

**Gastonia Planning Commission**  
**August 4, 2016**

Chairperson Pamela Goode declared a quorum and the Gastonia Planning Commission meeting opened at 5:31 pm on Thursday, August 4, 2016, in the Council Chambers at City Hall.

Present: Commissioners Rodney Armstrong, Jerry Fleeman, Jim Stewart, Commissioner Bob Cinq-Mars, and Chairperson Pamela Goode.

Absent: Commissioners Mark Epstein, Alec Long, and Bob Biggerstaff

Staff Members Present: Melissa Magee, Assistant City Attorney; Jason Thompson, AICP, Planning Director; Jana McMakin, AICP, Planner II; Julia Baker, Planning & GIS Specialist I, Chrystal Howard, Secretary, and Tucker Johnson, PE, Assistant City Engineer

**Item 1a: Role Call / Sound Check**

**Item 1b: Calls/Contacts to Planning Commission Members**

Commissioners stated there were no contacts.

**Item 1c: Oath of Office**

Ms. Howard administered the Oath of Office for reappointed members, Bob Cinq-Mars and Jim Stewart.

**Item 1d: Approval of June 9, 2016 Minutes**

Commissioner Fleeman made a motion to approve the June minutes as written and Commissioner Stewart seconded the motion. The motion was approved unanimously.

Chairperson Goode explained the rules of procedure and time limitations.

**Item 5: Public Hearing – Special Exception to the Flood Hazard Overlay (File # 8542)**

Subject hearing involves the granting of a special exception under section 7.6.1-17(A).11 of the flood overlay district to permit fill to construct a detention basin and improvements to the Robinwood Lake dam located along Catawba Creek in the City of Gastonia, North Carolina. These improvements will serve the new YMCA that is proposed adjacent to Robinwood Lake.

Geoscience Group, Inc. has submitted a flood study for the City of Gastonia to place fill within the 100-year flood zone on Catawba Creek as designated by the Flood Insurance Rate Map as established by the Federal Emergency Management Agency (FEMA). All work within the Catawba Creek flood zone is associated with the proposed YMCA.

Geoscience Group, Inc. has prepared a flood study in support of the "zero rise" certification required in the above criteria listed in the referenced section of the City of Gastonia Zoning Ordinance.

Chairperson Goode opened the public hearing and recognized Mr. Tucker Johnson, Assistant City Engineer for the purpose of staff presentation.

Mr. Johnson stated that he will present the request for special exception to the flood plain ordinance for the YMCA site. Mr. Johnson stated that the YMCA Flood Plain Encroachment Map fairly depicts the proposed fill placement in the flood plain. Mr. Johnson briefly explained the ordinance requirement. The applicant submitted a flood study to the City for review. City staff has reviewed the flood study and it appears there is no rise in the base flood elevation due to the improvements. Mr. Johnson continued to explain the YMCA Flood Plain Encroachment Map. The flood study engineer was not able to be present to answer technical questions. Mr. Tony Sigmon with the Gaston County Family YMCA is present to answer site questions. Staff recommends approving this request for a special exception.

Commissioner Fleeman ask Mr. Johnson to briefly explain how a flood study is generated. Mr. Johnson answered that flood studies are received and reviewed by City Engineering staff. Engineering staff will run flood studies through a FEMA model that depicts existing conditions and proposed changes providing various computations. No questions were asked by the board.

Chairperson Goode recognized Ms. Denise Bowman, 2078 Shannon Drive of Gastonia. Ms. Bowman is in opposition of the rezoning request. Ms. Bowman asked if the development is

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happening in a federal flood zone and Commissioner Fleeman identified and explained the area in conflict. Ms. Bowman inquired about the need for a special exception if there isn't a problem. Commissioner Fleeman answered that the City of Gastonia has a zero rise ordinance in the level of the flood zone. Commissioner Fleeman explained that the exception is only for the area identified on the map to improve the dam and prevent dam failure. No other construction is in the flood zone. Ms. Bowman asked if another retention pond will be built and Commissioner Fleeman explained the detention pond shown on the map is for the entire site. Ms. Bowman asked if the detention pond is still on the property and the Commissioner Cinq-Mars answered yes. Ms. Bowman had a concern regarding the level of water and Commissioner Cinq-Mars stated that the Commissioners do not have purview on the management of the pond. Ms. Bowman asked the Commissioners what they see as the benefit for this special exception. Commissioner Fleeman answered that the benefit is less flooding, it is certified to be zero rise, and it'll keep the dam in good condition so it does not collapse. No questions were asked by the board.

