

**Minutes of the
New Bern Planning & Zoning Board
February 6, 2007**

The New Bern Planning & Zoning Board held a regular meeting in the City Hall Courtroom, 300 Pollock Street, on Tuesday, February 6, 2007 at 6:30 p.m.

Members present: Mr. Peter Moffett, Chairman
Mr. John McClellan, Vice Chairman
Mr. Harry Cotton
Mr. Tad Michel
Mrs. Claire P. Martin-Combs
Mrs. Janet Lamb
Mrs. Susan Moffat-Thomas
Mr. Tripp Eure
Mr. Mark Best

Members excused: none

Members absent: none

Staff present: Michael W. Avery, AICP, Director, City Planning
Greg McCoy, Zoning Enforcement Officer
Lorraine DiBella, Administrative Assistant

Prayer: A prayer for guidance was given by Michael Avery.

Minutes: Minutes of the December 5, 2006 meeting were approved with motion by Mr. McClellan, second by Mrs. Lamb and unanimous vote by the Board.

New Business:

A. Consideration of time extension for Madison Court final plan approval to Board of Aldermen.

Staff Mr. Avery stated the proposed General Plan for the Madison Court subdivision was approved by the Planning and Zoning Board at its regular meeting on April 5, 2005.

City regulations require that a subdivision final plan be approved by the Board of Aldermen within twelve (12) months of the general plan. The developers have been delayed by both weather and permitting issues. They are requesting an extension until May 1, 2007.

Staff recommends approval of the extension. Chairman Moffett noted that because this is only a request for extension, a public hearing is not required (no public comments).

Motion was made by Mrs. Martin-Combs to approve an extension on this plan. Mrs. Lamb seconded and the motion was approved unanimously.

B. Consideration of Cerise Circle Neighborhood, a proposed 21 - lot subdivision located near Creekscape Crossing in the Carolina Colours Subdivision.

Staff Mr. Avery stated Carolina Creek, LLC is requesting general subdivision plan approval for Carolina Colors Cerise Circle Neighborhood. The 21-lot conventional subdivision is proposed for development off of Creekscape Crossing on a 15.51 acre tract in the R-8 Residential District. The average lot size is 32,182 square feet with approximately 1,290 linear feet of new streets planned. No sidewalks are proposed nor required. Utilities and services will be provided by the City of New Bern.

The Departmental Subdivision Plan Review Committee reviewed the plans for this subdivision and determined that the plan meets the city's requirements for development. Staff recommends approval of the general plan.

Public Comments: None

Applicant Comments: None

Board Discussion: None

Motion was made by Mr. Michel to approve the general subdivision plan for Carolina Colors Cerise Circle Neighborhood. Mr. Best seconded and the motion was approved unanimously.

C. Consideration of general plan for Rivershore, a 73.14+/- acre planned unit development (PUD) with 46 lots, located near the intersection of Sandy Point Road & Riverside Drive.

Staff Mr. Avery stated Rivershore is a 46 -lot planned unit development (PUD) located at the intersection of Riverside Drive and Sandy Point Road. It is situated on a 73.14 acre tract in the R-1 0 Residential District. The proposed average lot size is 8,820 square feet. The total common area for the site is 691,851 square feet including area within the ponds. Two thousand, two hundred and seventy - five (2,275) linear feet of new streets and sidewalks will be constructed and dedicated to the city. Water, sewer and other public services are available to the property and will be provided by the City of New Bern.

The Departmental Subdivision Plan Review Committee reviewed plans for the proposed development and determined that the subdivision plan meets the city's requirements for development. Staff recommends approval of the general plan.

Applicant Comments: Kevin Avolis, project engineer, stated he is available to answer any questions.

Public Comments: Joseph "Pete" Rowlett, 215 Bernhurst, asked for clarification on the open space computation.

Mr. Avery placed the plat on the overhead projector, reviewed the common area and said the open space far exceeds the requirement standards.

On question, Mr. Avolis stated the lake is included in the open space computations which includes a 6'

boardwalk and walking trails. The wetlands will remain undisturbed, Avolis said, except for one wetlands crossing needed for the road. The “last house” may need a bulkhead along the wetland line.

