The Planning and Zoning Commission of the City of Harlem, Georgia met for their Regular meeting on Tuesday, February 7, 2023, at 6:00 p.m. at the Public Safety Building with Chairman Robert Holland presiding.

Present: COMMISSION: Chairman Robert Holland, Vice Chairman Dusun Driggers, Commissioner Tim Farr, Commissioner John Thigpen, Jr. and Commissioner James Thomas, Jr.; STAFF: Community Development Director David Jenkins, City Manager Debra Moore, and City Attorney Tom Watkins; ABSENT: City Clerk Leona Holley.

The meeting was called to order by Chairman Holland at 6:00 p.m.

The Invocation was given by Vice Chairman Driggers.

The Pledge of Allegiance was led by Chairman Holland.

Determination of a Quorum: A quorum of the Commission was present.

Approval of the Agenda: Commissioner Farr made the motion to approve the Agenda as presented; 2nd by Commissioner Thomas. The motion carried with Commissioners Driggers, Farr, Thigpen, and Thomas voting in the affirmative.

Approval of the Minutes: Commissioner Thigpen made the motion to approve the minutes of the January 3, 2023, Regular Meeting; 2nd by Commissioner Farr. The motion carried with Commissioners Driggers, Farr, Thigpen, and Thomas voting in the affirmative.

PUBLIC HEARINGS:

TEXT-2023-02-01 Detention Pond Maintenance: Community Development Director David Jenkins reviewed the proposed text amendment for maintenance on detention ponds. Text-2023-02-01 deals with the maintenance of stormwater detention ponds associated with new residential, new subdivision or new commercial construction. The City of Harlem has established a policy against accepting stormwater facilities as public infrastructure. This will leave long-term maintenance in the hands of various types of property owners. This text amendment would clarify that those using and benefiting from stormwater infrastructure should be the primary responsibility of those parties rather than the general City of Harlem taxpayer. It is noted by Staff that the city must always plan for financial failures of individual owners, corporate maintenance responsibilities upon the City of Harlem. Mr. Jenkins stated the City Council has approved the 1st reading for the ordinance. Commissioner Farr asked if this will be retroactive of the stormwater ponds that have already been approved or moving forward. Mr. Jenkins stated it will be going forward. City Attorney Watkins answered Section 112-203 Maintenance by Private Properties and Section 112-204 Maintenance by Property of Homeowner Associations will be going forward. Commissioner Thomas asked who is responsible for the existing detention ponds if no one takes care of them. City Manager Moore stated she has recently looked at several of the covenants, and the covenants reads it will fall back on the city. If Council were to place a special tax district it would be for the detention ponds going
PUBLIC HEARINGS (cont’d):

TEXT-2023-02-01 Detention Pond Maintenance (cont’d): forward. Vice Chairman Driggers made the motion to recommend for approval for Text-2023-02-01 Detention Pond Maintenance to include approval of the “Findings of Fact as recommended by Staff; 2nd by Commissioner Farr. The “Findings of Fact” are as follows:

- The Supreme Court of Georgia has spoken regarding the validity of the Forsyth County Addendum to the Georgia Stormwater Management Manual to allocate maintenance costs to responsible parties.
- The City of Harlem currently has and will have additional stormwater infrastructure development that will require additional maintenance activities and costs from this date forward.
- Newly developed stormwater infrastructure has dedicated primary users that can be shown to have specific benefits.

The motion carried with Commissioners Driggers, Farr, Thigpen, and Thomas voting in the affirmative.

TEXT-2023-02-02 Virgin Bricks/ Brick Palette: Mr. Jenkins stated at the January 23, 2023 Council meeting the Harlem City Council did not move forward with the 1st reading for Text-2023-02-02 Virgin Bricks/ Brick Palette. This text amendment came from the Historic Preservation Commission this amendment was dealing with brick colors. There was no comments or questions on the Text amendment.

TEXT-2023-02-03 Billboards: Mr. Jenkins reviewed the proposed text amendment Text-2023-02-03, Billboards. This text amendment deals with the construction of billboards within the Harlem city limits. A review from Staff shows that billboards are neither permitted nor restricted in current city ordinances; billboards are not mentioned. Staff is aware of increased interest of businesses in using billboards to communicate commercial speech. This ordinance would establish physical sign development characteristics that in no way impact commercial free speech rights. Mr. Jenkins stated Council has approved the 1st reading. Commissioner Thomas made a motion to recommend for approval for Text-2023-02-03 Billboards to include approval of the “Findings of Fact” as recommended by Staff; 2nd by Commissioner Thigpen. The “Findings of Fact” are as follows:

- Billboards are a means of communicating commercial speech available to businesses.
- The City of Harlem can allow the construction of billboards by regulating physical characteristics not related to commercial speech or to preclude the use of billboards as ruled in several opinions of the United States Supreme Court.
- Expected commercial development in the Regional Center Character Area suggests that a clear process regarding billboards is prudent before development actions.

The motion carried with Commissioner Driggers, Farr, Thigpen, and Thomas voting in the affirmative.

