

Minutes of the New Bern Planning & Zoning Board June 5, 2012

The regularly scheduled meeting of the New Bern Planning & Zoning Board was held in the City Hall Courtroom, 300 Pollock Street, on Tuesday, June 5, 2012 at 6:30 PM.

Members present: Mr. Tim Tabak, Chair
Ms. Stevie Bennett
Mr. Jimmy Dillahunt
Ms. Tiffany Dove
Mr. Kip Peregoy
Mr. Paul Yaeger
Mr. Tripp Eure
Mrs. Dorothea White
Mrs. Velda Whitfield

Members excused: Mr. Patrick McCullough

Staff present: Mr. Bernard George, AICP
Planning Manager

Chairman Tabak called the meeting to order. Roll call was taken and a quorum declared.

Prayer: A prayer for guidance was given by Mr. George.

Minutes: The minutes of the May 1, 2012 meeting were approved on motion by Mr. Peregoy, second by Ms. Bennett and unanimous vote by the board.

New Business

A. Consideration of a request to rezone 9.69 acres from I-1 to I-2 Heavy Industrial District.

Chairman Tabak stated that the property is located at 1732 Racetrack Road and is further identified on Craven County tax book 8 page 240 as lot 135. Mr. George summarized the application stating that the application is for re-zoning of the property adjacent to the railroad right of way, an area that has a tradition of being serviced by the railroad and freight trucks. This re-zoning request will allow the owner to use the property as a recycling facility. The property has changed ownership and the zoning to allow recycling is I-2 Heavy Industrial. The current zoning is I-1 Light Industrial classification. Previously used for commercial residential light construction of wood building components, the site has been left vacant and unused. There are some comparisons for the land use plan and the transportation plan in a memo from Mr. George. According to the 2010 CAMA Regional Land Use Plan, the existing land use is classified as industrial land use. The site has a high suitability for development and redevelopment. The

future land use reclassification map depicts the site as “Developed”, a classification that provides for continued intensive development and redevelopment for municipal services. At this site all municipal services are available including water, sewer, and electric, etc. The land use ordinance requires significant setbacks and buffering in industrial districts, thereby providing adjacent property owners additional elements of protection for the potentially negative impact of industrial land uses. If this rezoning request is approved, any development proposed for that location will be required to obtain a special use permit based on the size of the site. Special use permits are required for any site greater than two acres, and this site is over nine acres.

Mr. George was asked if he could describe the amount of buffering required adjacent to R-10 Residential. Mr. George responded that a “Type A” buffer is required six feet high with intermittent shrubs and trees. It would require a side screen adjacent to the residential area and a type B and C screen adjacent to the commercial area. In usual practice there is a rezoning analysis that goes more in depth on the surrounding land uses and classification.

When asked if the little yellow house inside the fence is considered part of the subject site, it was confirmed to be part of the parcel.

The applicants were asked if they have any additional comments to come forward. Jamie Thomas from DH Griffin pointed out the property line and stated they will utilize all the buildings.

Additional questions included if this is a mixed use area, and how many other uses this company plans to use. In response it was stated this will be mainly a recycling center to include selling metal, plastics and corrugated paper. There will also be a self service auto parts component that will purchase any usable auto parts from junk cars. Mr. Thomas was asked what the anticipated length of time a car will be held on the property, or would it be maintained indefinitely. He responded that the best estimate is approximately 30-60 days for the frames until the parts would be removed and stored, and the car frames mashed and sent out. Other items left outside would include some scrap metals.

Mr. George confirmed that this property will only require a six foot high solid screen which raised concern about the potential of cars being stacked and seen from the street. Mr. George further stated that the particulars of the buffering will be considered once a site plan is submitted to the planning division. There will be a technical review by staff and a recommendation will be made to the Board of Adjustment. Mr. George reminded everyone that tonight the Board was just considering the re-zoning itself, to determine if the array of uses allowed in the I-2 are compatible with the area and the City’s plan of development. Particular uses at the site will be examined when the owner applies for a Special Use Permit. The purpose of the meeting is to look at the zoning and decide if the re-zoning is a good fit for the area based on the City’s plan of development and the surrounding uses.

