

**MINUTES OF THE
NEW HANOVER COUNTY PLANNING BOARD MEETING
January 6, 2005**

The New Hanover County Planning Board met Thursday, January 6, 2005 at 7:00 p.m. in the County Court House, 24 North Third Street, Wilmington, NC to hold a public meeting.

Members Present:

Walter Conlogue, Chairman
David Girardot, Vice Chairman
Robin Robinson
Frank Smith
Sandra Spiers
David Adams
Sue Hayes

Staff Present:

Dexter Hayes, Planning Director
Baird Stewart, Senior Planner
Linda Keough, Administrative Secretary

Chairman Walter Conlogue opened the meeting by welcoming those present to the public hearing. Chairman Conlogue led the reciting of the *Pledge of Allegiance to the Flag*.

Chairman Conlogue proceeded with the approval of the minutes. Sue Hayes made a motion to approve the November minutes. Robin Robinson seconded the motion. The Board approved November 2004 minutes by a vote of 7-0.

Item 1: Zoning Text Amendment – Request by Pete Avery to amend Section 50.5 the Table of Permitted Uses to include “Equipment Rental & Leasing” as a Permitted Use in the I-2 Heavy Industrial District (A-338, 12/04).

Baird Stewart gave a brief review of the request, agency comments and related information.

Pete Avery, applicant, stated that equipment rental leasing is currently permitted in the other county industrial zoning classifications as well as B-2 and PD. He added that he felt that this use would not diminish the purpose and intent of the I-2 zoning classification.

Sue Hayes asked how compatible New Hanover County’s permitted uses are to those of the City of Wilmington. Dexter Hayes replied that the permitted uses for I-1 and I-2 are very similar to the City’s manufacturing districts.

David Girardot made a motion to approve the request for the zoning text amendment. David Adams seconded the motion. The Board approved the motion with a vote of 7-0.

Item 2: Rezoning – Request by Andrew Hall for Yvonne Johnson to rezone approximately 2.80 acres of property located at 649 Piner Road from R-15 Residential to O&I Office and Institutional (Z-788, 01/05).

Baird Stewart presented the slides and gave a brief review of the site’s history, agency comments and related information.

Andrew Hall, on behalf of the owner, explained the history of the property adding that the zoning of the property was changed to O&I Conditional Use in 1995 and was not acted upon. Therefore, after two years it was changed back to R-15. He explained that with the commercial building across the street, the O&I uses of adjacent properties, and with consideration to the current traffic in the area he has decided to purchase the property but does not have an intended use at this time.

William Claytor, 5820 Wood Duck Circle, Lot 7, stated that he would like the Board to consider the size of the property and whether every inch of the property would have to be used for whatever is built. He stated that he is concerned that there are no plans for the use of the property. Mr. Claytor requested that the petition be rejected.

Gordon Fonville, 5816 Wood Duck Circle, Lot 9, stated that the property is narrow and protrudes back into Wood Duck Circle adding his concerns for the residential area. He requested that the property not be rezoned at this time.

James Southerland, 5812 Wood Duck Circle, Lot 12, stated that he felt that a 20' buffer would not be adequate adding that he had concerns with the lack of a plan for developing the property.

Dexter Hayes provided the staff summary and recommendation.

STAFF SUMMARY:

The petitioner is requesting a rezoning of 2.8 acres from R-15 Residential to O&I Office and Institutional. The subject property is located on the north side of Piner Road across from the service entrance for the old Wal-Mart shopping center. In February 1999, the adjacent 10 acre property abuts three homes in the Woodduck Subdivision. The five lots between the subject property and the Commercial Node at Monkey Junction are zoned R-15 Residential and one of those lots is occupied by a church.

Over the years staff has received multiple inquiries to develop property along Piner Road and given the increasing traffic counts and the limited R-15 density, the questions typically revolve around methods to increase density or non-residential development scenarios. Holding fast to policies established for lower density development in the resource protection land classification and policies established to develop commercial nodes at major intersections staff generally advises that these pursuits would be contrary to the comprehensive plan. Office and Institutional Zoning, however, has typically been utilized as a transition between commercial development and residential development and logically there would be some amount of O&I zoning between the Commercial node at Monkey Junction and the residential districts to the east. Although one would expect the transitional zoning to start at the edge of the commercial node, the existing 10 acre O&I District east of the subject property established the boundary, leaving an opportunity for additional expansion between the districts. A similar scenario has been established on the South side of Piner Road with the Myrtle Grove Presbyterian Church establishing the Eastern boundary of the transition from Commercial to Residential.

Given the established land use and zoning pattern in the area, consistencies with certain Comprehensive Plan goals, and traffic counts in excess of 14,000 average trips per day on Piner Road, Staff Recommends Approval.

