

**MINUTES
BREVARD CITY COUNCIL
Special Called Meeting
September 4, 2014 – 7:00 P.M.**

The Brevard City Council met in special session on Thursday, September 4, 2014, at 7:00 p.m. in the Council Chambers of City Hall with Mayor Jimmy Harris presiding. Purpose of the special called meeting is to hold a public hearing and approval consideration for a proposed planned development district.

Present - Mayor Jimmy Harris, Council Members Charlie Landreth, Maurice Jones, Wes Dickson and Ann Hollingsworth.

Absent – Mayor Pro Tem Mac Morrow

Staff Present – City Manager Joe Moore, City Attorney Mike Pratt, City Clerk Desiree Perry, Planning Director Josh Freeman, Director of Utilities and City Engineer Jay Johnston, PE, and Assistant Director of Long Range Planning Daniel Cobb.

Press - Derek McKissock, Transylvania Times

Others – Mr. Steve Cannon, P.E., NC Department of Transportation; Mr. James Voso, P. E., Mattern & Craig Engineering, Inc.

A. Welcome and Call to Order – Mayor Harris called the meeting to order, welcomed those present and introduced Council members, Manager, Attorney, Clerk, and shared Mayor Pro Tem Morrow is in France on vacation.

B. Invocation and Pledge of Allegiance – Mayor Harris offered an Invocation and then led in the Pledge of Allegiance.

C. Certification of Quorum – The City Clerk certified a quorum present.

D. Approval of Agenda - Mr. Landreth moved consideration of the June 2nd minutes be tabled until Council's next meeting and the Agenda be approved as amended. Motion was seconded by Ms. Hollingsworth and passed unanimously.

E. Minutes – Tabled until September 15, 2014.

F. Public Hearing

F-1. Brevard Place Planned Development District (PDD 14-197) Preliminary Master Plan and Final Master Plan for Phase 1. Applicant: Sonoma Commercial Properties and Brevard Partners of Tennessee, hereafter referred to as "Sonoma". Proper Notice of the Special Called meeting was provided. This public hearing was advertised in the Transylvania Times on August 25th and September 1, 2014. Notice of public hearing was posted upon the subject property and was mailed to neighboring property owners. (PDD Plan Titled: Bojangles' At Brevard Place; The Isaacs Civil Engineering Design and Surveying Group, 8720 Red Oak Boulevard, Suite 420, Charlotte, NC 28217. Engineer: Brian T. Upton, NC Professional Engineer Seal #025926. Plan consists of eighteen sheets titled: CO.0 Overall Site Plan, CO.1 Overall Landscape Plan, CO.2 Phase 2 Utility Layout, C1.0 Site Plan, C1.1 Landscape Plan, C2.0 Utility Plan, C3.0 Grading Plan, C4.0 Erosion Control Plan PH.1, C4.1 Erosion Control Plan PH.2, C5.0 Demolition Plan, C6.0 Details and Specifications, C6.1 Details and Specifications, C6.2 Details and Specifications, Lighting Proposal LO-121939, DA1.0 Pre-developed Area, DA2.0 Post-developed Area, DA3.0 Storm Drainage, Brevard Mixed Use 18 August 2014])

Mayor Harris read aloud the guidelines for those who desire to speak during the public hearing.

Mayor Harris opened the public hearing at 7:08 p.m.

Mr. Freeman presented his staff report (on file). Public hearing is to consider the establishment of a Planned Development District (PDD) as authorized in the City's

Unified Development Ordinance, Chapter 2, and Section 2.1.E. A planned development district is essentially a rezoning in which the developer and the City design site-specific development standards for the project in question. These standards are codified in a stand-alone ordinance that applies to the property in perpetuity. Planned developments are meant to be inherently flexible, particularly in the areas of density, architectural design, and the mixing of land uses. With that flexibility comes an expectation that the developer offers something in return; a high quality project that in some way goes “above and beyond” the baseline ordinance requirements (Section 2.3.A.1). PDD is a tool in which the City can achieve its vision and related development policies.