Chairperson Goode recognized Mr. Clyde Bowman, 2078 Shannon Drive of Gastonia. Mr. Bowman wanted to know if his property will be classified as a flood zone property. And Ms. Magee stated that this will not change any existing flood zones that exist today. No questions were asked by the board.

Chairperson Goode recognized Mr. Gary Miller 8040 Arrowridge Boulevard of Charlotte. Mr. Miller did not come forward to speak.

Chairperson Goode recognized Ms. Katrina Keogh, 2060 Shannon Drive of Gastonia. Ms. Keogh presented concerns and questions for previously held public hearings. However, Ms. Keogh did not understand why the engineering report was not provided in the notification received in the mail and why there is a lack of clarity. Ms. Keogh explained to the board her confusion with the notice map and what is being presented this evening of the flood zone.

Chairperson Goode informed Mr. Keogh that the concerns she presented should have been addressed when the public received notifications for prior public hearings related to when YMCA presented their rezoning requests. Chairperson Goode explained the subject being heard this evening. Chairperson Goode expressed her feelings on questions being asked and reiterated that when questions should have been presented. Commissioner Cinq-Mars explained the purpose of the map and who receives the notice.

Ms. Keogh also noted she heard an untruth by going to the engineering department today and Commissioner Cinq-Mars stated that the board has no idea.

Commissioner Stewart also provided a brief explanation of the special exception request.

Ms. Keogh summarized what she would like clarity in regards to the progress, including trees being leveled and an erosion issue with the dam. No questions were asked by the board.

Commissioner Cinq-Mars made the motion to close the Public Hearing and Commissioner Fleeman seconded the motion. The motion was approved unanimously.

Commissioner Fleeman discussed with the board about agenda page 5-2 approving the conflict area on granting the special exception between the dark blue (flood zone) and red triangle (dam improvements) area plus the dark blue (flood zone) and the base of rectangle (detention pond). Staff certified that it is a zero rise as the ordinance requires.

Commissioner Fleeman made the motion to approve the request as presented and Commissioner Stewart seconded that motion. The motion was approved unanimously.

**Item 2: Public Hearing – The Sign Mill Group, LLC (File # 8572)**

Subject hearing involves a Conditional Use Permit for an animal hospital with indoor kennels. The property is zoned UMU (Urban Mixed Use District) and RS-8 (Residential District, minimum 8,000 sq. ft. lots) and is located at 425 W. Franklin Boulevard. The property is owned by The Sign Mill Group, LLC.

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Chairperson Goode explained the quasi-judicial format of this hearing and requested that anyone signed up to speak be sworn in as required by North Carolina law. Ms. Howard administered the oath.

Chairperson Goode formally recognized Commissioner Stewart recusing himself from voting on Item 3: Public Hearing – The Sign Mill Group, LLC (File # 8572) as Commissioner Stewart is the architect on the project. Chairperson Goode declared a quorum for this item.

Chairperson Goode recognized Jana McMakin, AICP, Planner II for the purpose of staff presentation.

Ms. McMakin stated that this property is owned by The Sign Mill Group, LLC and the applicant is The Animal League of Gaston County. The Animal League of Gaston County currently has their animal hospital located at 972 E. Franklin Boulevard. Based on the need for more space, the Animal League is pursuing a conditional use permit (CUP) for the property located at 425 W. Franklin Boulevard. An animal hospital (with indoor kennels only) is permitted in the UMU (Urban Mixed Use) district with the issuance of a CUP. A portion of the property is also zoned RS-8 (Residential, 8,000 sq. ft. minimum lot size) but the applicant is not going to use this portion of the property and it is currently gated from the building and parking area. It is staff's understanding that some of the building will be used for the Animal League offices. Ms. McMakin explained the aerial photo of the existing building and parking lot.

