

Minutes
Special Called Meeting
Aberdeen Town Board

December 3, 2012
Monday, 5:00 p.m.

Robert N. Page Municipal Building
Aberdeen, North Carolina

The Aberdeen Town Board met on Monday, December 3, 2012 at 5:00 p.m. for a Special Called Meeting. The purpose of the Special Called Meeting was to discuss Conditional Use Permit CU#12-02 for Retail Sales with High Volume Traffic Generation for an application filed by Moseley Real Estate Advisors affecting land currently owned by the Huntley Family Limited Partnership and Bonnie McPeake. Board members present were Mayor Pro-tem Robbie Farrell and Commissioners Pat Ann McMurray, Jim Thomas, Alan Parker, and Walter Wright. Mayor Elizabeth B. Mofield was not in attendance for the meeting. Staff members in attendance were Town Manager Bill Zell, Town Clerk Regina Rosy, Planning Director Kathy Liles, Senior Planner Pam Graham, and Town Attorney T.C. Morphis. Nick Lukens, Bill Moseley, Dianna Brown, Roy Harvel, Tommy Huntley, John Hawthorne, Bonnie McPeake, Bill Marts, Bob Koontz with Hobbs, Upchurch and Associates, Reporter for the Fayetteville Observer Steve DeVane, and Reporter for the Pilot Tom Embrey were also in attendance for the meeting.

Mayor Pro-tem Farrell called the Special Called Meeting to order at 5:00 p.m. Mayor Pro-tem Farrell stated the purpose of the meeting is to discuss Conditional Use Permit CU#12-02 for Retail Sales with High Volume Traffic Generation for an application filed by Moseley Real Estate Advisors affecting land currently owned by the Huntley Family Limited Partnership and Bonnie McPeake.

Bob Koontz with Hobbs, Upchurch & Associates distributed a document to the Town Board giving information on proposed timing for removal of the trees on Parcel A and B, and which trees would be removed. (See attached Exhibit 1 for map and further details surrounding removal of trees). Mr. Koontz reviewed the preliminary site plan for the project. Mr. Koontz stated the project is approximately 90 days away from beginning construction. Mr. Koontz stated there does not appear to be a way to accommodate for the trees that are the subject for contention. Mr. Koontz stated there are soil issues, grading issues, etc. that prevent the trees from being saved. Mr. Koontz stated in order to construct CVS, NCDOT is requiring two entrances. Mr. Koontz stated the trees circled in blue would be removed in Phase I. Mr. Koontz stated trees circled in green will be removed in Phase II. Once Parcel B is ready for development, trees circled in red would be removed which will be during Phase III.

Commissioner Thomas stated he sees what is going to be cut down regarding trees, but he would like to know which trees are going to be saved.

Planning Director Liles stated the sticky point for Planning Staff is the layout of Parcel B, and if there is sufficient parking, etc. Planner Graham stated there has not been a site plan approval for Parcel A or B at this point. Mr. Koontz stated by going from a hotel use of the property, to retail

space, it dramatically changes the layout of the property, and he does not see any way to save the trees if this property is to be developed. Commissioner Thomas asked if options have been considered to work around the existing trees. Mr. Koontz stated he has investigated several options, and he just does not feel there are viable options to save the trees. Mr. Lukens stated all plans presented to the Board have not included the trees located in front of Parcel B. Mr. Lukens stated if the remainder of the property can not be developed, then CVS will not be able to proceed with the project.

Commissioner Thomas stated the dilemma is that this piece of property has some very old trees located on it. Commissioner Thomas stated the Town Board has maintained from the very beginning that they would like some of the trees to be saved. Mayor Pro-tem Farrell asked Mr. Koontz to present the landscaping plan proposed for the property. Mr. Koontz stated the developer has agreed to upsize all of the trees along the frontage to change the look on US Highway 1. Mr. Koontz stated the proposed look will be substantially nicer looking than the present layout of the property.

Mr. Lukens stated a letter of intent has been received for the development of Parcel B. Planner Graham asked about layout of the site of Parcel B and if that could be altered when the site develops. Mr. Lukens stated retailers like parking to be in the front and side of the building, due to safety concerns. Mr. Koontz stated the rear of the property will be a high traffic area for large trucks bringing in inventory and will not be a suitable area for primary parking.

Commissioner Parker stated eventually the truck access will come directly off of US Highway 1 and go to the rear of the property, but initially the truck access will not take place in the same manner, due to the construction of Parcel B.

Commissioner Wright asked what the Planning Staff's problem is with moving forward with this project. Planning Director Liles stated staff is limited to what they can approve, and the burden test for preservation of the trees would have to be proven. Attorney Morphis stated a modification could be made to the conditional use permit due to the burden for preservation of the trees.

Commissioner Wright asked what kind of wording is needed to approve this modification.

Attorney Morphis stated this would be an amendment to the conditional use permit for Parcel B. Mayor Pro-tem Farrell stated Parcel A will be developed into CVS, and in order to accomplish development of CVS, then Parcel B will have to be developed as well. Mayor Pro-tem Farrell stated the Town could lose the development of this site for Parcel A and B over 17 trees if the Board does not move forward on this project.

