

**City of Fairburn
Planning and Zoning Commission Minutes
August 5, 2014**

Attendance

Present were Chairman Elise Stoney, Commission Members-Vice-Chair Shelby Phillips, Andrew Whitmore, Mark Wade, Elizabeth Echols, and Jerry Williams. Also present were City Planner - Toussaint Kirk, Planning Consultant - Jahnee Prince; City Attorney - Valerie Ross and Recording Secretary Njeri Gillard.

Call to Order

Chairman Elise Stoney called the meeting to order at 7:00 pm in the City Hall Council Chambers.

Pledge of Allegiance

The meeting opened with the reciting of the Pledge of Allegiance.

Roll Call – Determination of Quorum

A quorum was confirmed for meeting.

Public Comments

No Comments

Adoption of Agenda

Commissioner Whitmore made a motion to approve the agenda. Commissioner Echols seconded the motion and it was unanimously approved.

Adoption of Minutes

Commissioner Whitmore made a motion to approve the minutes from July 1, 2014. Commissioner Echols seconded the motion, and it was unanimously approved.

Public Hearing:

2014-TA-13 Consideration of an amendment to Chapter 80 Zoning, Article XIV. Fences, Section 80-477. Amendment to add, replace or modify the Fence ordinance.

Mr. Toussaint Kirk presented to the commissioners that in June 2012, the current zoning ordinance was updated. With that update, the fence section of the old ordinance was omitted; therefore, there currently is no fence ordinance. He recommends that Section 80-477, be added back into the ordinance.

Questions for Staff: Vice-Chair Phillips stated that under section (c) Administration, when a person comes in get a permit to construct, alter or install a fence, the Building Official is currently responsible for reviewing the plans. He asked why the City Engineer or Fire Chief could not be involved with reviewing fence permit applications prior to a permit being approved. He added that the reason for this recommendation is that the

City Engineer can determine if the fence will obstruct vision and the Fire Chief can determine whether or not it will prevent unduly restricted access to the property. So by them reviewing the permit information before the fences go up, they can address any corrections to be made. He therefore wanted it to be added to the ordinance that they be also required to review.

Mr. Kirk asked what type of fence was Vice-Chair Phillips referring to, residential or commercial?

Mr. Kirk answered that with a new development, plans are reviewed, not only by the Building Official but also by the City Engineer & Fire Chief. They all review the same plans and make corrective recommendations. For residential fences, the Building Official- Harvey Stokes currently reviews fence permit requests. Mr. Kirk also mentioned that as it now stands, without a fence ordinance, anyone can erect a fence and the City has no recourse; the City technically cannot stop them.

Vice-Chair Phillips asked what about a fence that is erected and may block the right-of-way or if it does not allow access for fire officials to enter the property?

Mr. Kirk answered that the fence ordinance states that in a front yard, it can only be (4) ft. high and in the rear, 6-8 feet high.

Jahnee Prince- Planning Consultant also added that the fence heights that are proposed are standard among the local municipalities with (4) ft. in front, and (6) ft. in the back.

Chairman Stoney referenced Section (d) General Standards under #6 of the proposed ordinance that reads "No fence shall be installed so that, in the opinion of the fire chief, it prevents or unduly restricts access to property for emergency purposes." So if the Building official would have a question, he would know to refer the issue to the Fire Chief.

Vice-Chair Phillips still wanted to clarify whether the City Engineer and Fire Chief could review fence permit applications?

Mr. Kirk answered that any fence permits currently issued are done by the Building Official- Mr. Harvey Stokes.

Jahnee Prince- Planning Consultant also stated that the Building Official also reviews for Fire Code.

Vice-Chair Phillips has additional concerns about the proposed fence height of (4) ft. What if someone has as a vicious pet, he asked. Does Mr. Kirk feel that a (4) ft. high fence is adequate?

Mr. Kirk asked what code of ordinance Vice-Chair Phillips was referencing. Vice-Chair Phillips stated Code of Ordinance Chapter 11- Animals. Mr. Kirk stated that he did not

have the ordinance available to respond to the stated question; however, assured that he would research the matter.

Vice-Chair Phillips then asked "if a person had a swimming pool and they required privacy and safety, shouldn't the fence height required be more than 4 feet?

Mr. Kirk responded that for residential property (4) feet fence height is for the front yard only and that swimming pools would only be allowed in a back yard, therefore the (4) ft. height would not apply. Backyards would be allowed a (6) ft. fence height.

