

**MINUTES
TOWN OF PITTSBORO
PLANNING BOARD
RESCHEDULED REGULAR MEETING
SEPTEMBER 7, 2006**

CALL TO ORDER: Chairman Hoyle called the meeting to order at 7:00pm.

ATTENDANCE: Ken Hoyle, Ethel Farrell, Harold Howard, Shannon Plummer, Jimmy Collins.

DISPOSITION OF THE MINUTES of the Regular Meeting of August 7, 2006. **Ms. Farrell made a motion to accept the minutes as presented. Mr. Plummer seconded the motion; it passed unanimously.**

NEW BUSINESS

Mr. Hoyle introduced Ricky Spoon's request to rezone 1.501 acres from R-A2 to C-2. He indicated that the Board has a map showing the parcel and a memo from Planner Monroe.

Monroe indicated that there was one speaker at the public hearing, Mr. Spoon. He addressed the issues and asked the Commissioners' consideration of allowing him to rezone this property so he can get some practical use out of it.

Monroe said the property in question is a triangular piece that is bounded on two sides by Powell Place and on the third side by the eastbound exit ramp of Highway 64 by-pass. This abuts an area of Powell Place intended to be devoted to apartment development. To the west of the site is an open space area backing up to single-family development.

Monroe said he had provided the Board with responses to nine questions we typically ask of rezoning applications. The responses tend to lead you to the conclusion that this may not be the most feasible request; the ideal being that the property should be brought forward into Powell Place. The problem with that is that East West Partners has shown no interest in either obtaining this property or making use of it, so Mr. Spoon has presented the application for the town's consideration.

Mr. Hoyle asked for a clarification. He asked if the parcel was land-locked. Monroe replied that was correct. He asked if the wetlands identified on the Powell Place property crossed Mr. Spoon's parcel. Mr. Spoon said it does, and that it almost bisects it. Mr. Hoyle said that has some consideration on the process.

Mr. Plummer asked Mr. Spoon if he had tried to no avail to work something out with Powell Place. Mr. Spoon said he had and he wished to explain that further; that is the reason he is here asking for C-2. He introduced Jennifer Andrews, his

attorney, and indicated that about three or four months ago he bought a piece of property from Camp Oldham comprised of about 18 acres on the north side of Hwy 64 and this remaining 1.5 acres here. He said after buying it he asked Ms. Andrews to talk to the principals of Powell Place because they wouldn't return his phone calls. Ms. Andrews said she spoke to Roger Perry to inquire about their interest in acquiring that piece or trading a piece adjacent to Mr. Spoon's piece on the north side. He referred her to Mr. Wade Barber who is a partner in Powell Place Ltd Partners and Mr. Barber said he didn't want anything to do with that and referred her back to Mr. Perry. She said she offered a variety of options but there wasn't any level of interest there. Mr. Spoon said he talked to Mr. Barber who said that land is worthless but went on to say that the narrow lot he has adjacent to Spoon's is worth \$100,000 per acre. He pointed out 2.9 acres on the north side that is severely land-locked, and he said he is going to bring the town a plan to develop the northwest side of the intersection. He said that if he doesn't negotiate this trade, when he develops they are going to come in and say they would sure like access. He said the reason he is here tonight is to rezone the parcel C-2.

He responded to Monroe's memo saying that he agreed with point one, it is debatable that the town needs more commercial land, Powell Place has not been successful on their commercial, they haven't been able to entice anybody. He said he agreed that the request is in accord with the Land Use Plan. He agreed that the only traffic impact would be within Powell Place. He said he agreed that the request could have adverse impact on the value of adjacent property and he hoped they would see that. He also agreed that there is a good possibility that the request would result in lessening the enjoyment of adjacent property. Mr. Spoon discussed spot zoning. He referred to the small parcel still owned by Powell Place north of the by-pass and noted that when the original tract was rezoned (before the by-pass) C-2. The construction of the by-pass resulted in a little sliver of C-2 remaining. He claimed that was a classic case of spot zoning. He, finally, agreed that the proposal depends on access from Powell Place and integration into the utilities plan before it would be feasible. He asked the Board to consider the rezoning noting that he would have to bring the parcel back if he wanted to build a twenty-story office building or anything. He is asking the town to rezone this for the main reason that he wants leverage where he can get somebody to come back and talk to him.