Frank Smith asked for clarification of the history of the adjacent 10-acre parcel and the zoning of that parcel.

Dexter Hayes explained that the rezoning to O&I was a compromise to allow the owner of the 10 acre parcel to develop residentially but also allow O&I uses. The property is vacant at this time.

Robin Robinson asked if this property had a conditional use attached when rezoned in 1995. Dexter Hayes replied that it did have a doctor or dentist office approved which was not built. Therefore, it was rezoned back to R-15 after the two years. Robin Robinson asked about the buffer requirements. Dexter Hayes stated that the buffer requirements and setbacks are based on the size of the building.

Chairman Conlogue stated that he felt that it is premature to rezone at this time. David Adams agreed. There was further discussion regarding the buffering and connectivity.

Robin Robinson asked if there are any particular permitted uses for O&I that the residents object to being on the property. Mr. Claytor replied that they are primarily concerned with the health and safety of the residential area.

Sue Hayes stated that she feels that it is premature to rezone at this time.

Chairman Conlogue stated that the applicant has the option to withdraw the request. After further discussion, Mr. Hall stated that he would withdraw the request and possibly come back after he has given consideration to a particular use for the property.

Items 3: Rezoning – Request by Stroud Engineering for Greenhouse Properties, LLC to rezone approximately 0.65 acres of property located at 908 Pilots Ridge Road from B-2 Highway Business to O&I Office and Institutional (Z-789, 01/05).

Baird Stewart presented the slides and gave a brief review of the site’s history, agency comments and related information.

Jim Fentress, Stroud Engineering for Greenhouse Properties, stated that the applicant is planning to rezone the property to O&I and build a residence on the property. The applicant would like to retain some commercial value to the property by rezoning to O&I.

Frank Smith stated that the homeowner’s association covenants have restrictions on the property.

Sue asked if Lot 4 is part of Pilot’s Ridge and if it is the lot that is being discussed. Dexter Hayes replied that it is part of Pilot’s Ridge but is not part of this application.

Lynn Brown, president of Pilot's Ridge Homeowner's Association, stated that the association is in agreement with the request, which allows the owner to build a home and retain his investment for the future. He added that is not in conflict with the covenants.

Dexter Hayes provided the staff summary and recommendations.

STAFF SUMMARY:

The subject property was part of the original zoning on April 1971. The B-2 Highway Business District classification on the subject property is part of that original zoning that extended south 2200 feet from the southern right of way of Golden Road parallel to Carolina Beach Road a depth of 300 feet. Subsequently there have been some revisions to the original zoning in the area to accommodate the Food Lion Shopping Center and to add additional B-2 Highway Business zoning on the East side of Carolina Beach Road. Some of the commercial frontages were also eliminated. In 1998 there was a petition to add approximately 2 acres of B-2 zoning to the existing B-2 district on the northern corner of the Pilots Ridge Road intersection, which ultimately was rezoned to O&I Office and Institutional. This O&I District is now owned by the New Hanover County Board of Education.

According to the Pilots Ridge HOA there are covenants and restrictions in place that prohibit commercial uses within the subdivision. The New Hanover County Zoning Ordinance does not allow residential uses within the B-2 Highway Business District Classification. While the County has no authority to enforce private homeowner covenants and restrictions, it seems that there are conflicting land use restrictions on the subject property.

In the 1998 petition for the opposite corner Staff recommended that the Board should consider rezoning the subject parcels and the portion of the runway to O&I Office and Institutional. The O&I designation would allow professional office type uses as a transition into the neighborhood and would not preclude residential development. Staff made the same recommendation in June 2003 when the Pilots Ridge HOA presented a request for R-15 for the subject property and the adjacent B-2. Staff continues to support the O&I recommendation including a portion of the runway and Pilots Ridge Road in order to consolidate the district. County policies discourage commercial uses from extending into residential neighborhoods.

Mr. Girardot made a motion to approve the rezoning request.

Sandra Spiers asked why this request has been denied so many times. Dexter Hayes replied that the previous denials were for the expansion of the uses.

There was further discussion regarding expanding the O&I zoning to include a portion of the runway and Pilots Ridge Road.

Mr. Girardot revised his motion to approve the rezoning request to include the portion of the runway and Pilots Ridge Road as recommended by staff. Robin Robinson seconded the motion. The Board approved the motion with a vote of 7-0.

Item 4. Rezoning – Request by Tim Turner for Francisco Blanco to expand the site plan for an existing CD(B-1) Conditional Use Neighborhood Business District located at 115 Cathay Road and also having frontage on Carolina Beach Road (Z-521, 12/94, 01/05).

Baird Stewart presented the slides and gave a brief review of the site's history, agency comments and related information.

