

ABERDEEN BOARD OF COMMISSIONERS

MINUTES

MARCH 1, 2007 WORK SESSION

5:30 P.M.

The Aberdeen Board of Commissioners met Thursday, March 1, 2007 at 5:30 p.m. for their regular Work Session. Members present were Mayor Elizabeth B. Mofield and Commissioners Pat Ann McMurray, Robbie Farrell, Arthur Parker and Walter Wright. Commissioner Donna Shannon was absent due to sickness. Others in attendance were Town Manager Bill Zell, Town Clerk Nancy Matthews, Planning Director Ben Warren, Deputy Planner Patti Jilson and Leigh Baggs, Parks & Recreation Director.

Others in attendance were Mr. Chuck Barnes, property owner and developer of a proposed mini-storage/warehousing facility, representatives and legal counsel for Park at Clearwater Apartment Complex and Miss Katherine Evans, News Reporter for the Pilot Newspaper.

Mayor Mofield called the Work Session of March 1st to order at 5:30 p.m. The following items/issues were discussed:

1. **Zoning Code Text Amendment ZA#07-02 submitted by Planning staff to amend Section 155.051 Downtown Retail Overlay District to ensure compliance with the standards set forth by the Religious Land Use and Institutionalized Persons Act (RLUIPA) of 2000 (P.H. scheduled for March 12th Board meeting.)**

Planning Director Ben Warren informed the Board this text amendment is more of a housekeeping measure in light of recent events. He stated after looking at the language pertaining to the DROD, staff found that the way the text was written is not necessarily in compliance. He stated, after contacting the Town attorney, the attorney reviewed and drafted language to correct the inconsistencies. **Agenda item as Public Hearing.**

2. **Conditional Use Permit Application CU#07-02 submitted by Chuck Barnes for an office/warehousing and storage complex in the C-I**

Commercial and Industrial (Light) Zoning District (P.H. scheduled for March 12th Board meeting.)

Planning Director Warren stated Mr. Barnes has submitted an application for an office and commercial storage units. He stated the Town's Zoning Ordinance requires a Conditional Use Permit for warehouses and mini-storage warehouses. He stated the staff has reviewed the application and all requirements have been met.

The Board then reviewed the site plan with some questions, which were answered. The Board did request that the dumpster be enclosed and that there be additional landscaping. There was also some concern of a lot of activity in the evenings and late nights and that this storage facility not being fenced in. Mr. Barnes stated if there becomes a problem with vandalism or a problem with heavy trucks late at night, he assured the Board, that he would correct the situation.

Planning Director Warren stated, after the Public Hearing, the item will go to the Planning Board for review and their recommendation back to the Town Board. **Agenda item as Public Hearing.**

3. Rezoning Application RZ#06-01 submitted by DeAnne Jackson (Quality Built Homes) to rezone approximately 7.66 acres located on the north side of Mofield Way/NC Hwy. 211 between Pine Street and Glasgow Street from I-H Industrial Heavy to R-10 Residential (P.H. scheduled for March 12th Board meeting.)

Planning Director Warren informed the Board he had placed a vicinity map in their agenda packets pertaining to this property. He stated that Mr. Jackson has purchased all this property and plans a residential development. He stated the rezoning is consistent with the surrounding area.

After discussion and review, the Board had concerns of developing this property as residential development instead of developing in the present zoning. There was also concern about the wetlands within this property upon which the Board felt could not be built upon. **Agenda item as Public Hearing.**

4. **Application for Rezoning RZ#07-02 requested by J. Arthur Parker for property located on Holly Street from R-10 Residential to B-3 Neighborhood Transitional.**

Planning Director Warren informed the Board that this is the final step in this particular process. He stated this rezoning request is consistent with the surrounding property. He stated the Planning Board has reviewed and recommends approval to the Town Board. Agenda item as New Business.

5. **Application for Rezoning RZ#07-01 submitted by Bruford Hudson for property located at the intersection of US 15/501 and NC Hwy. 211 from I-H Industrial Heavy to C-I Commercial and Industrial (Light).**

Planning Director Warren stated that Item 6 was contingent upon Item 5 being approved. He stated he had included pictures of the existing sales lot, the modular sales office and the proposed sales lot. He stated he had included a table of uses in their agenda packets for review. He also stated that the Board can put a time limit on the modular sales office. He also stated the Board can require that the entrances be paved as required by the ordinance. Agenda item as New Business.

6. **Application for Conditional Use Permit CU#07-01 submitted by Bruford Hudson for mobile home sales lot located at the intersection of US #15/501 and NC Hwy. 211. Note: CUP approval is contingent upon RZ#07-01 being approved.**

This item was reviewed with Item 6. Agenda item as New Business.

