

**TOWN OF PITTSBORO
PLANNING BOARD
MINUTES
REGULAR MEETING
AUGUST 6, 2007**

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

APPROVAL OF THE MINUTES of the Rescheduled Regular Meeting of July 16, 2007. A motion was made by Mr. Howard to approve the minutes as presented. The motion was seconded by Mr. Plummer; it passed unanimously.

Mr. Hoyle introduced the commercial site plan for KFC/Taco Bell. He said there were a number of concerns raised by Monroe and he asked if there was anyone representing the applicant. Mr. James Luihn of Luihn Foods introduced himself.

Monroe said that there were a few minor housekeeping issues that he expressed concern about in his memo; one was the flood map reference since we have new flood maps that have been adopted by the town and accepted by FEMA. He said he made the applicant aware by giving him a map reference number and an effective date.

The watershed is the Watershed IV Protected Area and the watershed standards will apply. He also said that note 3 should be changed to indicate that "As Built" drawings will be submitted to the Town Planner before an occupancy permit is sought.

Monroe noted there is a small issue with a parking space in the westernmost part of the property in that some of that space encroaches on an adjacent property. The space should be entirely located on the Luihn site or an encroachment agreement with the adjoiner should be filed with the town.

Monroe indicated that note 7 on page C-2 says that the page contains pavement detail but it does not and that should be corrected. He said that his biggest concern is at the secondary entrance which is located on a drive that separates the outparcels from the Lowe's parking lot; that is the primary means by which the outparcels will be accessed. He indicated that the separation from the drive thru lane and the access lane is not a physical separation, it is just a white line painted on the pavement. He said his concern is that people could be coming in from Lowe's and trying to go in to the drive thru lane; at the same time he said he understands that people who may be in the drive thru lane may want to leave it so he suggested that the arc (white stripe on the pavement) become a curb up to the point where stacking vehicle number five is shown. That change would enable the throat of the entrance to be narrowed and the area inside the curb could be returned to green space. By narrowing the throat that would create a condition where there was a straightaway, before there would be any attempt at lane changes could occur and that would make travel a lot safer in his opinion.

Monroe said that the next issue concerns the need to provide a screened dumpster area and Monroe said he would like to see some visual detail on what the relationship of the dumpster screen would be to the design of the building to be assured that the two elements are visually compatible. Mr. Luihn said that they would make the dumpster screen the same design as the building.

Monroe said the plan should contain a note defining the amount of impervious surface. It should also define how deliveries would be handled. He said he is also concerned that the first floor elevation is not identified and that is something to which he is sensitive given the recent experience at the Holt office building.

Monroe said that when construction drawings are presented, water main details should be presented and the location shown. He said there is no landscaping shown between the edge of the parking area and the edge of the property where it abuts 15-501. He said that given the amount of grief that all of us have taken over the condition of landscaping at the Lowe's parking area we should seek to improve that situation on the outparcels. Mr. Luihn said they would improve that area and make it look like it blends right in to the other landscape areas on the property. He said they would provide a plan with trees and shrubs. Mr. Hoyle said that it was very nice of Mr. Luihn to commit to that but he would recommend that the details be shown on the plan before it goes to the Commissioners to show exactly what is intended to be done. He said the Board got a verbal commitment with regard to Lowe's and the parking area looks terrible. He said that the reason the Board is so concerned about this area is that if someone comes off of 64 Eastbound this is going to be the first visual reference to Pittsboro, it is a very important piece of property. Mr. Luihn said they are investing a lot of money and they want to make their site look great; he said his engineer is not here tonight but he will address that and will put that detail on their landscape plan. He said it was a little difficult because the town had not adopted a lot of landscape ordinances, which would guide applicants. Mr. Hoyle said the town had not adopted landscape ordinances but the Board could put recommendations in their message to the Commissioners, which would not be approved until it is in writing.

Mr. Collins said that it was a concern to him that some of the trees at Lowe's died and people need to be sensitive to the idea that these plants will be maintained. Mr. Luihn said that when they plant sites they get a warranty on them and he works with the same landscaper and he does a really nice job, but they will put it on the plan showing what they propose and that way the Board can decide if it is adequate. Mr. Collins said he would like to see a note that says the plants would be maintained. Mr. Luihn said that in Apex they maintain in front of their Taco Bell there even though the gas station next to them doesn't do anything. His concern is that the DOT buffer is sometimes rather neglected, but he agrees 100 percent about keeping plants alive. He said they would probably be wrapping up this project when fall kicks in so it will be a good time to plant. Mr. Plummer said that is what the Board is saying, if we don't incorporate in our ordinances but include it on the site plan you will know, when it is time to plant, what we have agreed to. Mr. Luihn said he had a landscape architect/planner and he will have him add the details and assure that they will be maintained.