The Applicant, Sonoma, proposes to establish student housing (dormitories) for Brevard College, a Bojangles’ restaurant, and a number of other retail and service land uses. The subject property is the site of the old Roadway Inn Motel and also includes a number of other properties, including the current site of Mr. Pete’s, Carolina Tire, and properties along Old US Highway 64. Applicant is seeking Council’s concurrent approval of both a Preliminary Master Plan for the overall PDD site, as well as, Final Master Plan approval for Phase I of the PDD, which includes Brevard College dormitories and the Bojangles’ restaurant. (Project Properties Include: Youngblood Oil Company PIN 8586-85-2162-000; Brevard Partners of Tennessee PIN 8586-85-7087-000; Cameron Saltz & Susan S. Austin PIN 8586-84-8633-000; Cameron Saltz 8586-84-6556-000; Cameron Saltz & Susan S. Austin 8586-84-5765-000; Brevard Partners of Tennessee 8586-84-5857-000. Total Acreage: Approximately 10.70)

On June 16, 2014, Brevard Place PDD plans were submitted by Sonoma; Joint Special Called Meeting of TRC and CAC to consider the PDD was held on June 18, 2014; Planning Board called a Special Called Meeting on July 8th, 2014, and was tabled due to a lack of information. Planning Board again considered the PDD request on August 19, 2014, at which time the Board recommended Council approval subject to conditions described in the Staff Report, Attachment 7. From an urban design perspective, Staff concerns (Staff Report, Pg. 2 & 3) include the following:

- (a) Missing information pertaining to the traffic impact analysis;
- (b) The internal vehicular and pedestrian circulation system is disorganized and inefficient;
- (c) The Asheville Highway streetscape and sidewalk design and the internal landscaping design are the minimum necessary to satisfy basic UDO requirement and
- (d) The arrangement and design of buildings as proposed are an inefficient use of limited development space along the City’s primary entry corridor.
- (e) From a land use policy perspective, Staff is unable to recommend approval of the proposed PDD as it is inconsistent with the 2002 Land Use Plan.

Using the projector, Mr. Freeman provided several slides of the proposed development describing the various features of the Brevard Place PDD, as well as, described staff concerns as it relates to access management (curb cuts, traffic, internal circulation, walkability); urban design policy issues (orientation of buildings, parking to the side or rear, quality architectural design, quality landscaping, and design emphasis has been focused upon automobile rather than pedestrians); functional recreation/open space for the applicants desired residential area (dormitories); and, signage (requesting two additional ground signs and additional wall signs with some exceeding size requirement). (Presentation Slides – Exhibit A)

Council / Staff Discussion:

1. Council: Is traffic analysis complete at this point? Staff: Yes
2. Council: Questioned if there are specific standards for the building proposed for “auto”. Staff: Yes, standards for that type of use are outlined in City’s UDO.
3. PDD submitted Plan shows that many of the City’s baseline ordinance requirements are met. For discussion is whether or not the proposed PDD meets the City’s vision and land use policies, is the site being efficiently used, has vertical development due to growth limitations been considered, etc. Long range plan of the City is to, over time, have the corridor develop or re-develop to visually be more in keeping with the downtown; in part that could be achieved by bringing buildings closer to the road, less parking lot area in front of

- buildings, architectural design more in keeping with downtown, etc.
4. Council: Approval of median closures, what is that referring to? Staff: In order to install the proposed traffic signal (by NCDOT; funded by Sonoma), the median will need to be altered/removed to make way for signalized left hand turns, and, to accommodate the additional curb cuts and minimize other conflict points. Median closure will be used to control traffic.
 5. Briefly discussed Applicants request for additional ground and wall signs.
 6. Council: Open Space Requirement? Staff: A PDD does not require a developer to provide residential units. However, when a developer includes residential units (college dormitories) then open space is required. Amount of open space required by Ordinance is determined by the square footage of residential; applicant proposes to provide 30 plus units. Ordinance open space requirement for that number of units is 21,000 square feet. Applicant's request is to provide 4,000 sq. ft. of open space.
 7. Council: Questioned recent re-modeling of businesses that have parking in front and not required to build closer to the road. (Zaxby's, Wendy's, Wells Fargo) Staff: They were single-lot stand-alone reconstruction or remodeling projects, they were not part of a larger multi-lot or multi-building project, or, the dollar amount of improvement did not trigger wide-scale redevelopment requirements.
 8. Council's options are to approve, approve with conditions, table, or deny. (More fully described on pg. 3 of Staff Report). Any conditions established with a PDD must be agreed upon by both the Applicant and City Council.