Mr. Lewis stated that his company is headquartered in Greensboro, NC and in 2008 they were the second largest demolition contractor in the country and number six in the world with offices from Houston, TX to Richmond, VA and in all the southern states. They have a general construction firm in Raleigh, NC which is quite a good sized entity in itself and they do heavy

highway and utility construction. They have other recycling facilities throughout the southeast and have been in business since 1959.

Staff Comments: None.

Public Comments: Mr. James Senner, owner of the Beaver Creek Apartment, a 72 apartment complex directly adjacent to the property commented that it seems that zoning laws are to prevent this type of thing, a junk yard adjacent to an apartment complex. There are also two subdivisions adjacent, and the people living there have no idea that this is going on, which will affect their property values and their way of life. He compared this development to the “Old Goldman” facility which ran heavy equipment all day and had a steady stream of cars and trucks, creating blight on the residential neighborhood. He pointed out that the website for the applicant reveals that they deal in hazardous materials including mercury, PCBs, lead and asbestos. He believes that the applicants should provide greater notice to the community, so that they can be made aware of the possible recycling plant operation. He also believes that his property values and business will be affected, and can’t believe that anyone would want to stay across the street from a “junkyard”. He requested the board to give a negative recommendation at this time or that it would give more time for the community to be made aware of the requested zoning change

Board Comments: Chairman Tabak asked what the general procedure is in reference to the notice in the buffer area. Mr. George stated that notices are provided to all property owners within 100 feet of the boundary of the property and a sign is posted on the property. When the matter goes before the Board of Alderman there will be a notice posted two consecutive weeks in the local paper and notices will be sent out again to all property owners within 100 feet. In addition the property will be re-posted.

Public Comments: Mr. Michael Traman, owner 1722 Racetrack comments that there are two major drainage ditches adjacent to the property line and is concerned with run off which will go straight into the Neuse. He is concerned with the noise that will be associated with the heavy equipment and how much protection trees will offer. He was further concerned with increased traffic in the area and safety for children walking in the neighborhood. He questioned what the economic impact will be to the area and how many people will be employed.

Board Comments: Chairman Tabak asked if Racetrack Road is a state road. Mr. George confirmed that it is, and that there is a plan to widen it now as it receives considerable traffic. When asked if there is a plan for a turning lane into this industrial facility, Mr. George replied that he had a conversation with Steve Hamilton, NCDOT district traffic engineer, who stated a turning lane has been included in thoroughfare widening plans, but it could take many years. A traffic study has not been considered at this point – state traffic engineer didn’t feel there would be any significant increase from traffic that was there while Eastern Building Components occupied the site.

Public Comments: Glen Bank of 646 Goose Creek Road stated he is an owner of property adjacent to the site and is considering apartment complex development for that property. Mr.

Bank would like to know that his property would be protected by buffering. His property is adjacent to the railroad and southeast of the site.

Board Comments: A question is asked regarding what's allowed in zoning I-1 and I-2. Mr. George says the information available on the City's website under Land Use Ordinance – Appendix A, Section 15-146.

As there are no further questions, the Public Hearing was closed.

Mr. George explained the general differences between I-1 and I-2. When asked if re-zoning to I-2 would open up the door to other businesses to come in, the answer was yes. Major businesses not allowed in the current I-1 zone are salvage yards, landfills, and mining operations.

Motion with a second was made to approve the rezoning of the site from I-1 to I-2. Votes were 8 no's and 1 yes (Yaeger). Motion failed.

Motion with a second was made to recommend that the rezoning not be approved. Motion was approved with one no vote.

B. Consideration of a revised subdivision general plan for Rivershore, a proposed 72.40 acre, 52-lot residential planned unit development (PUD).

Mr. George introduced the application by stating the request is for a revised subdivision general plan for Rivershore, a proposed 72.40 acre, 52 lot residential planned unit development located on Riverside Drive. The developer has revised the subdivision plan that was originally approved 2/6/07. The original plan included 44 units, modified by adding six lots adjacent to Riverside Drive and three lots along Sandy Point Road. One residential lot was removed from the original subdivision. The original 44 lot area is somewhat dense. This subdivision is located in both the A-5F Agriculture Forestry District and the R-10 Residential District. The proposed average lot size is 13,344 square feet and the length of new streets as originally approved is 2,165 linear feet. The original 44 units are accessible by a new road, Cormorant Court. The owner proposes to place 46.57 acres of 404 and Coastal Wetlands in a dedicated conservation easement in perpetuity. All utilities and service will be provided by City of New Bern except electricity and water. The Departmental Subdivision Review Committee reviewed this revised subdivision on May 10th and determined it meets the City's subdivision requirements.

