order to provide more opportunities for fee-simple townhome development in the city and more opportunities for home ownership outside of single-family *detached* style homes.

Amendment #2 – Design Standards for single-family detached, duplex, or semi-attached dwellings
Design standards for residential dwellings

Since the adoption of the design standards for single-family detached dwellings, several builders have gotten creative in how they implement these requirements, with some implementing brick on the front in addition to vinyl siding, but then installing a band of fiber cement board across the bottom of each side of the house. While technically, this does satisfy the language in the ordinance, staff does not believe it satisfies the *intent* of the ordinance. Examples of this have been included in your packet of information.

Staff is requesting to amend *Section 6.2.3-Residential Design Standards* to provide clarification in the wording used to describe the requirements for façade materials for “Single Family (detached), Duplex and Duplex (Semi-Attached)” dwellings in major subdivisions to state specifically that if vinyl siding is one of the materials that will be utilized, that a second material is also required, that the same material used on the front must also be used on the sides, and possibly require a certain amount of the material to be utilized on the sides as well –subject to the approval of the Planning Dept. (*i.e.* plan reviewer, Zoning Administrator, or Planning Director).

A few different options (Option A, B, and C) have been included for consideration.

Option A adds a section for “*Intent*” and a section for “*Interpretation.*” In addition to providing clearer standards for how much of a second material would be required on structures by adding “*Such materials shall be diverse in appearance and on scale with the height of the structure.*” option A would also require that a minimum of 2 different materials be used on the front and side facades rather than only if vinyl siding was proposed to be one of the façade materials and would also require that rear facades that are visible from public rights-of-way have the same requirement(s) as the front and side facades. Additionally, shutters could be used to help avoid monotonous repetition of planes on front and side facades.

Option B also includes an “*Intent*” and “*Interpretation*” section but also provides additional details on the intent of the ordinance. This option also includes a section for additional architectural details and features that would be required on front and side facades. However, this option leaves the ability for vinyl siding to be utilized as one of the façade material choices with a second material also being required; whereas Option A requires two façade materials regardless of whether or not vinyl is one of the materials to be used.

Option C incorporates the standards of Option B, but Option C would also require “minor” residential developments to adhere to the residential design standards. Additionally, Option C would require garages that are front-loading or that face a public street to have decorative features, such as windows or other ornamental feature. Finally, Option C includes requirements for major residential developments to have block diversity, which would prohibit building elevations or mirrored building elevations from being located on either side or across the street from itself. A block diversity plan would be required to be submitted with the preliminary plans for a major development, or with final plat submittal, but in no instance would a building permit be issued without there being an approved block diversity plan on file.

Staff recommends that Planning Commission give a thorough review of the proposed amendments to Article 6 of the UDO and make an informed recommendation to City Council.

The board and staff discussed the request at length.

There was no public input. Sligh made a motion, seconded by Ulrich, to close public input. Motion carried unanimously.

O'Neil made a motion to recommend approval of the request to City Council, promoting Option C with the condition to remove the required "minor" residential developments to adhere to the residential design standards, seconded by Ulrich. The motion carried unanimously.

2. Amendment(s) to *Article 11 – Signage*, of the City of Conway Unified Development Ordinance (UDO), regarding signs placed on public property and/or within public rights-of-way.

Hucks gave an overview of the applicant's request. City staff was asked to look into imposing a fine on signs that are illegally placed in rights-of-ways. A couple of years ago, the City amended the Unified Development Ordinance (UDO) (*Ord. ZA2021-08-16 (C)*) to remove/repeal the section pertaining to temporary signage; largely due to the 2015 US Supreme Court decision of *Reed v. the Town of Gilbert*, which had to do with temporary signs and the requirement of government agencies to be content neutral in their enforcement of temporary sign requirements.

Section 11.1.3 – Removal of Signs Erected on Public Property or Rights-of-Way, of the UDO, states "it shall be unlawful to erect, use or maintain a sign or sign structure on public property or public right-of-way without the approval of the City of Conway. The City of Conway shall be authorized to remove such signs."

In lieu of having a separate "Temporary Sign" ordinance to address certain temporary signs, some types of signage that is erected on a recurrent basis, such as political signs, remains as its own section of the sign ordinance, with requirements for the number, size, height and location(s) of such signs. Additionally, *Section 11.4.9 (C), Location*, states that such signs shall not be located in any public rights-of-way nor any sight distance triangles.

There has been an uptick in signs being placed in rights-of-way throughout the city, and with the election season underway, the number of temporary signs that end up being placed in rights-of-way will continue to increase. Currently, there is a limited amount of staffing to pull signs from rights-of-ways, and many times, having to designate staff time to pull signs from rights-of-way requires taking staff and resources away from other job duties with set deadlines, such as plan / permit reviews, preparing for meetings or preparation of several other items in accordance with City Ordinance and/or State law, as there is no dedicated position for enforcement of signage. However, practice has been to bring all of the signs back to our department, separate them, contact the sign's owner (if known), coordinate the signs being picked up by owners, taking the signs to the City shop for disposal and/or issuing citations for sign violations and attending court dates; a very time-consuming task. Due to the limited space that we have available for storage of temporary signs – sometimes as many as 1,000 or more at one time, this too has become a nuisance, and is not a good use of the limited resources that staff has available.

The City created a new position last year, which was recently filled, for a Zoning & Landscaping Inspector, whose primary job duties include investigating complaints or violations, and to assist with remedying these

complaints and violations, but this is only one of the duties of the inspector, and it will not solve the number of ongoing issues revolving around the illegal placement of signs in rights-of-way.

Currently, any citations that are issued – if taken to court, may result in person(s) being found guilty of a misdemeanor offense. Staff proposes to amend the ordinance to instead make these types of sign violations (signs illegally placed in rights-of-way) a civil infraction, with a fine of \$50 per sign, rather than a misdemeanor offense. Additionally, the amendment would permit staff to immediately dispose of the signs that are removed from rights-of-way rather than store them.

While there are concerns with the proposed amendments, should they be adopted, such as who the citation would be issued to, conflicts with *Article 15* of the UDO (Enforcement) – which requires that written notice be given to the property owner or property tenant, issues with signs knowingly or unknowingly being placed in rights-of-way by people other than the sign owner (and without their permission), imposing a fee on illegally placed signage is a reasonable use of enforcement of the UDO, and these same concerns would certainly exist with or without the ordinance being amended.

The board and staff discussed the request at length.

There was no public input. Ulrich made a motion, seconded by Sligh, to close public input. Motion carried unanimously

Ulrich made a motion to recommend approval of the request. Anderson seconded the motion and the motion carried unanimously.

- 3. **DEFERRED**...Amendment(s) to *Article 10 – Subdivision and Land Development*, of the City of Conway Unified Development Ordinance, regarding revisions to various standards contained within Article 10.

VI. BOARD INPUT

None

VII. STAFF INPUT

None

VIII. ADJOURNMENT

A motion was made to adjourn the meeting. The vote in favor was unanimous. The motion carried. The meeting adjourned at approximately 6:38 pm.

Approved and signed this 2 day of MAY, 2024.

Brian O'Neil, Chairman

JESSICA WIFE - VICE CHAIRMAN