



**Asheboro Planning Board
Asheboro City Hall (146 N. Church Street)**

Monday, October 3, 2016

7:00 PM

AGENDA

- I. Call to Order
- II. Approval of Minutes from September 12, 2016 meeting
- III. Review of Cases
- IV. Text Amendments related to density credits/severable development rights when public right-of-way dedication is required
 - a.) RZ-16-13: Text Amendments to the Zoning Ordinance
 - b.) Case No. #11-2016: Text Amendments to the Subdivision Ordinance
- V. Items Not on the Agenda
- VI. Adjournment

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**MEETING OF THE ASHEBORO PLANNING BOARD
CITY COUNCIL CHAMBERS, 146 N. CHURCH ST.
MONDAY, SEPTEMBER 12, 2016
7:00 p.m.**

This being the time and place for the regular meeting of the Asheboro Planning Board, a meeting was held with the following officials and members present:

- James Lindsey) - Vice Chair
- Lynette Garner)
- Thomas Rush) - Members Present
- Dave Whitaker)
- David Henderson)
- Ritchie Buffkin) - Members Absent
- Van Rich, Chair)

John Evans, Assistant Community Development Division Director
Justin Luck, Zoning Administrator/Planner
Bradley Morton, Planning Technician/Deputy City Clerk
Trevor Nuttall, Community Development Division Director
Jeff Sugg, City Attorney

Two (2) citizens were present at this meeting.

I. CALL TO ORDER

Mr. James Lindsey called the Asheboro Planning Board to order.

II. APPROVAL OF MINUTES FROM AUGUST 1, 2016 MEETING

Upon motion by Ms. Lynette Garner and seconded by Mr. Dave Whitaker, the Planning Board unanimously approved the minutes of the August 1, 2016 regular meeting.

III. REVIEW OF CASES

Mr. Justin Luck informed the board of the zoning related cases heard by the City Council in August. He also mentioned that case number BOA-15-02 has been heard and that the Superior Court has affirmed the decision of the Board of Adjustment.

IV. RZ-16-11: REZONE FROM CU-B2 (CONDITIONAL USE GENERAL COMMERCIAL) AND R15 (LOW-DENSITY RESIDENTIAL) TO B2 (GENERAL COMMERCIAL): 614 EAST DIXIE DRIVE

Mr. John Evans went over a proposal to rezone the property located at 614 East Dixie Drive from CU-B2 (Conditional Use General Commercial) and R15 (Low-Density Residential) to B2 (General Commercial). He stated that the applicant was Mr. Jack Nance. Mr. H.R. Gallimore was present, representing Mr. Nance as his agent. He gave the parcel number as 7760068764 and stated that the existing land use was retail shopper's goods. He also mentioned that only a portion (approximately .52 out of the total 1.08 acres) would be rezoned to the B2 zoning district, as the other portion was already zoned B2. He mentioned that the property was not in a flood zone or a watershed. He showed an overview map and went over the surrounding land uses which were commercial to the North, Single-Family Residential to the South, Multi-Family residential/Commercial to the East, and Commercial/Single-Family Residential to the West. He showed a rezoning map and stated that the property was inside the corporate city limits and that all city services are available. He showed photos of the property from all directions, mentioning that this property is considered a through lot, so it has frontage on both Emerson Drive and East Dixie Drive. He gave an analysis of the property, stating that East Dixie Drive is a state-maintained boulevard and that Emerson Drive is a local, city-maintained street. He stated that the previous CU-B2 district was to allow a secondary access for the retail shopper's goods use for deliveries only (not a customer entrance). He also mentioned that conditions on the property included evergreen screening on the front, a prohibition of outdoor displays within 150 feet of Emerson Drive, and

also some outdoor lighting requirements that had to be met. He stated that the Land Development Plan (LDP) proposed land use map's designation of the property is Commercial and the growth strategy map shows a primary growth area. He stated that four (4) goals and policies supported the request and that three (3) were negative to the request. The four (4) goals and policies supporting the request included the LDP proposed land use map designating the property for commercial use, the growth strategy map indicating that the property is in a primary growth area, and the property's location outside of a watershed and flood hazard area. The three (3) goals/policies negative towards the request included it not being consistent with the zoning ordinance statement of intent. He commented that the statement of intent says the B2 zoning district needs to have access to a minor or higher classification street and never a local residential street. He also cited the infrastructure inadequacy, specifically the road network being very narrow, and the transition between higher intensity commercial and low intensity residential uses.

He gave staff's consistency statement with adopted plans, and stated that the request was not reasonable and in the public interest due to the following:

- Concern over access from Emerson Drive for wide number of uses permitted in B2 district
- Inability to review access and potential traffic volume without site-specific development plan

He indicated that although the LDP's designation of the property for commercial use, the B2 district's wide span of allowable uses, many of which could be very intensive and high traffic generators, was concerning in light of the property's context.

