



Richland County Council
Special Called Meeting
December 1, 2020 – 5:00PM
Zoom Meeting

COUNCIL MEMBERS PRESENT: Paul Livingston, Chair, Bill Malinowski, Joyce Dickerson, Allison Terracio, Joe, Walker, Jim Manning, Dalhi Myers, and Chakisse Newton

OTHERS PRESENT: Michelle Onley, Leonardo Brown, Angela Weathersby, Ashiya Myers, Ashley Powell, Brad Farrar, Clayton Viognier, Pam Davis, Stacey Hamm, Dwight Hanna, John Thompson, Kyle Holsclaw, Jennifer Wladischkin, Michael Maloney, Jeff Ruble, James Hayes, Larry Smith, Dale Welch, Brian Crooks, Geo Price, Michael Niermeier, Ronaldo Myers, Tommy DeLage, Tariq Hussain, Tamar Black and Judy Carter

1. **CALL TO ORDER** – Mr. Paul Livingston called the meeting to order at approximately : 5:00PM
2. **ADOPTION OF THE AGENDA** – Ms. Myers moved, seconded by Mr. Malinowski, to adopt the agenda as published.

In Favor: Malinowski, Dickerson, Terracio, Newton

Not Present: McBride, Walker, Kennedy

Opposed: Manning, Myers

The vote was in favor.

3. **ITEMS FOR ACTION:**

20-035 MA, Tiffany Harrison, M-1 TO HI (202 Acres), Longwood Road, TMS# R16100-02-20, 04, 02(P) & 19(P) [SECOND READING]

Mr. Livingston moved, seconded by Ms. Terracio, to approve this item.

Ms. Myers inquired if there was any updated information on this item. There was discussion as to whether we had worked with the County Attorney for other alternatives to re-zoning the whole of this 200 acres to industrial property in the middle of residential property.

Mr. Livingston responded t to his knowledge there was a meeting, which may have included the attorneys, Mr. Ruble and Mr. Price.

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Mr. Ruble responded there was a conference call with Mr. Smith, Mr. Ray Jones and Mr. Price to discuss different alternatives.

Mr. Price noted, in terms of this property, it was previously discussed whether there was an alternative to allow HI or to make a text amendment, which would allow the use in the current M-1 zoning designation. That is something that can be done, but he does not know if it would be done prior to a re-zoning of the property. A text amendment is something available to Council, at their discretion.

Ms. Myers inquired, in regard to the text amendment, can you lay out the process to get the text amendment, and distinguish that from the process of getting a re-zoning.

Mr. Price responded, if Council wants to initiate a text amendment, we can proceed with taking it for First Reading by December 15th. Then, Second Reading would occur at the February 23, 2021 Zoning Public Hearing, with Third Reading slated for March 2, 2021.

Ms. Myers stated, in the alternative, we could have done the text amendment in the same way we have done this re-zoning. To the extent that these questions came up a month ago, we could have done the same thing a month ago rather than re-zoning all of us in the middle of this residential property.

Mr. Price responded that was an option available to Council.

Ms. Myers stated, for clarification, and available to the staff who moved to have this property rezoned.

Mr. Price responded the planning staff did not feel the need to initiate a text amendment since it is in compliance with the comprehensive plan, and because of the previous re-zoning that took place in the area.

Mr. Livingston inquired as to when it was realized that M-1 was not sufficient for this particular project. It was his understanding it was not known at the onset.

Mr. Ruble responded he believes it was at the end of October or early November. We have been on a pretty tight timeline. Our understanding was that the text amendment required 30 day public hearing, not the normal 15 days, and that was one of the reasons they were advised to go with a re-zoning instead.

Mr. Price responded when they initially looked at it, they thought it would require 30 days. In reviewing the language, it was determined it would not require the 30 days, and 15 days would be acceptable.

Ms. Myers stated, to the extent that we are having a special called meeting for second reading of this item tonight, we very well could have done the same thing for a text amendment. She noted, with some displeasure, when the first HI zoning was changed in this area, we specifically said at that time that we were making a narrow exception for Miwon, and we were not going to use that narrow exception to convert the whole of that part to HI. This has followed the same pattern. Once we exceed to the request of staff on a narrow question, it then broadens itself out. This is literally the whole of the park that will be HI. She finds it completely objectionable, given what staff promised, when she moved to get the HI zoning done for the Miwon plant, and now the staff is using that to say there is already HI there, so we might as well convert at all. When we specifically discussed that, and said we would not do that.

Ms. Newton stated from her understanding, this company does not want the space to industrial, and they have committed when there is a lesser zoning available they would voluntarily move to that zoning. She inquired if that has been officially memorialized in a binding agreement.

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Mr. Jones responded the language is in the contract, and it is very well set out that they will move back down to M-1, when M-1 is consistent with the use they have.