Mr. Rowlette asked if the lots will be filled and questioned how water will disburse from the site.

Mr. Avolis stated the houses will be tall and narrow Charleston-style homes. They will be built on pylons and the road is being elevated to a minimum of 6. Some areas on some of the lots are as low as 2-3.

Referring to the plat, Avolis pointed out the 20' vegetated buffer. The dynamics of drainage on the property were discussed.

Mr. Eure asked if the spillway is in the common area.

Mr. Avolis answered yes and discussed plans for a 5-6' concrete flume to be used for a walkway.

Kathy Ingraham, 403 Sandy Point Road, stated she has seen hurricane stormwater cover the road, in front of her house as well as Water Street.

Board Discussion: Questions from Mr. Best initiated discussion on street elevation standards.

Mr. Avolis stated they have not designed this project for a hurricane event but have elevated the roads to be equal with the roads that are already there. The city is in agreement, he said, and many streets are temporarily flooded by storm tides and heavy rain.

Mr. Avery said upwards of one-third of the city is in the flood plain and city staff is working with developers to come up with standards for street elevations that will be economical for builders, safe for users and offer viable access for services.

On question from Mrs. Martin-Combs, Mr. Avery responded that this area is not a velocity zone, and fire department and others are not concerned with the streets washing out or being inaccessible.

Mr. Avery said that staff recommends the general plan be approved with two conditions: (1) construct a walkway over the drainage flume for pedestrian access and (2) improve swale development in rear of development.

Motion was made by Mr. McClellan to approve the general subdivision plan for Rivershore subject to conditions recommended by staff. Mr. Michel seconded and the motion was approved unanimously.

Conditions: (1) developer will construct a walkway over the drainage flume to allow for pedestrian access and (2) improvements will be made to the swales in the rear of the project to aid in drainage.

D. Consideration of general plan for Westport, a 32.37+/- acre planned unit development (PUD) with 158 lots, located on NC Highway 55, 500 feet east of the Craven County Maintenance Building.

Staff Mr. Avery stated this is a request for general subdivision plan approval for Westport, a 158 - lot planned unit development (PUD) located on the north side of NC Highway 55, approximately 500 feet east of the Craven County Board of Education Maintenance Building. The proposed development is on a 32.37 acre tract in the R-6 Residential District. The average lot size for the proposed development is 1,800 square feet. Three storm water ponds will be built to assist with drainage.

Continuing Mr. Avery said the developer's engineer, Kelvin Avolis, met at a neighborhood church with approximately 30 interested residents on January 22, 2007. The purpose of the meeting was to share information about the proposed development and to receive input from the residents. Residents were concerned about the limited recreational area within the development, increased traffic with its accompanying hazards, and increased noise and crime. Of major concern was the high density of the proposed duplex residences that create the potential for a high number of rentals versus homeowners. Residents feared that the development as proposed eventually could create a slum-like blight in their community similar to the Stony Hill duplex development located off Neuse Boulevard.

The Departmental Subdivision Plan Review Committee reviewed plans for the proposed development and determined that the subdivision plan meets the city's requirements for development. Staff recommends approval of the general plan. The total open area is 869,716 square feet, however, staff recommends shifting some of the units to create a larger area for future residents, especially children, to recreate.

Applicant Comments: Kevin Avolis, project engineer, referred to notes he composed from the community meeting which addresses many of the citizen concerns. The notes were reviewed and discussed.

Mr. Avolis agreed that the speed on NC Highway 55 West in the area around the subdivision is excessive (55 mph) but speed limits are controlled by NCDOT.

It is recommended/requested that the Planning & Zoning Board request the Board of Alderman to petition NCDOT for a reduction in speed along NC Highway 55 West for areas within the Corporate Limits to a level of 35 mph.

Regarding the subdivision's single entrance, Mr. Avolis said there are no dedicated rights-of-way or easements available to the owner that will allow access to NC Highway 43. Additionally, providing an access to NC Highway 43 would likely result in the residential area being used as a cut through from NC Highway 55 to NC Highway 43, or visa versa.

