

Minutes
Newton Planning Commission
May 28, 2013

The regular meeting of the Newton Planning Commission was held at 7:00 p.m. on May 28, 2013 in the Council Chambers at City Hall.

Members

Present: Ken Simmons, Chairman
Stan Gabriel
Jim Granny
Donny Setzer
Melinda Travis

Members

Absent: Jim Smith
Mark Stalnaker

Staff Present:

Alex Fulbright, Assistant Planning Director
Max Sigler, Planner
Rob Powell, Commercial Development Coordinator

Item 1: Call to Order

Chairman Simmons called the meeting to order at 7:00 pm.

Item 2: Consideration of Minutes of the April 23, 2013 Meeting

Chairman Simmons asked for consideration of the minutes of the April 23, 2013 meeting. **Chairman Simmons** ruled that the minutes were approved as presented.

Item 3: Public Hearing

Text Amendment #2013-01 as filed by **William Hodge**; the Applicant is seeking to amend the zoning ordinance by changing the definition of Professional Residential Facility to exclude maternity homes. In addition, the applicant proposes that the use “maternity homes” be added to the table of uses as a permitted use in P-1, B-1, B-2, B-3, B-4, and M-1 zoning districts.

Chairman Simmons recognized Assistant Planning Director Alex Fulbright who reviewed his memo highlighting the following:

A property owner is proposing to operate a maternity home within Nottingham Subdivision. The intent of the maternity home is to provide support and supervision to the pregnant women residing at the home. This use is allowed in residential districts as a permitted use under the classification of Professional Residential Facility. The City’s Zoning Ordinance defines professional Residential Facility as follows:

Professional residential facility means any residential establishment, other than a hospital or nursing home, providing to persons in need of a structured environment board, lodging, supervision, medication, counseling, or other diagnostic or therapeutic services and licensed by the state department of social services.

Maternity homes are required to be licensed by the State of North Carolina's Department of Health and Human Services. The nature of such facilities are institutional due to the services provide by the operators of the home. The use is not consider as "family care home" which is permitted in all zoning districts allowing single family homes, as per the North Carolina State Statues as defined in G.S. 168-21(1), in accordance with the terms of G.S. 168-22 (see attachment); because pregnancy is not a disability according to the American Disability Act. Therefore the use is not required to be treated the same as single-family residential dwelling unit.

The applicant, **Bill Hodge** of 1772 Whitehall Ct stated that he represents a steering committed put together to resolve this issue. Mr. Hodge requested that the member of the audience raise their hand if they were in support of his application to restrict maternity homes (note that majority of audience raised hands). He said that the petition that was attached to the application had over 100 signatures. He explained that in September 2012, he and his neighbors became aware that Tom Gould was going to establish a maternity home in Nottingham Subdivision. Mr. Hodge stated that he was concerned that an institutional use would be allowed in a single-family neighborhood. Mr. Hodge explained that the state licensing process requires zoning compliance. He inquired with the City Planning Department if this was permissible. He found that the City classified the maternity home as a professional residential facility and would be permissible at the location proposed if a state license was obtained.

Mike Mcree of 1724 Knightbridge Drive stated that the covenants and restrictions do not allow non-residential uses. The site is not appropriate due to the location and lack of parking. He stated that the property owner of the site owes back taxes. He stated that if Mr. Gould donated the property to Catawba County Hope House; however, there is no record of this property being transferred. He also expressed concerns about paternal rights and that he feels that the proposed use was a money making idea endeavor for Mr. Gould

Wendy Pruitt, 1363 Kensington Cir stated that she was familiar with similar facilities in Charlotte and that security was something that was a big issue. She also stated that security was an issue of hers about the proposed location was not appropriate due to it being located in a single-family residential neighborhood.

Mr. Hodge stated that the purpose of the application is not just solving a problem in Nottingham but would solve a problem for the City as a whole. He stated that **Mr. Mcree** was correct in his statement about the restriction and covenants; and that enforcing those restrictions may be an avenue that the steering committee may take in the future.

Marty Steele of 52 18th Av NW, Hickory stated that he was member of the board of Catawba County Hope House, an attorney, and a friend of Tom Gould. He stated that he had not seen the

text amendment. He explained that he is not seeking to operate as a family care home per North Carolina General Statute 168. He stated that they would not begin operation until they are licensed. He stated that it was his opinion that maternity homes were exempt per general statutes; and that if they obtained licensure they could operate anywhere.

Mr. Hodge stated that they are not opposed to maternity homes when they are sited appropriately. He questioned whether the home has been donated and he further stated that if the home was donated to Catawba County Hope House, that if the organization were dissolved that the home would have to go to a like non-profit organization. He restated that they were seeking to solve a problem for the entire City. He expressed concerns for the motives of the organization.

Mr. Steele stated that there was likely nothing he could say that could dispel their feelings of suspicion. He stated that he was a licensed attorney and that he would not do anything that would jeopardize his license.

Teresa Reichard of 2174 Stonehenge St stated that she was a volunteer for Catawba County Hope House. She stated that the whole “not in my backyard” sentiment concerns her and causes her to be disappointed in her neighbors. She stated that a vacant home is more of a concern than an occupied home. She also stated that it was her opinion that reasoning for trying to keep the opening of the facility quiet was for security. She stated that there would be a policy in place to address the concerns for security. She called for her neighbors to look beyond their suspicions and help those in need.

