

**Minutes of the  
New Bern Planning & Zoning Board  
March 2, 2010**

The regularly scheduled meeting of the New Bern Planning & Zoning Board was held in the second floor Courtroom at New Bern City Hall, 300 Pollock Street, on Tuesday, March 2, 2010 at 6:30 p.m.

**Members present:** Mr. Peter Moffett, Chair  
Mr. John McClellan  
Mr. Mark Best  
Mr. Tripp Eure  
Mr. Tim Tabak  
Ms. Tiffany Dove  
Mr. Harry Cotton

**Members excused:** Mrs. Janet Lamb

**Members absent:** None

**Staff present:** Mr. Bernard George, Land & Community Development Administrator  
Mrs. Lorraine DiBella, Administrative Assistant

**Prayer:** A prayer for guidance was given by Bernard George.

**Minutes:** The minutes of the February 2, 2010 meeting were approved on motion by Mr. Tabak, second by Mr. Eure, and unanimous vote by the Board.

**New Business**

**A. Consideration of request to rezone, from I-2 Heavy Industrial District to I-1 Light Industrial District, 1104 National Avenue. (Ward 5)**

Staff, Mr. George, described the application and the map was examined. The applicants, Brian and Susan Dudley, would like to operate a retail business at this former heating, ventilation, & air conditioning (HVAC) office and warehouse building. The retail use is not allowed in the current I-2 Industrial zoning.

**Applicant Comments:** Susan Dudley approached and stated she and her husband operate a thrift store at this location. When they leased the property from Steve Bengal, they were not aware that this use was prohibited by zoning. The retail use is reasonable at this location and does not reflect badly on the neighborhood.

The public hearing was opened.

**Public Comments:** Stevie Bennett, 1312 National Avenue, stated her objections to the rezoning including the following: it sets a negative precedent; the request is to accommodate an existing use that

is in violation of zoning; the business should not be allowed to continue in violation of zoning; the change in zoning would add 26 additional uses including some that would harm the community, i.e. pool hall, boarding house, bus station. Mrs. Bennett stated she has lived in Riverside for 23 years and has “constantly fought” to preserve the Riverside area and has lost every time. She asked if the Board can guarantee the community that a pool hall, rooming house, bus station or a facility that can display their goods outside the store will not be put at this site. Mr. Moffett answered no, they could offer no guarantee. Mrs. Bennett said Riverside is one of the City’s two locally designated historic districts; she believes the rezoning will have a negative impact on the neighborhood.

Jay Heck, 1410 National Avenue, stated he is a member of the Historic Riverside HOA. The group met the previous night and discussed the rezoning application. The majority approved and agreed that the business is advantageous to the neighborhood, adding vitality and inviting business. He added that bad businesses previously mentioned would be fought against.

David Preis, 1203 National Avenue, stated he does not object to the current use but has concerns about future uses. He asked if there is a zoning classification that would allow this use but prohibit the “bad businesses.”

In response, Mr. George described the different zoning districts, stating the current I-2 zoning would allow some very undesirable operations such as scrap metal storage, salvage yards and automotive graveyards. Some residential uses are allowed in I-1 including daycares and boarding houses. Mr. George discussed the commercial uses allowed in some residential districts and uses allowed in commercial that are not allowed in the proposed I-1 zoning. Mr. George stated the use of this property is also constrained by the limited size of the subject lot. The noise, air and environmental impacts will present a lesser risk with the I-1 zoning.

Kathy Vitols, 1214 National Avenue, said she agrees with both sides of the issue but the community needs vision. She does not have a problem with the current user’s business but would be concerned with the other allowable uses. She asked if the community would have any means of recourse to prevent such undesirable business from locating there. Mr. George answered that there are a limited number of objectionable uses in some zoning districts. Some uses such as boarding/rooming houses would require a special use permit (more public hearings). Other unattractive uses such as pool rooms are allowed in all commercial zones. The small size of this lot would severely limit its permitted uses.

**The public hearing was closed.**

**Board Comments:** Mr. Best surmised that the proposed zoning would be an improvement over the current zoning so far as limiting heavy trucks, large equipment and noise. He noted growth (change) in a community is challenging and meets with acceptance or objection depending on the property owner’s relationship with the community.