Mr. Spoon indicated that the latest offer from Mr. Barber was that he wanted him to give him 12 acres next to the new water tower on which to build a home, build a road to it and he would then give Mr. Spoon the two plus acres and expect \$50,000.

He said what he is asking of the town is not unreasonable. He said that if you look at what they are planning south of here, it is apartments, and they have that wetland and they have stuck a big detention pond there resulting in a diminution of the value of the property. He said there is a nice building site for an office building or something, or they could use it. What they

really need to do is buy that and put that toward their coverage for their apartments when they become viable in the next two to five to ten years. Mr. Hoyle thanked Mr. Spoon for the explanation. He said he felt sure that, from Mr. Spoon's standpoint, all the information provided does have a great deal of bearing in terms of what you can and cannot do but the Board has to look at this strictly as a rezoning request. He said we have to look at it in terms of the questions which have been raised and respond accordingly.

Mr. Howard said he though Mr. Spoon had addressed the issues but he didn't see how the town could rezone his property just to give him leverage with someone else. Mr. Spoon asked what zone he should be requesting. Mr. Howard said one that would allow apartments. Monroe said R-10 with a Special Use Permit would support an application for apartments.

Mr. Hoyle said that before we respond to any request the issue of the wetlands should be considered; if you remove that area, how much is left to develop? Mr. Spoon asked if the Board wanted to table the request and have him bring back a map of the wetlands. Mr. Howard said that rezoning wasn't going to really help unless Powell Place gives him a way out. Monroe said he had had a discussion with Bryson Powell and he indicated that they would provide access to the property for Mr. Spoon.

Mr. Howard expressed concern at the prospect of putting an office building on a property, which would only have access through an apartment complex. Mr. Hoyle added his concern about crossing a wetland for that access.

Mr. Hoyle asked Monroe for some input on spot zoning. Monroe said that if the town wants to rezone a parcel of land that is particularly small it has to have a valid reason to do so. Based on the new state legislation, the town has to explain the reason for smaller than normal zoning districts. He referred back to the property to the north adjacent to Mr. Spoons' northwest quadrant property. He said he thought the initial rezoning of Powell Place when Wade Barber owned it and Ed Holmes occurred before the by-pass was constructed and it is the result of the highway location. Mr. Spoon said the rezoning occurred after the location of the highway was known and the town went ahead and did it anyway. Monroe continued that the issue of spot zoning is that it is a zoning action subject to challenge by anyone with standing. East West Partners would certainly have standing if they wished to challenge.

Mr. Plummer asked the Board if they wanted to look at the wetlands map or if anyone felt inclined to make a motion. **Ms. Farrell made a motion that the Board table this item and address the issues stressed tonight, the R-10, the entrance, the wetlands, etc. and look at it at the next meeting. Mr. Plummer seconded the motion.** Mr. Howard asked Monroe if it would be better if we looked at a Special Use Permit instead of this rezoning. Monroe replied that if Mr. Spoon wanted to consider the development of apartments, in order to achieve any kind of density he would have to apply for a Special Use Permit. In order to pursue that it would require beginning the process again with a public hearing and referral back to

this Board. Mr. Spoon said he did not want to put the Board in a bad position; he'd be willing to withdraw it and go for a Special Use Permit. He said he understood the Board was here to represent the town. Mr. Hoyle said he felt that if we are tabling this and M. Spoon is bringing information back to the next meeting he thought it would be advisable to have a letter from East West Partners stating that they would give you access. Mr. Spoon said that might be difficult since they won't return his calls. Ms. Farrell asked if it would be feasible to sit down with Monroe and figure out what would be the best option. Mr. Spoon said he would try to do that. **The motion passed unanimously.**

Mr. Hoyle introduced the request by Evergreen Construction Company to amend the Special Use Permit for the Pittsboro Village Apartments. Monroe reported that the town approved phase one of the apartments through a Special Use Permit and in 1985 amended that Permit to enable the construction of phase two. The units have been a part of the Pittsboro landscape for more than twenty years. They have, for the most part, been fully occupied during that time. The Evergreen Construction Company is currently proceeding with a redevelopment plan to modernize these apartment units and felt it would be appropriate now to construct a handicapped accessible property manager's office and laundry facility. The current manager's office is not handicapped accessible. There was a public hearing and at the hearing Mr. Morgan of Evergreen Construction testified that they were making this one and a half million-dollar investment and further testified about the ADA compliance they were seeking to achieve. The area of the site proposed for the building is unoccupied land and the proposed construction would not pose a problem with excessive lot coverage under the impervious surface cap. Monroe said that, in his opinion, the application has satisfied the underlying requirements of the Special Use Permit, and if the Board is so inclined, you could reach findings of fact that would enable you to recommend approval.

