



CITY OF LUMBERTON
CITY COUNCIL
MINUTES • SEPTEMBER 16, 2020

Special Meeting

Third Floor Conference Room

11:00 AM

500 N Cedar St, Third Floor, Lumberton, NC 28358

I. CALL TO ORDER

Attendee Name	Title	Status	Arrived
Bruce W. Davis	Mayor	Present	
Leroy Rising	Mayor Pro Tem	Present	
Melissa Robinson	Precinct 2	Present	
John R. Carroll	Precinct 3	Present	
Karen Higley	Precinct 4	Present	
John Cantey	Precinct 5	Present	
Chris Howard	Precinct 6	Present	
Eric Chavis	Precinct 7	Excused	
Owen Thomas	Precinct 8	Present	
Wayne Horne	City Manager	Present	
Brandon Love	Deputy City Manager	Present	
Holt Moore	City Attorney	Present	
Laney Mitchell-McIntosh	City Clerk	Present	

B. Invocation: City Attorney Moore –

II. AGENDA ITEMS

- A. Moss Neck Trust rezoning petition for property located off of Hornets Rd – ArTriel Kirchner, Interim Planning Director
Moss Neck Trust (owned by John C & Anne B. Culbreth) has submitted a rezoning petition for property located off of Hornets Rd (parcel # 1010-02-012 & portion of 1012-01-011). This request is to rezone the parcels from 'A' Agriculture to R-6, Residential (Class 'A' Mobile Home).

This property is located within Area 3 of our Land Use Plan, and its recommended future use is low intensity. Furthermore, this property is located within the ETJ.

Recommend that the Planning Board hold tonight's public meeting, entertain public comment, and make a recommendation to City Council regarding this matter.

If this rezoning is granted the applicant must obtain a Land Use Permit from the City of Lumberton's Planning Department.

On August 25, 2020 the Planning Board held the public meeting and recommends that City Council deny the rezoning request based on the following reason(s):

- 1) The development will not be in harmony with the neighboring properties.

On August 26, 2020 the Planning Department sent out letters to the adjacent property owners within 150 feet of the petitioned property, notifying them of the rezoning request.

On August 26, 2020 a request was sent to Public Works Department to have a sign placed on the property, notifying the adjacent property owners of the rezoning request, on or before August 28, 2020.

On August 26, 2020 a request was sent to the Robesonian to have the legal ad for this request ran on August 29th, 2020 and September 5, 2020.

Recommends that City Council hold today's public hearing; as with prior rezonings, under the new COVID-related statutes, the vote will need to be held at a later time (at least 24 hours after the hearing).

Mayor Davis opened the continued meeting to address the issue of the Moss Neck Trust Rezoning Petition.

City Attorney Moore stated that the purpose of today's meeting is to discuss and deliberate the matter of the Moss Neck Trust rezoning request. Any comments that were received during the 24-hour period have been sent to you. He stated that you were sent a letter from the Public Works Director Rob Armstrong and Counsel for the applicant has requested that the letter not be discussed because it was not received prior to the 24-hour expiration period and he did not have time to act upon that. Upon my advice, Council does not need to address the letter. Just consider it a letter that is in response to some of Council's question. But for the record it will not be submitted as evidence or comments.

Just so Council is aware of what the offer is at this point, I would like to read the conditions that the applicant is offering with the R-6 zoning.

1. All Class A manufactured placed on the property shall be new (meaning never used) only new model homes.
2. All homes shall have concrete footings and brick foundations.
3. All lot shall be no less than 8,000 sq. ft.
4. The total density shall not exceed 4 lots per acre.

My suggestion is that we open this up for any questions Council or the applicant. Then you will have a motion and vote.

Councilman Cantey asked if the reason R-6 was chosen is it because it allows Class A manufacture homes. Mr. Moore stated that you would have to ask the applicant why he chose R-6; it is the only zoning that will allow Class A Manufactured homes. R-6 allows for no smaller than 7,000 sq. ft. you would think that it would be 6,000 sq. ft. He stated that this is something that we might want to work on because R-6 and R-7 are identical except R-6 does allow mobile homes. R-6 also allows for older homes (1976) but the applicants have chosen to place brand new homes.

Councilman Cantey stated to address the issue of the drainage problem, I received the letter from Rob but it had no date on it so I am not sure when it came in. There are a few things on the letter that cannot be adjudicated without a hydraulic study. When is that done, it's not done in a rezoning stage is that correct. Mr. Moore stated that it is something that might be done at the subdivision phase. That might be something that could be done at the subdivision phase. I am sure that you are aware that this is just a rezoning and if and when it is proposed for a subdivision that would have to come with a subdivision plan and a request for a Conditional Use Permit.

Councilman Cantey asked the Public Works Director Rob Armstrong that in the Oaks where that water and drainage goes. The reason that I am asking is if BG French is steady adding on to his property out there and that's Precinct 1 and I am not going to get into that, doesn't it meet somewhere causing additional backup.

Public Works Director Armstrong stated that part runs off into an entirely different basin in Ivey's Branch and it

will go to Five Mile and the part already developed that is developed will go to Ivey's Branch and a small portion of the new phases to Ivey's Branch.

Councilman Cantey stated that the only issue that is still on the table is if the applicant has satisfied the R-6 zoning that would be no old homes, brick foundations and 4 houses per acre.

