

MINUTES
TOWN OF PITTSBORO
BOARD OF COMMISSIONERS
JULY 28, 2003
7:00 P.M.

Mayor Nancy R. May called the meeting to order and Commissioner Gene T. Brooks gave invocation.

ATTENDANCE

Members present: Mayor Nancy R. May, Commissioner Max G. Cotten, Burnice Griffin, Jr., Gene T. Brooks, Clinton E. Bryan, Jr. and Chris Walker.

Others present: Manager David B. Hughes, Clerk Alice F. Lloyd and Attorney Paul S. Messick, Jr.

DISPOSITION OF MINUTES

Motion made by Commissioner Walker seconded by Commissioner Griffin to approve the minutes of the July 14, 2003 meeting.

Vote Aye-5 Nay-0

CITIZENS MATTERS

NONE

Motion made by Commissioner Bryan seconded by Commissioner Brooks to go into a public hearing.

Vote Aye-5 Nay-0

PUBLIC HEARING

Mayor May swore in everyone that was to give testimony.

SUP – PITTSBORO MONTESSORI PRESCHOOL

Mayor May advised that this request has been withdrawn.

CONDITIONAL USE REZONING BY NORCAL ENTERPRISES, LLC
FOR PARCEL 60850 LOT A & B

PROTEST PETITION FROM ADJOINING PROPERTY OWNERS ARE ATTACHED TO THE MINUTES OF THIS MEETING.

PETITION OPPOSING THE PROPOSAL FROM SURROUNDING RESIDENTS ARE ATTACHED TO THE MINUTES OF THIS MEETING.

LETTER IS FAVOR OF THE PROPOSAL FROM BONNIE GRIFFIN ARE ATTACHED TO THE MINUTES OF THIS MEETING.

LETTER FROM NICK ROBINSON ALONG WITH THIRTEEN LETTERS IN FAVOR OF REZONING ARE ATTACHED TO THE MINUTES OF THIS MEETING.

APPLICANT'S TESTIMONY

Attorney Nick Robinson went over a detail site plan for the quick lube (Lot A) and the relocation of office space (Lot B), stated this project will bring additional tax revenue and additional jobs to Pittsboro. A sworn statement was included in the agenda packets from Ed Holmes, Jr. and Don Whitt. His clients feel this will be good for Pittsboro and the citizens of Pittsboro. (See Exhibit 1, Exhibit 2, Exhibit 3, Exhibit 4, Exhibit 5, Exhibit 10 and Exhibit 10 – on file in the Town Clerk's Office (maps).

- Joe Faulkner, C. E. Group, showed the zoning on three of the corners at this intersection is C-2 the only corner not zoned C-2 is the property owned by NORCAL Enterprises, LLC, which is, zoned R-15. This is a dangerous intersection and should not be zoned residential it is not safe. Mr. Faulkner went over the proposed site plan showing that the quick lube would be 77 feet from property. NCDOT has provided preliminary approval of driveway permit, since it less than 1 acre being disturbed it is exempt from watershed ordinance. There will be a 20 feet undisturbed buffer from Southridge property owners.

Attorney Hornik asked Mr. Faulkner if he were a traffic engineer by trade – he stated he was not and that his comments were his personal observations.

- John Krombach – Pittsboro Body Shop – 1072 Sanford Road – has been working in Pittsboro 25 years. He and his brother Tom are the owners of the property in question. They want to move the existing house from the corner onto Lot B and put a quick lube on Lot A. They will be able to change the oil while you wait and do other safety items. He stated this is different from a service station because you do not have to drop the vehicle off. This type business would be appropriate for this corner. He feels if a professional office business is put on Lot B, they would work 9-5 on weekdays and there would not be weekend work. If they would develop the property with its current zone they could have three residences and it would be within their right to remove all trees. They have attempted to satisfy the neighbors, they have bent over backwards. They have made significant changes to the last proposal: contacted NCDOT and got preliminary approval for road location; agreed to install a eight feet tall wooden fence next to Thrift property; doubled the size of buffer – ordinance requires 10 ft. they are proposing 20 ft.; eliminated Lot C and driveway on 87 is larger. He made an attempt to discuss these matters with Pam Woods and for her to try to arrange a meeting – she said no one was interested. They were told they

were on the right track by Pam Woods. It will benefit the Town with increases in ad valorem tax, water and sewer revenue, jobs, sales taxes and office structures.

