

**Minutes of the  
New Bern Planning & Zoning Board  
November 2, 2010**

The regularly scheduled meeting of the New Bern Planning & Zoning Board was held in the City Hall Courtroom, 300 Pollock Street, on Tuesday, November 2, 2010 at 6:30 p.m.

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

**Members excused:** Ms. Tiffany Dove

**Members absent:** None

**Staff present:** Michael Avery, Director, Planning & Inspections Department  
Greg McCoy, Zoning Enforcement Officer  
Mrs. Lorraine DiBella, Administrative Assistant

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

**Minutes:** The minutes of the September 7 and October 5, 2010 meetings were approved with required corrections on motion by Mr. Eure, second by Mr. Peregoy, and unanimous vote by the Board.

**New Business**

**A. Consideration of General Plan Approval for John A. Hardee Subdivision, a proposed 7-lot subdivision on a 7.41 acre tract located on the eastside of Old Airport Road north of the intersection of West Thurman Road. (Ward 3)**

Chairman Tabak stated this is a re-consideration of a general plan approval for a subdivision plan the Board reviewed in October. At that time, the Board stipulated that their affirmative recommendation was based on making changes to the plan which were accepted by the applicant. Subsequently, the applicant notified staff that he had a concern with one of the stipulations and wanted to amend the recommended plan. Applicant has modified the subdivision plan to improve traffic flow using shared driveways in lieu of the Board requirement for a 30' driveway easement. Also changes have been made to the restrictive covenants to protect the interest of the future lot owners and adjoining property owners as it relates to the treatment of stormwater. Tabak asked if the Board had any questions.

Mr. Peregoy stated the sewer line in front of lots 4-7 is shown outside the existing sewer easement. The applicant John Hardee stated he has made repeated efforts to get this matter resolved. He stated the developer of Longleaf Pines was allowed to tap into lines that were installed outside the sewer easement. Mr. Hardee stated the city attorney told him this was a problem he would have to

take up with the developer. He said he was never compensated for the sewer easement.

Mr. Peregoy asked if the Board could give a favorable recommendation on the subdivision plan prior to the matter of the sewer easement being resolved. Mr. Avery said an easement would have to be in place. He will contact the city engineer and city attorney as soon as possible about the easement and what is required.

Mr. Peregoy asked whether the deed restrictions should require, in addition to installing a 6' fence along the back property line that the fence be "maintained" and not allowed to fall into disrepair. Mr. Hardee agreed.

The necessity of notifying potential owners of the stormwater requirements was discussed briefly as was the required 10' vegetative buffer in commercial zones and the four (4) shared driveways onto Airport Road.

**Public Comments:** Anne Ewell, 810 W. Thurman Road, raised concerns about what manner of stormwater treatment would occur on the site. Mr. Tabak answered that CAMA will determine and regulate the stormwater treatment; it is outside this Board's scope of work and premature to the plan as the stormwater treatment is based on the amount of impervious surface that will be created on the site. Mr. Avery added that the property owner is choosing not to install stormwater treatment at this juncture and eventual buyers will have to apply to the Division of Water Quality; stormwater is treated with retention ponds, swales, rain gardens, bio-retention basins and other means. The law requires that the land sheds no more water after development than it did pre-development.

The public hearing was closed. Chairman Tabak asked for staff's recommendation.

Mr. Avery stated the applicant has successfully addressed the traffic concerns and has inserted on the plat the stipulation for only four driveway cuts. Additionally, the plat now includes the Deed Book and page denoting Mr. Hardee's ownership from the center line of Thurman Road to an existing 30' right of way on the site. Other concerns the Board may have can be addressed as conditions to the plan approval.

**Motion:** Mr. Peregoy moved that the Board recommend general plan approval of the revised John Hardee subdivision, including removing the 30' easement along the back in lieu of shared curb cuts in the front. Plan approval is also subject to a sewer easement that is acceptable to the City being added along the Old Airport Road side of the property, the restrictive covenants be revised to state the 6' fence will be maintained, and language added to give notice to potential buyers concerning their potential stormwater requirements. Mrs. Lamb seconded and the Board agreed unanimously.

**B. Consideration of request to rezone 1113 Chelsea Road from R-10A Residential District to C-4 Neighborhood Business District. (Ward 6)**

Mr. Avery described the application, stating the property is across the street from the New Bern Memorial Cemetery and behind the True Value Hardware Store which is on Trent Road. Ingress and egress for the hardware store is on Trent and Chelsea Roads. Nearby properties are used for a variety of small commercial businesses and residences including The Vineyards (condos). The rezoning map was examined.

