

MINUTES
BREVARD PLANNING BOARD REGULAR MEETING
NOVEMBER 23, 2021

Brevard Planning Board met for a regular meeting, Tuesday, November 23, 2021 at 5:30 PM. The meeting was held remotely in accordance with NC General Statute 166A-19.24. Simultaneous live audio and video was made available to the public online at <https://www.facebook.com/brevardplanning/>.

Members Present: Chris Strassner, Chair
Reid Wood
Molly Jenkins
Greg Hunter, Vice Chair
John Schommer
Peter Chaveas
James Carli

Others: Mark Burrows, Blue Zones
Phil Harris, Brevard Police Department
Shawn Hamilton, Native Spirits, LLC
Aaron Baker, Oskar Blues

Staff Present: Paul Ray, Planning Director
Aaron Bland, Assistant Planning Director
Katherine Buzby, Planner
Janice H. Pinson, Board Clerk

I. Welcome

At 5:30 PM, Chris Strassner, Chair called the meeting to order. Paul Ray, Planning Director, introduced Katherine Buzby to the board.

II. Introduction of Planning Board Members

The Board introduced themselves.

III. Certification of Quorum

Chair, Chris Strassner confirmed with the Board Clerk that a quorum of the Board was present.

IV. Approval of Agenda

Motion to approve agenda by P. Chaveas second by J. Schommer, roll call vote carried unanimously.

V. Approval of Minutes

a. October 26, 2021

Motion to approve with change by G. Hunter, second by M. Jenkins, roll call vote carried unanimously.

VI. New Business.

a. Consideration of TXT-21-015 - Prohibited and Exempt Signs UDO 12.6; 12.7 – Blue Zones Project

Aaron Bland, Assistant Planning Director, presented his staff report a portion of which follows:

Background

The City has received an application for a text amendment from former Police Chief Phil Harris and Mark Burrows of the Blue Zones Brevard Project for a text amendment to the City's sign ordinance. See Attachment A for application materials and Attachment B for some informational materials provided by the Applicants.

Discussion

The proposed amendment would limit the amount of signage covering windows and glass doors to 25% of the total surface area of all glass space facing a road or parking lot. The Police Department would be responsible for enforcement of this specific requirement. The provision would not apply to the Downtown Development Overlay District.

The justification for this amendment is to help ensure police have an unobstructed view into stores and businesses in order to facilitate public safety. Allowing workers to see incoming customers can also help increase workplace safety.

More information will be presented by the Applicants at the meeting.

Policy Analysis

The City's Comprehensive Plan is silent on this matter.

Recommendation

The City's Comprehensive Plan is silent on this matter.

Phil Harris, Brevard Police Department explained that the purpose of limiting window signage is to create an environment to make a criminal feel uneasy.

Mark Burrows explained the purpose of Blue Zones was to limit signage on tobacco advertisement, but that the challenge is that you cannot target specific advertisement you must be content neutral. The recommended limit would be 25% of window space and it would be limited to the corridor district where people are driving by, and not to the downtown district.

There was detailed discussion, and the following concerns were discussed:

Effect on immigrant and refugee owned businesses.

Education, warning, and then possible ticketing when not in compliance.

Education before enforcement.

Could be a good way to clear windows to see what's going on in the businesses while making the businesses more attractive to the consumer.

Make all business districts comply, not just the corridor district.

List of businesses that would need to comply

How would percentage be calculated.

Have we had problems with crime in Brevard because of window coverings.

Do we see reduction of window signage as a good planning perspective, because that is our role, not safety.

Phil Harris explained that the Brevard Police Department have worked hard to be communicators first, and would be educating business owners.

Further explaining that the text amendment is for crime prevention, not because there have been issues with crime in Brevard due to window coverings.

Mark Burrows explained that it would be a challenge to limit the downtown businesses, because their windows tend to be smaller.

Phil Harris and Mark Burrows both thanked the Board for the thorough discussion, but both felt it needed to be codified in the UDO.

Phil Harris stated that the businesses that would need to comply would be auto parts stores, convenience stores, some fast food restaurants, stating that the quick short service businesses would be the businesses that would need to open up their windows more to be in compliance.

Aaron Bland reminded the Board that they have 45 days to hear the matter if tabled.

P. Chaveas made a motion to approve with specific language as to penalties, with reference to the consistency statement, which is attached hereto and labeled, Exhibit "A". Seconded by M. Jenkins. Roll call vote P. Chaveas, R. Wood, J. Schommer, M. Jenkins and C. Strassner voted yes, J. Carli and G. Hunter voted no.

b. Consideration of Application for rezoning, REZ-21-005 by Shawn Hamilton of Native Spirits, LLC for multiple properties at the intersection of Asheville Highway and Lambs Creek Road. These properties are identified by the following PIN#s: 8597-01-8529-000, 8597-01-6950-000, 8597-12-0348-000, 8597-02-9059-000, 8597-11-1969-000, and 8597-11-0886-000.

