

**Minutes of the  
New Bern Planning & Zoning Board  
August 3, 2010**

The regularly scheduled meeting of the New Bern Planning & Zoning Board was held in the second floor Courtroom at New Bern City Hall, 300 Pollock Street, on Tuesday, August 3, 2010 at 6:30 p.m.

**Members present:** Mr. Peter Moffett, Chair  
Mr. John McClellan  
Mrs. Janet Lamb  
Mr. Kip Peregoy  
Ms. Stevie Bennett  
Mr. Tim Tabak  
Mr. Mark Best  
Mr. Tripp Eure  
Mr. Paul Yaeger

**Members excused:** Ms. Tiffany Dove

**Members absent:** None

**Staff present:** Mr. Bernard George, Land & Community Development Administrator  
Mrs. Lorraine DiBella, Administrative Assistant

**Prayer:** A prayer for guidance was given by Bernard George.

**Minutes:** The minutes of the July 6, 2010 meeting were approved on motion by Mr. Eure, second by Ms. Bennett, and unanimous vote by the Board.

**New Business**

- A. Consideration of a request to rezone, from C-4 Neighborhood Business District to R-10 Residential District, six lots at the following addresses: 1604, 1606, 1608, 1700, 1704, & 1706 Aycock Avenue and two lots at 2105 & 2107 Country Club Road. (Ward 2)**

Staff, Mr. George, described the application and the map was examined. Mr. George stated community members met with Alderman Victor Taylor and expressed concerns about commercial encroachment in this area which is 95% residential; they are particularly concerned with undesirable businesses that may have a negative impact on their community. In response, Alderman Taylor has applied to rezone two areas in the Pembroke community from C-4 Neighborhood Business District to R-10 Residential District. These are specifically eight lots; six located at 1604, 1606, 1608, 1700, 1704, & 1706 Aycock Avenue and two lots at 2105 & 2107 Country Club Road. Approximately 1.39 acres are contained in the areas proposed for rezoning (0.694 acre on Aycock Avenue and 0.635 acre on Country Club Road). Presently the properties are used for two small neighborhood businesses, a church, and two residential dwellings. Previous uses were discussed.

Mr. George stated any citizen can request to rezone any property and determinations are based on “the

public good.” Notice was mailed to all affected property owners and the subject properties were posted with notice of this hearing.

On questions from the Board, Mr. George discussed the grandfathered uses of the properties, saying a current legal use may continue should the proposed rezoning be approved. However, if said nonconforming use discontinues for a period of six months, then compliance with the current zoning would become mandatory. Additional flexibility in the compliance time frame may be necessary if sale or lease of the nonconforming property is being actively pursued. A non-conforming use may be changed to another nonconforming use if it creates no greater impact on the adjoining property owners.

Setbacks were discussed. Mr. Best asked if the owners of the subject properties had contacted the City about the rezoning. Mr. George answered no, the City only had received inquiries from adjoining property owners.

Mr. Peregoy asked why the zoning sought is R-10 and not R-6 like adjoining properties. Mr. George answered there is a mix of R-10 and R-6 in the immediate area, but predominantly R-10. He continued to discuss the City’s policy for adjusting setback requirements for nonconforming lots that are smaller than the standard minimum lot size. Mr. Tabak asked if the use changes to a conforming use, would owners then be able to expand any structures on the property. Mr. George answered yes, they would be afforded all the rights and privileges of any conforming lot.

**Applicant Comments:** Represented above by staff.

The public hearing was opened.

**Public Comments:** Tim Ruth, 1007 Aycock Avenue, asked how the rezoning would affect the neighbors’ property tax rates. Mr. George answered it would not.

Ed Ryder, office manager for Habitat for Humanity, had questions about how the rezoning might affect property Habitat owns across the street. Mr. George answered it should not

Lucy Moseley Bell, 1608 Pembroke Avenue, stated they own property in the area. She is in support of the rezoning and would like to see the garage business discontinued. Community residents have received notices concerning possible ground contamination due to business at the garage.

Hazel Royal 1601 New Bern Avenue, stated she and many in the Pembroke community favor the rezoning to R-10 as they do not want businesses promoting alcohol sales and consumption in their community. They do not want the loitering and bad behavior that come along with such businesses. They desire to maintain the wholesomeness and integrity of their community.

Chairman Moffett asked if anyone in the audience opposed the rezoning. No one came forward. There being no further comments, the public hearing was closed.

**Board Comments:** Chairman Moffett asked if another commercial use would be allowed in the place of the garage. Mr. George answered yes, a commercial use that was deemed by the zoning

administrator to have equal or lesser impacts than the current use would be allowed to be established within the six-month window of opportunity. Mr. George spoke to the importance of private property rights, saying that while the goal of rezoning is to phase out a particular use, there are prescribed procedures in place to protect property owners (grandfathering, etc).

Ms. Bennett commended the residents for being proactive in their neighborhoods. Likewise, it was noted that Ms. Bennett is a strong advocate for improving her own neighborhood.

**Motion** was made by Mr. Peregoy, second by Mrs. Lamb and unanimous vote of the Board, to recommend rezoning for the subject property as proposed. The Board of Aldermen will conduct a public hearing and make the final decision on this matter at their August 24 meeting.

**Miscellaneous Business**

Expiring terms were discussed as was the need for a representative from the City’s ETJ. Chairman Moffett appointed a Nominating Committee consisting of Misters Eure, Peregoy and McClellan to submit a slate of officers for election at the September meeting.

Mr. George advised they would receive notice of an upcoming joint meeting of this Board, along with Trent Woods and River Bend Planning Boards, to examine the CAMA Land Use Plan update. The Board will review the draft plan and officially make their recommendation to the Board of Aldermen at the regular September meeting.

There being no further business, the meeting adjourned.

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Peter Moffett, Chairman

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Bernard George, Secretary