**Applicant Comments:** Zachary Taylor described the current use on the property saying it is occupied by an old house which is in poor shape. He circulated photographs of the property, house and the nearby area. The subject property is just less than two acres and the proposed C-4 Neighborhood Commercial

zoning will allow a much improved use of the site, he said. Taylor said he has personally met with all of the adjacent property owners and only one has any concerns. There is considerable natural buffering and wetlands separating this property and the adjoining.

Mr. Peregoy asked why the C-5 Office and Institutional zoning designation is not being considered, saying it would make a better transition to the residential properties nearby and would prohibit some uses that may be offensive including bars and restaurants, mobile home parks, car lots. Mr. Taylor answered he didn't know C-5 existed when he made the application; he intends to design the site for professional offices but would like to reserve the option for a small retail venture should all the space not be committed to offices.

Mr. Moffett noted that the owners authorization states C-3 Commercial zoning. Mrs. Lamb asked if the Board has the latitude to proceed when the authorization is in error. Mr. Avery stated the zoning being requested is less intensive than the C-3 listed on the authorization but that a new one would need to be executed and become a part of the application.

**Public Comments:** Paul Tingle, 722 Oakdale Avenue, stated concerns that the development of this site will de-value his property. He is concerned with encroachment into the wetlands that separate his property and the subject property, and any detriment to stormwater drainage that may occur. He asked that the different commercial zones be discussed.

Mr. Avery detailed the various allowed uses in C-3 Commercial, C-4 Neighborhood Commercial and C-5 Office and Institutional commercial zones, and discussed the lot coverage and setback differences. He stated that once zoning is approved, all the permissible uses are allowed, whether outright or with additional special use or condition use permits.

Mr. Taylor presented a photograph of the subject site in the direction of Mr. Tingle's property and stated a blueline stream straddles the property line. Mr. Tingle's property is approximately 200' from the house that sits on the subject property. Mr. Taylor asked if certain offensive uses could be excluded or whether a lesser zoning classification should be considered. Chairman Tabak asked if Mr. Taylor would consider C-5 zoning instead of C-4. Mr. Taylor replied that if the Board thinks C-4 is too permissible, he would amend his application to request C-5 Office and Institutional zoning.

Edith Dixon, 601 Circle Drive in Trent Woods, asked that the uses in C-5 be read again. Mr. Avery complied saying allowed uses include all residential, single to multi-family housing, office, clerical, research, medical offices with less than 10,000 square feet, operations that attract little traffic, banks with drive-in windows, government, school, church or social clubs. No commercial/retail, manufacturing, entertainment or recreational uses are allowed. The size of the property will restrict its use to a great degree. Mrs. Dixon stated she is concerned with increased traffic on Chelsea Road (a narrow two lane road with bike lanes on both sides) and increased flow into Trent Woods where she believes roads are at capacity. She argued that medical offices, banks or veterinary offices would generate traffic that amounted to commercial use.

J. R. Holloman, 4709 Trent Woods Drive, said he understands Mr. Taylor has a right to develop this property but is also concerned with increased traffic.

No others came forward and the public hearing was closed.

**Board Discussion:** Chairman Tabak asked staff to discuss their recommendation. Mr. Avery stated in considering rezoning requests, the Board must consider the overall land use plan and transportation plans for the area; surrounding uses and appropriate uses should be considered and also whether the proposed

zoning would be an improvement over the current. A major goal of zoning is to limit the encroachment of non-residential uses and their potentially negative impacts on the City's residential neighborhoods. The potential impacts of a zoning change on the nearby residential neighborhoods and the site's future development can be generally assessed based on existing mixed use conditions and permissible uses. Staff believes that the requested C-4 Neighborhood Business request is compatible, appropriate and consistent with the City's criteria for rezoning.

It was noted that the rezoning analysis offered by staff said C-6 Professional Office zoning would be a preferable zoning classification. Discussion followed on the C-6 zoning district. Mrs. Lamb asked if a traffic study has been done in the area. Mr. Avery answered that traffic studies are only required for large subdivisions (200+ sites) or huge commercial sites. Mr. Taylor said C-6 zoning is unsuitable as it would not allow medical offices. Further, he does not believe that people coming into the subject site will increase traffic into Trent Woods.

Mr. Taylor was again asked if he is agreeable to amending his application to change the zoning to C-5 Office and Institutional. He agreed.

**Motion** by Mr. Peregoy, second by Mr. Best, and unanimous vote of the Planning and Zoning Board to recommend rezoning 1113 Chelsea Road from R-10A Residential District to C-5 Office and Institutional District, with condition that a revised owners acknowledgement be submitted, requesting C-5 instead of C-3, prior to the Board of Aldermen considering the rezoning.

There being no further business, the meeting adjourned.

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Tim Tabak, Chairman

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Michael W. Avery, Secretary