Mayor Harris called upon the Applicants to present their request. He added Council may ask questions to staff and/or the applicant during or following the presentation.

Brevard Place representatives present were Ms. Sharon Thurner, Sonoma Commercial Properties of Charlotte, NC, and Mr. Terry Ball, Brevard Partners of Tennessee. Ms. Thurner extended her thanks to Council for calling the Special Meeting. She added they started on the project about 10 months ago when their company purchased this commercial in character and highly visible property that is located on a very heavily traveled highway in Transylvania County. Prior to coming to Council tonight, the project has been reviewed by the Community Appearance Commission, Technical Review Committee, have had several meetings with the Planning staff, and met with the Planning Board – where it was approved 5-0. They are here tonight seeking final site approval so they can move forward to make improvements, begin construction for their commercial tenants who will employ people, and, the project will bring an increase to the tax base.

Ms. Thurner asked Council to approve their Brevard Place Development. In her presentation and discussion with City Council and staff, the following was provided:

1. Regarding the City's NC DOT Traffic Impact Analysis request; she believes they have satisfied that condition.
2. They agree to provide right-in / right-out curb cut by Wells Fargo Bank.
3. They agree to construct a pedestrian pathway from the residential area (student housing) providing a safe walkway for students to come to the restaurant and retail buildings. Proposed a pedestrian pathway would be built simultaneously with the Bojangles' restaurant. (Pathway is not shown on submitted Plan.) She described the pathway could come down the bank between the two student housing buildings, running behind the 7,000 retail building and connecting to the Bojangles restaurant and thus providing access to the other proposed retail and auto buildings as well.
 - a. Staff will need to see and review details of the path with respect to the topography/grade, safety and security.
4. Sidewalks. To clarify, their proposed sidewalks would provide a 12' planting strip between the street and sidewalk, an 8' wide sidewalk, with a 10' planting strip between sidewalk and parking lot. They do have a project landscape architect.

5. Ms. Thurner proposed a second change to their submitted plan that they believe would provide greater inter-connectivity through their Project. (Not shown upon submitted Master Plan.) If the City would agree to their doing so, they propose to alter the two-way travel lane from the proposed traffic signal light to go straight back (towards the 17,000 retail building) and then rather than going around the retail building and vehicles exiting to the left of the auto building, to re-align the two-way traffic lane to run along the right side of the proposed auto building; thus creating a more direct two-way traffic lane connecting from Asheville Highway to Old Highway #64. To do so would mean the City allowing them to remove and/or relocate the dumpster as shown on the submitted master plan, and possible other adjustments to the buildings layout and landscape buffer to facilitate the change.
 - a. Mayor Harris asked Mr. Cannon and Mr. Voso if Sonoma were allowed to do so, would that mean they (Sonoma) would also need to do a new traffic impact analysis? They replied, "No". Realignment of the travel lane would not significantly change the volume of traffic. However, Mr. Cannon added that NCDOT would need to see the details of any proposed changes in order to consider them with respect to curb cuts, proximity to intersections, etc.
 - b. Staff mentioned this design consideration to the developer early on; however, it was never included within any of their plan submittals for consideration. This would be a significant change to the submitted Plan and staff would need to have the specifics on the design and technical details provided in order to review and then offer comment. Topography, turning radius, dumpster re-location, possible changes to building(s) footprint, impact to setbacks, parking spaces, and landscape, etc., would need to be reviewed when considering the suggested changes to the two-way travel lane. Such change would need to be included in the Plan so that both the applicant and Council would know specifically what is approved.
 - c. Mr. Pratt commented the offered change may bring more traffic into the development as motorists may utilize it as a "cut through" between Old Highway #64 and the Asheville Highway. He asked Ms. Thurner if they have considered that possibility. Ms. Thurner answered they have considered that possibility and would have no objection to motorists doing so.
 - d. Mr. Landreth expressed appreciation to Ms. Thurner for their offer to relocate the two-way drive, if it works from a Planning perspective. The area is a block in transition and it makes sense to have a more accessible interior drive and it would likely add to the projects marketability.
6. Ms. Thurner confirmed they have agreed to fund NCDOT's installation of a proposed traffic signal at their entrance on Asheville Highway. (Signal would align with Zaxby's Restaurant and Mr. Pete's entrances.)
7. Signs – Asking PDD be granted to have two additional ground signs as shown on their submitted plans (total of three ground signs). Retail units would each have a front wall sign; the end cap units would have both a front wall and side wall sign. They are not asking for additional rear signs.
8. Density / Second Story Construction. Ms. Thurner explained they have not proposed second story construction based upon their experience. They have not seen success with second story development; it is hard to rent or lease second story units. For them, it does not make economic sense.
9. Future phase of Brevard Place is located across the Asheville Highway, shown on Plan as location of future proposed "bank" and "credit union". They do not own property at this time; they are in the property purchase negotiation process.
10. Seeking Council's approval at this meeting so they may begin construction that will provide commerce and an increased tax base that will benefit everyone.

