

MINUTES
Town of Lexington

PLANNING COMMISSION MEETING

September 19, 2012

The Town of Lexington's Planning Commission held a meeting on September 19, 2012 at 8:00 a.m. in the Council Chambers at Town Hall, 111 Maiden Lane, Lexington, South Carolina. The meeting was attended by: Chairman Keith Frost, Vice-Chairman Frank Berry, and Commissioners Brian Amick, John Bartlett, Roscoe Caughman, Jamie Fite, Edwin Gerace, Lisa Gibson and Sammy Hendrick.

Others in attendance were: Council Liaison Kathy Maness, Town Administrator Britt Poole, Municipal Attorney Brad Cunningham, Director of Planning, Building and Technology John Hanson, Director of Parks, Streets and Sanitation Dan Walker, Chief Building Inspector Charly Thomas, Engineer Rosemarie Nuzzo, I.T. Manager Josh Emory and Municipal Clerk Becky Hildebrand.

There were approximately eleven (11) citizens present and no one from news media was present.

INVOCATION AND CALL TO ORDER: Vice-Chair Berry gave the invocation. Chairman Frost led in the Pledge of Allegiance and called the meeting to order at 8:05 a.m. He welcomed everyone to the meeting and introduced the Commissioners and Staff. He stated that the meeting was broadcast live on the Town's Time Warner Channel 2 and would be replayed several times during the week.

APPROVAL OF MINUTES

A motion was made by Commissioner Gerace and seconded by Vice-Chairman Berry to approve the Planning Commission Minutes from August 22, 2012 as submitted. The motion to approve the Minutes was unanimously carried.

OLD BUSINESS None.

NEW BUSINESS ITEMS

1. **147 Hamilton Street (Recommendation for Rezoning and Road Classification):** Brian and Catherine Thornton requested to rezone a property located at 147 Hamilton Street from Protected Residential (PR) to a commercial zoning. Based on conversations with the property owners, it appears that there is no specific commercial use intended for the property at this time. However, the property owners indicated that they have had an inquiry to use the property for a dance studio. That particular use would require either Limited Commercial (LC) zoning or Neighborhood Commercial (NC) zoning. Since the parcel is currently

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zoned Protected Residential, it may be used only for residential uses or for other uses that are inherently compatible with a residential setting. If the property was rezoned to Limited Commercial, it could be used for many commercial uses, provided that the intended commercial use could meet all associated land development requirements such as buffering, landscaping and parking. The property is bordered by Hamilton Street and Cherokee Trail. Both roads are classified as Local Roads.

Chairman Frost confirmed that, except for the rear of the lot, the property is surrounded by residential development. Mr. Hanson clarified that it was his understanding that the property is currently used as residential rental property.

Mr. Hanson advised the Commissioners that the applicants were not present, but some neighboring property owners were present. He stated that Staff was trying to contact the applicant to see if they planned to be present. Mr. Hanson stated that the Planning Commission could hear from those that were present and then decide if they wanted to delay the item until such time that the applicants could be heard.

Chairman Frost called for Public Comments from those that were *in favor or opposed* to the zoning request. He asked if several speakers had the same concerns, to please appoint a spokesman and to limit remarks as much as possible.

Mr. Robert Murphy, 303 Cherokee Trail, presented a Petition containing twenty-five (25) signatures of area residents who “*oppose the rezoning of 147 Hamilton Street in Lexington, S.C., from Protected Residential (PR) to Limited Commercial (LC), or rezoning to commercial use of any kind*”. He stated that he lives seven houses down from Northwood and is *opposed* to the rezoning request. He added that the subject property has always been residential and the neighborhood is 40 to 50 years old. Mr. Murphy stated that they oppose the rezoning because the property is not an adequate site for a commercial property because of the size; there is already too much traffic in the area; the roads are deteriorated and not well maintained; speed limits are not obeyed now with small children present; and people who do not live in the area use it as a cut through. He stated that the Barr Price Funeral Home has visitations primarily at night and if a dance studio was located on the property it would just add that much more congestion to the area. He added that parking on the side of the roads had improved at Barr Price Funeral Home since they enlarged their parking lot. Mr. Murphy stated that a dance studio functions at night which would increase parking on the street because the property is not large enough for many cars to park. He stated that the twenty-five (25) signatures represent fourteen (14) families and they are all opposed to the commercial rezoning. He added that if that property is rezoned, then next week it would be another property and so on, and they would like to keep their 40 year old neighborhood residential.

