

Minutes of the New Bern Planning & Zoning Board January 2, 2013

The regularly scheduled meeting of the New Bern Planning & Zoning Board was held in the City Hall Courtroom, 300 Pollock Street, on Wednesday, January 2, 2013 at 6:30 PM.

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

Members absent: None

Members excused: Mr. Jimmy Dillahunt
Ms. Dorothea White

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

Mr. Kevin Robinson, AICP
City Planner

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: Minutes from the December 2012 meeting were unanimously approved as presented.

New Business

A. Consideration of a request by the City of New Bern to amend the Official Zoning Map so as to rezone the southern portion of the Broad Street corridor bounded on the west by Princess Street and on the east by Hancock Street from C-3 Commercial District & C-5A Office and Institutional District to C-4 Neighborhood Business District.

Staff Comments: Mr. George stated the Director of Development Services, Mr. Jeff Ruggieri, was in attendance and would be speaking regarding this request. Mr. George advised this request is an opportunity to make zoning more consistent with the Gateway Renaissance Plan, which the Board of Aldermen will consider for approval at its next meeting. Mr. George introduced Mr. Ruggieri.

Applicant Comments: Mr. Jeff Ruggieri stated this is the first step in the implementation of the Gateway Renaissance Plan. He noted there is market support for more retail in the area, and a research company was hired to look for feasible uses that would liven the neighborhood and be market friendly, while keeping the uses consistent with the walkable more vibrant elements of the Gateway Renaissance Plan. He advised it was important to note the requested C-4 zone removes highly commercial establishments, including large traffic generators (ex: bowling alley, fast food establishments) which would not enhance a walkable neighborhood. The proposed rezoning would provide a buffer for this area, yet still provide for the uses needed for the neighborhood. Furthermore, it allows flexibility for the market to choose uses, but yet still provide control over the end result. Mr. Ruggieri stated staff has reviewed this request and has recommended approval.

Chair Tabak noted it sounded as if this change would make the zoning more restrictive. Mr. Ruggieri acknowledged it would.

Vice-Chair Peregoy noted one of the largest changes being requested is the change from C-5A to C-4 which allows a wider range of uses in this area. He asked if this request would affect the existing hotel. Mr. Ruggieri noted the change will not allow for hotel use in this area. The hotel has not been in use since 2007, and if the building remains, it would not be allowed to operate as a hotel under the new zoning. The Gateway Renaissance Plan does not support a hotel in this area. The present market would only support a low budget hotel, which would be a hindrance to the plan and future revitalization of the area.

Vice-Chair Peregoy asked Mr. Ruggieri what would happen to this structure, considering if nothing, it would continue to be an eyesore. Mr. Ruggieri noted there are numerous suggested projects being discussed in the Gateway Renaissance Plan, many of which would be suitable for this space. Mr. Peregoy questioned if that meant the building would disappear or remain. Mr. Ruggieri noted it could be removed and something else placed there, but definitive plans have not been finalized at this point in time.

In response to Chair Tabak's question on ownership, Mr. Ruggieri advised the property is currently owned by a bank and the property is currently going through foreclosure. Mr. Peregoy questioned why they wouldn't consider changing the zoning from C-3 to C-5A to make it consistent with the majority of Broad Street. Mr. George advised C-4 is designated Neighborhood Business District which is more consistent with the required zoning for implementing plans for the area.

Public Comments: *Oscar Keefer, 604 Pollock St.* He noted the C-3 area in the midst of majority C-5A zoning and feels his residential property is being encroached upon by commercial zoning. He requested the board consider rezoning this portion to C-5A also. Additional discussion between Mr. Keefer and Mr. George ensued.

Kathy Adolph. She is very supportive of this rezoning request, noting it creates a consistent friendly yet commercial neighborhood zone for the corridor and protects the corridor from large

and potentially inappropriate developments. She recognized Mr. Keefer's opinion, but feels this rezoning would be a positive move forward for the area.

The public hearing was closed.

Board Discussion: Chair Tabak noted based on the map, leaving this area zoned C-5A would be a good idea. He questioned if the existing office buildings don't conform to historic district regulations, where would this leave the owner? Mr. Ruggieri advised they would be treated as non-conforming, noting at this time there is no issue.

Motion: Vice-chair Peregoy motioned to recommend the rezoning request as submitted, with the exception that the C-3 zoning at the corner of Metcalf and Broad Streets be changed to C-5A. Ms. Stevie Bennett seconded the motion. Motion was approved by unanimous vote.

B. Consideration of a request by the City of New Bern to amend Article XVII "Signs" so as to provide for additional freestanding signage for major commercial developments adjoining the proposed Freeway Sign Corridor Overlay District.

Staff Comments: Staff Bernard George discussed the proposal, advising this request is a continuation from the December 2012 meeting when the Board approved the proposed Freeway Sign Corridor Overlay District between the Hwy 43 connector and MLK Drive, along Hwy 70 bypass. The purpose of establishing the Corridor was to provide additional sign opportunities for major commercial developments in this area. During the December discussion, there were sign regulation issues that needed to be addressed. A subcommittee was formed consisting of members Bennett and Dove along with Mr. George to review and revise the draft text amendment. Mr. George stated the committee met and revised the draft which was provided to Board members. The revised draft defines major commercial developments more precisely. The committee received feedback from the City Attorney, who drafted a proposed ordinance for Planning and Zoning Board's consideration. Mr. George provided a revised map of the Freeway Sign Corridor Overlay District and stated the Corridor will be approximately 3 miles long and will have a width of 100 feet beyond both sides of the right of way of Hwy 70 Bypass.