Mr. Collins said he thought the improvement would enhance the town. He said he is familiar with Pittsboro Village Apartments and a manager's office and laundry facility where they can get in and out would be a boon for the community there.

Mr. Morgan said they not only want to construct the new office but also modernize the apartments in the process.

Ms. Farrell asked if the construction of the office would eliminate any apartments. Mr. Morgan said it would not eliminate any apartments and indicated on a plat map the proposed location of the office.

Mr. Hoyle asked for clarification of the location of Honeysuckle Drive in relation to the entrance to the site. Monroe said the Honeysuckle Drive ends at the entrance of the complex and becomes a private drive in the complex.

Monroe said that the chairman asked before the meetings for the potential of buffering and the properties west and south of the complex are zoned residentially so it would be appropriate for the Board to consider requesting

buffering there. Mr. Hoyle said there should be some consideration for buffering. He said that it appears the developer is spending a lot of money in refurbishing and building an office and inquired if there is any landscaping in the consideration. Mr. Morgan said there would be some landscaping in the front of it and around the corner of it but he didn't have any details.

Mr. Hoyle asked if they were changing the dumpster pad from where it used to be. Mr. Morgan said they will repair the dumpster pad but not relocate it. Mr. Hoyle concluded the only major issue is that there should be buffering between this use and the residential lots west and south. He suggested that if the Board recommends approval, the buffering needs to be a condition of it.

Mr. Plummer asked if there had never been any laundry facilities on the site. Mr. Morgan replied there had not. The current property manager's office is nothing more than an office room and a roll up garage door from which the maintenance person can work. Mr. Plummer asked if all the apartments had washer and dryer hook-ups. Mr. Morgan replied they did but some of the residents don't own any equipment so they see that as a plus having that service available on-site. Mr. Hoyle asked if this would be available only for residents of Pittsboro Village Apartments. Mr. Morgan said that was correct, this would not be open to the public. Mr. Plummer asked if he knew how large the laundry room would be. Mr. Morgan said the laundry room would be about seventeen by fourteen feet. It will have three washers and three dryers.

Mr. Hoyle asked Monroe if it was correct that the last amendment to the Permit was in 1985. Monroe replied that was correct.

Mr. Collins asked if they had speed bumps in the project. Mr. Morgan replied they did. Mr. Collins asked if it helped calm the traffic down. Mr. Morgan said that any time you have speed bumps it slows people down.

Ms. Farrell made a motion that the Board recommend approval of the request with the addition of adding the buffering between the facility and the residential lots to the west and south. Mr. Collins seconded the motion; the motion passed unanimously. Monroe asked the Board to then adopt the Resolution of Recommendation. **Ms. Farrell made a motion to recommend approval of the proposed amendment to the Special Use Permit for Pittsboro Village Apartments, to advise it is consistent with the Land Use Plan, and to adopt the Planning Board Resolution of Recommendation. Mr. Howard seconded the motion; it passed unanimously.**

Mr. Hoyle introduced the next agenda item, Potterstone Village Phases 2B and 3 Final Plats. Monroe indicated that Mr. Witek (developer of Potterstone Village) has submitted the plats; he has provided the town with a Letter of Credit to provide a financial guarantee of the installation of the final one inch of asphalt and the necessary sidewalks; he has provided a statement from Hugh Gillice Associates (engineer for the project) identifying the cost of the remaining work and providing the basis of determining the amount of the financial guarantee (125% of the estimated cost); he has provided a warranty ensuring maintenance

of the roads and utilities for a period of one year from the time of recording of the plats; and finally, a certification of the water permit. All of the elements that are necessary have been provided. In addition to this, Monroe said he got a notice from Pete Domas, an employee of Hydrostructures, who had been inspecting this project. When Mr. Witek's paving contractor was ready to pave the streets, he ran out of dry weather before the base course paving was completed. Some of the roads did not get paved with the first course of asphalt after the proof roll had been done. Mr. Domas assured Monroe that he had these areas re-proof-rolled, they passed the tests, and the first course of paving has been completed in these phases. All of the documents submitted satisfy the requirements of the subdivision ordinance.

