



**CITY OF LINCOLNTON
PLANNING BOARD
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BOARD MEMBERS: Änd Lynn, Chair, andmlynn@gmail.com; Gene Poinsette, Vice-Chair, poinsetteg@charter.net; Anita McCall, anitahome@bellsouth.net; Kathryn Yarbrow, kathryny@charter.net; Jamel Farley, afarley2351@gmail.com; Thomas Hawk, thomasrhawk@aol.com; Becky Burke, beckyburke@charter.net; Jerry Hoffman, jlskhoffman@charter.net

Tuesday, May 17, 2016 Meeting

PRESENT: Becky Burke, Jamel Farley, Tom Hawk, Jerry Hoffman, Änd Lynn, Anita McCall, Gene Poinsette and Kathryn Yarbrow.

ABSENT: None

Call to Order

Chair Änd Lynn called the meeting to order and recognized that all members were present.

Approval of Minutes

Chair Änd Lynn asked the Board if there were any corrections or additions to the minutes of the April 19, 2016 meeting.

Motion: Tom Hawk made a motion to accept the minutes as written and distributed. Jerry Hoffman seconded. Motion carried unanimously.

CUP-3-2016

Application from Goodsonville Properties, LLC requesting rezoning from Residential -8 (R-8) to General Business (GB) District for 2.42 acres located behind 2464, 2480 and 2490 East Main Street (Parcel ID 90928 and 90929).

Mark Carpenter addressed the Board noting the following:

The applicant is requesting the rezoning of approximately 2.42 acres of land from Residential-8 (R-8) to General Business (GB) District. The subject property is made up of two parcels of land located behind 2464, 2480 and 2490 East Main Street (Parcel ID 90928 & 90929). The land also has frontage on Ross Street adjacent to the City of Lincolnton Fire Department.

The land is currently vacant and lies behind land that was once used as a bank that fronted on East Main Street. That bank building has been demolished and that land and the land requested for rezoning is owned by Goodsonville Properties, LLC.

Zoning surrounding the site is a mixture of General Business (GB), and Residential-8 (R-8). Uses surrounding the site are retail clothing store, a gas station, vacant land, and a pawn shop to the north. There are single family dwellings to the east, the Lincolnnton Fire Department and single family dwellings to the south, and single family dwellings to the west.

The Lincolnnton Land Use Plan shows the majority of the property in the Neighborhood Business Corridor Planning Area. The rezoning of the property to General Business (GB) District should be in compliance with the Land Use Plan in that they are similar and the front portion of the property is already zoned General Business (GB).

The rezoning request is in compliance with the Lincolnnton Land Use Plan. The front part of the property along East Main Street is already in General Business. The rezoning of the back portion will allow for a larger tract to be developed. Screening will be required by any development adjacent to residential property.

Staff recommends rezoning the property to the GB District as requested by the applicant.

Mr. Hawk asked if the strip of land between the two parcels is a right of way and if the applicant owns it. Willie Heavner, representing the applicant, clarified that it is a former driveway for First Citizens Bank and is part of the site.

Jerry Hoffman asked about the triangular shaped lot and if it could be included in the rezoning request. Mr. Carpenter indicated that the lot is owned by the County.

Chris Tolbert addressed the Board stating that she and her husband, Dan, own several lots along Openview Drive. Ms. Tolbert indicated the property has been in her husband's family for many years, they enjoy the privacy afforded by the wooded land to the north and with the rezoning, they are losing that. Ms. Tolbert expressed concern about graves, cut-through traffic and stormwater runoff. She also noted that the advertising of the property as commercial may be false advertising.

Mr. Heavner stated that as far as the trees on the rezoning site, they could be taken down at any time regardless of the zoning. With respect to runoff, they will be required to comply with all the stormwater requirements. Regarding the advertising, when people call, we make it clear that the rear of the property is zoned residential. One recent potential buyer was lost because of the zoning.

Mr. Hawk asked about drainage. Mr. Heavner indicated they would submit a stormwater runoff plan and an erosion control plan. Mr. Carpenter indicated there will be a review of stormwater through the erosion control plan and staff would look at runoff onto adjoining properties.

Mr. Heavner noted stormwater would have to be controlled. You have to detain and release. It could be released to the storm drainage system on East Main Street. You can't just drain onto your neighbor's property.

Mr. Carpenter noted the urgent care center as an example. They were required to put in a stormwater detention pond.

Mr. Heavner indicated you would likely have to develop a swale at the back of the property. What typically would happen is you would put in a swale, possibly build the pad up, curb and gutter and take the stormwater to East Main Street. He noted he realized when you have a residential area and have a change, that's a disturbance. The property will change and the use will change to something else.

Anita McCall asked if the owner plans to sell or develop the site. Mr. Heavner indicated he didn't know yet.

Ms. McCall stated the runoff situation will be improved with development of the site and asked about vehicular access. Mr. Heavner responded access will likely be from East Main and possibly Ross Street near the Fire Department.

Dan Tolbert addressed the Board stating that a couple years ago the Fire Department had a break in the tank, his yard flooded and they get drainage from the highway.