Ms. Newton stated, her understanding is, if you do a text amendment that changes the zoning classification for every single business across Richland County that currently has that zoning and could potentially open up some things in some areas that we do not want to have. Alternatively, an additional option we have is the creation of a more appropriate zoning district that could be implemented with the Land Development Code this coming year.

Mr. Price responded in the affirmative. Unlike the re-zoning of a parcel, the text amendment would apply to any zoning throughout the County that has that particular zoning and would allow those uses. With the Land Development Rewrite, we are looking at trying to incorporate more uses within the Light Industrial zoning designation, which we feel are more appropriate in the Light Industrial, as opposed to being in the Heavy Industrial, to avoid cases like this.

Ms. Newton stated she understands the new zoning code will be approved by Council, but given the concerns of the residents in this area, and the concerns of the business about this re-zoning, is there anything additional and/or different we need to do to ensure that review, and that classification comes to pass.

Mr. Price responded, as far as the Code Rewrite that is taking place, no. One of the thing they have done as a staff is to work with Mr. Ruble and the Economic Development Department to look at the uses they have envisioned for a number of the industrial parcels the County has and to ensure those uses are included either in the Light Industrial designation or within a new zoning designation.

Ms. Newton responded she was just confirming there was a process by which we can amend the code in a more specific way that is happening next year. Based on the conversation with Mr. Jones, at this point, we have a binding agreement with the company that they will move back down to the lower classification.

Ms. Myers stated, with all due respect, this is her third rodeo with having been promised we would not do something to citizens she represents that we have now in fact done. She appreciates the fact the new code will be adopted in the coming year, although we were meant to adopt it this year. This does not provide an answer to residents who live in an area that has now been rezoned, in large part. She believes the next time this comes before Council, we will not be saying we cannot use that to take the Jushi Plant to HI, because there was an agreement we would not do that. It is not the desired use for this parcel. She believes what will happen is there will be a statement, "Well it is consistent with the current use and other parcels have been rezoned." Something more resilient than a gentleman's agreement with the company needs to be done to provide reassurance to the residents that we will rezone this back down to a substantially lesser zoning as soon as reasonably practical, not when the zoning code comes out. She noted the company did not request this re-zoning; it was Richland County led. What we are trying to do is spur economic development. We can allow this company to do what it needs to do, and back this zoning down, once we have more time. She would like to see something more robust than saying the company must come back and ask for it. The County should take on itself to do something. She inquired about what the options are for them to take responsibility for correcting the zoning at a later date, rather than having company come back.

Mr. Price responded, aside from the agreement you have with your company, Richland County through either the Council, the County Administrator, the Planning Commission or the Planning Director can initiate the rezoning of any parcel within Richland County. The ability for us to take a proactive action of rezoning property would still be available.

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Ms. Myers inquired, if we can include that Richland County will, at some date certain in the future, come back to rezone this property back down, rather than leaving it to the company's pleasure.

Mr. Livingston stated that was something he was inquiring about including that, and to also make it as soon as practically possible. He requested to amend his motion to include rezoning of the property as soon as practically possible.

Ms. Terracio accepted the amendment.

In Favor: Malinowski, Livingston, Terracio, Walker, Manning, Newton

Opposed: Myers

Abstain: Dickerson

Not Present: McBride, Kennedy

The vote was in favor.

4. **Recommended Stipulations for Soojin, Inc. d/b/a My Place** – Mr. Brown stated, to the extent that he can speak to an action Council requested to be taken. He believes you have in your packet the culmination of information that was shared by Council, as well as the Sheriff's Department, to address the concern about a public nuisance facility, known as My Place. Council agreed to draft probationary conditions to address the concerns related to My Place. In the document you have in your packet, it represents some information for Council to consider to either amend in some way, if necessary. He believes it captures what Council wanted to be included. He noted, since the last Council meeting, there were two specific additions to the language provided in the memo from Councilwoman McBride and the Sheriff's Department. That particular language is, the first line under the probationary conditions where it talks about visible signage noting patron parking for My Place will be installed at the owner's expense. There was concern by members of Council that it would be inappropriate to hold the business responsible for people parking at other facilities, which was beyond their control. This was input to help the business communicate where parking would be appropriate. Also, there was a question about what would happen if there was a concern between the Sheriff's Department finding a violation to have occurred, and the business disagreeing with the violation. You will notice in the document there is language that gives an appeals process through the Business Service Center Appeals Board, which would address if there was a finding in dispute between the business and the Sheriff's Office. With those two changes, everything else pretty much aligns with what was presented to Council.

Mr. Livingston stated we have not filled in the date of the agreement. He inquired about the time we said the probationary period will start.

Mr. Brown responded there was a request made by Councilwoman McBride for the probationary period to begin January 3, 2021, and shall extend for a period of six months.

Mr. Malinowski inquired as to when the agreement was sent out so he can follow along.

