

**Minutes of the New Bern Planning & Zoning Board  
April 3, 2012**

The regularly scheduled meeting of the New Bern Planning & Zoning Board was held in the City Hall Courtroom, 300 Pollock Street, on Tuesday, April 3, 2012 at 6:30 PM.

**Planning & Zoning Board**

**Members present:** Mr. Tim Tabak, Chair  
Ms. Stevie Bennett  
Mr. Jimmy Dillahunt  
Ms. Tiffany Dove  
Mr. Tripp Eure  
Mr. Patrick McCullough  
Mrs. Dorothea White  
Mrs. Velda Whitfield  
Mr. Paul Yaeger

**Members excused:** Mr. Kip Peregoy

**Staff present:** Mr. Bernard George, AICP  
Land & Community Development Administrator  
Mrs. Rebekah Pelletier  
Administrative Assistant

Chairman Tabak called the meeting to order. Roll call was taken and a quorum declared.

**Prayer:** A prayer for guidance was given by Mr. George.

**Minutes:** The minutes of the March 6, 2012 meeting were approved on motion by Mr. Eure, second by Ms. Bennett, and unanimous vote by the board.

**New Business**

A. None.

**Old Business**

**B. Consideration of a revised subdivision general plan for Hardee Farms Phase One, a proposed 121-lot residential planned unit development (PUD) subdivision.**

Mr. George summarized the revised subdivision general plan stating that the item had been tabled at the March 6, 2012 Planning & Zoning Board meeting due to issues with streets, street use, and several other auxiliary uses. He also stated that the additional 9.33 acres containing 13 lots will need to be rezoned from A-5 to R-8 during the May meeting of the Planning & Zoning Board and Board of Aldermen. The master site plan was examined and discussed.

Chairman Tabak asked if the board would be approving a master plan for the subdivision at this time. Mr. George responded that master plan approval is not required but is recommended to assist the City of New Bern in assessing and developing future services, infrastructure and plans. If approved the proposed subdivision plan will give NAD Development, LLC the right to develop the lots and infrastructure, but not the right to sell lots until Board of Aldermen approval of the subdivision final plan.

Chairman Tabak also inquired about the use of Bettye Gresham Lane for the Hardee Farms subdivision. Mr. George replied that the road was recommended to be extended in the 2006 Traffic Impact Analysis. The analysis did not identify financial responsibility for those improvements and that issue is still being discussed. The use of Bettye Gresham Lane in addition to a separate street outlet on the revised plan will reduce traffic impacts on the adjacent Brices Crossing subdivision.

**Applicant Comments:** Mr. John Thomas of Thomas Engineering, P.A. introduced representatives from NAD Development, LLC; Ward and Smith, P.A.; and Mr. John Hardee. Mr. Thomas went on record stating that since the March 6, 2012 Planning & Zoning Board meeting, he has not had any correspondence with any member of the board regarding this project.

Mr. Thomas described the revised plan noting that Hardee Farms Drive had been extended to the intersection of Tesie Trail to provide a second street access to Hardee Farms. He examined the revised plan and identified five issues that the Planning & Zoning Board requested to be addressed at its last meeting: (1) submit a master plan; (2) consult with the City Engineer for an estimation regarding the 65 lot restriction and the recently completed traffic impact analysis; (3) provide written authorization from Mr. Hardee allowing the use of Bettye Gresham Lane for heavy construction traffic during the construction of Hardee Farms Phase One development; (4) as required by Section 15-216C of the City of New Bern Land Use Ordinance, obtain written concurrence from the Director of Public Works, Director of Electric Utilities, and the City Engineer allowing rights-of-way widths less than those required; (5) communicate with the Brices Crossing subdivision residents regarding the development of Hardee Farms. Mr. Thomas stated in detail that each item had been remedied and provided evidence to support his claims including a master plan, revised subdivision plan, signed letters of authorization, a traffic study of Tesie Trail, and a proposed timeline of the development.