~~ At 8:35 p.m. Mayor Harris called for a ten minute recess. ~~

Council continued discussion of the submitted Plan, including added discussion with respect for additional ground signs, parking requirements of less in front and more to the side and rear of the buildings and whether or not they agree if it is of great importance for this project; and, although not yet vetted by Planning staff, interested in notion to re-design the two-way traffic lane.

Brevard Place PDD Phase One includes: Student Housing (2 dormitory buildings), Bojangles Restaurant and two associated curb cuts and parking that go with access to those two sites/locations. Phase One does not include the structure located between the Bojangles and Student Housing (dormitories) identified as “Retail 7,000 sq. ft.”

Brevard Place PDD Future Phases include remaining six (6) structures and associated parking spaces, etc., as shown upon the Master Plan.

Public Hearing Public Participation

Mr. Larry Gregory, 135 Wilson Drive, Brevard. He spoke in support of approving the Brevard Place PDD stating as a contractor he sees nothing wrong with the Plan. He prefers parking in the front of businesses rather than to the back, and, suggested consideration be given to potential conflict that would take place with structures closer to the road if in the future NCDOT were to expand the width of the highway, like by going from a 4-lane to a 6-lane highway. He likes the project concept as submitted, believes the UDO is outdated and needs to be revised. UDO rules do not fit for new businesses coming into Brevard. Proposed project will provide the City with additional property and sales tax revenue.

Mr. Paul Edwards, 47 Tree Haven Drive, Brevard. He spoke in support of the project. Offered our community is and will continue to be automobile-dependent until public transportation becomes available, and as such, seems reasonable that while pedestrian needs are to be considered the project should be designed to best handle the vehicle traffic. Shared he is bothered by the process, and wonders by the discussion that has taken place here tonight, if the City’s requirements were fully discussed with the developer earlier on. Stated he is pleased with the improvements the developer has already made for the dormitories, and he believes this project will prove to be an asset to our community.

Public Hearing Closed – There being no further public comment or questions from Council, Mayor Harris closed the hearing at 9:22 p.m.

G. New Business

G-1. Ordinance adoption consideration of Brevard Place Planned Development District Preliminary Mast Plan and Final Master Plan for Phase 1.

Motion - Mr. Jones moved Council adopt the drafted Brevard Place Planned Development Ordinance with conditions as stated by Ms. Thurner earlier in regards to: (a) The Traffic Impact Analysis has been resolved, (b) The pedestrian path as discussed, (c) Sidewalk path along Hwy. #64 with conditions being a 12’ grass area, 8’ sidewalk and 10’ landscape strip to parking; (d) Along with improved inter-connectivity and all that holds with it (landscaping adjustments/improvements); and, (e) With regards to the requested number and size of signs. Motion was seconded by Ms. Hollingsworth.

Discussion:

1. Mayor Harris stated as a matter of clarification about the “improved inter-connectivity” issue, that Mr. Landreth just brought it up and was confirmed by Mr. Freeman that it was not a new idea, and, with NCDOT representatives present, he (Mayor) wants to confirm that making the change will not require a new TIA.
 - a. Mr. Cannon and Mr. Voso confirmed, a new TIA would not be required.