The developer of Westport is proposing design features that will enhance traffic movement through the one entrance/exit area. A turn lane with dedicated left and right turn lanes from NC Highway 55 into the subdivision is proposed to meet NCDOT requirements. Left and right turn lanes are proposed from the subdivision onto NC Highway 55. Additionally, two dedicated right-of-way areas have been reserved in the Westport project for future connections to the currently undeveloped property to the north and south.

With respect to the project density, Mr. Avolis said the project is being developed on a gross square footage basis which allows 8,900 square feet of land area per unit. The property is zoned R-6. This zoning designation allows for single family, duplex or multi-family development. The project as

proposed has a density of 158 units, less than the number allowable even if it were single-family lots. A total 8,900 square feet of gross site areas is allocated per unit.

A concern was expressed relating to construction traffic and noise. Traffic and noise during construction will be greater than during normal residential conditions. The developer agrees to take actions to minimize construction traffic and noise including posting signage at project entrance/exit to encourage noise reduction, maintain existing vegetated buffers that exist around the project boundary to help noise attenuation, provide language in the restrictive covenants that will provide provisions for noise control after project completion.

Regarding the citizens concern that the open space be developed to provide amenities for the community's youth, Mr. Avolis said the developer will provide public access to pond areas, provide platform sitting areas including benches in common areas, provide playground equipment at open areas, install fencing to eliminate foot traffic from or onto adjacent properties.

In addition the developer will maintain the vegetated buffer as it exists on the southwestern side of the property and construct and maintain a 6 foot high wood fence along southwestern property line to discourage foot traffic cutting from NC Highway 55 through the residents' properties from the rear.

Residents questioned whether the presence of stormwater ponds would cause a mosquito problem for the area. Mr. Avolis said the proposed ponds will serve as storm water devices for the development. The water will not become stagnate so mosquito population should not be an issue. If a problem occurs, chemical treatments are available to prevent mosquito manifestation.

Community members expressed concern that the quality and integrity of the neighborhood will degrade over time. The developer and residents both agree that mechanisms must be maintained to ensure the long-term viability of a subdivision. Mr. Avolis said the developer will agree to develop and establish a Homeowners Association for the development and provide restrictive covenants which will maintain and preserve the original character of the subdivision to the extent possible.

Public Comments:

Oscar E. Simmons, 876 NC Hwy 55W, stated his home adjoins the entrance of the proposed development. He asked about installation of a privacy fence on both sides the entrance and in the back along his property line. Mr. Avolis proceeded to describe the berm as being 4-8 feet tall and 15-18' wide between the road and Mr. Simmon's property.

Stephen Best, 845 NC Hwy 55W, asked where the sidewalks will end. He asked the Board if they ever walk through the neighborhoods they review. Several members answered yes.

Whitley Jones, 114 E. Pleasant Hill Drive, said assurances of noise control were made when the trailer park went in next door and now elderly community members are disturbed by children running through their yards and many fear to go outside their homes including his own parents. He stated his main concern is that the development will have only one entrance. He further stated that the sharp curve on 55 near the entrance makes a very dangerous traffic situation.

Mr. Jones said law enforcement has their hands full. There is a nightclub in the neighborhood that opens at midnight and there are shootings going on. He said the community supports progress but not when it brings ill effects on existing residents. Further, he believes the development will interfere with privacy in the neighborhood. He does not believe a wooden fence will keep trespassers from coming

onto their properties.

Mr. Jones asked who is responsible for seeing that the property owners keep their places nice.

Mr. Avery answered, discussed homeowner associations and nuisance abatement.

Geneva Horne, 845 NC Hwy 55W, stated she is concerned with the caliber of people who will move into this neighborhood. She restated some of Mr. Jones' concerns, questioned the density and expressed her disdain with the singular entrance and speed limit.

Barbara Best, 845 NC Hwy 55W, restated concerns about the speed limit and said it is impossible to get onto Hwy. 55 in the morning. She asked if DOT denied the city's request to reduce the speed limit before, what else can be done.

Board Discussion:

Mr. Best said he would like to see time stipulations placed on the construction crews.

Mr. Avolis stated this is almost impossible to police and there will not be large trucks or heavy earth-moving equipment used. He said they have enhanced the berm plan at the entrance which will absorb some sound and they plan to install the berm at the beginning of the construction process.