Monroe said he had a conversation today with Ms Andrews, who represents Billy Hamlet who owns property immediately adjacent to Potterstone Village. Apparently, when this was first being reviewed as May Farm, Mr. Hamlet never received notice from the town of the consideration of this development and was, therefore, never able to represent his interest in having connectivity through Potterstone Village in to his property. Mr. Witek, who acquired this project after the Preliminary Plat had been approved, has indicated that he owns property on the north side of phase three that would allow for the extension of East Cornwallis Street to the edge of Mr. Hamlet's property. He told Monroe before the meeting that he would be willing to dedicate that right of way to the town so that there would be a public right of way up to Mr. Hamlet's property so that it would not be land-locked. Mr. Witek said Cornwallis comes down to where his street ties in and he was required to put in an 80-foot diameter stone turn-around. Mr. Hamlet was out of town last weekend, he thought there was going to be no access road, and he said he is prepared to record a 60-foot access easement.

Mr. Hoyle referred to Monroe's memo and said it noted that there was two cul-de-sac streets in phase three named Old Post Court. Mr. Witek said that was a CAD based error on the engineer's part, and the second cul-de-sac is called Breezewood Court and that change will be reflected on the plats going to the Commissioners. Mr. Hoyle said the project looks very good and complimented Mr. Witek on the work he has done.

Ms. Andrews asked Mr. Witek if the greenway goes on up to Cornwallis. Mr. Witek replied that it does. Ms. Andrews asked if Cornwallis was going to be allowed to cross the greenway and about the Hamlet tract. Monroe said he would consider the greenway to proceed north and south of Cornwallis and not to impede access to the Hamlet property.

Ms. Farrell made a motion that the Board recommend approval of the Final Plats for Potterstone Village Phases 2B and 3. Mr. Collins seconded the motion; it passed unanimously.

Mr. Hoyle introduced Old Business, Traffic Calming. He noted there was all sorts of information in the packet regarding a variety of traffic calming devices. Ms.

Farrell said she felt that it would be useful to pick out several calming devices and apply those types to whatever the situation may be. She said she didn't feel there was one device which would have universal application. Monroe said that, ideally, what he would like to see is a set of templates that could be inserted in the Subdivision Ordinance that would allow developers to pick from this array of traffic calming devices for their arterial streets.

Mr. Hoyle said he felt that was a good route to take since situations would dictate different approaches. Monroe said what he is hoping for is direction from the Board to focus on specific elements that they like or think would work well and let him develop those standards and bring them back to the Board for consideration. Ms. Farrell asked if he would like members to send the materials back to him with preferences marked. Monroe said that would be fine. Monroe said that doesn't mean this is going to be the whole universe of traffic calming devices; a developer may propose a device that the town hasn't considered and it is Monroe's hope that the language can be crafted broadly enough to allow for some creative or innovative variations. Mr. Hoyle asked members to bring marked information to the next meeting to give to Monroe.

Mr. Hoyle discussed a proposed public hearing procedure conceived by the Mayor. He said he did not feel comfortable making a recommendation tonight since he had not had time to review the document prior to the meeting and the document could not be acted upon by the Commissioners until a public hearing had been held.

Monroe said that the text that follows the chart is a first stab at language that would make the chart before you function. Essentially the changes that would occur if this were adopted would be that we would codify a pre-application conference in his office. The town would require that people wanting to rezone would have to have a neighborhood meeting with the affected parties at which the planner would be present. We would require that plan submittal be taken to a Technical Review Committee comprised of the planner, the manager, consulting engineer, public utilities director, fire chief and anyone else deemed appropriate. That committee would prepare a report to be delivered to the Planning Board when it reviews the application. The committee report and Planning Board recommendation would then go to the Commissioners for review at a public hearing. Following the public hearing, if there were any issues it could go back to the Planning Board or could be acted upon by the Commissioners if they felt all issues had been adequately addressed.