7. **Zoning Code Text Amendment ZA#07-01 submitted by Park at Clearwater II to amend Section 155.043 (C) (6) to add, “except as provided in (C) (10), below” and adding a new (C) (10) to read “(10) The minimum required rear yard may be as little as 5 feet if at the time of initial construction, the rear yard abuts a platted but unopened street at least 50 feet wide”.**

Planning Director Warren stated at the time of initial construction, the developer assumed that the unopened street directly behind one of the buildings, would be closed. He stated when the developer came in for approval of Phase I and then came back in for approval of Phase II, this same setback issue was not addressed. So by this setback issue not being

addressed, the developer basically had a vested right and he did it on a good-faith standing. He stated after discussing this situation with the Town attorney, the attorney suggested that adoption of this zoning code text amendment would be the easiest and quickest fix for this particular situation.

The developer's attorney was in attendance and gave a brief review of this issue. He stated the buildings at issue here are Phase II only. He stated this issue came to their attention about two years ago when the final survey was done for the completed building. He stated he did not know if there was an error in the survey work or site plan application. He stated it was discovered that the 60-ft wide paper street had been initially mistakenly for part of the developer's property or half of their property which would have allowed 25 ft. beyond these building perimeters as required by the setbacks. He stated that four buildings have CO's and have residents in them that are less than 25 ft. to the lot line. He stated their concern is, the lender could pull their loan or a building burn down and the issue could arise as to whether the building could be replaced. Adding to that, there is a potential sale for this property and we are on a strict timeframe.

The Board then discussed this issue at length. Several suggestions in resolving this issue were made, but were not feasible. **Agenda item as New Business.**

8. Town Code of Ordinances Amendment GP#07-03 submitted by Planning Staff to add a Section 94.16 KEY BOXES to the Ordinance.

Planning Director Warren stated that the staff has been informed by the Town's Fire Inspector that a need exists to require businesses within the Town of Aberdeen to install key boxes in accessible locations to provide access to or within areas restricted by secured openings. Currently, emergency personnel responding to after-hour calls or calls to unoccupied structures, must either wait for someone with a key to the facility to arrive on scene or forcibly enter the structure. He stated by installing a secured key box on site, this would remedy this situation. He stated that all key boxes will utilize a security/entry code maintained by the Aberdeen Fire Chief. He stated that staff recommends that the Board of Commissioners approve this change to the Code of Ordinances. **Agenda item as New Business.**

9. Ordinance ordering the Town’s building inspector to proceed with demolishing two dilapidated houses on NC Hwy. 211 as provided by G.S. 160A-443.

Planning Director Warren informed the Board that staff has identified two dwelling units on NC Hwy. 211 that are in a dilapidated state and need to be removed/demolished. He stated the building inspector has followed the procedures specified in NCGS 160A-443 and Section 153 of the Town’s Code of Ordinances. He stated that a final notice/order to remove or demolish the structures was served upon the property owners in January. He stated the order specified a 30-day time limit on removing the structures. He stated the time limit has expired and the property owners have neither appealed the inspector’s determination nor removed the structures. He stated the next step in the process is for the Town Board to adopt an ordinance ordering the building inspector to proceed with the removal/demolition of the structures. He stated the cost of removal or demolition caused to be done by the building inspector shall be a lien against the real property upon which such cost was incurred. He stated that the Planning Staff recommends that the Board adopt the ordinance ordering the Town’s building inspector to proceed with the removal/demolition of the two identified structures. **Agenda item as New Business.**

10. Petition for voluntary non-contiguous annexation submitted by Horace and Hattie O’Neal for property located at 708 Sun Road, Aberdeen, N. C.

Planning Director Warren informed the Board that a petition was previously submitted by Mr. & Mrs. O’Neal for voluntary non-contiguous annexation. He stated that the O-Neal’s received a break on tap fees and in-town water rates, but the property and annexation process was never done. He stated, after reviewing, that he is clearing up some of these annexation requests that fell by the wayside.

The Board had some concerns pertaining to the length of time that the O’Neal’s had received the break on the tap fees and that they were already paying in-town rates. Planning Director Warren stated the only recourse was to get the property annexed and move forward. **Agenda item as New Business.**

11. Petition for voluntary non-contiguous annexation submitted by Harry Eilert for property located at 620 Longleaf Road, Aberdeen, N. C.

Planning Director Warren informed the Board that this petition was for a non-contiguous annexation for new construction. He stated that reduced tap fees and rates are no longer granted until a petition for annexation is submitted and accepted. **Agenda item as New Business.**

12. Establishing a capital reserve fund for future water/sewer capital needs.

Manager Zell asked the Board how they wanted this capital reserve fund to be setup and where did they want the money to come from (use a dollar amount or a percentage.)

