

***BUTNER
PLANNING BOARD
MINUTES***

The Butner Planning Board held its regular Board Meeting on May 14, 2009, at 7:00 p.m. in the South Granville Water & Sewer Authority Meeting Room, 209 West C Street, Butner, N. C.

Members Present: Allan Lane, Chairman
Martin Sinicki, Vice Chairman
James Adams
John Glenn, Jr.
James Jones
Patricia Thorpe
Herman (Buddy) Weaver

Staff Present: Melissa Hodges, Planner

Town Attorney: James Wrenn

MEETING CALLED TO ORDER

At 7:00 p.m., Chairman Allan Lane called the meeting to order.

MINUTES APPROVED

Vice Chairman Martin Sinicki motioned to approve the minutes of April 9, 2009 as presented. It was seconded by Board Member James Adams and was unanimously carried.

MAY 14, 2009 PLANNING BOARD AGENDA APPROVED AS PRESENTED

Board Member James Adams motioned to approve the May 14, 2009 Agenda as presented, seconded by Vice Chairman Martin Sinicki and was unanimously carried.

REZ-09-002 BOARD RECOMMENDS DENIAL REZONING REQUEST FOR BP'S AUTO SALES, SOUTHWEST CORNER OF CENTRAL AVENUE AND C STREET

Chairman Allan Lane noted the rezoning request for BP's Auto Sales, Southwest corner of Central Avenue and C Street.

At this point, Ms. Melissa Hodges, Planner, explained that Don Oberg of BP's Auto Sales has requested a rezoning at the southwest corner of Central Avenue and C Street, the vacant Exxon station. The existing zoning is Central Business District (CB) and Conditional District – Highway Business (CD-HB) is requested to allow for auto

sales and some service. More specifically, the properties are identified as Tax Map #087609174473.

Ms. Hodges presented the following items into evidence to the Board:

1. Rezoning Application
2. Staff Report
3. Location Map
4. Concept Plan and Survey

Ms. Hodges continued to state that a conditional district is requested that would allow only automobile sales and service in addition to the uses allowed in the Central Business District, and not all of the Highway Business District uses. The HB District generally allows much more intensive uses than the CB District. Additionally, the subject property does not comply with the HB District requirements. The HB District has a minimum lot size of 40,000 square feet, or .92 acres and requires larger setbacks than the CB District. This site is .288 acres, less than half the required size and the existing building is only 15' from the rear property line, which does not meet the HB District rear setback of 35'.

Ms. Hodges explained that Mr. Oberg would like to relocate his existing auto sales business at 209 Central Avenue to this new location. This is not an expansion of the present business, but relocation. This request would keep the existing service station building, refurbish it, and sell pre-owned automobiles and some accessories as well as do some minor repair work in the existing service bays. Ms. Hodges added that Mr. Oberg has stated that he only intends to service vehicles he sells and that service will be an accessory to the automobile sales.

Ms. Hodges explained that the submitted site plan shows the existing building and paved areas to remain. Currently the site has three entrances/exits. Two of these are on C Street, and one is on Central Avenue. Due to the small size of the site, Mr. Oberg intends to block one of the entrance/exits onto C Street. The entrance closest to the intersection would be closed, and is shown as closed on the site plan submitted. Ms. Hodges noted that Mr. Oberg shows twenty-two spaces for display of automobiles for sale, four employee spaces, and four customer spaces. Most of the site is currently paved, with some gravel to the rear of the building. With the exception of a small area on the south side of the building, Mr. Oberg does not intend to add more paving on the property. Ms. Hodges added that Mr. Oberg also plans to keep the existing sign on the site with only a face replacement advertising his business. The owner is not proposing any landscaping on the site.

Ms. Hodges stated that the subject property is not compliant with the standards for the zoning district requested, and the site improvements are limited other than cleaning up the substandard abandoned building on site.

