### PLANNING COMMISSION MINUTES

The City of Raleigh Planning Commission met on November 26, 2013 at 9:00 A.M., in Room 201 of the Municipal Building.

Planning Commission Members Present: Mr. Braun, Mr. Buxton, Mr. Fleming, Mr. Fluhrer, Mr. Lyle, Ms. Mattox, Mr. Schuster, Ms. Sterling Lewis.

Excused: Mr. Swink and Mr. Terando

Staff Members Present: Deputy Planning Director Bowers, Planning Manager Crane, Planning Manager Darges, Planner Brantley, Planner Hill. Deputy Attorney Botvinick, and Administrative Support Staff Eason.

**AGENDA ITEM #1: INVOCATION** 

AGENDA ITEM # 2: OLD BUSINESS

**AGENDA ITEM # 2(A): DEFERRED ITEMS** 

AGENDA ITEM # 2(A) 1: Z-23-13 / Ebenezer Church Road (Northwest CAC)

This site is located on Ebenezer Church Road, west side, south of its intersection with Barefoot Industrial Road.

This request is to rezone property from IND-1 CUD to IX-3 CU.

Planner Hill presented the case.

Jarod Edens representing the applicant gave a brief overview of the case.

Mr. Lyle stated that he was inclined to support the case due to its consistency with the Comprehensive Plan.

Mr. Buxton moved for approval. Mr. Fleming seconded. The vote was unanimous 8-0.

# AGENDA ITEM # 2(A) 2: Z-31-13 Rock Quarry Road (Southeast CAC)

This site is located on Rock Quarry Road, north side, just east of its intersections with Barwell and Pearl Roads.

This request is to rezone property from R-15 CUD to RX-3.

Planner Brantley presented the case.

Jim Baker representing the applicant gave a brief overview of the case regarding issues of right of way, not sure where it would be placed.

Mr. Botvinick clarified some concerns regarding the transit easement area; other utilities and how they would respond to the easement; makes more sense to provide transit easement here and move case forward and then work with staff on text change wording.

There was discussion of why the easement couldn't be offered now; cross access and placement.

Mr. Botvinick stated that if it placed as a condition, it's an ordinance and it becomes an offer of cross access and they would not allow someone to place an easement in an area that was not appropriate; trying to create a property interest first, which allows it to be done without a description.

Mr. Baker responded that the location is a transit emphasis corridor with 6 ft. sidewalks; 2 ft. green strip; 2 ft. easement and 29 ft. in back of curb. He questioned the rationale for a transit stop located 29 feet from the edge of curb. There was further discussion of practical aspects leading to transit easement being placed in an area not practical; it's better to make this case Conditional Use and move forward and that we need to find solution to this as soon as possible and get out of the "Conditional Use' business.

Mr. Bowers stated that issues with the current system is that if re-zoned, usually require easement thru purchase; looking at DOT roads; can't be in the right of way; it's an opportunity to use space for easement; no answers for a while.

Ms. Mattox wanted to clarify whether they recommend a General Use to City Council to be changed to Conditional Use.

Mr. Schuster made a motion to recommend approval of the request, and to further recommend to City Council that case be changed to Conditional Use. Mr. Lyle seconded the motion. The vote was unanimous 8-0.

Mr. Botvinick stated that the Planning Commission has the authority to determine make up of a case and also stated that we cannot force an applicant to choose a use they did not want.

### **AGENDA ITEM #3: NEW BUSINESS**

**AGENDA ITEM #3(A): REZONING** 

# AGENDA ITEM # 3(A) 1: Z-29-13 Hillsborough Street (Wade CAC)

This site is located on Hillsborough Street, north side, east of its intersection with Henderson Street, and Henderson Street, east side, north of its intersection with Hillsborough Street.

This request is to rezone property from NB & R-6 w/ SRPOD, to NX-3-UG-CU & NX-3-CU w/ SRPOD.

Planner Hill presented the case.

There discussion whether to read disclaimer for Public Hearing.

Mr. Botvinick stated that this was a Public Meeting not a Public Hearing.

Kimberly Siran representing the applicant gave a brief overview of the case regarding designation of urban frontage; Rehab not moving the Nehi Building; onsite neighborhood meeting, no opposition and Wade CAC meeting again no opposition.

Mr. Schuster made a motion to approve the case. Mr. Braun seconded. The vote was unanimous 8-0.

# AGENDA ITEM # 3(B): REQUEST TO BEGIN MASTER PLAN TERMINATION PROCEEDINGS AGENDA ITEM # 3(B) 1: MP-1-94/Z-60-94 Portion of Falls River PDD

This site is located on Falls of Neuse Road, east side, at its intersection with Whittington Drive.

This is to request to initiate removal of the existing Planned Development District overlay from one parcel (11110 Falls of Neuse Road) and the contiguous portion of a second parcel (1590 Dunn Road), currently subject to the provisions of the Falls River Master Plan (MP-1-94/ Z-60-94).

The subject site is undeveloped. With the exception of a sewer easement paralleling Whittington Drive, the western parcel is fully wooded. The eastern parcel is cleared; the portion proposed to be removed from the PDD is open field, with a paved driveway crossing south and westward into the area from its northeastern corner at the parent tract. The eastern section of the parcel is built out with a day care facility, dating from 2009.

The underlying zoning is Residential-4. The applicants have provided an analysis of the anticipated effect of removing the PDD on the subject area, measured against the larger PDD development.

Note that approval of the request would not by itself result in removal of the PDD from the subject site; that action could only occur through formal rezoning.

Planner Hill presented the case.