Mr. Hoyle said that, ideally, it would be nice if we could eliminate your parking close to 15-501 and that way you could push your building closer to the highway, but that would eliminate the connectivity among the three outparcels there and we think that is necessary because otherwise you will just have the drive in from Lowe's; so that is the reason the Board is pushing for the landscaping.

Monroe asked Mr. Luihn if he owned the facility on 55 in Apex. Mr. Luihn said they just purchased that about one and one-half years ago. Monroe asked if the building was going to be of a similar design to that. Mr. Luihn said somewhat similar. He said he didn't have any elevations with him right now but it will be a very attractive building and he said

they would expect to get Monroe's sign-off on it. Mr. Plummer asked if it was a brick building. Mr. Luihn said it has brick, stone, stucco, and glass. He said he was aware that they had to conform to the look of the shopping center so they are actually making some changes on the plans right now and they will run it by Monroe to make sure that it conforms.

Monroe said that one of the conditions of the approval of the shopping center was that all of the buildings were to be visually related to each other. Mr. Hoyle asked Mr. Luihn if he was prepared to present the building appearance to Monroe. Mr. Luihn said he would; he said he has to do a corporate approval on the aesthetics of the building and because it is a requirement of the town, corporate allows flexibility-that is the policy. He said that corporate allows the developer to bend a little bit and use some of the materials that are in the shopping center when it is a requirement of the municipality; but otherwise they want them to build it exactly the way they have got it.

Mr. Collins asked if this was a combination of a KFC and a Taco Bell. Mr. Luihn said that was correct. He said they have about fifteen of the combinations; it kind of eliminates the conflict in the family a little bit. Mr. Luihn said they were glad to be coming to Pittsboro, he grew up in Apex and they have been here forever. Mr. Hoyle said we welcome them here, if you bring something that is aesthetically pleasing from the road. Mr. Luihn said he is going to get Monroe's sign off on the design, he said he wanted to do it right.

Monroe said he would like to bring the Board members' attention to the response, which is the last page in the submittal and call to your attention that every single item noted as a minor or major concern has had an affirmative response from the applicant. Mr. Hoyle informed Mr. Luihn that the Board appreciates that.

Mr. Hoyle noted that the petitioner has adequate wastewater leaving 3940 gallons for the two remaining parcels. Mr. Hoyle said he was concerned about the placement of the CVS, which will be south of this property since they are going to have a drive thru. Mr. Hoyle asked if they would have more asphalt and impervious surface. He asked if their access would also be limited to the same drive the KFC is using or if they would be allowed to come in off 15-501. Monroe said their access would be limited to the same drive and there would be no access from 15-501.

Mr. Hoyle asked Board members if they had any questions and apologized for doing a lot of talking but he is concerned that it is important to create something that is aesthetically correct here because this is the gateway to the town. Mr. Hoyle said he has heard that there will be another fast food site to be presented to the town if the Board recommends approval of a rezoning south of Lowe's Drive. Mr. Collins asked Mr. Spoon if the MacDonald's would be like the one in Siler City. Mr. Spoon said it would be similar, that is why he wanted to get together with Mr. Luihn to coordinate the materials used at the brewery and that will be used at the MacDonald's. He said he would also like to get together with the CVS so they could coordinate the way they all look. He said Monroe gave him a picture of what he wants the MacDonald's to look like and he will make sure that happens or he won't sell the property to them.

Mr. Howard made a motion to recommend approval to the Commissioners. Mr. Hoyle asked Mr. Howard if he would like to stipulate that the details of the landscaping, maintenance and building elevations be added to the plan before it goes to the Commissioners. Mr. Howard said that would be fine he thought it was going to be put on the plan for Monroe to approve. **Ms. Marsh seconded the motion; it passed unanimously.**

Mr. Hoyle introduced the next item—Old Business, the **Powell Place Condominiums**. Mr. Hoyle acknowledged Mr. Yono from the Livingston Building Company of South Raleigh.

