

Minutes of the New Bern Planning & Zoning Board October 2, 2012

The regularly scheduled meeting of the New Bern Planning & Zoning Board was held in the City Hall Courtroom, 300 Pollock Street, on Tuesday, October 2, 2012 at 6:30 PM.

Members present: Mr. Tim Tabak, Chair
Ms. Stevie Bennett
Mr. Jimmy Dillahunt
Ms. Tiffany Dove
Mr. Patrick McCullough
Mr. Kenneth Peregoy, Vice-Chair
Ms. Dorothea White
Ms. Velda Whitfield
Mr. Paul Yaeger
Mr. Bill Stamm

Members excused: None

Staff present: Mr. Bernard George, AICP
Planning Division 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.

Chairman Tabak recognized Board member Trip Eure for 9 years of dedicated service. Chairman Tabak presented Mr. Eure a certificate of appreciation from the Mayor. Mr. Eure thanked the board for the opportunity to shape the growth of the city and further thanked Mr. George for his leadership and guidance during his 9 year tenure on the Planning and Zoning Board.

Chairman Tabak welcomed Mr. Bill Stamm as the newest member of the Planning & Zoning Board. Mr. Stamm briefly introduced himself and remarked on his engineering background.

New Business

A. Consideration of request by Weyerhaeuser Real Estate Development Company to rezone a 237-acre portion of a 499-acre parcel of land, from R-10A Residential District to I-1 Light Industrial District

Chairman Tabak recused himself from further discussion of this matter due to a potential conflict of interest. Vice Chairman Peregoy advised he would preside over the agenda item.

Mr. George was asked if he could provide a staff report on this request. Mr. George responded by explaining the request for rezoning is for the purpose of allowing the property to have a wider

range of use options. Mr. George provided a map of the tract for location orientation. He stated that Weyerhaeuser Real Estate has provided conceptual plans for the future development of the entire 499 acre tract.

Mr. George summarized that the ultimate issue before the board is to decide whether the proposed rezoning advances the public health, safety or welfare. He described the rezoning request as the first step in a two-part process. In the first step, the Planning and Zoning Board will make a recommendation on the proposed rezoning to the Board of Alderman. In the second step, the Board of Aldermen will hold a public hearing, consider the recommendation of the Planning & Zoning Board, and make a final decision to adopt or deny the requested rezoning.

Vice Chairman Peregoy asked if any board members had questions. There were no questions and he opened the public comment period.

Applicant Comments: Mr. Taylor Downey, representing Weyerhaeuser Real Estate Development Company, came forward to speak. The reason for the rezoning, he explained, was the development vision has changed since the 2007 conception of the 500 acre mixed-use master plan. The owners feel the rezoning will give them the most flexibility as well as the most compatible zoning with the remainder of the project.

Vice Chairman Peregoy opened the floor for questions for Mr. Downey. Vice Chairman Peregoy stated his concern that egress and ingress of the proposed I-1 Industrial District will allow heavy traffic to funnel through the existing and proposed residential areas. Mr. Downey advised there could be some mixed residential uses within the proposed I-1 area. However, major traffic would flow along a proposed boulevard that would adequately accommodate traffic with little or no impact on residential areas.

Public Comments: Jan Williams came forward representing her parents who reside at 3809 Elizabeth Avenue. Their concern pertained to traffic congestion potentially being funneled through residential areas, especially if any new roadway connects with Elizabeth Avenue. They also have concern regarding the buffers along the residential areas between the proposed I-1 Industrial District and the adjacent residential neighborhoods.