The process introduces two new steps in the review; a required neighborhood meeting and the review by the technical committee. It would switch the time when a public hearing is held to occur after the Planning Board review. Part of the reason for consideration of this process is that the Commissioners wind up conducting the public hearing with only the information in the application. Several members feel it would be more productive to have access to the report which would be created by the review committee and to have the Planning

Board recommendation to take to the hearing so that they and the public have access to more information.

Monroe said that now, unless an application is really controversial, no one is coming to the hearings and the Commissioners feel the hearing is not serving the purpose it is supposed to serve. This is an effort to make that process function better.

Mr. Hoyle said he finds it beneficial to attend the hearings and it gives some input to the Board to know what was said at the public hearings. Mr. Plummer said the information is useful but the Board may get the same kind of information from the neighborhood meeting. Mr. Plummer asked if the meeting would be open and if it would be advertised. Monroe said it should be open but it wouldn't have to be advertised.

Ms. Farrell said she felt the neighborhood meetings need to be with the neighborhood; she doesn't feel the town needs to be involved in them. She said she thinks the meetings could be more beneficial when there is less government involved in the process. Monroe said he had had that same feeling until the Steele development group conducted three neighborhood meetings with residents of Ashford Lake. One of the benefits of his presence at those meetings was when residents were asking specific questions about what the town could and could not do, there was someone there who was knowledgeable who could answer those questions. He said he didn't interfere or try to influence anyone, he was there simply to provide technical information so residents didn't have to leave the meeting wondering what they could expect of the town. Ms. Farrell said that was okay, she just didn't want to get in the position of having the town planner pull these meetings together. Mr. Plummer asked where the meetings were held. Monroe replied that they were held in the neighborhood.

Ms. Farrell asked the reason for the Technical Review Committee since Monroe already gives the Board information he feels important. Monroe said he talks to the fire chief and utilities director informally, but this would codify the procedure. Ms. Farrell asked what impact this would have on the planner. Monroe replied it would mean more meetings. Mr. Hoyle said that was a big concern because the planner has more than enough to do right now. Mr. Collins asked whose idea this was. Monroe replied that Mayor Voller created the template and Monroe developed the language.

Mr. Plummer said there is a flip side to public hearings. He said he felt there is some responsibility on the neighbors to make an effort to make their opinions known.

Monroe indicated that the neighborhood meetings can benefit the developers too. He noted that when AAC presented their development plan at a public hearing without talking to any of the neighborhood before hand, they were quite surprised at the extent of the outcry. They could have abated much of the emotional response of residents if they had first taken the time to talk to affected parties.

Mr. Plummer asked where this process would have been a benefit. Monroe said the AAC application is the most obvious, but that this kind of process really helped the Steele project. Ms. Farrell said what we are really looking at is getting the community more involved, getting the residents more aware of what is going on in their community. Monroe said this process is trying to do that but it is also trying to get more information to take to the public hearing.

Mr. Collins said he felt this was over-kill. He asked if it came from Charlotte or Greensboro? Monroe replied it is similar to a process employed in Apex. Mr. Collins asked how many planners they had in Apex and how many enforcement officers. Monroe said he didn't know precisely but though maybe five.

Mr. Plummer said he didn't think it was a bad idea but he has misgivings about the government making people do this. Mr. Hoyle said he agreed but we also have to take into account that there are many people out there who are property owners but they don't know how to go about getting information. Many feel intimidated coming to the town and they might feel a lot more comfortable in a neighborhood setting.

Mr. Howard expressed his concern, relating the case of the developer holding neighborhood meetings for a project at Lystra Road and Hwy 15-501 where the neighbors were told what he wanted to develop and they endorsed it and the County approved it and now the developer is changing the plan in a way that is totally different from what the residents endorsed.

Ms. Farrell said this concept needs be community friendly and not bureaucratic.

Mr. Plummer said that is exactly how he feels. Monroe asked the Board to bear in mind this document is a first draft which was written yesterday. He said he appreciates to board's active and lively feedback and this information gives him a clear direction. Monroe said he doesn't know if it is the governments' responsibility, but he feels it is responsible government to tell a developer that he has to talk to the residents.

Ms. Farrell made a motion to table this item to the next meeting. Mr. Collins seconded the motion; it passed unanimously.

Mr. Hoyle reviewed Commissioners Actions and asked if there were any Board member concerns. There being none, **Mr. Howard made a motion to adjourn.**

Mr. Plummer seconded the motion; the meeting adjourned at 7:53 pm.