Monroe said that the first thing that he would like to bring to the Board's attention is that he has had a couple of conversations with Bryson Powell regarding the need for a Minor Subdivision to create the lot on which this development would be located and it has not yet been delivered to his office. Mr. Powell has indicated his intention to do that and Monroe has seen a paper copy of it but he has not yet been presented with a Mylar to sign and have it recorded. He suggested that if the Board wanted to consider a recommendation on this application tonight that they make the subdivision a condition of approval. He assured the Board that the Livingston Group had no responsibility in this matter.

Monroe said that he had raised a concern in the last meeting about the proposed plan for trash removal in which the applicant had shown individual roll-outs for every unit and this plan has been revised to show dumpster locations where two buildings will be served by a single dumpster. He said he has run this proposal past representatives from Waste Management and they are delighted with the change that has been made and feels that it would be very satisfactory for them to be able to provide service to the condos. Monroe said that he had raised an issue about a wetland draw that runs through this property and he had believed when he raised that issue that the draw was located on the east side of the detention pond. Mr. Carson has corrected his perception indicating that the draw is located between the two detention ponds and therefore Monroe doesn't believe that will be an issue with the Corps of Engineers. He said he feels much more comfortable about that situation since he has had a better explanation.

A security fence has been shown at the back of building 5 at the crest of the slope down to the detention pond and it extends all the way around to the top of the retaining wall so that negates his concern about someone accidentally wandering down that slope and pretending that it is a water slide.

Monroe said that the real issue that remains is the northern boundary. The MUPD regulations require that there be a 20 foot undisturbed buffer retained on the perimeter of the project Powell Place. In this case, the retention wall is located entirely within that twenty-foot buffer which means that the buffer would have to be clear-cut to allow construction of the retaining wall. He said he is suggesting that we need to have the location of that retaining wall adjusted to protect a twenty foot undisturbed buffer and he believes that Mr. Yono and Mr. Carson have a response to that they will present tonight.

Monroe said he simply added a number of conditions that should accrue to a recommendation of approval if the Board chooses to do that; those being construction drawings, a Soil Erosion, Sediment Control Plan, and the design of the wet detention pond. Those elements would come after plan approval as a set of construction drawings that would have to be approved by the state and Hydrostructures before land disturbing activity can occur and before a grading permit could be sought.

Mr. Hoyle asked for a clarification of the location of this particular plot of land. Monroe said you had to go past the second round-a-bout and past the single family homes and the parcel is located just to the east of a small bridge with black guard rails (that is the location of the wetland shown on the plan). Monroe said the parcel is just beyond the

patio homes on the south side of Millbrook Drive. He said you are pretty well into the project by the time you get to this property.

Mr. Hoyle expressed his concerns about the location of the road into the Spoon property. In the discussion with Mr. Carson with regard to the retention wall the Board talked about having the buildings in the back of the project do some step downs to lower the elevation which could possibly eliminate the retention wall. Mr. Hoyle further iterated that the buffer couldn't be disturbed for a wall or any other purpose. He said that his personal opinion with regards to looking at all this is that this item should be tabled until all these issues have been taken care of, including the wall and the minor subdivision and then come back to the Board. He asked for a clarification of the proposed dumpster locations. Monroe replied that dumpsters are located to serve pairs of buildings to maximize the efficiency of trash removal. He said there will be a total of eight dumpster locations instead of 120 individual roll-outs. Mr. Hoyle asked how it is proposed to shield these dumpsters. Mr. Yono said there is a detail on the plan that shows a screen wall that matches the same brick and style of the building and then around that they will plant some shrubbery and trees to break it up even more. Mr. Hoyle asked if the dumpsters would be gated. Mr. Yono replied that they would be. Mr. Collins said that often with trash, you find bones and scraps of food that will decay and he asked if there were any plans for maintenance. Monroe said that he thought the maintenance would fall back to the homeowners' association; he asked Mr. Yono to correct him if he is wrong. Mr. Yono said the restrictive Covenants would cover that and they have just about every detail that you can think of, including lighting and landscaping and exterior building materials. Mr. Hoyle said that even though this parcel is being sold to this gentleman, the restrictions from Powell Place are the same. Mr. Yono said that was correct, the restrictions follow the land.