Mr. Best questioned whether the proposed turn lane will infringe on private property.

Mr. Avolis said there are no guttered curbs in the right of way and the ditches will be piped.

Asked about the quality of the fence, Mr. Avolis said the fence will be of durable and long-lasting wood, a minimum of ½' finished with 3 horizontals and 4 x 6 posts.

Mr. Cotton asked about the 20' buffer requirement.

Mr. Moffett said the developer has met the city's criteria.

Mrs. Lamb said the Board can only address these plans within the guidelines.

Mr. Best stated the Board of Aldermen will make the final decision on this plan.

Mr. Best stated that the Pleasant Hill community is a long-standing low density African American neighborhood. He said at the first meeting, Mr. George from the Planning Department stated that the water and sewer is in place but that city staff is concerned with placing this high density development next door. He said he recommends a fence taller than 6'. He encouraged the board to visit the proposed sites for development. He said he is also concerned about the type of duplexes that will go in here.

Mr. Best said Stony Hill started out nice but it is now run down. He said at the price range proposed, there will be a high probability that the units will be bought up for rentals.

Mr. Avery said staff recommends approval of the project subject to the following conditions: (1) Planning & Zoning Board recommend that the Board of Alderman petition DOT to lower the speed limit; (2) Berm/buffer shall be set up at the beginning of construction and final treatment made after construction; (3) Construction warning signs be installed in both directions by developer; (4) Fence

proposed between the subject and affronting properties should be at least 3/4" wood with adequate bracing elements and shall be approved by staff; (5) Walking trails will be established around the lakes with handicap access together with two (2) 60 X 60 playgrounds with equipment and a passive recreation area in the back; and (6) Time limits of 7 am to 7 pm be placed on construction.

Mr. Martin-Combs asked if they could not require another entrance.

Mr. Moffett stated there is not room but a reserved right of way for a future connection has been made.

Mr. Best said he will abstain from voting.

Motion was made by Mr. McClellan to approve the general subdivision plan for Westport subject to the six conditions recommended by staff. Mr. Eure seconded and the motion was approved with one member abstaining.

Conditions: (1) Planning & Zoning Board will recommend that the Board of Alderman petition DOT to lower the speed limit; (2) Berm/buffer shall be set up at the beginning of construction and final treatment made after construction; (3) Construction warning signs will be installed facing both directions by developer; (4) Fence proposed between the subject and affronting properties should be at least 3/4" wood with adequate bracing elements and must be approved by staff; (5) Walking trails will be established around the lakes with handicap access together with two (2) 60 X 60 playgrounds with equipment and a passive recreation area in the back; and (6) Time limits of 7 am to 7 pm be placed on construction.

E. Consideration of a request to rezone, from A- 5 Agricultural District to R-8 Residential District, a 87.99 acre tract located in the 1100 block of NC Hwy 55, 7000 feet west of intersection NC 43 & NC 55 (Ward 5).

Staff Mr. Avery described the property and said it is directly across from the previously discussed property (Westport subdivision). He showed maps on the overhead and stated the property is across from the Craven County Board of Education Maintenance Building (C-5 Office & Institutional), currently zoned A-5 Agricultural District and is vacant woodlands. The subject tracts were recently sold to the present owner who wants to develop a mixed use residential subdivision and thus needs a higher density development option.

The property is bound on the north by Highway 55 West and City limits residential properties (Unzoned), on the south by the Martin Marietta Company (I-2 Industrial District & A-5 Agricultural District), on the East by vacant woodlands and residential properties (A-5 Agricultural District & R-20 Residential District) and on the west by vacant woodlands and the Martin Marietta Company (A-5 Agricultural District & I-2 Industrial District).

All city provided utilities and services are available to the general area. No Areas of Environmental Concern (AEC's) exist within the subject area. Consequently, no environmental effects are anticipated.

The subject area's Rural Classification is consistent with its existing and projected development patterns. Newly installed public water and sewer service has provided added impetus for increased residential development. However, the proposed zoning change from A-5 Agriculture to R-8 Residential is a significant density increase that is inconsistent with the Land Use Plan. Therefore, staff recommends a R -10A Residential District classification to allow for consistent density with the

surrounding areas and the Land Use Plan.