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Mr. Tony McCloney, 140 Hamilton Street, stated that he married into the neighborhood in April and their house faces the front porch of 147 Hamilton Street and they are *opposed* to the rezoning request. He stated that in addition to parking problems, they were concerned with signage at the property if it is zoned commercial. He added that they already have a Nationwide Insurance company located between his house and Highway 6 which has a lighted sign that is bright blue which matches the railings, shutters, and awnings. He would prefer not to have to get up and look out his front door at additional signs.

Mr. Roger Caldwell, 221 Cherokee Trail, stated that he lives five houses from Hamilton Street and he is *opposed* to the rezoning request. He stated that he first saw the rezoning sign one morning and stopped later that evening and the sign had been pushed down. He thought it was probably a mistake and sat the sign back up. Mr. Caldwell stated that his family lived in the area since 1956 and he bought the house on Cherokee Trail in 2004. He added that at this stage of his life he does not want to move again because he moved from his previous neighborhood because they were starting to have commercial developments. He stated that traffic is a problem which he experiences when he walks with his five grandchildren. He added that on occasion he has to call Lexington Police or the County Sheriff's office to report speeders in the area.

Ms. Toni Alise Snyder, Hamilton Street, is *not opposed* to the rezoning request. She stated that her property is next door to Mr. Thornton's and she desires to stay in her home as long as possible. She advised Mr. Thornton that if he rezoned to commercial, then she would sell her home as commercial too because she did not want to live in between two commercial properties because she knew the Wingard's on the other side of her would sell as commercial too. She added that Barr Price Funeral Home is located behind her property. Ms. Snyder stated that Barr Price Funeral Home seldom has parking on the street since they enlarged their parking lot. She stated that if the property at 147 Hamilton Street is rezoned commercial, there would be a problem with parking and she did not want people parking in her drive or on her property but she did not have a problem with it going commercial.

Mr. Hanson advised Chairman Frost that the applicants had been contacted and they requested that their rezoning request be postponed until next month when they can be present. Chairman Frost confirmed that all the public comments heard would be a part of the record if the request is postponed until next month. Commissioner Hendrix confirmed that the applicants received proper notification of the meeting, along with all the residents, and he would not recommend a postponement of the request when all the other residents were able to attend today. Mr. Hanson stated there was some confusion with the applicants as to what time the meeting would be held. He confirmed that he talked to the applicants in person and told them the date of the meeting. He did not have a recording of their meeting, but he was almost positive that he told them the time.

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Mr. Hanson stated that there was a notice placed in the newspaper and there were also two signs placed on their property.

Mr. Caldwell stated that he took off work today to be at the meeting because it is important and if he was the one asking for rezoning he would absolutely know when the meeting was to be held. He added that no one from this committee contacted him about the meeting, but he saw the notice that was posted on the property. Mr. Caldwell requested that if the request is postponed, he wanted to receive notification of the date and time so he could be prepared to attend since this is a busy time of day for him because he is a businessman.

Chairman Frost confirmed that if all the residents would provide their contact information, they would be notified of any postponements. He also confirmed that they had a request from the applicants to postpone the request, not to withdraw the request, and he would ask the Municipal Attorney for guidance. He added that after looking at the property he did not see anything that the applicants could provide that would change his mind, because he had concerns similar to those of the residents that were present. Municipal Attorney Cunningham stated that the Planning Commission has a request to postpone and to make a decision without the applicants would put them in a bind. He added that they would have to be satisfied that they were provided proper notice and they failed to show up.