Vice Chairman Peregoy closed the public comment period as no additional comments were voiced. He then turned the floor over to Mr. Bernard George who advised he would address Ms. William's questions concerning traffic. He stated that staff had closely reviewed the development plans for the property which do not include a direct street connection to Elizabeth Avenue. Mr. George noted that staff acknowledges their concerns and understands them. He cited Racetrack Road as the only outlet for the west Elizabeth Avenue neighborhood. He added that the proposed development would provide an additional outlet, thus relieving some of the traffic congestion on Elizabeth Avenue and Racetrack Road. In summary, Mr. George advised that the proposed development and rezoning would benefit traffic patterns by reducing congestion and will not add to traffic via Elizabeth Avenue. He also advised that a public hearing will be conducted to solicit input from residents upon the submission of an application to develop the site. That process will ensure that the concerns of the neighborhood are addressed prior to issuance of a permit to develop the property.

Ms. Williams again questioned what type of buffers will be required between the proposed I-1 Industrial and existing R-10A Residential areas. Mr. George stated a greater buffer is required for I-1 Industrial, including an opaque vegetative screen up to 6 feet high with three trees every 100 feet. The more intensive buffer requirement is designed to protect adjacent residential properties. He further stated that during the special use permit public hearing process, there is an opportunity to closely review the proposed development plan to determine whether additional buffering should be installed to satisfy the adjacent property owners' concerns.

Board Comments: Mr. Jimmy Dillahunt questioned if there was a possibility that Bosch Boulevard could connect to Elizabeth Avenue to create another outlet and reduce traffic. Mr. George advised that due to the barrier formed by the railroad overpass, at this time there was little possibility of a street connection to Bosch Boulevard.

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

The Vice Chairman closed the public hearing and requested staff recommendations. Mr. George advised that the rezoning is consistent with the Land Use Plan and the city's plan of development. He further stated staff recommends the rezoning.

Motion:

Vice Chairman Peregoy requested a motion. Board member Pat McCullough made the motion to recommend the rezoning of 247 acres of the 500 acre Craven 30 development from R-10A Residential to I-1 Light Industrial. Ms. Stevie Bennett seconded the motion. With no further discussion, the motion was passed unanimously.

B. Consideration of a request by Richard John to rezone 1702 Trent Boulevard from R-15 Residential District to C-4 Neighborhood Business District.

Chairman Tabak resumed his seat as chairman and called for the next case. Mr. George introduced the application by stating the request is for the rezoning of a .55 acre lot located at 1702 Trent Boulevard. He advised R-15 Residential is a single family district requiring a minimum lot size of 15,000 square feet and that commercial is not an allowed use. C-4 Neighborhood Business District is a zoning classification that is intended to provide for the retailing of goods and services to nearby residential neighborhoods. Mr. George noted there are 4 buildings on this parcel – a vacant bakery, a former gas station/ truck stop, a garage, and an occupied house. The site was developed approximately in 1920, at a time when Trent Road was a major highway out of town. In 1962 the site was initially zoned Neighborhood Business and later rezoned R-15 Residential. Presently, the property has seriously deteriorated and owners are requesting to rezone this property for better market appeal.

Chairman Tabak requested clarification that this property is not included in the DeGraffenried Historical District. Mr. George confirmed that it is adjacent to, but not within the DeGraffenried Historical District.

Board discussion ensued regarding historical dates of past zoning changes for this area.

Applicant Comments: Applicant Ms. Ruth John stated she and husband Richard are the owners of the property, purchasing it seven years ago when they moved to the area. She noted many people have looked at the property to purchase, but the zoning of the property deters potential buyers. Ms. John noted the garage is a substantial building that would need to be torn down. She additionally noted there have been some acts of vandalism in recent months as well, which is only adding to the deteriorating appearance of the property. They feel their only hope is to rezone to C-4 to add to the neighborhood, rather than detract as currently it is doing.

Supportive Public Comments: Mr. David Sugg spoke in support of the rezoning. He has a good business and personal relationship with the current owners, Mr. and Mrs. John. He noted their initial intent in purchasing the property was to benefit the neighborhood. Mr. Sugg discussed the different uses over many years of this property. As a real estate broker, he assisted Mr. John with the purchase of the property. Mr. Sugg has had this property on the market since October, 2011 with several developers and other residents approaching him regarding the property. Mr. Sugg noted the size of the property somewhat reduces the potential uses for the parcel. Mr. Sugg also noted that due to the current zoning in place, he has not been able to secure a purchaser for the property. After researching many types of properties and zoning classifications, C-4 Neighborhood Business District seemed to be the best fit for the neighborhood.

