

Minutes  
Morganton Planning & Zoning  
February 14<sup>th</sup>, 2013

Members Present:

Hank Dickens, Chairman  
Tate Ervin  
David Ferber  
Bill Lennon  
Jimmy Kirksey  
Claude Huffman  
Waits Gordon  
Don Smith

Members Absent:

Marc Sholar, Vice Chairman  
Otto Woerner  
Charlie Sasser

Also present from the City staff were Lee Anderson, Director Development Design Services; Louis Vinay, City Attorney and Jackie Cain, Administrative Assistant.

**I. OLD BUSINESS:**

**Item 1: Review and approval of the January 10<sup>th</sup>, 2013 minutes.**

Mr. Dickens stated a copy of the minutes had been provided. Mr. Dickens stated seeing no corrections or comments from commission the minutes would be approved as submitted ( 8-0).

**Item 2: Review of City Council action since last meeting.**

Mr. Anderson stated City Council met in February and approved request to rezone 2.42 acres of property located at 618 East Meeting Street from General Business (GB) to Light Industrial (LI) submitted by Harold Best (Foothills Fabricators). City Council also approved rezoning request for 5.8 acres of property located at 806 Jamestown Road from Residential High (RH) to General Business (GB) submitted by Keith Bowers (Maximum Metals).

**II. APPEARANCES:**

Mr. Dickens stated this time is set-aside for individuals to come before the planning board to express any planning related concerns to the planning board.

None.

Mr. Dickens introduced Troop 899 of Denton's Chapel Church in Morganton. He stated two of the member's were present and attending the meeting as part of their merit badge requirement.

Mr. Jason Summers of Troop 899 stated the young men working on this merit badge must complete levels of requirements. The Community, Nation and World courses expose each scout to all the different levels of government, and the positions needed to make them all work together. Mr. Summers stated this is one of the eleven merit badges which scouts are required to obtain for Eagle Scout.

Mr. Dickens encouraged the scouts to ask questions and welcomed them to the Planning Commission meeting.

### **III. NEW BUSINESS:**

**Item1: Consideration to rezone 1.96 acres of property located at 100 W A Harris Road from Light Industrial (LI) to General Business (GB) submitted by John Hamer.**

Mr. Dickens asked Mr. Anderson to review the rezoning request for commission members.

Mr. Anderson stated this property has been zoned for Light Industrial (LI) purposes since 1985. LI districts are intended to allow a wide variety of manufacturing, fabrication, assembly and warehousing uses along with wholesale trade. Large setbacks are imposed in this district due to the wide range of uses permitted. Many of these uses can adversely affect surrounding areas due to noise, hours of operation, vehicular movements, lighting, unsightly material storage, etc. These districts are generally found away from residential areas.

Mr. Anderson stated this request would change the zoning to a General Business (GB) classification. GB districts permit a wide variety of commercial, service and light warehousing uses. The district also permits single family and multifamily uses. GB districts are normally found along major roadway corridors where adverse impacts are minimized to adjoining property uses.

Mr. Anderson stated this property is accessed from NC 181 and WA Harris Road. NC 181 is a two lane major thoroughfare maintained by NCDOT. The roadway carries approximately 12000 vehicles per day based on 2011 counts. The current capacity of this roadway is 12,000 ADT. This roadway is continuing to experience a steady increase in traffic volumes. There are currently no plans to alter the roadway; however, additional width is recommended as a high priority by the Regional MPO. The installation of bike lanes is also recommended by the Mission 2030 Plan. WA Harris is a two lane residential street maintained by NCDOT that is not designed to accommodate commercial or industrial traffic.

He added that a 12 inch City water line is located along NC 181. This 12 inch line is adequate to serve an LI use at this location.

Mr. Anderson stated an 8 inch City sewer line is located along NC 181 in close proximity to this property; however it is not presently available to be used without a line extension. The majority of this property is topographically below the roadway, which makes sewer access difficult. The current line location would not support industrial or commercial activities at this location.

Mr. Anderson reviewed the Mission 2030 Plan acknowledges there is existing industrial use in the area at Emory Corp, across NC 181, but the plan also seems to discourage any expansion of this zoning to include adjacent properties. The current zoning of the property in question is light industrial and a less intensive zoning classification appears to

be the direction offered by the Plan. Although GB can be less intensive and obtrusive than LI zoning, perhaps an NB zoning would offer a more stable long term solution.

This area of development predates the City Zoning classifications. Repurposing abandoned commercial buildings can be difficult. Placing these buildings into an appropriate zoning category to discourage unwanted uses is also difficult. GB rezoning of this property should not create additional rezoning request on adjacent parcels.

Mr. Anderson stated this request would not constitute spot zoning since it is currently zoned for more intensive land use than the one being requested.

This property has been used for multiple uses; however most have been low impact operations that do not require late hours of operation, create large traffic generation, require substantial outside storage, or create other incompatible effects. A low impact commercial activity that offers similar activities as those in the past should not adversely impact livability in this area; however this request is not presently a conditional use request; therefore, the staff would recommend a Neighborhood Business (NB) category would offer great protection to surrounding residential neighborhoods.

Mr. Anderson explained that the applicant has made a traditional GB rezoning request rather than a conditional use type request. Traditional GB zones allow many different land uses that can adversely impact surrounding residential areas; however, not all GB uses carry the same negative impacts. This property is uniquely situated on a relatively small site in close proximity to surrounding residential neighborhoods. It is the staff's opinion that this property is really better suited as a traditional Neighborhood Business (NB) district rather than GB district. NB offers standard hours of operation, building size limitations and reasonable use restrictions. NB zoning is ideally suited to be in neighborhoods. NB districts still permit a wide variety of business, retail and office uses. The pre existing building is located close to the roadway and has limited parking availability for customers. NB zoning appears to be a perfect solution to balance property reuse and also minimize adverse impacts.