He stated that in light of the above analysis, staff recommends denial and asked if there were any questions for him at this time. Mr. Whitaker stated that the questions he had regarding the Conditional Use Permit were addressed during the presentation.

Mr. H.R. Gallimore gave a detailed report on the proposal. He mentioned properties that had similar means of access to residential areas and local streets, much like the property in question. Mr. Whitaker asked if any residents had called with concerns. Mr. Evans, as well as Mr. Gallimore, stated that there had been no calls from adjoining property owners with concerns about the request. Mr. Whitaker also stated that there was a concern that he had with the narrower width on Emerson Drive with respect to accommodating more intense uses allowed in the B2 zoning district. Mr. Gallimore gave additional examples of commercial development with access onto local, residential streets and stated that Dixie Drive should be completely commercial. Ms. Garner stated that the LDP does call for commercial in this area and so the property should not be residentially zoned.

Ms. Garner also stated that since there was no one to speak in opposition to the request and that the zoning request complies with the land use map, growth strategy map, and is located outside of flood hazard and watershed areas that she would make a motion to approve the request based on her own consistency statement. The motion was seconded by Mr. Lindsey and the motion carried at a 3-1 vote, with Mr. Whitaker making the dissenting vote.

V. ITEMS NOT ON THE AGENDA

There were no other items at this time.

VI. ADJOURNMENT

With no further business to come before the board, Mr. Lindsey adjourned the meeting.

Bradley Morton, Secretary, Planning Board

Van Rich, Planning Board Chairman



RZ-16-13: Text Amendments Related to Density Credits

- a.) Proposed Amendments to Zoning Ordinance
- b.) Proposed Amendments to Subdivision Ordinance

Staff Report

Rezoning Staff Report

RZ Case # **RZ-16-13**

Date 10/3/16 Planning Board

General Information

Applicant City of Asheboro
Address 146 North Church Street
City Asheboro NC 27203
Phone 336-626-1201
Location N/A

Requested Action Text amendments to the zoning ordinance reflecting changes in state law concerning density credits when public right-of-way dedication is required

Existing Zone N/A **Existing Land Use** N/A
Size N/A **Pin #** N/A

Applicant's Reasons as stated on application

No errors exist. Changes in state legislation (Session Law 2015-246) make the proposed amendments necessary. State law requires density credits to be granted when an adopted comprehensive transportation plan requires dedication of public right-of-way. These text amendments are proposed to comply with this new statewide legislation.

Surrounding Land Use

North N/A **East** N/A
South N/A **West** N/A

Zoning History **RZ-06-45 (January 4, 2007)**: Floor Area Ratio in the B2 General Business zoning district from a maximum of 33 percent by right and 45 percent with a Special Use Permit to a maximum of 100 percent by right.
RZ-11-19 (February 9, 2012): Center City Planning Area ordinance addressed pervious/impervious coverage.

Legal Description

This analysis describes proposed amendments to the Zoning Ordinance to comply with the above noted legislation. A final legal description will be available prior to publication of the legal ad.

Analysis

1. North Carolina General Statutes have been amended to require that density credits or severable development rights be granted to property owners in cases in which they are required to plat public right-of-way for road projects designated on an adopted Comprehensive Transportation Plan (CTP). The projects may include construction of new roads or upgrades to existing roads in which dedication of public right-of-way is required.
2. The density credits help offset the reduction in development potential that occurs when property is required for such dedication through either a major subdivision process, or when necessary to meet the evidentiary requirements for a Conditional/Special Use Permit.
3. The proposed text amendments do not impact properties acquired through eminent domain, roadways platted that are not identified by the CTP, or when the Subdivision Ordinance requires 50' of public right-of-way for a proposed subdivision and existing right-of-way is less than 50' wide, requiring additional land to be dedicated for the public right-of-way.
4. Amendments are also being proposed to the Subdivision Ordinance to reflect this legislation.

Rezoning Staff Report

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Consistency with the 2020 LDP Growth Strategy designations

In reviewing this request, careful consideration is given to each Goal and Policy as outlined in the Land Development Plan. Some Goals and Policies will either support or will not support the request, while others will be neutral or will not apply. Only those Goals and Policies that support or do not support the request will be shown.

Proposed Land Use Map Designation N/A

Small Area Plan N/A

Growth Strategy Map Designation N/A

LDP Goals/Policies Which Support Request

1.2.4 The City will promote its expedited permitting process and continue to make the land development process user-friendly for citizens and organizations.