Ms. McCall asked Mr. Heavner if he will want an easement from nearby property owners. Mr. Heavner indicated he will not and that the detention could be a dry pond, swales, underground, etc.

Änd Lynn stated that he sympathized with the neighbors and asked if they had photos they wanted to let the Board see. Ms. Tolbert showed photos.

Ms. McCall asked when it floods. Ms. Tolbert responded when it rains for several hours.

Gene Poinsette asked what is allowed under the current zoning. Mr. Carpenter noted single family or duplexes are permitted. A Planned Residential Development (PRD) is allowed with a conditional use permit.

Änd Lynn stated that he is not seeing anything that a good commercial developer could not abate and the runoff is a larger problem that should be addressed with the City.

Motion: Tom Hawk made a motion to approve. Gene Poinsette seconded. Motion carried unanimously.

ZTA-2-2016

Request for Amendment to the Unified Development Ordinance to Replace Rezoning Protest Petitions with Citizen Comments In Accordance with House Bill 201

Laura Elam addressed the Board noting the following:

Effective August 2015, the North Carolina General Assembly (Session Law 2015-160, House Bill 201) modified the General Statutes regarding rezoning protest petitions. The modifications eliminated a municipality's ability to allow protest petitions triggering a super-majority vote by City Council. The General Assembly has replaced the protest petition enabling legislation with language on "Citizen Comments".

The proposed text amendment would replace the current language in the UDO regarding protest petitions and replace that language with the newly adopted statutory language regarding citizen comments.

Current text:

(1) A written petition of protest may be filed with reference to any proposed zoning map amendment. In a case of protest against the change, signed by the owners of 5% of a 100-foot wide buffer extending along the entire boundary (right-of-way included if less than 100 feet in width), an amendment shall not become effective except by favorable vote of three-fourths of all the members of the City Council. In determining a three-fourths vote, vacant positions on the City Council or members who are excused from voting (but not abstentions) shall be considered members of the City Council. The foregoing provisions concerning protests shall not be applicable to any amendment that initially zones property added to the territorial coverage of this chapter as a result of annexation or otherwise.

(2) No protest against any proposed change shall be valid or effective unless it be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment, and unless it shall have been received by the Administrator or his or her designee in sufficient time to allow the city at least two normal city and county work days, excluding Saturdays, Sundays and legal holidays, before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition. All protest petitions shall be on a form prescribed and furnished by the Administrator, and the form may prescribe any reasonable information deemed necessary to permit the Administrator to determine the sufficiency and accuracy of the petition.

Proposed Text:

If any resident or property owner in the city submits a written statement regarding a proposed amendment, modification, or repeal to a zoning ordinance to the clerk to the board at least two business days prior to the proposed vote on such change, the clerk to the board shall deliver such written statement to the city council. If the proposed change

is the subject of a quasi-judicial proceeding, the clerk shall provide only the names and addresses of the individuals providing written comment, and the provision of such names and addresses to all members of the board shall not disqualify any member of the board from voting.

Staff recommends amendment of the UDO in order to comply with a newly adopted State Statute.

Motion: Anita McCall made a motion to approve. Tom Hawk seconded. Motion carried unanimously.

ZTA-2-2016

Request for Amendment to the Unified Development Ordinance to Reduce the Minimum Lot Size for a Single Family Residence in the R-8 District

Laura Elam addressed the Board noting the following:

In the R-8 (Single and Two-Family Medium Density Residential) district, both single family detached dwellings and two family dwellings (duplexes) are uses allowed by right. Single family detached homes may be located on a lot of at least 8,000 square feet and a duplex may be located on a lot of at least 12,000 square feet.

The City has been approached by a property owner interested in constructing homes on a tract of land zoned R-8. The tract includes enough land area to allow construction of either one single family dwelling or one duplex. The property owner would prefer to build two single family homes rather than one duplex. The property owner has two options in order to pursue the desired development of two single family detached homes:

- 1) One option is to seek a variance through the Zoning Board of Adjustment to allow a smaller minimum lot size.
- 2) The other option is an amendment to the UDO to reduce the minimum lot size for a single family residence in the R-8 district.

Staff views an amendment to the R-8 zoning district that would reduce the minimum lot size required for a single family residence to 6,000 square feet as worthy of consideration since it would not result in any more density than is already allowed if duplexes were being developed. It would just allow the two units to be detached rather attached within a duplex.

The proposed text amendment would reduce the minimum lot size for a single family dwelling in the R-8 district from 8,000 square feet to 6,000 square feet.

Staff recommends amendment of the UDO as outlined above.

Tom Hawk asked what was behind the proposed amendment. Ms. Elam responded that the staff had been approached by a property owner.

Mr. Hawk indicated he was not in favor because it would allow more homes. Mr. Hawk asked if the owner could request a variance and Ms. Elam indicated they could.

Mr. Lyn noted that he thought the proposal was positive.

Motion: Gene Poinsette made a motion to approve. Kathryn Yarbrow seconded. Motion carried 7-1 with Tom Hawk dissenting.

Adjournment

Motion: Tom Hawk made a motion to adjourn the meeting. Anita McCall seconded. Motion carried unanimously.

Laura Elam