Applicant Comments: Jack Daft, representing the applicant/owner Mitchell Brydge, spoke in length about the desirability and superiority of an R-8 classification for this and other properties. He showed drawings, aerial photos and discussed uses on adjacent properties. He said a broader, more holistic approach to zoning is needed. Quoting several sources, Mr. Daft said sprawling suburban growth patterns are costly to service with upscale suburban housing projects often generating insufficient taxes to pay their way.

Mr. Daft said the rate of growth in this area has been surprising and projections are considerable. He discussed smart growth concepts and urban fringe. The market demographics are changing, he said, with increasingly smaller households demanding smaller homes and lots, easier, shorter transportation, closer access to family, friends, shopping and medical care. In addition, R-8 zoning awards greater opportunity for more open space, recreational use, woods and waterway preservation. Mr. Daft offered a “hypothetical” situation comparing 100 homes on 1 acre lots versus 100 homes on ½ acre lots.

Mr. Daft said the developer desires to purchase adjoining properties and this is in essence the initial phase of the area’s development which will include some commercial use.

Mr. Mitchell Brydge said his firm desires to work in partnership with the city. They develop above average projects and are here “for the long run.”

Public Comments:

Board Discussion: Mrs. Lamb asked what assurance the Board has that once rezoning is approved a quality development will be built.

Mr. Avery said he agrees in large part with Mr. Daft’s precepts but the marketplace pressures developers to meet the current standards and little more. Perhaps with the pending update of the subdivision ordinance, greater flexibility can be built into the process. Mr. Avery said good design should trump zoning every time.

Mrs. Lamb spoke of the need for a design professional to seal plans. It was noted that such a person volunteers and serves on the Planning and Zoning Board, a reference to Mr. Eure.

Mr. Avery stated he would like to see more upfront master planning on projects as was the case with Carolina Colours and Taberna.

Mr. Moffett stated he hoped that staff and city officials will partner with developers to come up with guidance for overall subdivision planning.

Mr. Daft agreed the partnership should be one of advocacy rather than adversity.

Motion was made by Mr. McClellan to carry over the request to rezone until a more thorough analysis could be made of the theoretical comparison between zoning classifications. Mr. Michel seconded and the motion was carried unanimously.

F. Consideration of a request to initially zone to R-8 Residential District, a 63.11 acre tract adjacent to Marion Drive between Brices Creek Road and Yucca Drive.

Staff Mr. Avery described the request. Approximately 33.45 acres of the total 63.11 acre tract was recently annexed. The remaining area consisting of a 29.66 acre lake will be considered for annexation on February 27, 2007. The subject Stillwater Harbor tract is a portion of the former Arthur Farms located between the Craven Regional Airport runway and Brices Creek. The map was examined. Staff recommends an initial zoning of R-10A Residential District which is in character with adjacent residential land uses and consistent with the Land Use Plan.

Applicant Comments: Kevin Avolis, project engineer, stated he is available to answer questions. They will return next month, he said, to request zoning for the lake property as well (once it is annexed). Developer originally requested R-8 but has met with staff and agrees that R-10A will suffice.

Public Comments: Randall Hemminger, 109 Yucca Lane, said he is concerned with city's encroachment on their quiet autonomy (across the street from subject property). The neighborhood does not want to "get swallowed up" or be required to connect to the sewer system. He asked how the zoning will affect them.

Mr. Avery explained the annexation process. He said the only situation that could affect them is if in the future their sewer systems failed, the county health department might require them to connect to the city rather than repair their existing system.

Geraldine Farris, 113 Yucca Lane, echoed Mr. Hemminger's concerns.

Board Discussion: None

Motion was made by Mrs. Susan Moffat Thomas to recommend approval of the request for zoning to R-10A. Mrs. Lamb seconded and the motion was carried unanimously.

Mr. Avery encouraged the Board members to see Mr. George in the lead role in the community theatre production of "Fences." Mr. Moffett asked for updated zoning maps for the board members. A place and time for the work session was briefly discussed.

There was no further business and the meeting adjourned.

Peter Moffett, Chairman

Michael Avery, Secretary