A motion was made by Commissioner Hendrix and seconded by Vice-Chairman Berry to deny the applicant's request to postpone their request for rezoning. Vice-Chairman Berry asked if rezoning was granted was there a plan to tear the house down or remodel it. Mr. Hanson stated that based on conversations he had with the applicants, there was a plan to modify the home and bring it into compliance regarding current ADA standards and building codes. He added that parking requirements are based on the occupant load of the building which is one space per four occupants. Mr. Hanson stated that they would have to provide parking, screening, and comply with storm water requirements. Chairman Frost stated that when you rezone a property it is opened up to whatever intended use is permitted and there are very few, either Limited Commercial or Neighborhood Commercial, which would fit into the surrounding area and that was a concern for him. He added that he was frustrated that the property owner was not present when all the other residents were present. He stated that the Planning Commission tries to seek public input and he did not want to put the Commission in a legal situation of not allowing an applicant to be heard. Chairman Frost stated that if they postpone the request the residents who are here today would not have to come again because their comments would be made part of the record and they would be notified of the meeting date and time. Town Administrator Poole wished to state for the benefit of the Commissioners and for the audience, that this request would still go before Town Council; therefore the citizens would have other opportunities to speak. Commissioner Bartlett stated that

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even though he agreed with the tone of the discussion, he would prefer to allow the property owners to speak because it would set the Commission up for problems if they did not and nothing would happen with the property in the meantime. He added that the citizens' may have been put out to be here, but their comments were of record and would be taken into consideration. Commissioner Hendrix asked for clarification of due process on the issue regarding notification in that the area residents were present, but the property owners were not. Municipal Attorney Cunningham responded that based on the State Statute owners had received adequate notice. Chairman Frost called for a vote on the motion by show of hands. The motion to deny the applicant's request to postpone their request for rezoning was carried with a vote of six (6) in favor (Berry, Amick, Caughman, Fite, Gibson, Hendrix) and three (3) opposed (Bartlett, Frost, Gerace) to the motion.

Chairman Frost called for discussion or a motion regarding the original requests for rezoning and road classification of 147 Hamilton Street. A motion was made by Commissioner Hendrix and seconded by Commissioner Fite to deny rezoning and maintain the current zoning and road classification. Chairman Frost called for a vote by a show of hands. The motion to deny a change in zoning and road classification was unanimously carried.

2. **Bojangles 5165 Sunset Boulevard (Site Plan Approval):** Mr. David Parr submitted a site plan for a new Bojangles restaurant that will be located on 1.178 acres at 5165 Sunset Boulevard. The site plan also includes a new road access to approximately 14 acres of land located behind the restaurant. At this time, the Town has not received plans for any development on the property behind the restaurant. It appears that the plan for the restaurant meets all other zoning requirements.

Chairman Frost asked for additional background information in that if the plan "meets all other zoning requirements" why had the item come to the Planning Commission. Mr. Hanson responded that the primary reason was due to the additional road access.

Chairman Frost called for Public Comments from those that were *in favor or opposed* to the zoning request.

Mr. Claude Clark, Bojangles Representative, Charlotte, N.C., stated that they were proposing to build a new Bojangles on Highway 378. He stated that they had been working with the seller, who was not present, to develop the property. Mr. Clark stated that there has not been anything on the property for a number of years; it is currently very overgrown; and they are purchasing the front parcel. He added that they had also worked with Mr. Keisler, next door property owner, and who indicated to Mr. Clark that he is in agreement with the

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project. Mr. Clark stated that he would be happy to answer questions about the acreage they are purchasing.

Chairman Frost asked Mr. Clark if he had an access agreement with the next door property owner because it appeared that he was crossing over the parcel at Homeplace Road. Mr. Clark responded that they have a letter of agreement and are working on the legal recording of an easement.

