

Cold Spring Planning & Zoning December 12, 2007

The regular meeting of Cold Spring Planning and Zoning Commission was called to order by Vice-Chairman Jim Drye. Pledge to the flag was recited. The roll call showed the following present – Roger Bay, Jim Drye, Joe Feinauer, and Ken Warden, excused - Ken Sharp, Karen Stafford and Steve Taylor. Also present were Mike Schwartz, Rita Seger and Brandon Voelker. Vice-Chair Jim Drye pointed out all exits from Council Chambers, per Fire Department requirements.

The minutes of the October 10th meeting were reviewed by all. Ken Warden made a motion for approve these minutes and Roger Bay seconded the motion. All were in favor. Motion carried. The November meeting had been cancelled.

Chairman Steve Taylor had signed final plats for Granite Spring, Building 12, Granite Spring Section 15, a final plat with guarantee for Ivy Ridge Section 11, and an ID Plat for a 1.248 acre parcel (Swinford). Joe Feinauer made a motion for approval and Roger Bay seconded the motion. All were in favor. Motion carried.

A public hearing was called to order for a proposed map amendment on Area A, approximate 5.3 acre area located along the south east side of Aqua Drive, approximately 200 feet south east of Pooles Creek Road from RRE to HC; and Area B, approximate 5.1 acre area located at the south west corner of the intersection of Pooles Creek Road with Aqua Drive from R-RE and NC to PO (Berberich on behalf of NKWD). Mike Schwartz, NKAPC, explained the original application and the changes to date, which include the requested zone change in Area B from R-RE and NC to PO; Areas A and Area B reconfigured so that Area A is now approximately 5.3 acres and Area B is now approximately 5.1 acres; and the zone boundary line in Area A is pulled back 50 feet for a better buffer zone, which does have a tree line.

Mike Schwartz presented his review. Staff has recommended approval of the proposed map amendment, subject to four conditions as outlined in Staff report, on the bases that it is consistent with the transportation plan element of the 2005 Comprehensive Plan, the proposed zones for Area A for HC and Area B for PO are appropriate, and that the proposed map amendment for Area B is consistent with the land use plan element of the comprehensive plan. Mike Schwartz stated that action taken tonight is a recommendation to City Council.

The eight conditions that had been imposed on the previous application were discussed. Area A had restrictions placed on some uses, but the only condition in Area B was for the sidewalks, and that has been addressed in this application.

Steve Dowell, lawyer representing Mike Berberich and Crown Coach addressed Planning and Zoning. He introduced the team that would be presenting tonight's evidence.

Richard Harrison, representative from the Water District, gave a historical overview of the property, from the time it began its use by the Water District up to the present time. Mr. Harrison stated that the Water District will continue to maintain the water tower and trucks in the area. The Water District is in support of this zone change.

Megan de Sola, certified planner from Viox & Viox, gave an overview of the development and the basics of the zone change request. The site consists of Parcel A which is 5.325 acres and Parcel B which is 5.115 acres, both currently zoned R-RE and small portion zoned NC. The existing Water District office building will be retained by Mr. Berberich on his site. Ms. De Sola gave a brief background on Berberich Development Company. Area A is proposed as the headquarters for their two businesses, Crown Car and Coach and Crown Charter, with focuses on commercial professional transportation services. The office headquarters would house the professional office, staff, and driver staff. The zone change request for Area A is from R-RE to HC and the primary use is for operation of Crown Car and Coach and Crown Charter. In Area B the proposed zone change is from R-RE to PO and will be used for the development of other professional services. The current comprehensive plan land use map shows most of the area is reserved for commercial office use. There is a small section for community facilities and also restrictive development area as well. The proposed facilities on these two parcels would be in accordance with the recommendation of the comprehensive plan and would fit well with the existing commercial facilities in the area already. The community would benefit from the construction of the thru access road.

Bill Viox, vice president of Viox & Viox addressed the Board. Matt Bogen, engineer of Viox & Viox passed out a copy of their PowerPoint presentation which will be made part of the record. Mr. Viox stated that the activities of the corporate offices of the Water District were office in nature with their vehicles going up and down Aqua Drive. They are proposing the zone change to HC because of some light maintenance and cleaning up of vehicles that is not called for in our professional office zone, otherwise they would do professional office for the entire thing. They will have aesthetically

pleasing vehicles going up and down the road, which will exit to the stop light from Aqua. The adjoining neighbors are in favor of the potential connector. They did a grading plan to make sure that connector would work. Council was concerned with the NC zone because it did allow for other things, but they only want to have a low rise professional office and complete what they call the campus, even though it is two different zones. The wooded area was a concern, so they have dropped the zone back and the wooded area will not be disturbed in any way. The deciduous trees in that area will be a buffer between them and the existing residential area. They want to put in facilities for businesses such as design professionals or business consultants. It will be a quiet, professional campus. Mr. Viox described the placement of the buildings to take advantage of the vistas of the woods in the back, with the parking in the front. The limos will park in the facility, back in, get cleaned up, and made ready to exit again. A formal landscape plan is submitted as part of Phase I Development Plan. They did include the sidewalk and overflow parking, but with such small facilities, not a whole lot of parking needed.