Attorney Hornik asked if any studies had been done to determine how many oil changes there would be per day – Mr. Krombach stated 30 oil changes per day on a good day.

Attorney Hornik asked if he would be willing to do more if someone would have talked with him? Mr. Krombach stated that was the purpose of having a meeting to see what could be worked out.

Attorney Hornik asked if he was threatening to cut the trees down if his project is not approved. Mr. Krombach said he was stating what he would be allowed to do.

Attorney Hornik asked what would be the hours of operation for the jiffy lube – Mr. Krombach stated between the hours of 7:30 a.m. and 5-6 p.m.

Attorney Hornik asked if he would be willing to make sure that any offices in the proposed building would be opened only between the hours of 9-5 Monday thru Friday. Mr. Krombach said if it were a condition of approval.

Attorney Hornik asked if he had a background in land use – Mr. Krombach said no – Mr. Hornik stated he was not an expert witness, but he was present as a business owner.

- Rynal Stephenson – Traffic Engineer with Ramey Kemp & Associates – 4928A Windy Hill Drive, Raleigh – B. S., Civil Engineering, NCSU, M. C. E., Civil Engineering, NCSU 2002 stated he is a licensed professional engineer, and member of the Institute of Transportation Engineers. Mr. Stephenson stated he has not been an expert witness before. He compiled a report on the traffic impact and safety issues at the business proposed location. (Exhibit 6 – a copy of which is attached to these minutes)

Attorney Hornik asked how long as he been working in this field. Mr. Stephenson stated he has worked 2 ½ years with Ramey Kemp & Associated and worked 1 or 2 years after college with NCDOT – Traffic Engineering Section.

Attorney Robinson entered Exhibit 7 which is a copy of Mr. Stephenson's qualifications into evidence.

- Baxter Riggsbee – PO Box 218, Pittsboro – was born here and has lived here 75 years and spent 3 years in the military. Was licensed as a real estate broker in 1961. He has never had his license suspended. He has served as a court appointed appraiser 8 or 10 times. Have reviewed the plans for the quick lube – he does not think it will substantially injury property values. It will improve the value of the Whitt and

Holmes Oil property it definitely would not harm it. It is the logical place for commercial property to be located.

Attorney Hornik asked about value to Thrift property. Mr. Riggsbee stated there would some damage in the beginning but he felt it would go up. Attorney Hornik asked Mr. Riggsbee if he had ever lived next to a quick lube, Mr. Riggsbee stated no, he asked him if he would like too – he said no.

- Scott Thomas – 186 Epps Clark Road, Silk Hope – grew up in Pittsboro – he is a licensed realtor/broker. He currently serves as the Broker in charge of Remax/Southern Advantage in Pittsboro – he has handled 50 or more property transfers. Attorney Robinson went over the plans with Mr. Thomas.

Market Analysis – would the property values be affected?

Lot B – office building on - Thrift Property – none

McConnell/Graf property – none

Dean, Woods, Batishar – none

Krombach – south – more valuable – commercial feeds on commercial.

Lot A – Thrift property – minor effect – short term – may not even effect it

Southridge property owners – none

South & across the street – may increase the value

Attorney Robinson entered Exhibit 8 (a copy of which is attached to the minutes of this meeting) into evidence.

Attorney Hornik asked if one commercial property could be compared to another. Can a restaurant be compared to a quick lube? Mr. Thomas stated they are both commercial businesses. He asked Mr. Thomas if he has ever testified as an expert witness before – Mr. Thomas said no.

- Tom Krombach – 326 West Street – CPA, owner Krombach, Gardner & Co. – have been doing business in Pittsboro 25 years.

He went over a report he prepared entitled – Projected Economic Impact of Quick Lube and Office Improvements. (Exhibit 9 – is attached to the minutes of this meeting). He feels this is the best use of the property.

Attorney Hornik asked about traffic from delivery trucks and impact customers would have on traffic to property. Attorney Hornik asked why they could not look at other vacant C-2 property in Town. Mr. Krombach stated because they already own this property.