Aaron Bland presented his staff report a portion of which follows:

Background

On October 26, 2021, an application was submitted by Shawn Hamilton of Native Spirits LLC ("Applicant") requesting a map amendment (rezoning) for multiple properties at the intersection of Asheville Highway and Lambs Creek Road. These properties are identified by the following PINs: 8597-01-8529-000, 8597-01-6950-000, 8597-12-0348-000, 8597-02-9059-000, 8597-11-1969-000, 8597-11-0886-000.

These six parcels are currently zoned General Residential 4 (GR4) and the Applicant is requesting to rezone all parcels to Neighborhood Mixed Use (NMX) to match one parcel (8597-11-0513-000) that fronts Asheville Highway which is currently Neighborhood Mixed Use (NMX). All seven of these parcels are being sold as a group. The parcels total approximately 15 acres in size and are largely undeveloped with some existing structures that are in poor condition.

See Attachment A for the application materials, Attachment B for a comparison of uses between GR4 and NMX, Attachment C for a map of the current zoning, and Attachment D for a map of the proposed zoning.

Discussion

The Neighborhood Mixed Use district is described by the City of Brevard Unified Development Ordinance as follows:

The Neighborhood Mixed-Use District is coded to provide pedestrian-scaled, higher density residential homes and opportunities for limited scale commercial activities along existing mixed-use corridors, in areas of transition, and at the functional center of new neighborhoods. Development in this district should encourage pedestrian activity through construction of mixed-use buildings and connections to adjacent neighborhoods. Buildings in this district are typically small and detached.

Below is a comparison of density and dimensional requirements of the two districts:

Requirement NMX GR4

Maximum dwelling unit density 15/acre 4/acre

Maximum ground floor area for principal structures

30,000 sqft 10,000 sqft

Minimum setbacks for principal structures (front/side/rear)

0/0 or 10 from residential districts/10

15/6/25

Minimum setbacks for accessory structures < 120 square feet (side/rear)

0/0 3/3

Minimum setbacks for accessory structures ≥ 120 square feet (side/rear)

3/3 6/10

Maximum height by right 35 feet 35 feet

Minimum lot width 20 feet 30 feet

These two districts often abut one another, and it is not uncommon for properties along Asheville and Rosman Highways to be zoned NMX with GR8 or GR4 behind them. When

development occurs in NMX and the adjacent district is General Residential there is a requirement for a Type B buffer, which is a minimum of 20 feet wide and 6 feet high. Most of the properties are impacted by the Special Flood Hazard Area, particularly those on the north side of Lambs Creek Road, which will limit the intensity of development that could occur on these parcels due to the development requirements within the floodplain.

Policy Analysis

The 2015 Comprehensive Plan encourages development of underutilized land and infill development within City utility service availability areas.

OBJECTIVE 2.1: As the City of Brevard's primary source of financial capital, the City will take proactive measures to stabilize and grow the tax base.

POLICY 2.1.A: Modify zoning regulations to encourage and allow greater density and intensities of land use within its jurisdiction.

The 2002 Future Land Use Map designates the Applicant's property as "Residential – Low Density," which is defined as:

"These areas contain mostly one-family dwellings at an average density of not more than three dwelling units per acre and are mostly zoned R-1. Much of this land may not be served by public water and sewer and lot sizes should be adequate for an individual water supply and on-site sewage disposal. Typical lot sizes are 10,000 square feet or more. Agriculture occurs here and should continue to be allowed. Within this category opportunities for traditional, compact, rural commercial/community centers should be allowed to serve the daily needs of the surrounding community. Some of these areas, with their low-density development are prime candidates for conservation easements or the purchase/transfer of development rights to maintain their rural character."

Given the allowed density of 15 units per acre in NMX, this rezoning would be inconsistent with the 2002 Land Use Plan.

Shawn Hamilton, Applicant introduced himself and stated that this is the first time he has gone through this process. He explained that he applied for the rezoning as part of his due diligence, and that he has not purchased the property to date. Further that he is going through the process of determining whether or not his project will work for these properties. His plan would be for a distillery, tasting room and entertainment venue. He requested rezoning to Neighborhood Mixed Use (NMX) because that was suggested to him. His plans would include the removal of the billboards currently on the property.

It was noted that a portion of the properties lie within the Extraterritorial Jurisdiction of the City, but that they need to be rezoned prior to the request to annex them into the City limits.

A. Bland reminded the Board that they are not approving the project, but the rezoning only.

Mr. Hamilton stated that it would be a micro distillery, and not a distribution facility.

There was discussion on waiting until the land use plan was updated, and about just rezoning a portion of the property so that it did not go as deep, and about the possibility of adding bike access at some point.

Mr. Hamilton stated that he was fine with leaving rear properties as general residential and keeping a buffer between the residential areas to show goodwill toward the potential neighbors. Further that his development would be contained to the front parcels, because the rear parcels are too steep. He explained that because of the location he had not considered bike traffic, but that it is a great idea.