The subject property is located in the York-Chester Historic District. The Animal League also received a Certificate of Appropriateness (# 8573) from the Historic District Commission for their request to develop a Memorial Garden in the rear yard behind the parking area. The garden will have grass, shrubs, and flowering plants. Statuary, benches and a memorial walkway will be installed, as funding permits.

Proposed conditions for the CUP:

1. Permit allows for the use of the site for animal hospital with indoor kennels only.
2. Development of the site shall be consistent with approved Certificate of Appropriateness (#8573).
3. Portion of subject property zoned RS-8 to remain undeveloped and no access to the animal hospital with the exception of a possible trail to 2nd Avenue sidewalk.
4. Street trees and restriped parking area and total number of spaces to be shown on a sketch plan prior to building permit submittal.
5. All other specifications and general provisions shall be met as required by the City of Gastonia Unified Development Ordinance.
6. In no instance shall the zoning conditions exempt a project from other development requirements.
7. Where the notes or depictions on the site plan may conflict with these conditions, the conditions shall govern.

Description of Adjoining Properties and Zoning

The subject property is surrounded by non-residential uses on the portion to be utilized. There is CBD (Central Business District) zoning to the north across W. Franklin Boulevard on a property that is owned by Gaston County. The Oakwood Cemetery is located to the east and zoned O-1 (Office District). There is a vacant tract located west of the subject property that is zoned UMU (Urban Mixed Use). The narrow portion of the subject property zoned RS-8 (Residential, minimum 8,000 sq. ft. lots) is surrounded by RS-8 zoning.

Consistency with the Comprehensive Plan

The Future Land Use Map within the 2025 Comprehensive Plan shows the property as Mixed Use. Therefore the request can be considered consistent and appropriate with the 2025 Comprehensive Plan and Future Land Use Map.

Statement of consistency and reasonableness:

The proposed Conditional Use Permit is consistent with the current and surrounding zoning and the land use identified in the Gastonia 2025 Comprehensive Plan, any applicable duly adopted small area plans, and any other development plans adopted by the City, in that the property has been developed for nonresidential use, the surrounding uses are nonresidential and the proposed

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use only allows for indoor kennels, therefore, the Planning Commission considers an affirmative vote to be reasonable and in the public interest.

Staff recommends that the request be approved as presented.

No questions were asked by the board.

Chairperson Goode recognized Mr. Ed Starr, 515 W. Second Avenue of Gastonia. Mr. Starr is in favor of the services provided by The Animal League of Gaston County and he does not have a problem with the business being located at this location. Mr. Starr's concern was alleviated that certain portion of the property would be closed and would have no access from W. Second Avenue. No questions were asked by the board.

Chairperson Goode recognized Ms. Terry Kenny, 1331 Heatherlock Drive of Gastonia. Ms. Kenny is in favor of the Conditional Use Permit request. Ms. Kenny is present tonight to answer any questions of the board. Ms. Kenny provided a brief history of their organization and read the proposed findings of fact:

- A. The use will not materially endanger the public health or safety if located where proposed and developed according to plan, in that the use of the property will be for a veterinary hospital with only indoor kennels and a pet memorial garden along the back of the property. The property will not contain any dangerous or noxious substances, will not house any dangerous activity and will not be loud or disruptive to the community.

The animal hospital that will occupy the property is presently located approximately 2 miles from the subject site on the same street, Franklin Blvd. The animal hospital has been in its present location since 2009 and there has never been a police report of any kind made against the clinic. The veterinary hospital and memorial garden will be to be a clean, quiet and safe business.