Commissioner Bartlett confirmed that the Bojangles recently built on Highway 1 had access on two sides. He asked if requested access at the Bojangles on Highway 378 was the property owner's request or Bojangles request. Mr. Clark responded that they consider it to be their primary access. He added that it is the connectivity with Mr. Keisler's property which is the basis of the driveway coming onto his. Mr. Clark confirmed that the site plan provided shows that the road at the entrance had to be widened based on SCDOT requirements with the lineup of the drive way of the strip center across the street which is why there is a small offset. Mr. Clark confirmed for Vice-Chairman Berry that the driveways do line up as he demonstrated on the site plan provided. He added that they had proposed only an in and out access but SCDOT required it to be wide enough to line up with the drive across the street. Chairman Frost confirmed that Bojangles' proposal was originally for full access, but with only two lanes, not three lanes. He also asked if the entrance at Homeplace Road was for full access or would only right in and right out work for their plans. Mr. Clark responded that the access at Homeplace Road is right in, right out only and that they have planned a wishbone so people could not go across the strip center. He added that their request to SCDOT was to put the private driveway in. He stated that after some comments regarding inter-connectivity they went back to talk with Mr. Keisler so people would not have to go back out on the highway to enter the drive. Mr. Clark stated that if they were to lose one of the driveways it would be the Homeplace Drive because Mr. Keisler does not want all Bojangles customers entering his driveway. Chairman Frost confirmed that Homeplace Road is private and is at the edge of the strip center. He agreed that the idea of connectivity is to eliminate as many curb cuts as possible, but coming in with inter-connectivity and have curb cuts defeats that purpose which concerned him. Chairman Frost stated that it would be preferable to have an existing drive that could be utilized with some improvements and would satisfy the needs of both locations from a traffic standpoint. He could not confirm the distance between the drives, but estimated it to be 350 feet. He stated that he did not know who was present to speak for the property owner, but he wanted to know if the property owner could access the drive at the rear of the property. Mr. Clark stated that there is a 35 foot elevation change from Homeplace Road to Bojangles at the back of the property. He added that they will have a 35 foot retaining wall and the store will be at street level. Mr. Clark stated that they had not discussed the possibility of Homeplace Road being the only front access with the property owner and it was a secondary conversation concerning people being able to access both businesses without going back out on Highway 378.

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Chairman Frost clarified that he was not suggesting that Bojangles move their access, but if there is a potential for access at the back of the property for the purpose of future growth of the additional 8 to 10 acres which can be developed. He confirmed with Mr. Clark that a right-in, right-out access at Homeplace Road, which is a restricted drive, would not work for Bojangles. Mr. Clark stated that they had put the property under contract looking for a full access drive. He added that they had met with the property owner and SCDOT because the owner had one more front parcel to the left that is still road front for possible access if he ever sold or developed it.

Mr. Hanson confirmed that the driveway is in the middle of the two properties. Chairman Frost stated that based on the aerial photo it is in the middle of the triangle shaped property. Commissioner Hendrix confirmed that there is a piece of property between the church and Bojangles. Commissioner Bartlett wished to confirm the width of the road frontage. Chairman Frost stated that the additional information helped provide justification for the additional road access. Vice-Chairman Berry asked if the secondary access was necessary. Commissioner Hendrix responded that if the full access is at the first entrance, then Homeplace Road needs to be a right-in, right-out in that it is a private road. Chairman Frost stated that it is full service right now and it is private because of the way it has been used as part of the access and parking for the shopping center. He added that it is private with full access right now, but the applicant cannot change that because he does not own the road. He stated that they would have to go back to the property owner if he allowed additional development use, then they could have discussions about bringing the road up to code and bring it into the Town and limit access. Chairman Frost stated that the additional drawing helped to show just how much property and potential was at the location. Mr. Clark confirmed that a condition from SCDOT was for their project be moved back far enough for a deceleration lane to be developed. He stated that before anymore parcels could be sold off that property, a deceleration lane would have to be installed. He added that the owner had agreed to the condition.