Mr. George explained there are two classifications of major commercial developments. Classification #1 is a major commercial development consisting of more than 10 acres but no greater than 20 acres. Classification #2 is a major commercial development consisting of more than 20 acres. Questions arose about the definition of major development. Mr. George explained that a major commercial development is a master planned and designed development consisting of at least 4 business enterprises sharing common walls, parking, traffic circulation, design standards and property management. He further explained that major commercial developments located within the Freeway Sign Corridor Overlay District will have to obtain a special use permit to erect an additional free-standing sign of specific height with additional requirements. Mr. George advised the definitions and requirements were based on discussions with the Planning and Zoning Board members and public. He advised residents have had some concerns about the potential impact on residential properties. As a result of their concern, the proposed amendment now has a requirement for obtaining a special use permit approved by the Board of Adjustment.

The special use permit process requires a public hearing with public comments to ensure public input from adjacent property owners to mitigate potential negative impacts on surrounding properties. Additional specifics within the definition of major commercial developments were discussed.

Chair Tabak confirmed all sign heights are measured from the center line of the highway. Mr. George confirmed this to be correct.

Public Comments: *Mark Magara, 3004 Gilford Court, Trent Village.* He noted, if understood correctly, the signs could be anywhere from 50'-80' tall. Chair Tabak advised he and Mr. George did measure some existing poles, noting power poles are at 35' from the ground level. The Belk parking lot lights are 60'. The height of the highway prior to overpass was between 10' and 15' above Belk's parking lot, with the center of the overpass being closer to 30'. If that is the case, the maximum height of the sign would be below the level of the existing lights at 60'. Mr. Martin maintains none of the residential areas want to have signs that are high enough to be seen and potentially have lights from the sign shining down into a yard or home. Chair Tabak advised these concerns are the reason behind the proposed amendment's verbiage changes to protect residential areas. Mr. George explained that the special use permit process requires written notification of a public hearing to property owners within 100 feet of the proposed site. This gives affected owners the opportunity to come to the public hearing and voice their concerns on the location and design of the proposed sign.

Board Discussion: None

Motion: Vice-chair Peregoy moved to adopt the text amendment submitted for the Freeway Sign Corridor Overlay District as established. Paul Yaeger seconded. Motion passed unanimously.

Vice-Chair Peregoy complimented Mr. George and members of the subcommittee for their diligence and efforts put forth to handle a highly controversial topic.

C. Consideration of request by the City of New Bern to amend Article II "Definitions" and Article XIV "Streets and Sidewalks" so as to define improved street and to require undeveloped lots to have access to an improved street prior to development.

Staff Comments: Mr. George stated that the proposed amendment was drafted in response to staff concerns with streets in several older neighborhoods that were platted many years ago, but never installed. Considering these were legal plats prior to street improvement standards, there could be some responsibility of the city to acknowledge these streets. However, there is some question as to who is responsible for maintaining and improving these streets. In order to better address this issue, the City's Land Use Ordinance and street construction standards need to be updated to clearly regulate older platted but unimproved streets. As the City continues to grow and develop, citizens are sometimes upset they must improve a "paper street" in order to develop their vacant lots. For many years it has been the City's policy to require property owners to make street improvements in order to develop vacant lots. This is a matter of health and safety because the city is required to provide emergency services to all homes and businesses. Emergency vehicular services may be unable to access citizens and protect property located on

unimproved streets. Mr. George used the Pembroke subdivision's paper streets as an example. Ms. Dove noted there is an issue of this same sort next to her residence. Mr. George advised when contractors now develop a subdivision, they are required to provide street improvements for all lots. The proposed amendment will provide the same street development standards for existing undeveloped lots that are now required for subdivisions.

Chair Tabak questioned if this would increase the cost of a person's ability to improve a lot. Mr. George acknowledged it would. He further stated this is currently required, and was a policy previously, but not a written ordinance. This is the reason for the proposed amendment before the board for consideration, he concluded.

Ms. Bennett questioned what standard the street must be finished. Mr. George advised the streets must meet the city standard, and the definition of improved street as well as the standard referred to in section 15-211 which is the city standard for access requirements to a public street. Ms. Bennett voiced additional concerns which Mr. George addressed.

Vice-Chair Peregoy requested additional explanation of the city's new definition of improved streets, noting that the existing explanation doesn't make sense as it is currently written. According to Mr. Peregoy, the proposed new streets standard is currently written to state that a home must be built and occupied before the city will accept the street. Mr. Ruggieri advised there is confusion between old and new subdivisions. This pertains to older developments where a lot has been empty with a residence built adjacent to it without appropriate street access. He noted the written regulations weren't clear nor followed thru to ensure road completion in these instances. Verbiage changes were discussed to provide better understanding of the definition.

Chair Tabak questioned verbiage pertaining to pavilions and if a paved street was required to access these. Mr. Ruggieri advised that was not the case. This was not considered a lot but common property.

Public Comments: None

Board discussion followed.

Motion: Vice-chair Peregoy made a motion to table this item pending further clarification at the February meeting. Motion was seconded by Pat McCullough. Motion passed unanimously.

Further Board Discussion: None

There being no further business, the meeting was adjourned.

Tim Tabak, Chairman

Bernard George, AICP, Secretary