2.1.1 The Zoning Ordinance will periodically be reviewed to ensure that the specific regulations for each Zoning District are aligned with the desired character and focus of each district.

Goal 3.2: Quality design demanding appropriate scale and context

Rezoning Staff Report

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LDP Goals/Policies Which Do Not Support Request

Staff's Final Analysis Concerning Consistency with Adopted Comprehensive Plans, Reasonableness and Public Interest

In order to allow additional time for public review and comment, staff is presenting a draft proposal and requesting that this item be continued until the November 7, 2016 Planning Board meeting. Also, at that time, additional detail will be presented on the proposal's consistency with adopted comprehensive plans, reasonableness, and how the proposal serves the public interest.

Recommendation

In light of the above analysis, staff's recommendation to **continue** this request until its November 7, 2016 meeting.

DRAFT AS OF 9-28-16

Purpose (staff's statement): This proposal corresponds with proposed amendments to the Subdivision Ordinance to ensure compliance with Session Law 2015-246, requiring the zoning ordinance to provide density credits or severable development rights when rights-of-way are dedicated pursuant to an adopted Comprehensive Transportation Plan. The proposed text amendments to the zoning ordinance provide a method for doing so in a manner which is consistent with the City's adopted Land Development Plan. A draft of language proposed to Article 300 (Modification of Yard and Height Requirements) follows (with proposed ordinance text underlined and explanations of the text's practical applications italicized). The proposal is filed concurrently with related amendments proposed to the Subdivision Ordinance.

307.12 Density Credits when Public Right-of-Way dedication is required or offered pursuant to proposed public right-of-way identified in the Asheboro Comprehensive Transportation Plan

A) Purpose and Intent:

Pursuant to NCGS 160A-381 and NCGS 136-66.10, whenever a tract of land is proposed for subdivision or development activity that requires dedication of public right-of-way identified by the Asheboro Comprehensive Transportation Plan, density credits may be granted. These density credits are intended to provide for reasonable use of the affected tract(s) of land when public right-of-way dedication is required based on needs identified by the Asheboro Comprehensive Transportation Plan.

B) Applicability

i. Right-of-way dedication, in accordance with the Comprehensive Transportation Plan, may be required by the City Council when it determines that:

- a. Said dedication does not result in the deprivation of all reasonable use of the original tract; and
- b. The dedication is reasonably related to the traffic generated by the proposed use of land, or the impact of the dedication is mitigated by other measures, including the use of density credits as herein prescribed, on contiguous land owned by the subdivider.

This subsection mirrors the NC General Statutes (NCGS 136.66-10(a)(1) as applicable to the City of Asheboro's approval processes (excludes the terms "special exception" and "permission" which aren't found in Asheboro's zoning ordinance in this context).

ii. Density credits may be issued when public right-of-way dedication is required by the Subdivision Ordinance or deemed necessary to meet the evidentiary requirements to grant a Conditional or Special Use Permit. When density credits are issued, the minimum lot sizes prescribed by Table 200-1 may be modified.

Note that these provisions only apply to right-of-way identified by the CTP in excess of 50.' The Subdivision Ordinance already requires public right-of-way be a minimum of 50' wide.

C. Definitions

TERMS	DESCRIPTION
Dedicated Area (A)	Entire area of land to be dedicated for public right-of-way purposes
Area Prior to Dedication (B)	Area of zoning lot prior to public right-of-way dedication
Area After Dedication (C)	B minus A (i.e. land in zoning lot remaining after dedication is made)
Ratio of Dedicated Area to Area Prior to Dedication (D)	A divided by B
Minimum Lot Size Prior to Dedication (E)	Minimum lot size requirement prior to application of density credit
Minimum Lot Size After Dedication (F)	Minimum lot size after application of density credit (E-[E*D])

D.) Modification of Minimum Lot Size

A density credit shall be calculated by dividing the area of the land dedicated (A) by the area prior of the land prior to dedication (B). The resulting figure (D) shall be used in determining the minimum lot size after dedication (F).

For example, if the zoning lot in question is fifty (50) acres in area (B), zoned R10 and five (5) acres is to be dedicated for public right-of-way (A), the minimum lot size in the subdivision after dedication (F) is 9,000 square feet.

This provision applies to residential and non-residential zoned properties.

E.) Recordation required for issuance of density credits

Dedication of land for public right-of-way, as provided herein, shall be offered to the public. Proof of such dedication, in the form of an instrument recorded in the Randolph County Public Registry, shall be furnished to the Zoning Administrator prior to the issuance of any zoning permit or subdivision approval that incorporates the use of density credits.

While a zoning permit or subdivision approval may still be issued without this recordation, in order to qualify for the density credits described in this subsection, this is a requirement.