Ms. Hodges stated that staff recommends denial of the rezoning request. She stated that Highway Business allows more intensive uses than the Central Business District. Auto sales is not a pedestrian oriented business, it's more regional in scale. She stated that the biggest issue, if rezoned, would be creating non-conformities. The

Highway Business District requires a minimum of 40,000 square feet, or .92 acres and the proposed property is .288 acres, which is roughly a third of the required size. Additionally, she noted that the building right now is intended to remain, and that rezoning the building would create a noncompliant structure. She explained that the proposed structure needs extensive work and believes that it needs more than 50% of the value-work to be done to it. When you do more than 50% of the value of a nonconforming structure you have to bring it into compliance. He would be required to meet building codes on the reconstruction, which include a new roof. He would also have to move the walls in order to comply with the setbacks, which would be an additional expense to the 50% of the value of the property. She further added that another reason she would recommend denial is that the site renovations proposed are minimum. Ms. Hodges explained that Mr. Oberg would like for the existing sign to remain, but it is presently located in the right-of-way. Ms. Hodges explained that for Mr. Oberg to meet landscaping requirements, he would have to remove a considerable bit of concrete. In conclusion, Ms. Hodges stated that it is a difficult site for the requested type of use, and it does not meet the standards of the district that he is requesting.

Board Member Patricia Thorpe acknowledged that she agreed with Ms. Hodges and continued to relate that visibility would be a problem because the proposed property is located on the corner. She continued to state that it is already difficult to get into the bank and if you add a car lot on the corner, it will make conditions worst.

Board Member James Jones noted that if Mr. Oberg brought the proposed property structure into compliance, then he would still fall under the .92 acre or the 40,000 square feet requirement. He stated that it is a “no win situation”, concerning the property size.

Vice Chairman Martin Sinicki asked if there were any environmental issues, to which Ms. Hodges stated that she was not aware of any environmental issues. She related that she could check the flood plains/wetlands, but did not have the ability to test for any contamination, etc.

Board Member James Adams added that the proposed structure would have to meet the handicap parking requirements, and bathroom accessibility.

Board Member James Jones motioned to accept the recommendation made by Planner Melissa Hodges to deny the rezoning request and it was seconded by Vice Chairman Sinicki.

Planner Hodges asked that the Board allow Mr. Don Oberg, applicant, to present his case before completing the motion.

Attorney James Wrenn noted that since this is a public meeting, the Board should withdraw the motion until after the applicant, Mr. Oberg, presented his case.

At this time, Chairman Allan Lane asked Mr. Oberg to come forward and present his case to the Board.

Mr. Don Oberg, applicant, stated that he is the co-owner of BP's Auto Sales. He related that his intent is to relocate his current business to the adjacent lot. Mr. Oberg asked that the Board go through the objections one by one for discussion. Ms. Hodges stated that the size of the proposed property does not meet the requirement. Mr. Oberg noted that his current business has successfully operated for 2 years with 10 to 11 spaces for cars on display. The new site allows for twice the spaces for cars on display. He stated that he did not feel like they would over burden the lot. The lot also allows for 4 spaces for customer parking, which would accommodate his business, and there are 4 spaces for employee parking, which will accommodate his 3 current employees.

Mr. Oberg continued to relate that the fire marshal has visited the proposed site and stated that he does not see any problem with the site plan. He related that the fire marshal stated they could get the fire trucks in without any problems, in case of emergency. Mr. Oberg added that the size of the lot is more than adequate, since it is twice the size of his present lot.

Attorney James Wrenn explained that rezoning the lot to highway business would automatically be roughly two thirds below the limit for the zoning district.

Mr. Wrenn continued to explain that when the Butner Town Council adopted the Zoning Ordinance, the uses that are typically allowed in Highway Business generate traffic, etc. The town made a decision to require that a Highway Business lot be 40,000 square feet. The Town Council zoned the proposed lot Central Business District that allows smaller lot sizes. Mr. Wrenn added that if you rezone the lot from Central Business District to Highway Business, you would make the lot nonconforming.

