



**TOWN OF CALABASH
PLANNING AND ZONING BOARD
REGULAR MEETING
Monday, August 6, 2012
6:00 pm-SANBORN HALL**

AGENDA

CALL TO ORDER:

PLEDGE TO FLAG:

APPROVAL/ADJUSTMENT OF AGENDA:

APPROVAL OF MINUTES:

1. May 7, 2012-Regular Meeting

PUBLIC COMMENTS:

CLERK'S REPORT:

OLD BUSINESS: none

NEW BUSINESS:

1. Discussion/Action to make a recommendation to the Board of Commissioners regarding the rezoning request application filed by Compass Point Engineering on behalf of Mr. Russell Price, property owner: request is to rezone the property at 1401 Thomasboro Road (Tax ID# 24100020) from Central Business (CB) to Residential-15,000 (R-15).
2. Discussion/Action to make a recommendation to the Board of Commissioners to fill the vacant in-town member seat on the Planning & Zoning Board; consider letter of interest/resume from Mr. Mark Pero.

BOARD COMMENTS:

ADJOURN:

**TOWN OF CALABASH
PLANNING & ZONING BOARD
REGULAR MEETING
Monday, August 6, 2012—6:00 PM**

MINUTES

The Calabash Planning & Zoning Board (PZB) held a Regular Monthly Meeting on Monday, August 6, 2012, 6:00 PM in Sanborn Hall, located at Town Hall, 882 Persimmon Road, Calabash, NC.

MEMBERS PRESENT: Chairperson Sonia Climer, Vice Chair John Thomas, Commissioner Emily DiStasio, Josh Truesdale, Charlie Daniels, and Clare Leary; all members were present.

STAFF PRESENT: Town Administrator Chuck Nance and Town Clerk Kelley Southward.

GUESTS PRESENT: Mr. Michael Norton of Compass Pointe Engineering.

CALL TO ORDER/PLEDGE: Madam Chairman Climer called the meeting to order at 6:00 PM and led the Pledge of Allegiance to the Flag.

APPROVAL/ADJUSTMENT OF AGENDA: Mrs. Leary moved to approve the agenda, as written, seconded by Mr. Daniels and unanimously carried.

APPROVAL OF MINUTES: Commissioner DiStasio moved to approve the minutes of May 7, 2012, as presented, seconded by Mr. Truesdale and unanimously carried.

PUBLIC COMMENTS: none forthcoming.

CLERK'S REPORT: none

OLD BUSINESS: none

NEW BUSINESS:

- 1. Discussion/Action to make a recommendation to the Board of Commissioners regarding the rezoning request application filed by Compass Pointe Engineering on behalf of Mr. Russell Price, property owner: the request is to rezone the property at 1401 Thomasboro Road (Tax ID# 24100020) from Central Business (CB) to Residential-15,000 (R-15).**

The applicant, Mr. Norton, was given the opportunity to address the Board. He presented two maps: the first showed the zoning of the subject property and surrounding parcels and the second was an aerial photo of the same area that color-coded structures on lots to show what existing surrounding structures are commercial buildings and what are dwellings.

Mr. Norton noted that he represents the property owner, Mr. Russell Price, who lives at the subject property, 1401 Thomasboro Road, and he has for many years. Mr. Price wants to retain his entire property of approximately 7 acres for residential use. If granted the rezoning, any of the uses permitted in the R-15 district could be applied to the property. Mr. Norton referred to his maps noting that of the properties located in this area between Beach Drive and Thomasboro Road, most of the interior parcels are used for residential purposes although some are currently zoned CB and some are currently zoned Manufactured Housing II (MFH-II). He further pointed out that there are two subdivisions (Hunters Trace and Village Green) located on the other side of Thomasboro Road (catty-corner from the subject property) that are zoned R-15.

Commissioner DiStasio asked why Mr. Price seeks to rezone his property. Mr. Norton said Mr. Price wishes to secure the historical and future use of the property; the property has always been used for residential and he would like to continue to use it for residential purposes. Commissioner DiStasio said if the owner is seeking a reduction in property value in order to reduce his taxes (i.e. business zoned property is valued higher than residential property) she is sure he could go to the county and explain that the property is used for residential and they would reduce the value so his taxes would be less. Mr. Norton said he is a member of a review committee at the county and they would not give a reduction in value. He said the county will tax the dwelling at a residential rate but not the property, which is zoned commercial.

Commissioner DiStasio opined that she felt it would be spot zoning if the Town were to rezone this property. She supported her opinion by pointing out that the subject property is encompassed on three out of four sides by commercially zoned property. The fourth side is directly across Thomasboro Road from properties located in the municipal limits of Carolina Shores. She further noted that the Town's CAMA Land Use Plan includes a policy that the main thoroughfares into Calabash would be zoned commercial as part of future land use.

Mr. Norton referenced his maps again pointing out that the adjacent properties are used for residential purposes although they are zoned CB. He also reiterated that the central corridor of properties located between Beach Drive and Thomasboro Road are used for residential purposes; some are zoned residential and some business. Staff pointed out that dwellings are a permitted use in the CB district; the property is conforming at this time.