A motion was made by Vice-Chairman Berry and seconded by Commissioner Fite to approve the site plan for Bojangles at 5165 Sunset Boulevard. Chairman Frost asked if the motion should include the deceleration lane. Vice-Chairman Berry confirmed that if SCDOT's condition was based on a certain traffic count, he would want to include the deceleration lane in his motion regardless of the traffic count. Town Administrator Poole stated that the Chairman could determine if the stipulation is reasonable and if the body has the authority to add the stipulation. Vice-Chairman Berry stated that he was concerned about traffic backing up every morning when people stopped to get their biscuit. Municipal Attorney Cunningham asked Chairman Frost if he was putting himself in the position of asking for something that SCDOT would not allow/permit or a stricter

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requirement. Chairman Frost responded that SCDOT's condition is based on a certain traffic count and they want it done sooner than that time not at the point of any further development. He added that it would not be the first time the Planning Commission asked for a stricter requirement than SCDOT. Chairman Frost called for a vote by a show of hands. The motion to approve the site plan for Bojangles at 5165 Sunset Boulevard with the stipulations as stated was unanimously carried.

3. **125 Pilgrim Point Drive TMS #3420-01-049 (Recommendation for Zoning and Road Classification:** Mr. Heyward B. Sutherland owns a property located at 125 Pilgrim Point Drive and petitioned for annexation. The property is residential as are surrounding properties. Properties in the Town limits located in this area are zoned Protected Residential (PR) and Pilgrim Point Drive is classified as a Residential Local Six (RL6) road. Due to the surrounding conditions and the use of the property, the requested zoning for the parcel is Protected Residential (PR). The recommended road classification for this portion of Pilgrim Point Drive is Residential Local Six (RL6).

There being no questions or discussion, Chairman Frost called for a motion. A motion was made by Commissioner Bartlett and seconded by Commissioner Gerace to approve zoning as Protected Residential (PR) and road classification as Residential Local Six (RL6). Chairman Frost called for a vote by show of hands. The motion was unanimously carried.

COMMENTS

Commissioner Gibson announced that the annual Lexington Interfaith Community Services (LICS) fundraiser, Art in the Garden, would be held on October 5, 2012 at Wingard's Nursery. She added that LICS is a 501(c)3 organization and all proceeds would go to LICS to further assist local families in crisis. She added that tickets could be purchased at www.wingardsnursery.com.

Vice-Chairman Berry announced that Lexington High School will host an out of state high school football team from Cooper City, Florida. He added that it is a big event for the community and our own master of ceremonies, Brad Cunningham, will announce the game.

Commissioner Gibson and Vice-Chairman Berry asked for an update on several issues. Town Administrator Poole stated that engineers are working on the traffic light program along with SCDOT. He confirmed that the interchange improvement at I-20 and Highway 378 would go to bid any day after the final approval from SCDOT.

Councilmember Maness thanked the Commissioners for getting up so early for their service and it is obvious that they are looking out for the best interest of the Town.

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She asked everyone to come out and support the Town's Farmers Market every Saturday through October. She encouraged the Commissioners to attend the upcoming Boards and Commissions Dinner which has been moved to October this year with an oyster roast.

ADJOURNMENT: There being no further comments or questions, a motion was made by Commissioner Hendrix and seconded by Commissioner Gerace to adjourn Planning Commission meeting. The motion was unanimously carried.

The Planning Commission Meeting was adjourned at 8:46 a.m.

Chairman Frost thanked everyone for attending the Planning Commission meeting and stated that it would be replayed on the Town's Channel 2 several times during the week.

Respectfully submitted,

Becky P. Hildebrand, CMC
Municipal Clerk

APPROVED:

Keith Frost
Chairman

FOIA COMPLIANCE – Public notification of this meeting was published, posted and mailed in compliance with the Freedom of Information Act and the Town of Lexington requirements.