Vice Chairman Martin Sinicki explained that the new zoning plan was adopted after everything was grandfather in and stated that Butner has a new set of rules. He stated that he would like to stick with the new requirements/rules.

Mr. Oberg explained that his plan is to restore the proposed building on the requested lot. He does not want to expand or tear walls down. He stated that he only intends to change the interior walls. There are 3 service bays in the building, the 2 on the left will remain service for detailing and the one on the right (as you are facing the front of the building) will be turned into office space. He also noted that the roof would have to be repaired.

Board Member James Adams noted that when you improve over 50% of the value of the property/building, it would be the same as building a brand new structure.

Mr. Oberg explained that he has retained an estimate of \$50,000 to \$60,000 to renovate the property/building. He stated that the purchase price agreed upon is \$150,000, which includes the property and the building.

Board Member James Adams reminded Mr. Oberg of the 50% value of the building and also noted that an engineer survey would be required to state that the walls are safe to use.

Board Member James Jones related that no matter how much Mr. Oberg invested in the building, he would not be in compliance with the lot size.

Mr. Oberg stated that he would like to overcome some of the objections of the Board and asked what is his next step.

Planner Melissa Hodges explained that the Planning Board has several options that they can make tonight, which are:

- Recommend approval,
- Recommend approval with conditions,
- Recommend denial,
- If the Board is not ready to make a decision, they can continue the meeting to the next regular meeting; and
- If the Board makes a decision tonight, then the applicant will need to appear before the Town Council for a public hearing.

Mr. Ron Daniels, Realtor for the applicant, explained to the Board that he understood that they have the power, authority, and option, to approve, deny and/or approve with conditions the requested rezoning. He asked that the Board reconsider their motion. He further added that Mr. Oberg has been operating a successful business in the Town of Butner. He stated that Mr. Oberg is asking to move his business over to the adjacent site and he is willing to meet any conditions, if conditionally approved. He noted that the proposed building is located at the main intersection of Butner and it is one of the first things you see when entering the Town of Butner. He noted that the building is an eye sore, hazardous, dilapidated, and Mr. Oberg is an interested businessman who is willing to invest money to better the town and the community. He explained that Mr. Oberg would be willing to meet the Board's conditions to bring the building up to code. Mr. Daniels further stated that the requested site was formerly used as a service station. He asked that the Board give Mr. Oberg a fair consideration for his rezoning request.

With no other comments, Board Member James Jones motioned to deny the rezoning request because the request does not meet the requirements of the LDO. The motion was seconded by Vice Chairman Martin Sinicki.

At this point, Board Member John Glenn asked what could the proposed building be used for, other than a service station?

Planner Melissa Hodges stated that it currently allows all the uses in the Central Business District, which would be a Day Care Facility, Single or Multi-tenant Offices, indoor recreation, restaurant without a drive through, retail service with gasoline sales, type I retail or service use, type II retail or service use up to 15,000 square feet, and type II retail or service use more than 15,000 gross floor area with a Special Use Permit.

Ms. Hodges explained that as a type III retail business, automobile sales are only allowed in the Highway Business District. She further stated that if they were selling gas and there were some accessory service work being done, that would be allowed. A

primary use of just repairing automobile would also only be a Highway Business District use.

After a brief discussion, Chairman Allan Lane noted that there is a motion on the floor for denial and asked for all in favor of denial. The motion was passed with six (6) members voting in favor of denial and one (1) against as set out below. The request was denied.

Ayes: Sinicki, Adams, Glenn, Weaver, Jones, and Thorpe

Nays: Lane

ADJOURNMENT

Upon a motion of Vice Chairman Martin Sinicki, seconded by Herman Weaver and unanimously carried, the Board adjourned at 7:45 p.m.

Brenda K. Daniel
Clerk to the Board

Allan Lane, Chairman
Butner Planning Board