Mr. Cotton asked if the zoning is changed as requested, would the current owners’ use be in compliance? In response Mr. George read from the Land Use Ordinance “...the I-1 industrial district is established as a district in which the principal use of land is for industries which can be operated in a relatively clean and quiet manner and which will not be obnoxious to adjacent residential or business districts; warehousing and wholesaling activities with limited contact with the general public; and for certain outdoor amusement facilities which generate large volumes of automobile traffic. The regulations

are designed to prohibit the use of land for heavy industry which should be properly segregated and to prohibit any other use which would substantially interfere with the development of industrial and wholesaling establishments in the district...”

Chairman Moffett asked for staff’s recommendation. Mr. George stated based on the Land Use Plan, development trends and the current availability of public water and sewer, this area will continue to be developed and redeveloped at urban densities. The surrounding properties are zoned I-2 Heavy Industrial, R-8, & R-10S Residential Districts which is consistent with the proposed zoning. Staff does not find the rezoning request inconsistent with the Land Use Plan and nearby land uses.

**Motion** was made by Mr. McClellan, second by Mr. Eure and unanimous vote of the Board, to recommend approval of the request to rezone, from I-2 Heavy Industrial District to I-1 Light Industrial District, 1104 National Avenue. Mr. George announced that the Board of Aldermen will conduct a public hearing and make the final decision on the rezoning request at its March 23<sup>rd</sup> meeting.

**B. Consideration of request to rezone, from C-1 Central Business Commercial District to C-5 Office & Institutional Commercial District, three lots on the southside of New Street between Hancock and Middle Streets. (Ward 1)**

**Staff Comments:** Mr. George described the application as a request to rezone 2.022 acres from C - 1 Central Business District to C-5 Office & Institutional District. The property consists of three lots adjacent to the south side of New Street between the intersections of Middle and Hancock Streets. Mr. George said several Historic District residents and business persons have expressed a concern about the subject site’s potential negative impact should intensive commercial development occur. These citizens have proposed that the zoning be changed to a classification that would be more consistent with and complementary to the adjacent historic residential neighborhood. As a result of those concerns and at the request of the citizens, Alderman Sabrina Bengel requested that the Planning and Inspections Department submit a rezoning application to better protect the adjacent residential neighborhood.

A major goal of zoning is to limit the encroachment of non-residential uses and their potentially negative impacts on the city’s residential neighborhoods. The potential impacts of a zoning change on the nearby residential neighborhood and on the site’s future development can be generally assessed based on existing mixed use conditions and permissible uses. The municipal parking lot is probably the only parcel in the subject area that potentially can be redeveloped in the near future. However, its continued use as parking limits the impact it may have on adjacent properties. There is little potential for the Federal Court House and its property to be redeveloped or the use changed, especially given the recent substantial financial investment in building and site renovations.

**Applicant Comments:** Applicant is Alderman Bengel and the City of New Bern. Comments made by staff.

**Public Comments:** Nancy Hollows, 4438 Rivershore Drive, said she is accompanied tonight by 12-15 other community members who are in support of the requested rezoning. She said the requested rezoning protects the adjoining historic residential properties; no where except at this location does the C-1 zoning bleed through into the community. Ms. Hollows testified that well-maintained historic homes would increase the City’s tax base (Spring Homes Tour cited as an example of how).

Gerry Cormier, 405 Hancock Street, asked if this zoning will allow a 2, 3, or 4 story parking deck. Mr. Cormier said the talk on the street is that the City would swap this lot for the (former) BP parking lot. Mr. George answered that a parking use would be limited to the grand-fathered parking use that currently exists there and could not be expanded.

The public hearing was closed.

**Board Comments:** None

Chairman Moffett asked for staff's recommendation. Mr. George stated staff does not find the rezoning request inconsistent with the Land Use Plan and is compatible with nearby land uses.

**Motion** was made by Mr. Best, second by Mr. Tabak and unanimous vote of Board, to recommend approval of the request to rezone from C-1 Central Business Commercial District to C-5 Office & Institutional Commercial District, three lots on the southside of New Street between Hancock and Middle Streets. The Board of Aldermen will conduct a public hearing and make the final decision at its March 23<sup>rd</sup> meeting.

**Old Business**

Mr. George stated staff is looking at a scaled down boards/commission workshop due to the City's budget woes. Some potential dates were discussed but no date set.

There being no further business, the meeting adjourned.

\_\_\_\_\_  
Peter Moffett, Chairman

\_\_\_\_\_  
Bernard George, Secretary