Councilman Rising stated that he is not opposed to housing projects in Lumberton because he knows that they are needed. If I understand zoning correctly it is not required but CUP will run parallel to or along with the property. The Interim Planning Director Kirchner stated that when the applicant applied they also requested a Conditional Use Permit; however, it was pulled. Is there a reason for pulling it, I know that most developers will submit the Conditional Use Permit along with the rezoning request. Ms. Kirchner stated that is something for the applicant to answer but they were informed that the City would require a Condition Use Permit.

Councilman Rising stated that understanding drainage, I know what happens after catastrophic events because in the past five years the City has suffered with two. Considering this request without a CUP beside of it to look a see what the intentions are and if it is granted, that means that if this group (Moss Neck Trust) does not follow through or it falls by the wayside and does not materialize, then there is a list of multiple different uses that could go into R-6, is that correct. Ms. Kirchner stated that this is true. Councilman Rising stated that he does not think that it's in the best interest of the City as a whole to approve R-6 and open it up for all those other uses. I do think that it is in the best interest of the City to encourage these folks to do an R-11 at some point if this doesn't pass.

Councilman Carroll stated that he is also in the dark about this rezoning, it is rezoned and this company decides to sell the stipulations that are in place do they remain? The restrictions will run with the land. All the other uses allowed in R-6 would be allowed. For instance that 8,000 sq. ft. lot would remain.

Councilman Cantey I understand if they don't fulfill what they say they are going to do but if we do a Parallel Conditional Use permit and you just said whatever we outline in that permit stays with that land. Mr. Moore stated that's true.

Councilman Rising said as a point of clarification; if they do not want to do a subdivision any of the other uses could be utilized in this zoning. Mr. Moore stated that this is true because if you look at it all the restrictions relate to what would happen in a residential subdivision. Mr. Moore stated that I don't know if there are any other uses other than residential in the R-6. Ms. Kirchner stated that there's single family, duplexes, two family conversions. There is no commercial allowed in there, and mostly everything would require a Conditional Use Permit such as schools, colleges and library.

Councilman Cantey stated that any of those would be desirable. I just ask the Council and we begin to vote to think about the residents that lost their home back in 2016 and 2018. I know that we have had two of those events but it may be another 15 years and we have nothing at all. Councilman Cantey said that he just don't want to see our citizens denied housing again. He stated that if we have to find grants or find money to fix the drainage each one of us need a place to live.

City Attorney Moore asked Ms. Kirchner if duplexes are allowed in R-6. She stated yes. What would be the difference requirement in terms of duplexes or single family homes? She stated that duplexes area minimum 11,000 sq. ft. with 100 units. I thought that would flush it out for Council.

Councilman Rising asked the City Manager or Deputy City Manager how much housing inventory do we have out there? City Manager Horne stated that we have 72 homes under construction of Elizabethtown Road with water retention, 72 more over on NC 41, we have the 66 senior citizens complex on Linwood Avenue and currently 2 under construction in East Lumberton and 2 more existing homes under construction by the Baptist Men Association in East Lumberton and additional home to be approved by the State.

Councilwoman Robinson stated that she studied the information in her packet and she was thankful for the information concerning the drainage. However, I have spoken with people who have been left homeless living two and three families in a home. We need to do something about this situation and I think that this housing

project is needed.

Councilwoman Robinson made a motion, seconded by Councilman Cantey, to approve the rezoning request for Moss Neck Trust to be rezoned to R-6. City Attorney Moore is that with the four conditions. Councilman Cantey amended his second to add the four conditions as laid out:

1. All Class A manufactured placed on the property shall be new (meaning never used) only new model homes.
2. All homes shall have concrete footings and brick foundations.
3. All lot shall be no less than 8,000 sq. ft.
4. The total density shall not exceed 4 lots per acre.

The motion failed by a vote of 4 to 3 with negative votes cast by Precincts, 1, 3, 4, and 8.

Councilman Carroll made a motion, seconded by Councilwoman Higley, to deny the rezoning application submitted by Moss Neck Trust to R-6; that if it is granted, that it is not consistent with the Land Use Plan and that it would be in the best interest of the public when you take into account the attributes of the area proposed to be rezoned, the benefits and detriments to the landowners, the neighbors and the surrounding community, the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment. Based on the fact that the Planning Board unanimously denied the request; it is in our best interest to ask them to maybe come back with it after they have discussed some of these issues that we have stated.

Councilman Cantey stated that over this past year this Council has systematically set the City back almost on the borderline of racism, a split Council that only hurts the citizens of this City. It has to stop and it is time out. Leadership starts at the top! This Council has voted against a black on the Airport Commission; the wishes of a cell tower in South Lumberton and now you are denying yet another housing development. This Council should be ashamed of itself.

Councilman Rising stated that this has nothing to do with racism. All this has to do with is drainage in the City of Lumberton and lot size. I would encourage anyone to bring a development with R-11 or larger that would create a better situation for Lumberton and the future of Lumberton.

The motion carried with a vote of 6 to 1 with the one negative vote cast by Precinct 2.

RESULT:	DENIED [6 TO 1]
MOVER:	John R. Carroll, Precinct 3
SECONDER:	Karen Higley, Precinct 4
AYES:	Rising, Carroll, Higley, Cantey, Howard, Thomas
NAYS:	Robinson
ABSTAIN:	Davis
EXCUSED:	Chavis

III. ADJOURNMENT

There being no further business to come before the board the meeting was adjourned.