Lester Wells, business manager of Crown Car and Coach, distributed material on their business, for the record. They provide for ground base transportation services. On the Crown Charter side they have motor coaches and mid-size coaches. They provide local, regional, and national service. They are operational 24 / 7, with phones and reservation, and a dispatch center available to clients who may be out on the road. Offices as outlined will handle corporate offices, management, sales and marketing department, and the reservation and dispatch center will be in the building, along with a training center for drivers for both cars, limos, and charter drivers. Accounting and finance also will occupy this, and light maintenance and cleaning of vehicles as they return from trips will be done on this site. Mr. Wells provided information on various services that they have provided to business segments, corporations, organizations, as well as personal business. They use late model equipment, and their operation plan calls for rotation of vehicles based on years and mileage

Steve Dowell re-addressed the Board and reviewed his "proposed findings of fact" which he distributed to Board members and will be included in the record. He stated that Mike Berberich wishes to bring the business from Covington to Cold Spring, along with their tax revenue. They need room to grow in this ideal location that had been used by a semi governmental function that was not under city control by statute. They are proposing to provide the city with a means to control that portion of the property in the city. Mr. Dowell stated that office use versus professional office use is a dichotomy that appears to have been a misunderstanding as it relates to the comprehensive plan in Area A. There was a belief that Area A was identified as being professional office in the comprehensive plan, but there is not a reference to professional office. That area is identified for office uses. It is a much broader term when used in the planning concept. They are hoping to protect the record on that issue and have it entered into the minutes so that when council reviews this they will have full benefit as it relates to the argument in support of this project.

Mr. Dowell stated that Mr. Berberich has taken steps to remedy some concerns that this board and council have had. They have increased the size of Area B and made it a free standing professional office. The Comprehensive Plan does not mention professional office, but the zoning ordinance does. By moving back the zoning boundary fifty feet and leaving the trees, they now have a natural buffer, to answer concerns relating to close proximity to the Springhouse Subdivision. In his "proposed findings of fact" Mr. Dowell stated that the bold notations are seen in the Comprehensive Plan, either verbatim or in his words that convey the idea. Area A, relating to land use map is consistent with the comprehensive plan and will be used as offices for light maintenance of the vehicles. In addition, the text of the comprehensive plan also comports well with this plan. The submitted concept plan for the proposed local road between French and Pooles Creek is consistent with the traffic plan element and clearly shows that Mr. Berberich is doing everything he can to effectuate the plan that is in conformity with the comprehensive plan.

Mr. Dowell stated that the nature of development is unique in that it is being vacated by the Water District, which this city had no control over from a zoning standpoint, but now the city will. You are not going to find a builder who will put in housing in an R-RE zone with the water tower and building maintenance functions still going on. It is in conformity with that portion of the comprehensive plan. Goals and objectives are met. They have pulled the zone back, buffered Springhouse, and everything else is commercial or quasi-commercial, with minimal, if any impact on existing residential areas by this development. They have done everything they could to make the connector road between French and Pooles Creek happen, which complies with the comprehensive plan.

This development has commercial or quasi-commercial use. The infrastructure is still there, but it will be more aesthetic and improved, with a lesser impact that what was there before. This development will not adversely affect what is already there and no existing residential areas will be torn down to put in commercial use. The city will get something better than they had, and will have tax revenue from this business. This development has proposed to go on the exact location the comprehensive plan identifies as office uses and they have near-direct link to US 27 and meets the comprehensive plan.

Land use element of the comprehensive plan calls for office use in the area identified as Section A. This shows as a matter of record that this development is tailor made for Cold Spring and our comprehensive plan. In addition to the fact that this development meets our comprehensive plan text, look to Staff report that states that the existing zoning of the proposed site is not appropriate, and the proposed zoning is appropriate and actually the perfect zone to put there. Mr. Dowell asks that we approve this development and adopt and incorporate the proposed findings of fact into the record.

Ken Warden verified that Mr. Dowell they were just providing an easement for the access road and not actually constructing it and he also confirmed that no buildings would be constructed to face the access road once it is put in.

Roger Bay questioned if they would be taking the US 27 route once their vehicles exit off of Aqua Drive Mr. Dowell stated that there will not be any traffic from Crown Coach down Pooles Creek Road, whether it be their limousines or buse. They will go straight out US 27 and this could be made a condition.

Ken Warden asked why the parking wasn't in the plan for the buildings at this time. Mr. Viox stated that they have not determined how they want to stripe the parking in Area A yet. In the next phase they would prove to the Planning Commission that they do have adequate parking. Ken Warden questioned why they made the one building larger. Mr. Viox said that is meant to give them more flexibility as far as more vehicles that could be pulled inside to get cleaned and ready to go out again. They will not be doing major repairs. Mr. Berberich stated that at the last hearing, they did brief the Planning Commission that they wanted a 12,000 square foot building instead.