Mr. Bowers reiterated that approval of the request today would not by itself result in removal of the PDD from the subject site; that action could only occur through formal rezoning.

Mr. Braun asked if denied today, could rezoning still be filed and the how much property would be affected.

Mr. Hill stated that this represents 8 ½ acres.

Ms. Mattox read the Code section related to removal of a Planned Development aloud for the Public to hear.

Mack Paul representing the applicant gave a brief overview of the case regarding buffer; background of property and no minimum will be affected if this taken out of Master Plan.

Mr. Botvinick stated Master Plan says that 6.88 acres is being rezoned and asked for clarification.

Mr. Birch stated that Dunn Investment piece is taken out for the day care and is not subject to the Master Plan.

David Bland representing his property in Bedford in opposition asked that consideration be given regarding whatever is done what will affect Whittington, Dunn and Falls of Neuse; very high end area for the tax dollar and water run off problems.

Mr. Cox also representing the public responded regarding inappropriately affecting amount of office or small retail space planned for the area; argued that criterion (a) has not been satisfied and asked that the case be disapproved.

Mr. Paul responded that all properties on Dunn Road and Whittington are under contract.

There was further response from Mr. Morrison, Mr. Dumas, Ms. Bolton, Mr. Owens and Ms. Kratel and Ms. Cashin, all representing the public regarding water run off issues; current entrance on Dunn and Whittington; impractical use; heavy traffic; watershed; lack of infrastructure; single lane, one way out of the neighborhood negatively impacting traffic; day care location to this property, walkability and location does not make sense.

Mr. Fleming stated that the Code gives the applicant the right to make request and evidence is in favor of allowing the start of this process.

Mr. Schuster stated the burden of proof for the eventual rezoning is high for the applicant with such opposition and reiterated that the action taken by the Commission today does not mean the Commission is in favor of the rezoning.

Mr. Fluhrer is in support of the process moving forward.

Ms. Sterling Lewis stated that the public comments should be made at the rezoning process, in favor of moving the process forward.

Mr. Lyle agrees with starting the process though it would have been beneficial to see conditions of the PDD.

Ms. Mattox stated that the Public comment has been strong and well thought out and encouraged the public to stay engaged in the rezoning process.

Mr. Fleming made a motion to approve the findings of section 10-2057 A-D and allow the applicant to submit a rezoning. Ms. Sterling Lewis seconded the motion. The vote was unanimous 8-0

# AGENDA ITEM # 4: APPROVAL OF MINUTES: October 22, 2013 Planning Commission Meeting Minutes and November 12, 2013 Planning Commission Meeting Minutes.

Ms. Mattox, although did not attend the October 22<sup>nd</sup> Planning Commission Meeting had continued concerns regarding the minutes from the Street Tree Fees In Lieu. Mr. Bowers stated that the staff went back and looked at the tape and revised the minutes accordingly and the minutes do reflect the discussion. Ms. Mattox asked if Mr. Braun would re- state his motion in such a way as to clarify the wishes of the Planning Commission.

Mr. Braun made a motion to approve the October 22, 2013 Planning Commission Meeting Minutes clarifying that the intention of the Planning Commission by its motion in adopting it was to recommend 100% cost recovery based on numbers that were presented to us by staff and with input from the public, because we received numbers and members of the Planning Commission but that in light of the lack of data the intention was to provide 100% cost recovery and then re-evaluate after one year with actual data. Ms. Mattox stated that number we arrived at was the 3,570.00 number. Mr. Braun stated it was at least the intention as I understood it and based on all the numbers and information we got that represented 100% cost recovery. That's the number for the urban tree grate and I believe the number 3,570.00 and the suburban number was 870.00. When I made the motion using those numbers my intention was that it was based on 100% cost recovery and we'd adjust it after a year, it might go up, it might go down, it might stay the same. Mr. Buxton seconded the motion.

Ms. Mattox asked for a motion to accept the revised October 22, 2013 Planning Commission Meeting Minutes. Mr. Fleming made a motion to accept for approval. Mr. Buxton seconded the motion. Ms. Mattox and Mr. Schuster were excused. The vote was unanimous 6-0.

Mr. Schuster made a motion to approve the November 12, 2013 Planning Commission Meeting Minutes. Mr. Fleming seconded the motion. The vote was unanimous 8-0.

# AGENDA ITEM # 4(A): REPORT FROM THE CHAIR

Ms. Mattox reported that she went to the City Council meeting last week and kind of had a little back and forth with the Council on this issue and it's now in the Planning Director's hands to get more numbers. There is an Industry Group that would like to put some number in although the timing of that maybe with the holidays that it be bumped out until January. Mr. Bowers stated that it will be discussed at the December 3<sup>rd</sup> meeting.

## AGENDA ITEM #4(D): REPORT FROM THE PLANNING DIRECTOR

- Street Tree Fees-In-Lieu Held for December 3rd
- Street Design Manual Adopted
- Street Typology all outstanding issues resolved

Note from Ms. Mattox from the Comprehensive Plan Committee meeting, that staff will consider a street typology name change during the Omnibus UDO amendments. The amendment would change the name of the "Industrial" Street to "Commercial" Street.

Reminder that the Transportation Committee meeting and the Strategic Planning Committee meetings will be combined on December 3, 2013 to discuss rail and transit planning.

#### AGENDA ITEM # 5: ADJOURNMENT

There being no further business, the meeting was adjourned at approximately 10:40 am.

Respectfully,

Ken Bowers, AICP Deputy Planning Director

Transcribed by: Chenetha Eason