Mr. Thomas recommended that the cost of the improvements for the West Thurman Road and Old Airport Road intersection should not be the sole responsibility of one developer because the improvements benefit the surrounding general area. He further recommended that the necessary parties including the City of New Bern, NCDOT, developers, and stake holders begin conversation on the timeline for these improvements and who will be responsible for the cost.

**Staff Comments:** Mr. Jordan Hughes, City Engineer, commented that the recommendation for only 65 lots to be built before Bettye Gresham Lane was completed was made during a previous Departmental Review meeting. The number of lots had no strict basis but was given as a general starting point for Thomas Engineering and NAD Development, LLC. Mr. Hughes also pointed out that the completed traffic study by Thomas Engineering meets good standard engineering

practice. He commended the additional outlet created from Hardee Farms to Tesie Trail allowing for a secondary access to the subdivision. Mr. Hughes then stated that a planned unit development is allowed to have a reduced right-of-way width. He noted that there is a ten foot utility easement on the back side of the right-of-way in all new developments.

Ms. Bennett asked what the premise was for the city changing the right-of-way width from 51 feet to 61 feet. Mr. Hughes responded that it accommodates the street width requirements, the utility need requirements, the sidewalk requirements, and meets the city requirements for long term maintenance. The City of New Bern Land Use Ordinance states that sub collector streets shall have a minimum right-of-way width of 61 feet with an exception that planned unit developments with a design concept that requires a narrower street width be allowed. This exception creates diversity among the city's planned unit developments but ensures that the right-of-way widths still meet city requirements.

Mr. Eure inquired about the number of car trips that would impact the area if only Phase One of Hardee Farms was completed. Mr. Hughes replied that the car trips for the area would be at the upper end of the ordinance but still fall within the city's requirements.

**Public Comments:** Mr. Fred Pittenger, 2916 Weathersby Drive, commented that he resides at a lot near the intersection of Weathersby Drive and Judge Manly Drive. He stated that most of the traffic would be using that intersection. Secondly, Mr. Pittenger stated that Thomas Engineering had not been legally given the rights through Brices Crossing but assumed that the streets could be used as access to Hardee Farms. He proposed that Bettye Gresham Lane be used for all access to the development of Hardee Farms with enforcement of such. Thirdly, Mr. Pittenger expressed concerns of a possible draw down at MCAS Cherry Point and the negative effect that could have on Hardee Farms subdivision build-out timeline and completion of Bettye Gresham Lane.

Mr. Andrew Callaway, 2957 Judge Manly Drive, stated that the engineer had designed an increased width for the right-of-way at the intersection of Judge Manly Drive and Weathersby Drive because there would be a dramatic increase in traffic at that point. He questioned why Bettye Gresham Lane could not be developed in the beginning of construction if the engineers are aware of that fact.

Mr. John Hardee, owner of the property surrounding the Hardee Farms Subdivision, commented that before he sold the property for the subdivision, he made an agreement to open Bettye Gresham Lane for all construction traffic use due to safety concerns. He also stated that Mr. Pittenger had distributed incorrect maps of the proposed Hardee Farms with a statement that Mr. Hardee had made irrational demands on the sale of the property. Mr. Hardee wanted it to be publicly known that he at no time made any such demands on the property to NAD Development, LLC.

Mr. Dillahunt asked Mr. Hardee who would be responsible for maintaining Bettye Gresham Lane as a dirt road for construction traffic. Mr. Hardee replied that large farm equipment frequently uses the road and he has yet to experience any problems.

Mr. Pittenger commented that the only foreknowledge that he had of the possible development of the Hardee Farms subdivision was a visit by Mr. Thomas near his property and the City of New Bern's website. The incorrect maps of the property were generated from his lack of information from the developer of the project.