- B. The use meets all required conditions and specifications in that the property is located in an Urban Mixed Use (UMU) zoning district which allows a veterinary hospital with indoor kennels as a use of right. The building is located such that it is not near any residential dwellings. It is located along a major commercial corridor of Gastonia. Along the rear of the property (excluding the narrow street right-of-way), the new owners will open a pet memorial garden, which will be immediately adjacent to Edgewood Cemetery. The memorial garden will be a quiet-peaceful place with trees, landscaping, and statuary. The memorial garden will provide an additional buffer for residents located along Second Avenue.
- C. The use will not substantially injure the value of the adjoining or abutting property unless the use is a public necessity because the exterior of the building will remain substantially the same. The veterinary hospital is a quiet operation, with all indoor kennel walls soundproofed. The subject property is located within a busy commercial corridor, with the Gaston County Police Department across the street, the recreational center several and fish market lots further west and other commercial establishments across the street. A veterinary hospital will fit well into the present commercial mix.
- D. The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which is to be located and will be in general conformity with the adopted Gastonia Land Use Plan and other plans for physical development of the City as adopted by the City Council in that the building will remain basically the same and will be a professional business establishment. The businesses within the general area of the subject property include a variety of uses from a commercial fish market, recreational center, cemetery to the police department. Having another professional commercial establishment along Franklin Blvd. fits into Gastonia's plan for controlled and measured growth along this busy commercial corridor. The subject area would benefit from another professional business locating within the existing building.

Commissioner Cinq-Mars asked about the purchase of the property contract and whether the current property is being rented. Ms. Kenny stated that the current property is rented and they do have a contract to purchase this property. Commissioner Cinq-Mars would like to know if long

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range plans with the development of the properties to the west of subject property are anywhere near the subject property. Mr. Thompson answered that he has seen similar plans and it is conceptual at this point. The plans are in the vicinity, but do not directly abut.

No further questions were asked by the board.

Commissioner Fleeman made the motion to close the Public Hearing and approve the Conditional Use Permit with the findings of fact as stated and presented Commissioner Cinq-Mars seconded the motion. The motion was approved unanimously.

**Item 3: Public Hearing – Haywood Equity Group, LP (File # 8574)**

Subject hearing involves rezoning approximately 0.31 acres from RS-8 (Residential District, minimum 8,000 sq. ft. lots) to C-2 CD (Highway Commercial Conditional District). The property is located at 204 Beverly Drive. The property is owned by Haywood Equity Group Limited Partnership.

Chairperson Goode recognized Jana McMakin, AICP, Planner II for the purpose of staff presentation.

Ms. McMakin began by explaining the site description and background. Staff met with the applicant and their representative, after Technical Review Committee, who submitted a rezoning request to accommodate a driveway to allow access off of Beverly Drive. The subject property, 204 Beverly Drive, is adjacent to other land owned by the applicant and affiliated companies on which a drive thru restaurant (Wendy's) is proposed to be developed. The site plan for the Wendy's has been processed through the City's Technical Review Committee. The applicant subsequently submitted a rezoning request for adjacent property located at 204 Beverly Drive to construct a driveway for the Wendy's that would give access to Beverly Drive.

The subject property for this rezoning request consists of one tax parcel (105238) totaling approximately 0.31 acre. The lot contains an existing single-family residential home and is zoned RS-8 (Residential, minimum 8,000 sq. ft. lots). The applicant has submitted a site plan showing the driveway and the 30' Type D buffer being shown along the property line adjacent to RS-8 zoning (see attached site plan).

Proposed Zoning Conditions:

1. Allowable use shall be as shown on the site plan.
2. The applicant must obtain a driveway permit for the new commercial driveway.
3. A planted Type D (30') buffer must be installed as shown on the site plan.
4. All other specifications and general provisions shall be met as required by the City of Gastonia Unified Development Ordinance.
5. In no instance shall the zoning conditions exempt a project from other development requirements.

