

Planning Board
October 10, 2011
6:30 pm

Council Chambers

Minutes & General Account

Planning Board Members Present at the meeting: Kerry Miller, Chair; Eddie Oakley, Vice-Chair; Art Wise, Lynn Montgomery and Dot Perdue.

Staff Present: Chuck Smith, Matthew Johnson and Martha Wolfe

Visitors Present: Sherry Smith, Adrian Gonneville, Brian Guarino, Julia Raybon and John Stratton.

1. Call to order – Kerry Miller called the meeting to order.
2. Approval of minutes from the August 8, 2011 meeting. Art Wise made a motion to approve the minutes as presented. Lynn Montgomery made a second to the motion. The motion passed by unanimous vote.
3. Public Hearing to consider 1002 Gardner Hill Drive from CZ-C to CZ-C with new conditions which would permit electronic gaming – Matthew Johnson presented the rezoning request. The property is located at 1002 Gardner Hill Drive, proposed rezoning from CZ-C (Conditional Zoning/Commercial) approximately .85 +- acres. The reason it is the same zoning is that it would replace the existing site conditions with new site conditions. Currently, the site is used as a commercial shopping center. It has been primarily vacant until recently. At present, 3 new businesses are located in the shopping center. The parcel is bordered to the North by Industrial Use, to the South by the Bypass District; to the East is vacant land under Greensboro's jurisdiction and to the West by GTCC, Civic District.

The property is located in the secondary growth area of the LDP Growth Strategy Map. That means if water/sewer becomes available we feel this area would develop secondary to the rest of the Town serviced by water & sewer.

The property is located in the Suburban Residential area of the Future Land Use Map. It is currently served with Town of Jamestown sewer and City of Greensboro water.

The applicant submitted a Letter of Reasonableness stating they wished to keep the sweepstakes business as a credible tenant, giving the difficulty the owner has faced in filling the building. The owner desires to keep this business. According to the letter; "they (Sweepstakes business) are providing a service that there does seem to be a demand and are by no means creating any adverse conditions to our property."

Johnson stated this situation happened because the Town of Jamestown does not require a privilege license or business license. Since the property is serviced by Greensboro water, the tenant did not have to sign up for utilities with the Town of Jamestown. That is why the Town did not know a business was opening up prior to occupancy. The owner of the business desires to stay there. The Landlord desires to keep the tenant in the property. They asked the Planning Director to help with ways they might be able to stay in the property. Johnson said thus the request for a rezoning which would allow conditions be placed on the site which would be specifically tailored to this type of business.

The suggested conditions for rezoning at 1002 Gardner Hill Drive (Gardner Hill Station):

1. Uses Permitted – All uses listed as Permitted in the commercial (C) zoning district shall be permitted in this district. Additionally, the use listed as “Electronic Gaming” shall be a permitted use in this zoning district, subject to the additional standards listed below:
2. Separation – No Electronic Gaming operation shall be located within a ½ mile in any direction from any other electronic gaming operation. This required separation shall apply whether the above uses are principal or accessory uses. All measurements in this section shall be from the outer building walls of the proposed use to the nearest property line of the above specified uses, and such measurements shall be in a straight line without regard to intervening structures.
3. Hours of operation, access and visibility – No Electronic Gaming Operation shall engage in business prior to 8:00 am or after 12:00 midnight, Monday through Saturday and not prior to 12:00 pm or after 12:00 midnight on Sunday. During hours of operation, electronic gaming operations shall be open for direct, unobstructed access by police, fire & emergency response personnel. All entrance doors shall remain unlocked while patrons are on the premises. All Electronic Gaming Operations terminals, computers, machines and/or gaming stations shall be open and visible from the exterior front of the establishment.
4. Age Restrictions – No person or entity engaged in Electronic Gaming Operations shall allow, permit or condone any person under the age of eighteen (18) to be upon the premises while patrons are engaged in Electronic Gaming Operation.
5. Signage – Signage shall meet all the requirement of Article 17 Signage and/or the Master Sign Plan for Gardner Hill Station and the following requirements. No signs shall be posted on the windows of the property which are visible from the exterior of the development. No neon or other effects which stimulates the appearance of neon, nor any flashing, chasing, undulated, or other variable lighting effects shall be used in connection with any use hereunder where such lighting effect would be visible from the exterior of the establishment. All rules of the electronic games shall be displayed prominently within the establishment.
6. Maximum number of terminals – The maximum number of terminals, computers, machines and/or gaming stations permitted within an Electronic Gaming Operation is twenty-five (25).