Mr. Dickens asks commission if they have questions for Mr. Anderson.

Mr. Gordon asked if the business was open.

Mr. Anderson stated no, he explained that the business owner was not aware he was located in the ETJ and therefore he had not opened the business and was awaiting the board decision regarding zoning.

Mr. Dickens questioned the history of business use at the location.

Mr. Anderson stated small specialization manufacture was the last use at the location. He stated the business built wheels. Mr. Anderson stated Toner machining had occupied the location at one time. He added the use was always small manufacturing.

Mr. Dickens questioned if parking was a concern.

Mr. Anderson stated that Hwy 181 is NCDOT maintained and if the building was ever destroyed and another rebuilt then there would be requirements from NCDOT. Traffic

safety is an issue without curbing along HWY 181. The curbing controls the safety of vehicles backing into the traffic of HWY 181. Mr. Anderson stated the parking for the business request could be accommodated and added there was area behind the building for parking.

Mr. Dickens asked if the building placing the improvement in a nonconforming status the way it is now.

Mr. Anderson stated it would be a less of a non-conforming status. Mr. Anderson stated the front setback in NB (Neighborhood Business) is 25 feet and the side is 15 feet from the street side. Mr. Anderson stated as it is it is probably encroaching on the WA Harris side. Mr. Anderson stated GB (General Business) would require 40 feet setback on the front and 20 feet setback on the street side. He explained it would be more of non-conformity with General Business. Mr. Anderson stated the current zoning of LI (Light Industrial) is a 50 foot front setback and a 25 foot side street setback. Mr. Anderson explained NB was much closer to conforming than the others.

Mr. Huffman questioned the building structure and specifically the chimney. He asked if there would be remodeling done or upgrades.

Mr. Anderson stated the building has sat vacant for several years and he felt there would be some upgrades done for the use of the space. Mr. Anderson added that any use is better than vacancy.

Mr. Huffman stated the chimney appears to be pulling away from the wall and questioned if that would be fixed.

Mr. Anderson stated the business would have to go through inspections for proper permitting if they plan on doing any additions.

Mr. Ervin questioned the widening of HWY 181.

Mr. Anderson stated the through fare plan calls for a 4 lane to be constructed through to Oak Hill and that would definitely cut into the parking area in front of the building.

Mr. Ervin commented that the topography to the rear of the building would make it difficult to have parking located there...

Mr. Dickens opened public hearing.

Mr. John Hamer, 2593 Wolf Pit Road, stated he wanted to paint, clean up the building. He stated he had spoken with the landlord regarding the chimney and tearing it down. He stated the building had used the chimney at one time when it was heated with a gas furnace, but now it used electric heat. Mr. Hamer stated even with the incline there was adequate parking in the rear. He explained that once you went down the incline there was a large flat area that could be used for parking.

Mr. Dickens questioned if Mr. Hamer was presently using the building.

Mr. Hamer stated no he was not. He stated that he was not aware of the City of Morganton's zoning area. He added that when he was made aware, he did not proceed with opening and filed his application for rezoning.

Mr. Dickens asked Mr. Hamer what he would be retailing.

Mr. Hamer stated he would have a gun store with gun-smithing accessories and fire arm sells.

Mr. Dickens questioned if the applicant would be comfortable with Neighbor Business (NB) zoning.

Mr. Hamer stated he would accept that zoning if it accommodated his use.

Mr. Dickens reminded Mr. Hamer of the limitations in Neighborhood Business (NB) that Mr. Anderson had discussed.

Mr. Hamer stated he was comfortable with hours of operation as he would open at 10 a.m. and close at 6 p.m.

Mr. Dickens questioned the existing lighting and asked if that would be changed.

Mr. Hamer stated the lighting would not be changed.

Mr. Gordon asked if guns would be manufactured at the location.

Mr. Hamer stated no. The ATF recognizes manufacturing as changes made to a model gun changing the stock, scope, mussel, etc then you are manufacturing a firearm. In order to change a gun in this manner, then you have a license from the ATF to do so...he stated that he would not be constructing or manufacturing a firearm from scratch.

Mr. Dickens asked how customers would test the product.

Mr. Hamer stated most of the product is bought as is...such as scopes, holsters etc...

Mr. Dickens stated firing ranges are not allowed in Neighborhood Business (NB), he stated these are indoor type ranges...Mr. Dickens added that indoor gun ranges are allowed in General Business (GB).

Mr. Hamer stated the space he would occupy is the main level of the building. He said the basement area is occupied by the owner and used as storage. He stated he had thought of a firing range for the basement if it ever came available.

Mr. Dickens explained that if it was zoned to Neighborhood Business (NB) then he could not have the firing range.

Mr. Dickens questioned if the present property owner was aware of the rezoning request.

Mr. Anderson stated he had spoken with the owner.

Mr. Dickens asked if anyone had opposition to the item.

None.

Mr. Dickens called for question or comments.

Mr. Lennon made a motion to Street from Light Industrial (LI) to Neighborhood Business (NB) seconded by Mr. Kirksey and passed unanimously (8-0).

Mr. Anderson advised Mr. Hamer he had 10 days to appeal the Planning Commission recommendation to City Council. He stated City Council would meet on March 4<sup>th</sup>, 2013 at 6 p.m.

#### **IV. OTHER ITEMS OF DISCUSSION**

#### **V. ADJOURN**

**5:55 p.m.**

**Next Regular Meeting: Thursday, March 14th, 2013 at 5:15 PM**