- Van Finch – Land Surveyor 109 Hillsboro Street, Pittsboro (business address). Have worked in Chatham County 28 years. Reviewed site plan (Exhibit 2)

Attorney Robinson entered – Exhibit 10 (Map), Exhibit 11 (Map) and Exhibit 12 (Map) into evidence.

Attorney Hornik asked what were the circles for? – Mr. Finch stated he was interested in property within 100 feet of the subject project.

Attorney Robinson – entered Exhibit 13 – letter from NCDOT and Exhibit 14 – Conformity with Pittsboro Land Use Plan into evidence. He request a moment to summarize at the end.

- Attorney Hornik said he represents a group of property owners north and west of the proposed project. He would like for his exhibit to be the last one from the opposition.

OPPOSITION TESTIMONY

- Steven Graf – 940 Sanford Road read a prepared statement. (Exhibit 1 - which is attached to the minutes of this meeting).

Attorney Robinson asked Mr. Graf if he was a traffic engineer he said no. Attorney Robinson objected to hearsay.

- David Thrift – 886 Blue Heron, Terrell, NC – on behalf of himself and his mother he read a prepared statement. (Exhibit 2 – which is attached to the minutes of this meeting).

Attorney Robinson objected to hearsay.

- Pam Woods – 153 Evergreen Drive – adjacent to Lot B – read a prepared statement and referenced a group of photos concerning the quick lube and residential property. (Exhibit 3 – which is attached to the minutes of this meeting – (E) of this exhibit is on file in the Clerk’s office because of size). She stated that her property taxes for Pittsboro are \$1,000 per year, so three residential homes could bring \$3,000 year; she was the representative for the group of residents in Southridge and she was very open to talk with him about anything (John Krombach). She encouraged CU zoning.

Attorney Robinson objected to hearsay. He state you had meet with John Krombach and encouraged him to apply for CU rezoning, and they took into consideration your concern about 10 feet set back and increased it to 20 feet from the Thrift property. No possible scenario would work. Attorney Robinson asked if everyone who signed the petition saw the site plan before they signed – she said that everyone she got a signature from saw the site plan. Attorney Robinson stated that Mr. Dean did not see the site plan.

Ms. Woods stated that Mr. Thrift told her to get back with him if anything new came up. Attorney Robinson said that was the propose of trying to get a meeting set up. Ms. Woods stated that Mr. Thrift said Mr. Krombach did not have a problem contacting him when he was trying to purchase his property.

Attorney Robinson asked Ms. Woods what was her occupation. She stated he was a mother of four and a hairdresser by trade.

Attorney Robinson asked if Exhibit E accurately represented what she saw – she said yes.

- Sue Robinson – 148 Evergreen Drive – read a prepared statement. (Exhibit 4 – which is attached to the minutes of this meeting).
- Lisa Smith – 166 Evergreen Drive – read a prepared statement. (Exhibit 5 – which is attached to the minutes of this meeting).

Attorney Robinson asked he she was aware that sworn statements in support of the project were received from Don Whitt and Holmes Oil and that the Daycare Operator is in support. She said she was not.

- Tim Woods – 153 Evergreen Drive – He had storm water drainage concerns about flooding on 15-501. Would hate to see it become another Eastgate shopping center that floods every time it rains.

Attorney Robinson asked what was his occupation – Mr. Woods stated he is a Production Manager/Electronic Engineering. Attorney Robinson stated do you have expertise in stormwater management – Mr. Woods answered no.

- Chelsy Woods – 153 Evergreen Drive – This project would connect to their backyard, they spend a lot of family time together in the backyard. She would not feel comfortable wearing her bathing suit in the backyard with a Jiffy Lube there. Jiffy Lube does not belong there.

Attorney Robinson stated he objects to the use of 90 or more signatures on the petition as hearsay.

- Robyn Allgood – 4351 Moncure-Pittsboro Road – owns business at 1056 & 1052 Sanford Road read a prepared statement in support of the project. (Exhibit 15 – is attached to the minutes of this meeting).

Attorney Robinson entered Exhibit 16 into evidence which is a letter of support from Michael Timmons. (Exhibit 16 – is attached to the minutes of this meeting).