Article 1100:

Density Credit: the potential for the improvement or subdivision of part or all of a parcel of real property, as permitted under the terms of the zoning and/or subdivision ordinance, expressed by a reduction of minimum lot size, pursuant to NCGS 160A-381 and NCGS 136-66.10

Proposed Subdivision Ordinance Amendments

Draft as of 9-28-2016

Staff Note: This draft text is being presented during the Planning Board meeting held on October 3, 2016. Staff will request this item be continued until the November 7, 2016 Planning Board meeting to allow additional time for public review and comment.

Purpose:

The proposal is intended to ensure compliance with Session Law 2015-246, which requires a zoning ordinance to provide density credits or severable development rights when rights-of-way are dedicated pursuant to an adopted Comprehensive Transportation Plan. Previously, such credits were permitted but not required. The applicable part of the session law is below:

ZONING DENSITY CREDITS SECTION 16. *G.S. 160A-381(a) reads as rewritten:*

"(a) For the purpose of promoting health, safety, morals, or the general welfare of the community, any city may adopt zoning and development regulation ordinances. These ordinances may be adopted as part of a unified development ordinance or as a separate ordinance. A zoning ordinance may regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts and other open spaces, the density of population, the location and use of buildings, structures and land. The ordinance ~~may~~ shall provide density credits or severable development rights for dedicated rights-of-way pursuant to G.S. 136-66.10 or G.S. 136-66.11."

In order to establish the mechanism by which such credits can be offered, the following amendments to the subdivision ordinance are necessary.

ARTICLE VI
COMPLIANCE WITH OFFICIAL PLANS

I. THOROUGHFARE PLANS COMPREHENSIVE TRANSPORTATION PLANS

Where a proposed subdivision includes any part of a ~~thoroughfare~~ boulevard or lesser classification roadway which has been designated as such upon the officially adopted ~~Thoroughfare Plan~~ Comprehensive Transportation Plan of the City of Asheboro, such ~~part of such thoroughfare roadway~~ shall be platted by the subdivider in the location shown on the plan and at the width specified in ~~this Ordinance~~ the Comprehensive Transportation Plan if the City Council finds that the dedication does not result in the deprivation of a reasonable use of the original tract and that the dedication is either reasonably related to the traffic generated by the proposed subdivision or use of the remaining land or the impact of the dedication is mitigated by measures provided in the local ordinance. In such instances, a density credit shall be provided in accordance with the Asheboro Zoning Ordinance.

ARTICLE IX
REQUIRED IMPROVEMENTS AND DESIGN STANDARDS

I.B.4 Conformity to ~~Thoroughfare Plan~~ Comprehensive Transportation Plan

The alignment of all proposed streets shall follow the general alignments shown in the adopted Asheboro ~~Thoroughfare Plan~~ Comprehensive Transportation Plan. Proposed ~~thoroughfare roadways~~ shall be designed to appropriate ~~thoroughfare~~ standards. Density credits shall be provided in accordance with Article VI Section I.

ARTICLE X
PLANNED UNIT DEVELOPMENTS

IV.C.4 OTHER REQUIREMENTS - Improvements

The street layout of the development shall be in conformity with the Asheboro ~~Thoroughfare Plan~~ Comprehensive Transportation Plan and:

- a. Where a proposed development will extend an existing public street such extension shall be a public street unless it is an existing dead end street not necessary for access to adjacent property.
- b. Where a through street is required to provide access to adjacent properties or for general public usefulness such street shall be a public street.
- c. Density credits shall be provided in accordance with Article VI Section I.

ARTICLE XI
RESIDENTIAL TOWNHOUSE DEVELOPMENTS

IV.B.4 OTHER REQUIREMENTS - Improvements

The street layout of the development shall be in conformity with the Asheboro ~~Thoroughfare Plan~~ Comprehensive Transportation Plan and:

- a. Where a proposed development will extend an existing public street such extension shall be a public street unless it is an existing dead end street not necessary for access to adjacent property.
- b. Where a through street is required to provide access to adjacent properties or for general public usefulness such street shall be a public street.
- c. Density credits shall be provided in accordance with Article VI Section I.

ARTICLE XII
RECREATIONAL VEHICLE RESORTS

IV.B.2 OTHER REQUIREMENTS - Improvements

The street layout of the development shall be in conformity with the Asheboro ~~Thoroughfare~~
~~Plan~~ Comprehensive Transportation Plan and:

- a. Where a proposed development will extend an existing public street such extension shall be a public street unless it is an existing dead end street not necessary for access to adjacent property.
- b. Where a through street is required to provide access to adjacent properties or for general public usefulness such street shall be a public street.
- c. Density credits shall be provided in accordance with Article VI Section I.