Bonnie McPeake, owner of Parcel B, stated her building is empty and the building will be boarded up for about 5 years before she would be able to sell it if this project does not move forward. Ms. McPeake stated the building had already been prepared to be torn down, and if this is not approved, then her building will be boarded up and become an eye sore for the Town.

Planning Director Liles asked which trees are needed to be taken down right now. Mr. Lukens stated the trees in blue and green will need to be taken down prior to the construction of CVS. Mr. Lukens stated the trees circled in blue will be removed prior to construction on Parcel A, trees circled in green will be removed prior to the opening of CVS, and the trees circled in red will be removed before development of Parcel B.

Attorney Morphis stated a vote would need to be taken by the Board to determine if there is indeed a hardship before voting on a minor modification to the conditional use permit. Commissioner Thomas asked where the oak tree is located. Mr. Lukens stated all trees will be planted on highway frontage during development of Parcel A.

A motion was made by Commissioner Wright, seconded by Mayor Pro-tem Farrell, that the Board finds in keeping the trees on the site that had been slated for removal would unreasonably burden the developer, and the Board finds it would be appropriate to remove all trees noted in Exhibit 1 (attached). Commissioner Wright stated the Board can be hard-headed about this issue, or move forward on this project and trust developers to do as they have agreed. Mayor Pro-tem Farrell stated Ms. McPeake stated either this site will be a nice retail development, or will be a boarded up building. Mayor Pro-tem Farrell stated there is always the argument that someone else will develop this property, but it may be hard to find a developer that wants to build behind the current trees. Motion failed 2-3 with Commissioner Parker, Commissioner Thomas, and Commissioner McMurray voting no. Mayor Pro-tem Farrell and Commissioner Wright voted yes.

Commissioner Thomas stated he would like to know how the oak tree could be saved. Planning Director Liles stated she does not see a way to save the oak tree with the development of this site. Planner Graham stated she has looked at different models of parking for Parcel B, but no matter how it is done, in order to make the connection to Parcel A, the oak tree can not be saved. Commissioner Wright stated either this property will become a ghost town or nicely developed property. Commissioner McMurray stated she would like more of a guarantee that Parcel B will be developed. Mr. Lukens stated there is a tenant for Parcel B and it will be developed if this item moves forward this evening. Bill Moseley stated without this approval tonight, the property can not be closed on because the value of the property will not support the loan closing. Commissioner McMurray stated she has heard conflicting information about the development of Parcel B, and she would like to know exactly what the truth is. Commissioner McMurray stated the site plan looks great, but she is concerned the landscaping will not take place as presented. Planning Director Liles stated Planning Staff can use bonding to make sure the vision comes true, if the Board is comfortable with triple parking on the front. Commissioner Parker asked if the tenant for Parcel B demands three row parking. Mr. Lukens stated the tenant requires 80 parking spots (minimum) that are convenient to the front door. Commissioner Parker asked if there is any other way to configure 80 parking spaces on Parcel B that would be agreeable to the tenant. Mr. Lukens stated no, the tenant has figured out what works for their store locations, and what does not work. Mr. Koontz presented another plan that shows the location of all the new trees to be planted on Parcel B. Mr. Lukens agreed to place a bond to guarantee planting of all proposed trees.

A motion was made by Commissioner McMurray, seconded by Commissioner Wright, that the Board finds in keeping the trees on the site that had been slated for removal would unreasonably burden the developer, and the Board finds it would be appropriate to remove all trees noted in Exhibit 1. Motion carried 3-2 with Mayor Pro-tem Farrell, Commissioner Wright, and Commissioner McMurray voting yes. Commissioner Parker and Commissioner Thomas voted no.

Mayor Pro-tem Farrell stated the next item for discussion would be the conditions for minor modification. A motion was made by Commissioner McMurray, seconded by Commissioner Wright, to approve a minor modification for the CVS project pursuant to UDO 152-65(b) to include new conditions agreed upon tonight listed as follows:

- Approval of removal of trees, as presented in Exhibit 1 by Bob Koontz. (See attached)
- Developer will add trees or landscaping at additional amount as proposed in writing which will include 4-inch trees.
- Landscaping for Parcel B along US Highway 1 will go in at the same time as landscaping for Parcel A.
- Bonding will be required to cover the cost of the trees to be planted (to be taken care of by Staff).

Planning Director Liles confirmed that a site plan review will still be prepared by Planning Staff. Commissioner Thomas stated he does not understand how the large oak tree is going to be taken down, and replaced with another tree in the exact location. Planning Director Liles explained how long the roots are for the existing oak tree. Commissioner Parker stated the original conditional use permit was approved on 7/5/12, and is that the one being modified tonight. Planning Director Liles stated that is correct. Commissioner Parker asked if additional conditions can be placed on Parcel C at this point. Attorney Morphis stated perhaps the Board could impose additional conditions, but the developer could oppose and challenge additional conditions. Motion carried 3-2, with Mayor Pro-tem Farrell, Commissioner Wright, and Commissioner McMurray voting yes. Commissioner Parker and Commissioner Thomas voted no.

With no further items for discussion or review, a motion was made by Commissioner Parker, seconded by Commissioner Wright to adjourn the Work Session. Motion unanimously carried.

Regina M. Rosy, Town Clerk

Robert A. Farrell, Mayor Pro-tem

Minutes were completed in
Draft form on December 3, 2012

Minutes were adopted
December 10, 2012