Mr. Brian Taylor, attorney, spoke on behalf of the owners. He has been retained by the John's for assistance in rezoning the property. He advised he had discussions with Mr. Bernard George regarding the zoning of this property. Mr. Taylor stated the general nature of Trent Boulevard is mix-use, with commercial and residential properties. It is a major thoroughfare into downtown New Bern, and noted its redevelopment over the years as such. Mr. Taylor advised he wrote a letter to 13 property owners in the immediate vicinity of the block surrounding 1702 Trent Boulevard, seeking their input and comments on their ideas on the property. He noted of four responses, three were against a rezoning with one positive response. He also noted a resident on Tryon Road had taken the letter further out into the DeGraffenried neighborhood. Consequently, a larger meeting was held with approximately 20 neighbors in attendance and positive feedback on the rezoning to C-4. According to Mr. Taylor, no one spoke against the proposed rezoning at that meeting.

Public Opposition Comments: Mr. Bill Allen stated he lives at 1614 Trent Boulevard across the street from the property in question. He provided photographs that he took of the property, noting the broken windows and general run down appearance of the property. His wife, Jessie Allen, spoke as well. They both stated their opposition to the rezoning of this property due to the negative impact commercial zoning would have on their neighborhood. The cited the historical character of their neighborhood. Mr. Allen noted there is only one parcel of commercial property in their general neighborhood (C-5 Office and Institutional), otherwise all parcels are zoned R-15 Residential. Mrs. Allen stated that C-4 Neighborhood Business would be inappropriate for the surrounding neighborhoods and inconsistent with the character of the DeGraffenried national Historic District. The Allen's provided photographs of the residential properties surrounding 1702 Trent Boulevard, noting a commercial zoning would not be

consistent with the surrounding historical residential properties. They emphasized that the proposed commercial zoning could destroy the opportunity for the DeGraffenried Extension to become a National Historic District. The Allen's raised the question of spot zoning and the application of sound planning practices in the determination that the proposed rezoning does not support the public good.

Discussion ensued between board members and the Allen's regarding a specific parcel of property noted on an aerial photo with a parking discrepancy. Determination was the photo was somewhat out of date.

The adjacent residents of 407 Chattawka Lane spoke in opposition to the rezoning, citing it would be detrimental to the integrity, stability and property values of the neighborhood.

Mr. Ed Hall, resident of 409 Chattawka Lane, stated he and his wife are opposed to the rezoning of the property to C-4. They believe rezoning the property runs counter to resident attempts to sustain their community and is not in keeping with the heritage of the community. He feels they do not have any concrete evidence of what might be built there if the property is rezoned and the unknowns are too risky to support the request. Mr. Hall questioned the remediation of any potential fuel tanks that may still be in the ground from the former gas station. Board member Stevie Bennett stated she called the Division of Environment and Natural Resources in Washington with that question but had not received a response. Chairman Tabak advised that the Planning & Zoning Board does not have the authority in the present case to regulate a fuel tank storage issue. However, the State of North Carolina's environmental regulators would require permits to address fuel tank issues prior to development or redevelopment of the site.

Nancy Hollows, 4438 Rivershore Drive, provided clarification on the subject property and its location between two National Historic Districts, citing the DeGraffenried Park Historic District and its extension, and the Ghent Historic District. Ms. Hollows agreed that everyone wants what is best for the surrounding area. Ms. Hollows discussed the recently completed Preservation Plan and its several goals that protect and maintain the City's historical resources. She pointed out that Trent Boulevard is no longer a major highway, but a residential street now. Ms. Hollows emphasized the historical character of the single family residential neighborhood should be preserved. She showed pictures of some of the structures that could be built on the site under R-15 Residential and voiced her opposition to the requested C-4 rezoning.