Attorney Hornik asked if she owned the property – she stated she currently leases 1056 & 1052 and has plans to build at 1050 Sanford Road

Other Citizens present to speak on rezoning issue:

- Donna Hardy – May Farm Subdivision – would like for the zoning to stay the way it is. When they brought their home in May Farm they thought the whole area was residential and would like to see it that way.
- Chuck Gillis – 115 May Farm Road – opposed to business going there.
- William Travitz – 77 Evergreen Drive – moved here from Pennsylvania thinking the Town would stay like it is – can’t see why it has to be changed – Jiffy Lube don’t need to be there.

Attorney Robinson stated that the important aspect of the public hearing was to compile evidence for the records speaks to approving the application. The application is complete, they provided expert witness, protest petition for Lot B is sufficient for Lot A it is not sufficient. His clients have done a lot for Pittsboro and they are willing to restrict the use of the property.

Attorney Hornik disagreed with Nick Robinson on the protest petition for Lot A. The signature of the Thrifts alone would make the petition valid. Unless the Board makes a policy decision to rezone the property the issue of the special use will not be determined. This property does not need to be rezoned. No one testified to on the completeness of the ordinance. Request that the application be denied. See (EXHIBIT 6 – which is attached to the minutes of this meeting).

Mayor May invited Attorney Messick to summarize the evidence presented.

SUMMARY BY ATTORNEY MESSICK

Attorney Messick stated the applicant has offered evidence that tends to show the following. What it does show is for the Board of Commissioners to determine.

1. The applicant proposes to rezone Lot A, containing 0.42 acre from R-15 to C-2-CU for a Quick-Lube facility. Lot B, containing .82 acre is proposed to be rezoned from R-15 to O & I-CU for an office facility utilizing the existing structure on Lot A.
2. Three corners of the intersection of US 15-501, and NC 87 are currently zoned C-2. The corner with the applicant’s property is currently zoned R-15.
3. Lots A and B would have access to NC 87 with a shared driveway, which has been preliminarily approved by NCDOT. There would be no access from US 15-501.
4. The applicant’s proposed site plan shows fencing, vegetative buffers and screens for the adjoining parcels. The proposed lighting plan would have little adverse impact on the adjoining residential property.

5. The proposed uses would have less impact on the existing trees on the site than subdivision and construction of three residential units.
6. The proposed development would increase the tax base of the Town and create jobs as well.
7. The traffic impact of the proposed development would be minimal. Safety would not be affected by the development.
8. The development would have a slight negative impact on the Thrift property in the short run, but not in the long run. Other adjoining property would be positively impacted or not at all. The highest and best use of the Norcal property would be for commercial uses.
9. The proposed development would have a positive economic impact on the Town by an increase in tax value of more than six times the current value, sales tax revenues of more than \$4,000.00 per year and gross salaries of more than \$200,000.00.
10. The only properties within 100' of Lot A are those owned by Thrift, Holmes Oil, Pittsboro Body Shop, and Norcal's Lot B.
11. The proposed development is consistent with the goals of the Pittsboro Land Use Plan.

Attorney Messick stated the opponents of the applications has offered evidence that tends to show the following. What it does show is for the Board of Commissioners to determine.

1. Protest petitions in both cases have been filed that would require a $\frac{3}{4}$ majority of the Board of Commissioners to approve each requested rezoning.
2. At least some of the neighbors believe that the rezoning would be illegal spot zoning, and not in the best interests of the Town.
3. There are general concerns among the neighbors about the proposed development increasing auto accidents at the 15-501 and 87 intersection based upon a fear of increased traffic attributable to the development. There are other commercial areas in town available as well as unused office space available.
4. David Thrift believes that the proposal would "devastate" his property value. He believes that his quality of life would be diminished by the development.
5. Lot A is not large enough to have a business such as a Quick-lube and have it coexist in harmony with the surrounding area.

Commissioner Brooks said he thought they wanted access to the road they have used for years.

Commissioner Bryan stated he personally would like to see the easement has been approved for Ms. Bruton.

Attorney Messick stated he was sent a draft.

Vote Aye-4 Walker/Cotten/Griffin/Brooks
Nay-1 Bryan

Motion made by Commissioner Cotten seconded by Commissioner Griffin to adjourn at 11:48 p.m.

Vote Aye-5 Nay-0

Mayor

ATTEST:

Clerk