2. Mr. Jones stated, for clarification, he wants to add to his Motion the condition that the right-in / right-out curb cuts at Wells Fargo be provided as requested by NCDOT.
3. Mr. Pratt offered, since the Plan will need to be amended to include and show the pedestrian walkway from the college student housing to the Bojangles restaurant, and with the internal connection changes be added, he suggested Council could consider a friendly amendment to the motion on the floor that the Plans be amended and approved by the City Planner and not have to come back to Council.
4. Motion Amended - Mayor asked Mr. Jones if he is agreeable to amend his motion as suggested by Mr. Pratt. Mr. Jones replied, "Yes", he is agreeable to amend his motion as stated by the City Attorney.
5. Ms. Hollingsworth stated, "Yes" she is agreeable to the amendment and her support of the motion still stands.

Mr. Landreth asked that the Motion be restated.

Mayor Harris: Mr. Jones' motion was that Council approve the Brevard Place PDD with the conditions that: (a) All TIA issues be resolved; (b) Pedestrian path (a durable dustless surface) from the residential area to inter most part of the property, Bojangles, be provided; (c) Sidewalks as described in packet be provided; (d) Inter-connectivity change proposed from Old Hwy. #64 to Hwy. #64-Asheville Highway area of traffic signal by moving traffic lane to other side of the building, crossing grass area, relocation of dumpsters, and changes to landscaping ; and, (e) accept signage program as requested by Ms. Thurner with no signs on back of structures.

Note: Mayor Harris did not include in his restating of the motion Mr. Pratt's suggestion that had been agreed upon by Mr. Jones and Ms. Hollingsworth.

Mr. Jones affirmed the motion was restated correctly; Ms. Hollingsworth confirmed her second to the motion.

Discussion of Motion on the floor continued:

6. Mayor Harris asked Mr. Pratt about property that is under contract but not yet purchased by the Applicant and what, if any, impact that has on approval of the Brevard Place PDD.
 - a. Attorney Pratt explained anything that is under contract, and should it not go through, then any such part would not be enforceable. Approval would apply to only property shown on the Plan that the Applicant owns.
7. Staff emphasized that re-alignment of the two-way traffic lane (inter-connectivity) could mean more than minor changes to landscaping and relocation of dumpsters; engineering and design details will be needed. Also, design of pedestrian path details need to be provided and reviewed. Conditions and contingencies in the motion are extensive and feel it only fair to both the Applicant and to the City that both have opportunity to see what the impact of suggested changes are prior to Plan approval. Discussed perhaps Council consider approval of Phase One at this time, allowing Sonoma to begin construction, and would allow them time to provide staff with the needed details for the inter-connectivity (internal road re-alignment) and pedestrian pathway. Concern expressed over agreeing to something without having benefit of all the needed information before Council. Council could adopt other phase(s) of the Brevard Place PDD at a future meeting. (Staff Report, page 3 approval options reviewed and briefly discussed.)

Motion Amended - Mr. Jones stated, having heard these concerns, he would like to amend his motion by removing the condition of the inter-connectivity. Ms. Hollingsworth agreed and affirmed her second to the motion stands.

Mr. Dickson commented inter-connectivity is important to the site. Also, he has hesitation with approval as the Applicant's planned development quality offerings of the West Loop and stream bank restoration is upon property that is under contract. While he is certain they have the best of intention to offer this, he would be more comfortable if these offerings were more secure, on property under their control, rather than on property that is under contract.

Mayor Harris explained the Motion, as amended, has been supported.

Attorney Pratt reminded Council that in order to avoid the Ordinance second reading requirement (NC General Statute 160A-75), four affirmative votes will be needed. Less than four affirmative votes will mean the Ordinance will need to have a second reading. A second reading requires a simple majority vote for approval and adoption.

Mayor Harris explained to the Applicant, with the absence of Mayor Pro Tem Morrow, in order for the Ordinance to be adopted and effective tonight all four Council members present will need to vote in favor; however, if not, if less than four votes in favor is received, then the Ordinance will come back for a second reading at Council's September 15th meeting.