Adjoining Properties and Land Use Trends

Land use trends have been consistent in the area. Single family residential uses (RS-8 zoning) are generally located to the north and west of the subject property along Beverly Drive and Circle Drive. The applicant also owns the single-family property located just north of the site as well as the commercial property zoned C-3 (General Commercial District) located just east of the site along N. New Hope Road. McDonald's is located just south of the subject property and is zoned C-2 (Highway Commercial District) and fronts E. Franklin Boulevard.

Available Public Facilities

Public sewer and water currently serve the site. Current access from Beverly Drive to the property is by an unimproved driveway and does extend to the parking area of 109 N. New Hope Road. N. New Hope Road (NC-279) is a 5-lane divided highway. Beverly Drive is a 2-lane residential street with no curb and gutter or sidewalk.

Ms. McMakin stated that Wendy's site plan currently shows a right-in and right-out access off of N. New Hope Road and E. Franklin Boulevard. If the rezoning were to be approved, then the Wendy's would also have an access for a right turn and a left turn movement off of Beverly Drive.

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The Future Land Use Map in the 2025 Comprehensive Plan shows the subject property as residential.

Ms. McMakin informed the board of rezoning concerns that staff reviewed with the applicant, as well as, in the staff review meeting. Ms. McMakin noted that she fielded a couple phone calls about the rezoning.

Staff recommends that the request be denied.

No questions were asked by the board.

Chairperson Goode recognized Mr. David Smith, 516 S. New Hope Road of Gastonia. Mr. Smith is representing Haywood Equity Group Limited Partnership. Mr. Smith briefly explained the history of Haywood Equity Group Limited Partnership. Mr. Smith distributed a booklet to each Commissioner. Mr. Smith explained that the plan is to develop the northwest corner lot of Franklin Boulevard and New Hope Road with a new Wendy's restaurant. Mr. Smith directed Commissioners to photographs in their booklet of the proposed building and driveway that Wendy's will locate on the premises. Mr. Smith provided information concerning the Haywood Equity Group Limited Partnership's contract with Wendy's, lease requirements, any demolition or development on property, and the rezoning request. Mr. Smith read a couple segments from the Gastonia 2025 Comprehensive Plan, "It must be emphasized that unlike a zoning ordinance, the plan is not law and does not impose any special regulations on any person or their property. It is a tool, albeit a powerful tool, that provides many benefits to the community, including benefits to existing and future residents and those wishing to invest in our community.", as well as, "the plan serves as a guide for consistent decision making". Mr. Smith further expressed his thought on the reason and purpose of the Planning Commission. Mr. Smith continued explaining the proposed demolition and development on property. Mr. Smith also talked about concerns addressed. Mr. Smith fielded various questions of the board.

Chairperson Goode recognized Mr. Gary Miller, 8040 Arrowridge Boulevard of Charlotte. Mr. Miller is representing the Carolina Restaurant Group. Mr. Miller stated that Carolina Restaurant Group owns the Wendy's a couple blocks from the proposed relocation and has resided at their location for 22 years. Mr. Miller is present to answer any questions of the board. Mr. Miller fielded various questions of the board.

Mr. Thompson informed the board that staff received a copy of the traffic study that was referenced by Mr. Smith yesterday; therefore, Planning and Engineering staff has not had an opportunity to review this information. Also, Wendy's is seeking an additional access point and it can be developed without this request. If the rezoning is approved, a revised site plan showing driveway attached to the approved site plan will need to be resubmitted to the Technical Review Committee to be reviewed for compliance.

Mr. Smith also commented that the lease with Wendy's requires Haywood Equity Group Limited Partnership to deliver the driveway in the back.

Further discussion ensued amongst Commissioners, staff and applicant. No further questions were asked by the board.

Chairperson Goode recognized Mr. Randy Goddard, 2459 Wilkinson Boulevard of Charlotte. Mr. Goddard fielded questions from the board.

Chairperson Goode recognized Mr. Ralph Dickson, 3510 Carnoustie Court of Gastonia. Mr. Dickson expressed his interest in improving the look of this area, having a new business, and ingress and egress to the site. No questions were asked by the board.