Discussion with board members ensued on the subject of city services to determine if they are still capable of providing service to the additional lots.

Applicant Comments: Eastern Carolina Development is agent for the owner. According to the agent the original plan didn't have a recreation area on the river. The plan was modified to provide for a recreation area by changing to a cul-de-sac design. Some of the original lots in the original 1946 subdivision were on what is today known as wetlands. Consequently the developer has rearranged and combined lots to provide more open space and community recreation area. The applicant emphasized he has obtained a storm water management plan, power, and water

permits. The owner is required to have the permits changed to the new development's name, in addition to modify and increase some buildable areas.

Additional questions and lengthy discussion revolved around the marina and wetlands regulation.

Public Comments: Spencer Hailey, 417 Riverside Drive, was concerned about the small 25' X 25' building envelop size which is to be built across the street from him. He stated the very small buildings adjacent to the wetlands are ridiculous.

Maryann Walkner, 431 Riverside Drive, stated that during hurricanes high water covers the entire area. Where the development is proposed is what she describes as "our sponge" where all the water and debris goes during storms. She stated residents have always been told it's a protected area. CAMA, Riverkeepers, and the Department of Water Quality say you can't build here. She asked if there is a CAMA permit and believes this is an ill version of a modification to the original plan to put houses near the wetlands. She noted that the plan leaves a sewage pump right in the middle of one of the lots and believes this is unsellable land.

Joe Stark, 423 Riverside Drive said he is in favor of development but wants it to be done properly. He is concerned about the small nine homes encroaching on the marshland. There is no buffer between the marsh and the area where they plan to build. He stated there were about 40 established trees and about a month ago someone came and pushed them down without any permits. He would like to see an environmental study undertaken to see what the impact would be on the area.

Greg Pearson, 429 Riverside, asked what the average elevation of that property is right now. Mr. Pearson stated it doesn't make any sense to put a house there.

George Heath points out where the wetlands are located on the map and stated he did not see anything feasible about a boardwalk behind the houses on Riverside Drive.

Pete Rowlett, 215 Burnhurst Road, questioned lot sizes and was told wetlands can be included in 10,000 foot minimum lot requirement.

Mr. Stark, owner of 23 and 419 Riverside Drive, stated the fact that the wetlands are federally protected has been glossed over in this presentation. He believes that if the board members could have seen the area after the hurricane they would realize it's absurd to put homes there.

Mary Richford, 407 Sandy Point Road, wanted to know that there will be a buffer zone between the high density development and her house. The original plan included a 20 foot buffer zone and wanted to confirm it is still there. The buffer was confirmed.

There being no further comments, the public hearing was closed.

Board Discussion

The board had a very long and detailed discussion on the wetland development process, CAMA 440 wetlands regulations, and storm water/ land quality permits. Questions were raised as to

why consider the plan when you don't know if the permits will be issued. It was pointed out that state and federal permit approvals can take several months and general plan approval is only preliminary plan approval. Final plan approval by the Board of Aldermen is at project completion and allows the developer to record the subdivision and sell lots. CAMA, Division of Water Quality permits, and other development permits have very long processing times. The City will require those permits to be in place before construction begins or at least when the development is ready for the Board of Alderman final plan approval. The original plan and permits from 2007 are approved and ready to go. The development permit process is required to take the environmental impact issue into account when considering a project.

Motion: Motion was made to disapprove the lots on Riverside Drive and the three lots up on Sandy Point Road in the subdivision submitted to the board and to allow the other lots on Sandy Point. Motion was seconded.

Mr. George clarified and restated the motion to approve the subdivision except for the six lots on Riverside Drive. Further clarification was made that the motion is for approval of the common recreational area, the boardwalk, the three lots on Sandy Point Road and the 43 lots in the high density area. **Motion passed unanimously.** At this point the general plan was approved with conditions.

There being no further business, the meeting was adjourned.

Tim Tabak, Chairman

Bernard George, AICP, Secretary