Johnson stated that #6 is the only condition that differs from our current ordinance. The current LDO imposes a maximum number of terminals to be fifteen (15). Johnson said the owner of the business indicated at a future date, they may want to install more terminals with different games.

7. The site shall otherwise conform to the Town of Jamestown's Land Development Ordinance and General Ordinances.

Johnson stated in considering the rezoning request, we have to consider the Land Development Plan and the policies thereof. Johnson read the following LDP Policies that may have some impact on the proposed site:

Growth Management Policies:

1.3 Carefully plan for appropriate land development along interchanges of the future Bypass preventing automobile oriented strip development at interchanges of Vickery Chapel, Harvey & Dillon.

1.15 Carefully balance individual property rights with the good of the whole community by expecting new development to use the best design features of our favorite existing areas and by providing adequate buffers between incompatible uses.

1.17 Encourage everyone in the community to use the LDP goals and policies as guidelines for making smart decision.

Planning Coordination

2.1 Take into account future growth plan of surrounding jurisdictions (e.g. Guilford County, Proposed High Point and Greensboro By-Pass) so Jamestown's land use and planning and growth management approaches are compatible and mutually supportive as possible.

2.4 Build cooperative partnerships with local institutions, agencies & businesses to expand community amenities and services to create jobs to maintain a strong tax base, to encourage new development that fits our small-town character.

2.5 Encourage inclusions of Jamestown in county-wide economic development efforts to attract and recruit new retail and service uses to meet its local needs and expand local jobs & tax base when appropriate.

Johnson stated the current land use is zoned Commercial but does not permit the electronic gaming use. Electronic gaming use is currently permitted in industrial zoning district. At present, there are 2 electronic gaming businesses located in town. There 2 businesses moved in before the Town adopted the ordinance. Therefore, these 2 businesses are grandfathered.

Johnson said the electronic gaming business has been talked about throughout the State. There was a push through the General Assembly to ban this type of electronic gaming. A difference in opinion by judges now has the matter at the Attorney General's office for final decision. The State has not ruled on the legality of this type of use, thereby permitting it to continue to operate.

The conditional zoning does permit flexibility in the zoning ordinance and is a tool that the Board and Council may use to permit certain uses and to "condition" the property to act and look in a particular manner. Per Johnson, when people bring us their problems, we try to find a way to help them solve their problems. This is one way that we can do that.

Looking at the location of the property and the surrounding uses in conjunction with the zoning condition and our attempts to work closely to retain a business in Jamestown, the Planning Department did recommend approval.

Planning Board Member Art wise asked if there was any correlation between the # of computer terminals and the # of parking spaces. Johnson said they did not address parking spaces because the parking spaces have already been allocated for that location. The business has been operating since July without parking issues. Lynn Montgomery asked how many parking spaces are allowed for the site. Johnson said he would need to look up that requirement.

John Stratton, developer & applicant, stated several years ago, he went through rezoning to develop this parcel and it was approved. The land was previously used as a junk yard for junked cars and now converted into the Sheetz Store and retail. It is a very busy intersection. We built the retail space there because we felt it would support the Sheetz business. We have been struck with some economic setbacks that caused us not to be able to lease that property as quickly as we had hoped. Within the last several months, we did get the Sprinkles Ice Cream Store, Book Store (Blackbeard – services used books for GTCC). This bookstore chain is in several colleges campuses around the County. They are getting ready to open 6 locations within the next 2 weeks. Adrian Gonneville (tenant) has been open for a couple of months. We are negotiating a lease with a restaurant at this location. Out of the 6 spaces currently we have 3 occupied and 2 spaces we are close to renting. That will leave only 1 vacant space. We feel fortunate and want to keep business moving forward.