Chairperson Goode recognized Ms. Betzy Hernandez, 3701 Catawba Creek Drive of Gastonia. Ms. Hernandez leases property on New Hope Rd. Ms. Hernandez commented that the driveway is currently used for commercial use as ingress and egress of traffic. Ms. Hernandez believes this rezoning would improve the driveway and make it better and safer for people to use. No questions were asked by the board.

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Commissioner Cinq-Mars made the motion to close the Public Hearing and Commissioner Stewart seconded the motion. The motion was approved unanimously.

Discussion ensued amongst the board.

Commissioner Cinq-Mars made the motion to approve rezoning as presented, although it is inconsistent with the 2025 Comprehensive Plan, it is still reasonable and in the public interest. It will increase safety along S. New Hope Road and egress, decrease the number driveways, and it will improve the development on the area. Commissioner Stewart seconded the motion. The motion was approved unanimously.

**Item 4: Public Hearing – Amending the Unified Development Ordinance (UDO) (File # 8586)**

Subject hearing involves an ordinance amending Table 2.7-1-Defined Terms, Table 7.1-1-Table of Uses and adding a new Section 8.2.46 Tattoo Studios of the Unified Development Ordinance.

Chairperson Goode recognized Mr. Jason Thompson, AICP, Planning Director for the purpose of staff presentation.

Mr. Thompson began with stating that this is a potential ordinance amendment to the Unified Development Ordinance (UDO). At the June 7, 2016 Gastonia City Council meeting the Council voted unanimously to direct staff to draft a UDO amendment for consideration regarding tattoo establishments in the Central Business District (CBD). Currently, such businesses are prohibited in the CBD and the only zoning district in the city that permits tattoo parlors is the Urban Mixed Use District (UMU).

As drafted, the proposed amendment would establish a new use category called “Tattoo Studio” that would be a use separate and distinct from the current “Tattoo Parlor/Body Piercing Establishment” that is present in the UDO. The former would differ from the latter in that business would be conducted by appointment only and the studio would be subject to a series of supplemental regulations including:

- limited hours of operation between 9am and 9pm
- restricted to locations along major thoroughfares
- restricted to occupying spaces at least 3,000 square feet or greater
- separated from any other tattoo establishment by at least 1,000 feet

Discussion ensued amongst the board and staff.

Mr. Thompson reiterated that the proposed amendment would only allow a Tattoo Studio in the CBD and not in the UMU. Commissioner Fleeman indicated Table 7.1-1-Table of Uses allows a Tattoo Studio in the UMU District without any condition. Mr. Thompson stated that this is a typo error and is not intended. The intention is to allow this new use in the CBD with limitations and avoid proliferation.

Mr. Thompson stated this item will be heard on Tuesday, August 16, 2016 in the Public Forum Room at the Gaston County Courthouse.

Commissioner Cinq-Mars made the motion to recommend that the ordinance amendment be denied and Commissioner Stewart seconded the motion. The motion was approved unanimously.

**Item 6: Other Business**

No update on Council votes.

Mr. Thompson commented that File # 8586 - Amending the Unified Development Ordinance (UDO) will be heard on Tuesday, August 16, 2016 in the Public Forum Room at the Gaston County Courthouse. Chairperson Goode will attend as the representative if needed. Also, File # 8542 – Special Exception to the Flood Hazard Overlay will be heard on Tuesday, September 6, 2016 in the City Council Chamber at City Hall.

Mr. Thompson welcomed Julia Baker to the Planning Department. Ms. Baker previously worked at Lancaster County Public Safety as a GIS Specialist and has a background in Engineering Technology. Ms. Baker is replacing Nancy Ross as the Planning and GIS Specialist.

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Mr. Thompson informed the board that the September 8, 2016 may be cancelled.

There being no other business, Chairperson Goode adjourned the meeting at 7:17 pm.

Respectfully submitted,

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Chrystal Howard, Secretary

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Pamela Goode, Chairperson