Mr. Carson said he would like to address some of the comments from Mr. Monroe, specifically regarding the retaining wall. He said that according to codes they need twenty-two feet between the buildings and many of these buildings right now have about twenty-seven feet; so, they can take out an additional five feet and shift two buildings further to the south. By additionally reducing the screen-space on the back side of building 6 they could shift the fence closer in to that building and pull the wall out of the buffer, so they would be able to preserve that twenty foot buffer as is required. Mr. Plummer asked how far in to the buffer the wall is located. Mr. Carson said that right now it is about twelve feet so they just need about seven feet, which they can easily get. He said they could reduce that to achieve the twenty-foot buffer.

He said that regarding the height of the wall they discussed, prior to the meeting, stepping two building down and taking up some more grading and reducing that height, and possibly eliminating the wall altogether. He said they are still going to need some fill on the back side just because of the nature of the buildings, but if they can step those buildings down enough that fill can be contained in to a natural slope and then landscaped. Mr. Plummer said that would be ideal. Mr. Carson said absolutely, the owners would like to see this as something to get rid of; you wouldn't want the wall for cost purposes. Mr. Yono said that he thinks they need to be honest; either way there is going to be some kind of wall there, whether it is 6 feet or 8 feet, there is going to be some kind of wall there; the topography makes it impossible to eliminate it. He said that if they can't touch the buffer at all then they are going to have to have a wall. Mr. Carson said there are different ways they can do it as well; something that he has suggested to

Mr. Yono is that they can do a soil type wall which could be planted with natural materials and it would hold similar to a hard-scaped retaining wall, instead of doing a pizza block or something like a real hard looking wall they could actually do a soil-type. He said the other thing he wants to comment on is the appearance of the retaining wall; Powell Place requires that they maintain the retaining wall because that is what they have on the other side of the plan and they are really obligated to maintain the same material that Powell Place is doing so they are really pretty much doing the same thing. Mr. Carson said that according to Bryson Powell, the subdivision plans would be submitted tomorrow. He said there are apparently some things that need to be corrected and those have finally been corrected so it will be delivered tomorrow.

Mr. Plummer inquired how much he said they had they had to save from the front to preserve the buffer that backs up to Hwy 64. Mr. Carson said that between the two rows of buildings they can reduce the separation by five feet and that would get them out of the buffer.

Mr. Collins asked what the green space would consist of, trees, grass, or what. Mr. Carson said they had a mixture of some trees, some shrubs and grass. He said the trees would be concentrated around the back side of the parking areas to try to help break that view up, specifically toward the ends of the dumpsters as suggested by Mr. Monroe. Mr. Plummer said that he understands that the unfortunate side affect for the people living there is that to protect the buffer they are going to be living five feet closer to each other. Mr. Carson said that it is still much further than some of the patio homes in the neighborhood.

Monroe said that if you proceed farther down Millbrook Drive there is a park area to which people can walk so that there will be adequate recreational space available to residents.

Mr. Hoyle said that he didn't think that the twenty foot buffer should be sacrificed to separate buildings farther. Mr. Plummer said he agreed, it is just that it is a difficult judgment call.

Mr. Hoyle asked if there was any other place to do some creative thinking to locate the dumpsters. He said they are such a necessary but unsightly thing. Mr. Plummer said they have to be within close walking distance or people won't use them. Mr. Yono said the they understand that, and all these condos have garages, that is why they proposed individual roll-outs, that is typically the way that it is done. Powell Place didn't want to see them and Mr. Monroe said that you didn't want to see them as well. There is really only one dumpster per two buildings; it is not like there is one for every building. He feels they are in appropriate places. Mr. Hoyle said that as long as they are properly maintained he sees nothing wrong with them, but you know how that goes. Mr. Yono said he thinks that is true but you have homeowners here, not just renters and they are vested in the value of their property and they are more likely to take care of what is theirs.

Mr. Collins said he had seen a lot of examples of careless use of dumpsters, even in hospitals, and he would recommend that the Board be careful of what they approve. He said people would be surprised, even in new places. People are supposed to put stuff in a bag, and only about half of them do it. He said we need to be very careful with what we recommend for approval.