Stratton said he does not speak for or against Adrian Gonneville's business. He speaks as a landlord. We need tenants. There is obviously a demand for that business because they seem to be doing very well. There are other electronic gaming businesses in Jamestown. We want to abide by the zoning regulations required. We come to you with what we have developed. We want good tenants and tenants in demand. We feel this business is a viable one and there is a need for it. We don't think there will be a problem with our current tenants.

Stratton went onto say that the parking was set up for the whole development. They have 7000 sq. ft. We meet the entire requirements for building this sq. footage with the necessary parking of approximately 36 spaces.

Stratton stated they also have a vacant lot that is adjacent to and a part of this development which has not been developed. We can develop that lot into some other business. We have decided to add some 15 – 18 parking spaces on that parcel when we do the restaurant. We feel we will need to add additional parking with the addition of the restaurant. That should address any parking issues. We are certainly in favor of keeping this business.

There were no questions for Mr. Stratton.

Adrian Gonneville, tenant, spoke. He said the businesses currently located there are working off each other. He has had people visiting Sprinkle come in and vice versa.

Montgomery asked if the business collects sales tax. The tenant said he is supposed to collect sales tax for phone time. He is in the process of applying for this. Montgomery asked what the rate is for phone time. The tenant said it is about 7%. She asked how much goes to the County and how much to the State. The tenant did not know. Montgomery asked what the amount is for phone time. The tenant said that sales phone time to customers is \$5.00 per ticket. They can purchase 5, 10 or 20.00. The tenant said he has between 6 – 10 players a day.

Kerry Miller asked if there were any more question by the Board.

Kerry Miller opened the Public Hearing portion of the meeting. He asked if there was anyone that wished to speak to this issue to please come forward:

Sherry Smith, tenant and co-owner of business – Sprinkles Yogurt Bar – She stated they have been in the property since June. Gonville has been there since July. She does not personally oppose him being there. They have had no issues with the business being there. They have no problems with him being there and parking has not been a problem.

Brain Guarimo, tenant/General Manager of the book store located next door to Gonville's business. Stated he has only been there since the first of the month. Our business is very seasonal. The only time they are really busy is when GTCC has the start of a semester. He only sees it as positive for the business to be there. They bring in clientele.

Kerry Miller asked if there was anyone else that would like to speak. Being none, He asked the Planning Board if they had any questions.

Eddie Oakley stated he has a concern with the parking. He witnessed the traffic coming and going at Sheetz. It can be quite busy especially on High Point Rd. He does not see how cars can get in and out once the property is filled. Traffic and parking are a definite issue .Oakley has issue with this type of business located that close to GTCC & Ragsdale High School that allows 18 year old to enter the business.

He is also concerned that the tenant may not be able to sustain the business. Oakley feels the crowd that visits the electronic gaming business could be detrimental to the Ice Cream Shop (not the same clientele) and the Bookstore. He is concerned that Jamestown would be known as a Sweepstake Shop Town. He is also concerned with allowing 25 verses 15 seats. The Planning Board discussed the hours of operation. The proposed hours are 8:00am or after to 12:00 midnight, Mon-Sat. and not prior to 12:00 pm or after 12:00 midnight on Sunday.

Oakley said he does not think gaming operations belong at this location or on Main Street. He is against changing this zoning to permit this operation.

Lynn Montgomery stated we worked very hard on the ordinance in 2010 to protect the character of our Town. We hear from our citizens we want to be like Chapel Hill or Cary. This proposal doesn't do anything to promote that. We cannot determine any sales tax benefits to the Town. We represent the Town's interest. She reviewed the Planning Board and Council minutes from meetings when electronic gaming was approved as a permitted use. We were all

in agreement where these uses should be held. I do not vary from what we decided at that time.