There being no further questions, Chairman Tabak closed the public hearing.

Board Discussion: Ms. Stevie Bennett cited a list of commercial uses from the Land Use Ordinance that could potentially be allowed should the rezoning be approved. Ms. Bennett cited examples of the negative impacts, including trash and serious crime, of mixed uses in her own nationally and locally designated Historic District neighborhood. She stated her total opposition to the rezoning of this property and is in support of the residents and their neighborhood.

Chair Tabak questioned the current status of the nonconforming commercial property. Mr. George advised it could continue to be used as a nonconforming commercial use only if the property was continually in use or for sale or lease during its term of vacancy. If either condition

fails to be met for a period greater than 180 days, then the property loses its nonconforming status and must thereafter be used in conformity with current zoning regulations. If the property owner decides to change the use of a nonconforming property to another nonconforming use, the new use will have less of an adverse impact and will be more compatible with the surrounding neighborhood. Mr. George advised the general area is residential, and the developed status means the property can be developed and redeveloped at urban densities.

Chairman Tabak questioned Mr. George as to how many residences could be established on the lot at its current R-15 zoning. Mr. George advised that 1 or 2 homes could be built on this property as it is currently used. However, he advised that the property is non-conforming from both its residential and a commercial status. Mr. George stated a previous owner had requested a zoning permit approximately 8 years ago to operate a restaurant but had redrawn the application. That was the last time an applicant had sought a development permit for the property until now. Mr. Dillahunt expressed concern about the application of required building setbacks on the potential redevelopment of the property. Setbacks for the property were discussed, including the provision that the R-15 Residential District requires a 35 foot front yard setback. The current structure is not required to meet this setback as it is an existing nonconforming structure.

Mr. Peregoy expressed concern about the requested zoning change and the fact that previously approved rezonings for proposed developments along Trent Boulevard were never constructed. He observed that those rezoned properties are now continually for sale. Ms. Bennett expressed concern for the negative impacts of spot zoning on residential neighborhoods. Ms. Whitefield questioned if the existing buildings would be demolished or restored, and if restoring the buildings would benefit the neighborhood. She also questioned if the traffic would increase if the property was rezoned to C-4 Neighborhood Business.

Mr. Peregoy advised at the very least a Phase I Environmental Assessment would have to be done on the property because of its past use.

Following further Board discussion of Ms. Whitfield's questions, Chairman Tabak requested staff comments.

Staff Comments: Mr. George advised that due to the property's size and the landscape requirements, the range of potential commercial uses are limited for this property. Mr. George addressed questions regarding special use permit requirements by stating that a convenience store or other similar commercial uses must be located on 2 acres or more in order to require a special use permit. Properties of less than 2 acres, including this property if rezoned, would require a special use permit only for construction of multi-family buildings of 5 or more units. The current condition of the property is in a state of serious disrepair which has a negative impact on the neighborhood. The condition of the property will continue to downwardly spiral if nothing is done to repair or restore the buildings. Staff is not opposed to sensitive low impact commercial use of this site. The C-4 Neighborhood Business classification and the range of permitted uses causes some concern, as well as the concerns expressed by the residents due to this rezoning request, and the negative impact potential on the neighborhood.

Motion: Motion was made by Ms. Bennett to rezone 1702 Trent Boulevard from R-15 to C-4. Motion was seconded by Mr. Dillahunt. There was no further discussion from board members. The motion failed unanimously. Mr. George sought a motion to recommend to the Board of Aldermen the requested rezoning be denied. Motion was made by Mr. Peregoy and seconded by Ms. White. The motion passed unanimously.

Mr. George clarified the request and recommendation will go forward to the Board of Aldermen and scheduled for its October 23rd meeting. A notice will be sent to adjacent property owners, as well as a notice in the Sun Journal for two consecutive weeks to inform the public of the scheduled hearing.

There being no further business, the meeting was adjourned.

Tim Tabak, Chairman

Bernard George, AICP, Secretary