Mr. Wendell Smith, 2959 Judge Manly Drive, asked what the configuration of the sub phases would be in Phase One of the project. Mr. Thomas pointed out on the site plan Phase One – Section A and Section B; he also stated that the market would affect how fast the project would begin development on Section B. Mr. Smith then commented that Brices Crossing allows parking on the streets and was concerned that the reduced right-of-way width would be unsafe when two cars were parked on opposite sides of the street.

There were no other public comments and the public comment segment was closed.

**Board Comments:** Chairman Tabak asked if the data for trips per lot took into account possible construction traffic. Mr. Hughes responded that the data is interpreted where construction traffic accounts for homes that have not been built yet. The most traffic congestion would occur towards the end of development.

Chairman Tabak also inquired as to the size capacity of the construction vehicles. Mr. Hughes replied that a van or pickup truck used as a work related vehicle would have the most significant impact on the Brices Crossing area. Anything larger than a standard van or pickup truck would need to use Bettye Gresham Lane.

Chairman Tabak questioned how many actual feet of pavement are included in the right-of-way width. Mr. Hughes stated the pavement width from curb to curb is always 31 feet and does not change. The additional feet of public property is used for city maintenance. The Brices Crossing street system has successfully dealt with construction traffic in the past during its build out.

Lastly, Chairman Tabak asked at what time the subdivision streets would be turned over to the city. Mr. Hughes replied that a new city policy was put into effect approximately one year ago. He needed to check on the guidelines to confirm the timing of transfer. At the actual time of transfer, the City of New Bern receives a petition of acceptance from the property owner. The city then checks to make sure the street network is in good working condition and if the requirement of at least ten percent of the homes on the street to be developed has been constructed. The approved street is then brought before the Board of Aldermen to be included in the City of New Bern street network.

Mr. George commented that the Land Use Ordinance, Section 15-210 projects trips per day can range from eight for a multifamily home to ten for a single-family home. Local and sub collector streets are designed to provide access to the individual lots. The difference in right-of-way width is based on the setbacks of the house, the utilities going in, the overall design of the subdivision, and the amount of traffic that the street will carry. Sidewalks are also required on at least one side of the street in a subdivision. The City of New Bern Land Use Ordinance, in this way, positively encourages creative subdivision design. Mr. George also stated that the reason for having the Director of Electric Utilities, Director of Public Works, City Engineer, and Planning

Director to sign off on the street design is to guarantee their input on the design and protect the city's infrastructure to provide efficient services.

Mr. Dillahunt asked how the city addresses traffic flow with only 31 feet of pavement, two-way traffic, and the possibility of parked cars on the street. Mr. George responded that each home is required to have two off-street parking spaces and a narrower street tends to slow the speed of traffic. In the presence of two cars parked on opposite sides of the street, an oncoming vehicle must yield to a vehicle traveling in the opposite direction. The Planning Department also encourages a street grid system design to support positive neighborhood environments and efficient traffic flow.

Mr. George recommended that the revised general plan be approved conditioned on Board of Aldermen approval of the rezoning of the additional 13 lots from A-5 to R-8, and conditioned on the phase lines for Phase One are clearly indicated on the subdivision plan. Mr. George then asked for clarification of what the term "construction traffic" would include. Mr. Thomas responded that the term would include all heavy construction traffic for all of Phase One development as described in the submitted documents.

Ms. Bennett asked for clarification of the phase lines. Mr. George affirmed that the phase lines would be for Phase One, Section A, B, and C. Mr. Thomas commented that Section A, B, and C are all shown within Phase One. Section A and B will be developed at the same time but Section A may be recorded before Section B.

**Motion** was made by Mr. Eure, second by Mr. McCullough, and unanimous vote of the board to recommend approval of the revised subdivision general plan for Hardee Farms Phase One, a proposed 121-lot residential planned unit development (PUD) subdivision, conditioned on the rezoning of the area containing 13 additional lots from A-5 to R-8, and conditioned that the phase lines for Phase One are clearly indicated on the subdivision plan.

There being no further business, the meeting was adjourned.

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Tim Tabak, Chairman

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Bernard George, AICP, Secretary