Vice-Chair Phillips then asked about the fence opening, he stated that all fences should be required to open inward and not outward and wanted that to be noted in the ordinance.

Commissioner Wade stated that this may not be possible for certain driveways.

Vice-Chair Phillips stated that as long as the fence does not impede on the sidewalks or the right-of-way it should be sufficient.

Mr. Kirk answered that a fence is not a permanent structure, so regardless of how the fence swings it can be closed. He also stated that this fence ordinance is standard among other municipalities and it is the same ordinance that was in the original ordinance. This is being reintroduced so we can have some type of regulation, since it was omitted in 2012.

Commissioner Williams asked to clarify that there is now no regulation in place?

Mr. Kirk confirmed that there are currently no regulations for fences.

Commissioner Whitmore wanted to confirm that if a fence is installed, it would not have to state whether it has inward or outward opening.

Commissioner Williams stated that some fences also slide to open.

Vice-Chair Phillips restated his concern that if someone has a pet can their fence be higher than 4 feet. He mentioned there was a house that is a few houses away from City Hall that was recently burned down. He stated that the wrought iron fence appears to be higher than 4 feet.

Mr. Kirk stated that he is not certain if the homeowner obtained a variance or under what circumstances this fence was allowed but he would research the issue.

Commissioner Whitmore asked about fence maintenance within the City Limits and stated that some homeowners found out that there currently is not a fence ordinance.

Commissioner Wade referred the question about maintenance to Section (d) General Standards # 10, "it shall be the responsibility of the owner of the property on which the fence is located to maintain that fence in good and proper repair so that at all times it presents a neat and orderly appearance to surrounding property owners and to the general public."

Commissioner Williams asked if tennis court fences can be up to 10 feet. He stated the ordinance did not identify whether residential or commercial, he wanted to know if this height requirement also applied to swimming pools.

Mr. Kirk responded no.

Vice-Chair Phillips asked about Section (d) General Standards #2. He referred to the 40 foot right-of-way of a major thoroughfare. He asked when measuring the 40 foot, do you include the buffer zones on the right-of-way, and when there is an easement on the thoroughfare, if the criteria for the easement are 20 feet, then is the 20 additional feet included in the measurement?

Mr. Kirk provided an example that on Hwy 74, it currently has a 40 foot right-of-way for DOT and they also require a 35 foot buffer so nothing can go in the right-of-way; therefore, a fence would be outside the right-of-way.

Vice-Chair Phillips asked is it 75 feet or 40 feet?

Mr. Kirk answered that anything outside of 40 feet should be acceptable.

Vice-Chair Phillips then asked whether the fence would be at 50 feet or 75 feet. He also stated after this question that in zoning ordinance for C-1, C-2, C-3, M-1 & M-2, the buffer requirement is 50 feet. He then restated the question to Mr. Kirk, whether a fence should be allowed at 50 feet or 40 feet?

Mr. Kirk stated that it should be 50 feet and as long as it is not in the right-of way, it should be acceptable.

Commissioner Williams made a motion to approve adding the proposed fence ordinance Chapter 80 Zoning, Article XIV Fences, Section 80-477. Commissioner Wade seconded the motion and it was unanimously approved.

New Business: Coventry Re-plat- Outparcel #1

Mr. Kirk explained that the applicant wants to create symmetry with the lots. The current plat shows where the red line is drawn on the map and the green line is the proposed property line with an approved re-plat. The re-plat is being requested because it can affect the landscape buffer, possible parking and building placement on the lot.

Commissioner Phillips asked how the re-plat will affect the second lot to the right, and will it have sufficient parking?

Mr. Kirk responded that he cannot say for certain, since no proposed building is on the property; however, the lots will all be similar in size to the Hardees, .97 or .98 acres, since there is adequate parking for the Hardees, he can only assume adequate parking will be available on this property.

Commissioner Whitmore made a motion to approve the Coventry Re-plat- Outparcel #1. Commissioner Wade seconded the motion and it was unanimously approved.

Staff Report

There is a scheduled training session on September 19th 2014. Mr. Kirk requested to advise if any commissioners are interested in attending.

Commissioner Comments

No Comments

Adjourn

There being no further business to discuss, a motion was made by Commissioner Whitmore to adjourn to the workshop. The motion was seconded by Commissioner Wade and it was unanimously approved at 7:24 pm.



Chairman
Elise Stoney



City Planner
Toussaint Kirk



Recording Secretary
Njeri Gillard