Mayor Harris called for the Vote on the Motion:

Ayes: Ms. Hollingsworth, Mr. Jones and Mr. Landreth

Noes: Mr. Dickson

Vote: 3-1 Ordinance second reading and vote is needed.

ORDINANCE NO. 2014-XX

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF BREVARD ESTABLISHING THE BREVARD PLACE PLANNED DEVELOPMENT DISTRICT

WHEREAS, Sonoma Commercial Properties request the establishment of Brevard Place, a Planned Development District; and,

WHEREAS, the City of Brevard has the authority, pursuant to Part 3 of Article 19 of Chapter 160A of the North Carolina General Statutes, to adopt zoning regulations, to establish zoning districts and to classify property within its jurisdiction according to zoning district, and may amend said regulations and district classifications from time to time in the interest of the public health, safety and welfare; and,

WHEREAS, the City of Brevard Planning Board has reviewed the proposed ordinance and recommends approval to City Council; and,

WHEREAS, this Ordinance is not consistent with the City of Brevard 2002 land Use Plan and other official plans for the reasons described in Exhibit E to this Ordinance, which is attached hereto and incorporated herein by reference.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BREVARD, MEETING IN SPECIAL SESSION AND WITH A MAJORITY OF THE COUNCIL MEMBERS VOTING IN THE AFFIRMATIVE, HEREBY ORDAINS THE FOLLOWING:

Section One. The zoning classification of that certain real property described in Exhibits A, B and C to this Ordinance, which are attached hereto and incorporated herein by reference, is hereby rezoned to be the Brevard Place Planned Development District. The Brevard Place Planned Development District is a conditional zoning district established pursuant to the Unified Development Ordinance of the City of Brevard by means of authority granted by the North Carolina General Statutes.

Section Two. The Brevard Place Preliminary Master Plan is depicted in Exhibit A to this Ordinance, which is attached hereto and incorporated herein by reference. The Brevard Place Preliminary Master Plan is hereby approved subject to the terms and conditions set forth in the List of Conditions; the List of Conditions are set forth in Exhibit D to this Ordinance, which is attached hereto and incorporated herein by reference.

Section Three. The Brevard Place Phase I Final Master Plan is depicted in Exhibit B to this Ordinance, which is attached hereto and incorporated herein by reference. The Brevard Place Final Master Plan is hereby approved subject to the terms and conditions set forth in the List of Conditions; the List of Conditions are set forth in Exhibit D to this Ordinance, which is attached hereto and incorporated herein by reference.

Section Four. Future development and use of lands situated within the Brevard Place Planned development District, and the processing of applications to develop and use such lands, shall comply with the conditions set forth in Exhibit D to this Ordinance, which is attached hereto and incorporated herein by reference; and the preliminary and final master plans shown in Exhibits A and B to this ordinance, which are attached hereto and incorporated herein by reference.

Section Five. Pursuant to Section 16.8.B.7 of the City of Brevard Unified Development Ordinance, Sonoma shall secure final master plan approval in accordance with the procedures set forth in Chapter 16 of the City of Brevard Unified Development Ordinance and take action to begin development of the property within five (5) years of the effective date of this Ordinance.

Section Six. This Ordinance shall run with the land and shall be binding on the Sonoma, its heirs and assigns.

Section Seven. The Planning Director is hereby authorized and directed to modify the City's Official Zoning Map consistent with this Ordinance.

Section Eight. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the Ordinance.

Section Nine. All Ordinances or portions thereof in conflict herewith are hereby repealed to the extent of such conflict.

Section Ten. The City Clerk is directed to file a copy of this Ordinance along with a certified copy of all Exhibits in the Office of the Register of Deeds of Transylvania County.

Section Eleven. This Ordinance shall be in full force and effect from and after the date of adoption.

Ordinance Introduced to City Council on September 4, 2014, and received a 3-1 vote. Ordinance second reading and vote is needed (NCGS 160A-75).

H. Adjourn - There being no further business before Council, Mr. Landreth moved, seconded by Mr. Jones the meeting be adjourned. Motion carried. Meeting adjourned at 9:45 p.m.

s/_____
Jimmy Harris
Mayor

s/_____
Desiree D. Perry, CMC, NCCMC
City Clerk

Minutes Approved: October 20, 2014