TEXT-2023-02-04 Arts & Entertainment District: Mr. Jenkins reviewed the proposed text amendment, Text-2023-02-04 Arts & Entertainment District. Staff has found that there is no provision for businesses located outside the district with valid alcohol sales permits to sell alcohol during events sanctioned by the city. This amendment will allow Habanero’s Mexican Restaurant and Red Oak Manor to set up a tent in the Harlem Arts and
PUBLIC HEARINGS (cont’d):

TEXT-2023-02-04 Arts & Entertainment District (cont’d): Entertainment District on a mobile basis. This would be by operating from a tent or a “beer truck.” This will only be allowed after it goes to Harlem City Council for explicit permission. These locations would have to follow signage and map requirements so as to describe to customers where they could legally open carry beer and wine during a Harlem City Council sanctioned event. Mr. Jenkins stated Commissioner Thomas and himself had a conversation in his office pertaining to the TIPS (Training for Intervention Procedures) program. Per Commissioner Thomas request, staff will be speaking with the city attorneys to see if there is anything the city needs to do. Vice Chairman Driggers and Commissioner Thomas discussed training of servers to determine if someone is or already intoxicated. Mr. Jenkins stated he will follow-up and have more detail for the next meeting. Commissioner Farr made the motion to recommend for approval for Text-2023-02-04 Arts & Entertainment District to include approval of the “Findings of Fact as recommended by Staff; 2nd by Vice Chairman Driggers. The “Findings of Fact” are as follows:

- Mobile alcohol sales locations, tents, and beer trucks specifically, can be operated in a manner consistent with the ordinances enacting the Harlem Arts and Entertainment District.
- The City of Harlem has the ability to enact a responsible process for the sale of beer and wine during city sanctioned events and also the open carry of said beverages.
- The provision of tent sales and beer truck sales provides for more potential vendors and thus more economic rewards to possible participants.

The motion carried with Commissioners Driggers, Farr, and Thigpen voting in the affirmative. Commissioner Thomas opposed.

NEW BUSINESS: N/A

OLD BUSINESS:

TEXT-2023-01-03 Sec. 108-66 & 108-68 One Residential Structure Per Lot: Mr. Jenkins explained Text-2023-01-03 Sec. 108-66 and Sec. 108-68 One Residential Structure per lot. Staff discovered an area of ambiguity relating to the number of residential structures that might be located on a lot with a residential zoning. This text amendment dealt with the number of residential structures permitted per lot. The amendment to Sec. 108-66 modifies Table 1 – Area, Yard, and Height Requirements to explicitly define the number of residential structures permitted on a lot with a residential zoning. For single-family zoning districts, this is one residential structure on a lot. For multi-family zoning districts, the number of units per lot would be determined by a development plan or rezoning application. The amendment to Sec. 108-68 – Landscape strips and buffers removes a reference to “Guest Houses” to bring this code section into agreement with the amendment just described. At the January 3, 2023, Harlem Planning Commission meeting text amendment Text-2023-01-03 was tabled for clarification of a definition of a residential structure. After discussions with Commissioner Thigpen the following items appear to clarify the amendment:

1. Definition of residential structure - The proposed definition is “Residential structure means any structure used, or suitable for use, as a dwelling such as a single- or multi-family home, house trailer, motor home, mobile home, a condominium or townhouse, or an apartment or any other
OLD BUSINESS (cont’d):

TEXT-2023-01-03 Sec. 108-66 & 108-68 One Residential Structure Per Lot (cont’d):
structure, or portion thereof.” A doll house, shed, man-cave, she-shed, etc. are not commonly seen as suitable for use as a dwelling.

2. Variance application – To allow for a variance application in case a property owner wishes to use something like a doll house, shed, man-cave, or she-shed as a dwelling unit. Mr. Jenkins stated he does not feel good about “hard wire a variance in.”

City Attorney Watkins advised against changing the variance process as proposed by Staff. City Attorney Watkins stated a variance would be requested under the existing process, there is no need to “hard-wire” in a second residential structure. There was discussion by the Commissioners relating to items such as sinks, toilets, and refrigerators being added to a shed, man-cave or she-shed.

With no further discussion, Commissioner Thomas made the motion to recommend for approval for Text-2023-01-03 Sec. 108-66 & 108-68 One Residential Structure Per lot to include approval of the “Findings of Fact as recommended by Staff with the removal for a Variance Application request; 2nd by Commissioner Farr. The “Findings of Fact” are as follows:

- The location of one residential structure per lot is appropriate for certain specific zoning districts.
- The City of Harlem will maintain its balance of options between single-family and multi-family following the adoption of this text amendment.
- This proposed text amendment is being undertaken to clarify a situation that might lead to confusion among property owners.
- The proposed definition of a residential structure is vital to protect private property rights.

The motion carried with Commissioners Farr, Holland, and Thomas voting in the affirmative; Opposed by Commissioner Driggers, and Thigpen.

PUBLIC COMMENTS: N/A

Legal Matters: None.

Staff Report – David Jenkins:

- **Single Family Build to Rent – Two (2) Articles:** Mr. Jenkins attached two articles relating to Single Family Build to Rent developments. The workforce housing is a hot topic during this session of the Georgia General Assembly.

- **Recent Court Decisions:** A recent Georgia Court of Appeals decision was provided to the Commissioners in regard to a technical case dealing with how rezoning decisions are appealed. City Attorney Nelson and Mr. Jenkins are determining if any procedural changes need to be made.

- **APA Policy Guide on Hazard Mitigation:** The APA Policy Guide on Hazard Mitigation was provided as a continuing education resource.

- **Conditional Use Report:** The annual City of Harlem Conditional Use Permit Registry was provided as information. Noted: Rooted Coffee has chosen not to locate in Harlem.
**Chairman's Comments:** Chairman Holland thanked the Commissioners for their comments and participation in the meeting.

With there being nothing further before the Commission, Commissioner Farr made the motion to adjourn the meeting; 2nd by Commissioner Thomas. The motion carried with Commissioners Driggers, Farr, Thigpen, and Thomas voting in the affirmative. The meeting adjourned at 6:41 p.m.

Respectfully submitted,

Leona H. Holley  
City Clerk

Note: Notes taken, and meeting recorded by City Manager Debra Moore.