Mr. Truesdale agreed that the central corridor is used for residential purposes and if the subject property did not have frontage on Thomasboro Road he would not object to the rezoning but the fact is that the subject parcel does contain frontage along Thomasboro Road. He asked if it was possible for the property to be subdivided so that there would be a separate parcel along Thomasboro Road that could remain CB. It was noted that the property could be subdivided if the parcel to be created could meet the minimum requirements of the CB district and the remainder would have to meet the minimum requirements for R-15 (if the goal would be to rezone the remainder R-15).

There was a discussion regarding dual-zoning of parcels; staff said dual zoning is not permitted in Calabash. There was also discussion regarding a business overlay; Mr. Norton said that Brunswick County did a business overlay at a certain depth along HWY 17 a few years ago. It was noted that in early drafts of the Calabash Unified Development Ordinance (UDO) there was an “Entry Corridor Overlay District” (ECOD) but this overlay district was not included in the final draft that was ultimately approved. Upon a question as to the reasoning for eliminating the Entry Corridor Overlay District, Ms. Southward explained that a new Board of Commissioners had taken seat between the time the first draft was compiled and the final draft was approved. Also, during that time period a UDO Committee had been formed to review the draft UDO and part of their recommendation was to remove the ECOD entirely rather than re-wording section.

Madam Chairman Climer did not agree with the rezoning request. She agreed with Commissioner DiStasio that it could be considered spot zoning. She further noted that she too lives in a home in the CB district and it’s been that way for years. Mr. Daniels agreed with Mr. Truesdale in that he could favor the rezoning if the parcel did not contain frontage along Thomasboro Road.

Mr. Nance noted that there are four factors that validate spot zoning in NC: 1) Size of the tract as a general rule, the smaller the tract, the more likely the rezoning will be held invalid. However, tracts sized should be viewed in context: a one acre tract might be considered large in an urban setting, but would be considered very small in a rural setting. 2) Compatibility with a Plan—typically, most zoning changes should fit within the context of some sort of planning process. In Calabash that would be the CAMA Land Use Plan (LUP). 3) Benefits and detriments—who benefits and who is harmed: What is the relative magnitude of each consequence? Balance is key for all involved including the property owner, the neighbors, and the community at large. 4) Relationship of Uses—the last factor in spot zoning analysis is the relationship between the proposed uses and the current uses of adjacent properties. The greater the disparity, the more likely the rezoning is to be held illegal.

Given that dwellings are permitted in both the current zoning district and the requested district numbers 3 and 4 don’t seem to apply in this situation. For Calabash, 7-acres is a larger parcel of land; so, number 1 doesn’t seem to apply. Number 3; since the Town of Calabash has an adopted planning document that includes a policy governing future zoning and the subject parcel is currently compatible with that plan, it makes it difficult to recommend approval of the request because it could be consider spot zoning on this factor.

It was noted that several things have been discussed this evening that, if done may change the way this request has been viewed by the PZB this evening. First, it may be possible that the subject parcel could be subdivided in a way that the frontage along Thomasboro Road would remain CB then the “interior” parcel could be considered for rezoning. Second, the Town could initiate a review of the LUP to see if there is a need to update the policy on how the main thoroughfares should be zoned. Finally, the Town could look into updating the UDO to include a business overlay district. Staff suggested that a

change in policy (i.e. the LUP and/or UDO) or a subdivision should occur prior to any rezoning. It was noted that if denied, a rezoning request could not be reapplied for by the applicant or property owner for 6 months but that the Town could initiate a rezoning at any time.

Mr. Daniels moved that it is the recommendation of the Planning & Zoning Board that the Board of Commissioners deny the rezoning request for 1401 Thomasboro Road to be rezoned from CB to R-15 at this time as the request is contrary to the future land use according to the CAMA Land Use Plan, seconded by Mr. Truesdale and unanimously carried.

2. Discussion/Action to make a recommendation to the Board of Commissioners to fill the vacant in-town member seat on the Planning & Zoning Board; consider letter of interest/resume from Mr. Mark Pero.

Ms. Southward informed that Board that Mr. Truesdale submitted his letter of resignation just before the PZB meeting was called to order this evening. Mr. Truesdale said that he has secured a job in Virginia and will be relocating there permanently in a couple weeks. Mr. Truesdale said he has enjoyed serving on the PZB. The other Board members expressed their thanks and best wishes to Mr. Truesdale.

Following review and brief discussion of Mr. Pero's letter of interest and resume, Commissioner DiStasio moved to recommend that the Board of Commissioners appoint Mr. Mark Pero to the Planning & Zoning Board as an in-town member to fill a vacancy, seconded by Mrs. Leary and unanimously carried.

BOARD COMMENTS: none forthcoming.

ADJOURNMENT: *Mr. Truesdale moved to adjourn the meeting at 6:50 PM, seconded by Mr. Daniels and unanimously carried.*

(SEAL)

Sonia Climer, Madam Chairman

Attest:

Kelley Southward, Town Clerk