After some discussion, a motion was made by Commissioner Wright, seconded by Commissioner McMurray, to take 5% from end-of-year revenues from water and sewer and bulk water sales and to put a cap at \$50,000.00 per year to be placed in a Water/Sewer Capital Reserve Fund. Motion unanimously carried.

13. Information Items:

a. Fluoridation – Fact Sheets

Information material was given to each of the Board members pertaining to Ms. Mary Nagy's concerns of fluoride being added to the Town's drinking water. Manager Zell stated there was also material received from the State of N. C. confirming that community water fluoridation has been studied more thoroughly than any other public health measure and repeatedly confirms it being both safe and the most cost effective and preventive measure that can be taken to reduce dental cavities in people of all ages. He asked the Board to review this material and to make their own conclusion in this matter.

b. Planning Projects Update Sheet

Manager Zell informed the Board of the pending projects listed on the board in the conference room for their review. He stated that an update sheet will be placed in their agenda packets for the regular meeting.

- c. Resolution Authorizing the Town of Aberdeen to enter into an installment purchase contract of approximately \$1,000,000 to finance the cost of a Community Recreation Center.**

Parks & Recreation Director, Leigh Baggs, informed the Board that the site plans have been finalized. She stated that the bids would be mailed out in mid April, bid opening in mid May, and hopefully, ground breaking in mid June. She stated it was looking like July before construction will begin.

Parks & Recreation Director Baggs updated the Board on the Berkley Shelter Project. She stated once the shelter is received and approved, hopefully to have construction finished in April or May. She also stated that repairs are being made to the Aberdeen Lake Dam.

- d. Set date for individual departmental budget sessions.**

Manager Zell distributed to the Board the dates that have been set for the upcoming Budget Session and Retreat. The Board had no problem with the dates that were set.

14. Other Business

- a. Resolution Changing Scheduled Time of Regular Board meeting.**

Manager Zell stated the Board agreed to change the time of the regular Board meeting for January, February and March to 6:00 p.m. as a trial basis to see how it would work. He stated he had not received any complaints; if anything, only compliments. He stated if the Board would consider this change, that they could adopt the Resolution at the Work Session.

A motion was then made by Commissioner McMurray, seconded by Commissioner Wright, to adopt the Resolution Changing the Meeting Time of the Regularly Scheduled Aberdeen Board of Commissioners Meeting to 6:00 p.m. Motion unanimously carried.

b. Representative to the Moore County Summit.

The Board appointed Manager Zell to serve as the Town's representative to the Moore County Summit.

c. Copy of Language for Review/Conditional Use Permits.

Planning Director Warren informed the Board that he had reviewed the process for applications coming in and going to the Board of Commissioners and the Planning Board. He stated there were some concerns of the amount of items having to come before the Boards. He stated after looking back at the ordinances, he found it specified that applications that came into the Planning Department and once reviewed, were to go straight to the Planning Board and once the Planning Board reviewed with comments, would then go the Town Board for a Public Hearing and then go for a vote. He stated what staff would like to do is ask the Board to consider changing the present process to allow all applications to go to the Planning Board for review and then to the Town Board. He requested that routine issues and non-controversial issues go through the Public Hearing and vote on the same night. He stated this will free up some of the backup of items.

Mayor Mofield gave several arguments as to why this process was changed. She stated she understands Mr. Warren's stance on this, but previously the Board had not been receiving important information pertaining to these applications. She stated there was a lot of information that was not reaching the citizens and the Town Board.

Item was discussed in length. Manager Zell informed the Board, before the new UDO is completed, that he would like for the Planning Board and the Town Board to meet jointly and review all the items.

d. Complaint Pertaining to a Noise Problem.

Commissioner Parker asked what the situation was concerning the Southern Pines resident who was complaining about noise coming from the Wal-Mart property. He stated the resident complained that no one would answer his calls or do anything about this noise.

Manager Zell informed Commissioner Parker that every effort has been taken to find where this noise seems to be coming from. He stated that officers have been on the site while the parking area is being swept and they have been to the residence and listened for this noise. Nothing has been substantiated that the noise is coming from the street sweeper at the Wal-Mart property.

15. Adjourn

With no further business, a motion was made by Commissioner Parker, seconded by Commissioner Farrell, to adjourn the Work Session. Motion unanimously carried.

Nancy M. Matthews, Town Clerk

Elizabeth B. Mofield, Mayor

This draft was prepared and completed March 7, 2007

These minutes were adopted March 12, 2007