Mr. Hodge explained that state license did not allow them to restrict the rights of the residents of the home. He stated that the Catawba County Hope House did not qualify to obtain a license in their name; however, they would be allowed to affiliate with an entity in order to acquire a license.

Kenneth McDermott of 1631 Kensington Cir expressed his concern about parking issues both on-street and off-street; that the proposed use is a violation of the deed restrictions; and the proposed use would devalue the property values in the area.

Ron Harris of 1350 Kensington Cir stated that he lived within proximity of such a facility in Lincoln County and that there were issues that arose. He went on to say that he and his neighbor became involved when the police were spotted staking out the facility looking for the father of one of the resident’s unborn child. He expressed concern that the same thing would happen here if the facility were permitted. He stated that people could benefit financially from a non-profit.

Piper Pruitt of 1363 Kensington Cir stated that she was 11 years old and that she was scared for the safety of the families that lived in Nottingham because the “baby’s daddy” might cause harm.

Mr. Mcree stated that he does not trust anything that Catawba County Homes House has said. He has concerns about parking and that fathers may try to seek out the mothers. He stated that a maternity home does not belong in a single-family neighborhood.

Ken Simmons, Planning Commission Chairmen explained that the Planning Commission is hearing the comments that are being made and will use them when they consider the issue. He also stated that this is a delicate issue and that the Planning Commission will take adequate time to make an appropriate decision; and that a decision may or may not be made tonight.

Jesses Smith of Conover stated that he grew up in Starmount Village, which is next door to Nottingham. He expressed support of Catawba County Hope House and the desire that the residents in the neighborhood would be supportive of their efforts.

Steve Schultz of 1481 Kensington Circle stated that he felt that the propose use would hurt the property values in the neighborhood. He also stated that he felt that the mission of Catawba County Hope House was a good thing; however, he felt the location was not appropriate.

Ken Simmons stated that speaker should not duplicate what has been stated.

Charles Sapp of 2156 Chelesa Ln stated that the proposed home was needed in the community; however the location was not appropriate.

Gene Beech of 1694 Knightbridge Dr stated that the proposed use was an honorable idea but the location was not ideal.

Chairman Simmons closed the Public Hearing and asked Planning Commission to consider the item.

Donny Setzer asked how many homes were in Nottingham. Someone in the audience responded that there were 112 homes.

Melinda Travis asked about the intake process, specifically who becomes a resident.

Mr. Steel responded that the board would determine who would reside at the home.

Ken Simmons asked if pregnancy was or was not a disability.

Mr. Fulbright responded that it was the opinion of the City Attorney that pregnancy was not a disability and was not protected as a family care home.

Ken Simmons asked **Mr. Steele** about his thoughts on the matter as an attorney.

Mr. Steele responded that it was his option that maternity homes would be treated the same as family care homes. He stated that maternity homes are exempt from zoning regulation under North Carolina General Statue 121.

Donny Setzer made a motion to table the request to the next meeting. **Jim Granny** seconded the motion; the vote on the motion was unanimous.

Chairman Simmons recessed the meeting for 5 minutes in order for the room to clear.

Item 4: Old Business

East 19th Street Corrective Rezoning – Public Meeting. The subject of the meeting is to discuss potential changes to the zoning of property on the southside of East 19th Street from N Rankin Avenue to East 20th Street.

Chairman Simmons recognized Alex Fulbright who explained that the purpose of this meeting was to determine the desire of the property owners of the area in order to make a decision about a zoning change from EM-1 to a residential zoning district. He pointed out the area on the map. He explained that the existing homes in the area were non-conforming uses in the EM-1 district and that they may not be built back if they were destroyed by more than 50% of their value. He also acknowledged Mrs. Fisher and Mrs. Gantt who lived in the subject area.

Mr. Fulbright also mentioned that this was an input meeting and that a public hearing would be held prior to the zoning being changed.

Mrs. Fisher and **Mrs. Gantt** was agreeable to the changes.

An unknown woman spoke against the changes. She lives adjacent to the large parcel that is between N Rankin Av and Power Line Ave.

Richard Deese, who represented Bassett, stated that they were opposed from their property being rezoned.

Mr. Fulbright, recommended that the area be shrunk to the northeast portion of the original proposed area.

It was the consensus of the Planning Commission that the area would be shrunk. Staff would bring back a map of the area to the commission at the next meeting.

Item 5: New Business

Renaming East P Street Extension to East P Street

Chairman Simmons recognized **Alex Fulbright** who stated that the City Council approved Technibilt's request to change the name of East P Street to Technibilt Drive; and that they agree to changing the name of East P Street Extension to East P Street. **Mr. Fulbright** explained that there were a number of addresses that would be affected and that it was his recommendation that staff would speak to those impacted by such a change to determine what their thoughts were.

It was the consensus of the Planning Commission that this was acceptable.

Item 6: Monthly Reports

Chairman Simmons recognized **Mr. Fulbright**, who stated that the monthly reports were not available for this month.

Item 7: Adjournment

With no further business, the meeting was adjourned.

Respectfully submitted,

Alex Fulbright

Alex Fulbright, AICP
Recording Secretary