Tim Turner, applicant, stated that he felt that there is a strong need for this type of business in the area.

Dexter Hayes provided staff summary and recommendations.

STAFF SUMMARY:

The subject property has been zoned CD(B-1) Conditional Use Neighborhood Business for retail sales and service of cooking grills. Because public utilities were not readily available ten years ago, the site plan for the project only included the area used for the Grill House. However, to meet the minimum 2.0 acre district size this property was included in the zoning petition. The conditional use district was one of the first commercial districts established at the intersection of Cathay Road and Carolina Beach Road. The primary justification was the existence of the Pantry Gas Station established by special use permit in 1972. As a result of another B-1 rezoning in 1996, another gas station opened on the other corner of the intersection. More recently in July 2003 a B-1 district was established on the parcel south of the Grill House. Further south along this 800-foot long stretch of Carolina Beach Road is an existing Daycare operation.

The property is within the Limited transition land classification. The purpose of the Limited Transition class is to provide for development in areas that will have some services but a lower density than those associated with Urban Transition, Public utilities are available nearby. Given the consistency with the policies for the land classification and given the surrounding zoning and land uses that have been established, Staff Recommends Approval of the Site Plan modification with additional conditions.

David Girardot stated his concerns with the entrance coming from Cathay Road adding that the road is very narrow with a nearby bend. Dexter Hayes stated that there is a primary signalized intersection there.

Frank Smith expressed his concerns regarding drainage, parking and turn around for trucks. Dexter Hayes stated that staff is permitted to make administrative changes to the plan, if needed. Baird Stewart stated that the submitted plan is in compliance with the ordinance as written.

There was further discussion regarding accessibility to the site.

Sue Hayes asked how the site plan could be approved without determining what is going on the site. Chairman Conlogue stated that the applicant does have a list of permitted uses.

Dexter Hayes stated that the applicant is asking for a revision of an approved plan.

Tim Turner, applicant, stated that he would withdraw his application and bring it back at a later time for approval after discussing the uses and interior design with staff.

Item 5: Rezoning (expansion) – Request by Withers & Ravenel for Archie McGirt to rezone approximately 2.18 acres of property from R-10 Residential to CD(B-2) Conditional Use Highway Business for Outdoor Storage. The property is located on Mimies Way adjacent to and behind Monkey Junction Storage located at 5044 Carolina Beach Road (Z-696, 01/05).

Item 6: Rezoning – Request by Withers & Ravenel for Dan Phelps to rezone approximately 5.0 acres of property from CD(B-2) Conditional Use Highway Business to R-15 Residential (Z-790, 01/05).

Item 7: Special Use Permit – Request by Withers & Ravenel representing Patterson Homes for approval of a 73 Unit High Density Residential Development in an R-15 Residential District located at 4702 South College Road between the Vineyard Church and Still Meadow Village Apartments (S-525, 01/05).

Baird Stewart gave an update on the Technical Review Committee’s activity during the months of November and December 2004.

TRC reviewed 8 developments (7 projects were performance residential development and 1 project was conventional residential development).

1. Willow Glen Phase III @Beau Rivage
 - Limited Transition Land Classification
 - 18 Lots w/Aqua of NC water and sewer
 - 18 Single Family Homes
 - Private Roads
 - 14 Units have not been preliminarily planned at this time
2. Ogden Lake Revised Plan
 - Urban Transition Land Classification
 - 77 Single Family Home lots
 - County water and sewer
 - Private Roads w/stub into commercial district
3. North Kerr Industrial Park (Phase 2)
 - Limited Transition
 - 26 Lots
 - County water and sewer
 - Public Roads
4. Bella Sera
 - Resource Protection

- 47 Single Family Units
 - County water and sewer
 - Private Road
5. Seabreeze Sound
- Resource Protection
 - 36 Single Family Units
 - Aqua of NC water and sewer
 - Majority of roads are public
 - Some roads are private
 - For re-review January 12, 2005
6. Windswept
- 40 Lots
 - Aqua of NC water and sewer
 - Private Roads
 - 40 Single Family Units
 - Staff to check for Conservation Overlay District (COD) and revisit January 12, 2005
7. Snows Cut Landing
- 54 Lots
 - Private Roads
 - Aqua of NC water and sewer
 - 54 Single Family Units
 - 5 trees to be mitigated
8. Jordan Lake Townhomes (1 yr. Extension)
- Urban Transition Land Classification
 - 26 units
 - Private Roads
 - County water and sewer

Being of no further business, David Adams made a motion to adjourn the meeting. Robin Robinson seconded the motion, which the Board unanimously approved. The meeting adjourned at 8:50 p.m.

Dexter Hayes, Planning Director