Dot Perdue stated that she agrees with comments by Planning Board members. She does not feel this is the appropriate place for it.

Miller stated the separation condition does not disallow a similar establishment across the road in Greensboro's jurisdiction. Miller felt in lieu of any State regulations, this rezoning case would actually put Jamestown on record that we allow internet gaming in Jamestown. Johnson stated this rezoning would be only specific to this location.

Art Wise commented he does not see how we can allow lottery ticket purchase at Kerr Drugstore or at the gas station at the corner of Ragsdale Rd. yet someone can't go into a place for gambling on the internet. Is there a difference?

Oakley said he is not opposed to the gambling. He thinks the property location should rate a higher use than that. He does not see this use as the long term vision for Jamestown.

The Chair recognized John Stratton, Developer/landlord. He stated they have invested over 4 million dollars in this corner. They still have another lot to develop. They want that corner to be successful. If the economy were different those 6 spaces would already be rented. The Sweepstakes business is in there and paying the market rent. The developer doesn't want a business in there that is detrimental to renting the rest of the spaces. We think it will be a successful business and a success for the Town of Jamestown.

Montgomery said she thinks we are losing focus. It is not about gambling or children, not about landlords renting their property. It is what we want our Town to look like. Our responsibility is to the citizens of Jamestown. We made our decision on what we felt fit into the 2020 LDP.

Dot Perdue made a motion to deny the rezoning requested on this property. Eddie Oakley made a second to the motion. On a roll call vote:

Art Wise voted nay

Dot Perdue vote aye

Lynn Montgomery voted aye

Eddie Oakley voted aye

The motion to deny the rezoning request was approved by a majority vote of 3 – 1.

Johnson advised if there is a negative vote by the Planning Board, the petitioner may request that consideration of the request to the Town Council be postponed up to 90 days, to provide petitioner time to address the issues if any, by the Planning Board in their review of the request and/or to revise the request to address the issues that resulted in the negative recommendation. Johnson asked if the Planning Board had any recommendations to the applicant.

The Planning Director said if the petitioners chooses to review the request, a meeting will be scheduled with the Planning Director and either the Chair or Vice-Chair of the PB a minimum of 14 days prior to the Council meeting at which the request would be considered.

The PB did not have any further recommendations for the applicant.

4. Consider approval of the PB Rezoning Checklist – Kerry Miller presented the Planning Board Check List. Miller stated this checklist was an idea that came out of the PB meeting with Keith Volz and Georgia Nixon-Roney. Each PB member has reviewed. Art Wise suggested including any Public Comments made at the Planning Board meetings. Miller said as far as process; this is not a check list to be filled out at the PB meeting. He would like to recommend that the day after the PB meeting; he will get with the Town Clerk and/or Planning Director. We will fill out the list and send it to the Planning Board members for comments, corrections or additions. Silence is approval of the information in the checklist. If he does not hear back in 2 days, it is approved. Planning Board members agreed to the process. The checklist will be a part of the rezoning case file that goes to the Town Council. The Planning Board Chair or Vice-Chair will go to all the Council meetings when a Planning Board item is on the agenda.

Lynn Montgomery asked to add name & address to the Public Comment Section on the checklist. Art Wise made a motion to approve the checklist with the addition of item #8 – Public Comment at the Planning Board meetings with name and address. Eddie Oakley made a second to the motion. The motion passed by unanimous vote.

5. Public Comment period – No one signed up for Public Comment.
6. Other Business – Kerry Miller announced the Jamestown Swing event is Saturday from 4:00 – 10:00 pm. Please come.

Dot Perdue announced that the Jamestown Historic Preservation Committee met with Matt, Chuck & Keith today. They will go before the Council this month. They will present Council with a draft of the Historic Preservation Ordinance. Then they will be back at the November Council meeting.

Lynn Montgomery made a motion to adjourn. Eddie Oakley made a second to the motion. The motion passed unanimously and the meeting ended at 7:28 pm.