Since he was present, Mr. Hoyle asked Mr. Spoon if he had any concerns or comments about the access proposed to his property or the wall shown adjacent. Mr. Spoon said

that his biggest concern would be the height of the wall and he doesn't really have any push in these condos to affect it so he said he may talk to them after this is over. He said he has no buffer on his property and he was going to ask for it to be rezoned to C-2 and he would talk to them about getting an easement to move it over or sell them that corner. Mr. Yono said they were unfortunately under a time line with Powell Place and he appreciates the offer but pushing back the buildings was their idea anyway, that was why they closed them in. It is a question of design layout, and pulling them in five feet is not the end of the world. He said they were losing green space but they are picking it up behind the buildings and the buffer is being maintained. Mr. Spoon asked how many total acres they control. Mr. Yono said it is about nine acres which is about half of the multi-family tract.

Mr. Hoyle asked Monroe where we are in all this with regards to the moratorium. Monroe said that Powell Place has a contractual commitment for capacity and is not affected by the moratorium.

Mr. Hoyle said he personally thinks solutions can be found in a much more creative manner for the issues which have been discussed here such as the stepping down of the buildings to virtually eliminate the wall and that wall has got to come off the buffer. Mr. Hoyle said he would go back to his original statement; he believes there are a lot of issues on this plan and he asked the Board what were its wishes. Mr. Collins said that he didn't want to rush it. Mr. Collins said he would make a recommendation that the Board stay with this a little longer, look at it and then come back with more concrete decisions. Mr. Hoyle asked Mr. Collins if he would consider amending that to consider a design whereby they virtually eliminate the wall by doing further step down on the property. Mr. Collins said he would. Mr. Hoyle asked if there is a second to the motion. Mr. Plummer said he had a question. He asked if Mr. Hoyle said eliminate the wall. Mr. Hoyle said to possibly eliminate the wall. Mr. Howard said that Mr. Yono said that is not possible; he said he would like to hear their comments about the wall. Mr. Collins agreed to withdraw his motion to allow discussion.

Mr. Yono said that with respect to building there is only so much they can do. He said that if you look at the plan, they have a green space and one road and then a green space and a buffer. He said there is no way they can pick up more than six feet realistically at best. He said that still leaves the height of that wall at fourteen feet at maximum. It is going to go from zero to 14 feet rather than zero to 20 feet. He said that is the reality of what this site has to offer. He said there is a wall on the other side of Powell Place that already exists that is nearly sixteen of seventeen feet. He said they are not in favor of the wall but they just have to deal with the practicality of what is there in terms of topography. Mr. Hoyle said that in view of that, maybe this is not the location to put these structures. He said that this wall interferes with the buffer and infringes on the adjacent property owner; and we have to respect some of his rights too.

Mr. Yono said that if they relocate the wall then they are not interfering with the buffer.

Mr. Hoyle said they could come out of the buffer but he heard him say they could probably eliminate six feet of the wall, so maybe it comes back to the issue that maybe this is not the right location. Mr. Yono reminded the Board that what was originally approved with the MUPD was six story buildings and he said they are proposing a twenty-eight foot high building, which is only two stories. Otherwise it would be a large building with a large parking lot around it. He said they were lowering the allowed density and the percentage of development. Mr. Hoyle said he is not opposed to the plan

but he just thinks the applicant can be a little more creative in solving the problems in reducing the height of the wall. Mr. Yono said he thinks that has to be a final design and asked for consideration of approval contingent on reducing the wall; but that wall is going to have to be part of the final construction design, so it is more appropriate to construction plans, not at this stage. He said they wouldn't have a problem with the Board saying that they had to reduce the wall below twenty feet; he said it is in their best interest to reduce the wall, he never heard of a developer wanting to put a bigger wall in, it just doesn't make any sense. He said they would reduce that wall as much as possible and the he would be the first to celebrate if they can eliminate it but he is just being practical about when that occurs.

Mr. Collins renewed his motion asking that the review be tabled until the issues raised by the Board and the planner have had adequate response. Mr. Howard seconded the motion; it passed unanimously.

Mr. Collins expressed his concern about the condition of grass at highway intersections and said he felt that the condition was getting dangerous.

Temple Richmond expressed her gratitude for the Boards' attention to detail particularly along the entryways to town.

M. Hoyle reminded the Board that the next meeting will be on Thursday, September 6 because of the Labor Day Holiday.

There being no more business, Mr. Howard made a motion to adjourn. Ms. Marsh seconded the motion; the meeting adjourned at 7:45 pm.