After further discussion, it was recommended that parcels ending in 8529, 0886 and 1969 be recommended for rezoning from general residential (GR) to neighborhood mixed use (NMX).

Mr. Hamilton said he was willing to compromise to give the adjoining property owners a sense of comfort.

R. Wood made a motion to recommend rezoning of 8529, 0886 and 1969 from GR to NMX, with reference to the consistency statement, attached and labeled, Exhibit "B", second by J. Carli, roll call vote carried unanimously.

c. Consideration of Application for rezoning, REZ-21-006 by Aaron Baker, Applicant for Jennings Industrial Park Planned Development District located on Mountain Industrial Drive to a General Industrial (GI) zoning district, the properties are located within the corporate limits of the City of Brevard and consist of the following parcels numbers: 8596-37-7910-000, 8596-37-5808-000, 8596-28-5074-000, 8596-48-3055-000, 8596-47-5642-000, 8596-47-1344-000, 8596-27-3768-000.

Aaron Bland presented his staff report a portion of which follows:

Background

On October 25, 2021, an application was submitted by Aaron Baker of Oskar Blues ("Applicant"), on behalf of all the property owners within the Mountain Industrial Drive Planned Development District (PDD), requesting a map amendment (rezoning) for all the properties within the PDD to the General Industrial (GI) base district.

The group of seven parcels that make up the PDD is approximately 35.58 acres in size and is known as the Jennings Industrial Park. The parcels are accessed via Mountain Industrial Drive (an NCDOT road) and is home to Oskar Blues, Mountain International, TVS, Reed-Joseph International, and a significant amount of undeveloped land. The City of Brevard owns one parcel that contains the Cherry Street greenway connector.

See Attachment A for the application materials, Attachment B for the current PDD ordinance, Attachment C for the table of allowed uses in GI, Attachment D for a map of the current zoning, and Attachment E for a map of the proposed zoning.

Discussion

As submitted, the proposed rezoning would essentially dissolve the PDD and revert the parcels to General Industrial. This means that any future development or expansion to existing buildings would be subject to General Industrial development standards of the City's Unified Development Ordinance (UDO).

The main deviation from typical UDO standards that the existing PDD created was for

additional signage, both at the main entrance sign and internal signage, most notably the Oskar Blues silo.

Staff believes that the rezoning will make it easier for the businesses within Jennings Industrial Park to expand and change their individual buildings and sites to suit their needs over time. Currently, because the site is a conditional zoning district, anything that is not in the approved master plan triggers what are called “modifications” to the PDD. Minor modifications are approved by Staff, but Intermediate modifications are approved by the Planning Board, and Major Modifications are approved by City Council via an entirely new conditional zoning district. These processes for approving intermediate and major modifications add considerable cost and time to all but the most inconsequential changes to any building or site plan within the District. Changes to state law governing conditional zoning districts has also complicated this process, as now all property owners within the district must agree to each modification.

This rezoning would allow most of these changes to be approved by Staff as administrative decisions because the applications would be reviewed against the GI base district instead of the site-specific conditional zoning district and master plan

Policy Analysis

The 2015 Comprehensive Plan Economic Health Elements encourages allowing greater utilization of land, as well as taking steps that help increase investments to existing businesses and to foster efforts to retain and attract employers:

OBJECTIVE 2.1: Expanded tax base. As the City of Brevard's primary source of financial capital, the City will take proactive measures to stabilize and grow the tax base.

POLICY 2.1.A: Modify zoning regulations to encourage and allow greater density and intensities of land use within its jurisdiction.

OBJECTIVE 2.2: Increased collaboration and advocacy to encourage and increase investments in both the public and private sectors.

OBJECTIVE 2.3: Retention and expansion of institutions, programs, and services that expand the knowledge, skills, and abilities of our citizens.

The 2002 Future Land Use Map designates the PDD as “Industrial.” This rezoning request would be consistent with the Future Land Use Map.

After a brief discussion, the Board was in agreement that it made good sense to recommend approval.

J. Carli moved the board accept the rezoning to General Industrial (GI), with reference to the consistency statement, attached hereto and labeled, Exhibit “C”, second by M. Jenkins, roll call vote carried unanimously.

VIII. Public Comment – None.

IX. Remarks –

Chris Strassner, Chair announced that he had accepted a job with Auburn University, and will be resigning from the Board. He stated that it had been a pleasure to serve, and for the Board to continue to make Brevard awesome.

Staff and the Board thanked Chris for his service to the board, and acknowledged that he has done an exceptional job, and will be missed.

IX. Adjournment

There being no further business, P. Chaveas moved to adjourn, seconded by R. Wood, roll call vote carried unanimously, and the meeting adjourned at 6:52 PM.

Chris Strassner, Chair

Janice H. Pinson, Board Clerk