Bill Viox stated that council's disapproval of the original application was the misunderstanding on office / professional office comprehensive plan designations. There was concern in Area A that Highway Commercial was something different then office, but in the concept plan being proposed as part of the record, they want to make this their corporate headquarters, and they would make the entire development professional office if that zone described in detail what they want to do. Ken Warden stated that HC zone may be the only one that would allow the automotive function in it.

Mike Schwartz concurs with Mr. Berberich's concept of office use versus professional office. He stated that there is validity in that the comprehensive plan speaks to this area as "office use" which is a very broad term. Staff states that this is an office function which also has another function, in a similar way that we have an industrial zone on Industrial Road. Office is not listed in that zoning district, yet every one of those buildings have office functions in them. The comprehensive plan identifies this area for office, and a significant portion is going to be used for office functions.

Ken Warden questioned if we could put in conditions to take out some of the uses for HC zone that would help get this going. Mr. Dowell said that for this application, we could simply make this concept plan a condition for the zone change approval.

Brandon Voelker questioned if Mr. Dowell is proposing a condition that the only use that can occur on the top part Area A, is the use of someone in the identical business and getting rid of every other use. Mr. Berberich stated that it would be extremely difficult to find an identical business should he need to sell this down the road. Brandon Voelker suggested a condition to utilize vehicles and maintenance service but not restricting it to motor coaches. A company running small vehicles, such as a plumbing business would be acceptable, and it would just be a continuing non-conforming use.

Mr. Dowell believes that council was looking at this as if the comprehensive plan was looking for professional offices and envisioning that as being doctors, lawyers, etcetera, when in fact the comprehensive plan says offices, which could be contractor offices, water district office, any office. Mr. Berberich is willing to agree to any reasonable restriction to make council feel better about this, but he doesn't want to restrict it so heavily so that he can't sell this piece of property years down the road. They are not locating the business there that would involve automobile sales.

Brandon Voelker stated that there is probably not enough land or be cost effective to allow for some of the allowed uses on this site. Mike Schwartz stated that it would be cleaner if we just specify what uses are prohibited.

An e-mail message from Steve Taylor was read, stating specific areas of concern with suggestions that all charter buses be required to turn right only out of Aqua Drive onto Pooles Creek and go up to US 27 and not down to the AA Highway. Also, the road that is to intersect with French Street be constructed on the existing property, to the existing city specifications, to T-connect with the road from French Street. This would mean that the Studer property with have an easement contained within it but that no road would be built on that property. Only the Aqua Drive property would have the road completed on it. Jim Drye verified with Mr. Berberich that the only thing they wish to do at this time is to provide the easement with the grading shown, but they will not do the grading nor construct the roadway.

Mike Studer, representing the Studer property adjoining the Water District property, stated that Crown Coach would be an asset to the city and he encourages the Board to vote in favor of the zone change. Jim Drye verified that Mr. Studer has no problem with the easement going across his property. Mr. Studer stated that his property will be sold when the market turns and a development plan will be submitted at that time. They have found a solution so that the properties could be worked together, with an easement with a gentler grade, to connect to Aqua Drive. The road as it is shown goes a little bit onto the Hill & Griffith property, but they are in agreement with the road and it will be taken care of legally at the time his property is sold.

Jim Drye questioned if this should be a right-of way instead of easement, and asked if the city decided to build a road in the future, if there would be a cost to the city for the land. Brandon Voelker said a right-of-way would be for public maintenance and it is determined by how it is built. Bill Viox stated that there would be no cost to the city for the easement.

Ken Warden made a motion to recommend approval to council on the zone change on Area A from RRE to HC and Area B from RRE and NC to all PO, with the four conditions as provided in the Staff recommendations, and including two additional conditions; Condition 5.) that within Area A, the following permitted uses of the HC zone be prohibited: automobile, motorcycle, and truck sales, new or used; boat and other marine equipment sales and service, new and used; bowling alleys; eating and drinking places, including drive-ins; hotels and motels; mobile homes and trailer sales, rental and service, new and used; and skating rinks, golf driving ranges, miniature and par-3 golf courses; and Condition 6.) that all motor coaches and buses must turn right onto Pooles Creek Road from Aqua Drive until such time as Pooles Creek Road is re-aligned and improved. The recommendation for approval is on the bases of Staff recommendation, with the additional bases that testimony was provided evidencing that the property will be the corporate offices of these businesses and that corporate office use is consistent with the Comprehensive Plan designation of commercial office. Joe Feinauer seconded the motion. Roll call vote showed all were in favor. Motion carried.

Karen Stafford was not present to report on any new annexations in the city.

A nominating committee consisting of Steve Taylor, Ken Sharp and Joe Feinauer was appointed to nominate new officers for 2008.

Jim Drye attended the APA Audio Conference "Staying Out of Court by Avoiding Pitfalls" for one hour. Ken Warden made a motion for approval and Joe Feinauer seconded the motion.. All were in favor. Motion carried.

Ken Warden moved to adjourn the meeting and Roger Bay seconded the motion. All were in favor. Motion carried.

Respectfully submitted,

Rita Seger

NEXT MEETING DATE – JANUARY 9