Mr. Livingston responded he believes it was November 30th.

Mr. Brown stated the amended version, with the two additions was sent yesterday, but the original document was sent at the last meeting.

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Ms. Newton thanked staff for the work they have done on incorporating the modifications, based on questions we raised. She stated there is a place in the amendment that specifies the business hours the business is allowed to be open. Her understanding is those hours are based on current COVID regulations, so she did not know if the language needed to be tweaked, if the legal hours for that type of establishment changed to allow them to be open, so this would not have to come back before us, if State law changes regulations on that.

Mr. Brown responded, as these stipulations were a part of the original document, he would ask Major Polis if that time was consistent with COVID regulations. If not we could amend the agreement to address it.

Major Polis stated they believe most of the issues that stem from this location occur after 11:30 PM, and by closing at 11:30 PM it should help keep the incidents of violence to a minimum. Their recommendation is they close at 11:00 PM, and the parking lot is cleared no later than 11:30 PM, regardless of the COVID stipulations.

Ms. Newton inquired as to the hours an establishment of this type is allowed to be open.

Major Polis responded they cannot open before 10:00 AM, and they have to close by 2:00 AM.

Ms. Newton inquired, if the restrictions are lifted an establishment of this type would be able to be open until 2:00 AM, but during the probationary period the stipulation is they have to be closed by 11:30 PM.

Major Polis responded closed by 11:00 PM, and the parking lot cleared by 11:30 PM.

Ms. Newton stated, obviously, we are proposing this. Are these also discussions we have had with the business?

Mr. Livingston responded this was for Council to come up with something to present to them. They will respond to what we present to them.

Mr. Malinowski stated in the agreement it says they will allow law enforcement to enter at any time. He thought you could enter any business, at any time, anyway to check something out.

Major Polis responded it is in there because deputies who responded to calls were met with resistance by management, and the people at the door. We felt it was very important to include this as a stipulation, so there was no misunderstanding about what authority the Sheriff's Department had.

Mr. Malinowski stated, at the bottom, it states any violation of the probationary conditions may result in immediate closure by the Sheriff and revocation of the business license. He thought previously we had that a business would be closed by the Sheriff, in conjunction with the Administrator. Is there any reason this has been changed to make it only the Sheriff?

Major Polis responded they believe, if they get to the point where they have to close this business, it is going to be for a safety and security issue, so we wanted to make it as quick and efficient as possible.

Mr. Malinowski noted, where it says, if a violation occurs, they may make an appeal to the Business Service Appeals Board and the board will hear the appeal and make a determination as to whether or not to uphold the closing. It seems to him we need to stipulate a specific timeframe because they could be closed, and if there is no timeframe it could take the appeals board two months before they agree to set a hearing. Here we have a business that is closed, and we do not know if it closed justifiably or not. If they have a reason,

they need to be heard. Therefore, he would like to see a timeframe put in there so the Business Service Center Appeals Board would hear this within five business days of the closure.

Mr. Brown responded one of the reasons the information was put this way is if Council wanted to put a timeframe on it, they would have the opportunity. He requested Ms. Davis to clarify whether there is any time stipulation already in place before we accept the five days for consideration.

Ms. Davis responded the current business license ordinance allows a business license appeal hearing to be held by the board within 30 days, or as reasonably possible. Keep in mind, for that period of time, a recommendation for intent to revoke would have been written, but that does not indicate the business has been physically closed.

Mr. Brown noted Mr. Malinowski would like something with 5 days, and it sounds like Ms. Davis said within 30 days.

Mr. Malinowski stated they could wait 30 days, or could even go beyond the 30 days, if it is not reasonably possible. He believes we should have a definitive time in there, because we are closing a business, and we need to give that business the opportunity to put the facts out there.

Ms. Myers inquired if that was a motion.

Mr. Malinowski moved, seconded by Ms. Myers, to approve the requirements for this business, and that the appeals board must hear the case within five business days of the closing.

Ms. Myers inquired if we are delegating responsibility and authority to close the business to the staff, and removing the responsibility from Council.

Mr. Livingston responded he believes that is what we are saying during the probationary period.

Ms. Myers stated, since we are delegating this responsibility and Council may have no involvement in it, it important to have the Administrator involved. She offered a friendly amendment that we revert to the Sheriff's Office closing, in consultation with the County Administrator.

Mr. Malinowski accepted the friendly amendment.

Ms. Terracio inquired if the Sheriff's Department plans to physically be on the premises at 11:00 PM to ensure the business is closing on time, and subsequently at 11:30 PM to ensure the parking lot is clear.

Major Polis responded in the affirmative. The Sheriff's Department will ensure they are abiding by any stipulations Council passes.

In Favor: Malinowski, Livingston, Terracio, Walker, Manning, Myers, Newton

Abstain: Dickerson

Not Present: McBride, Kennedy

The vote was in favor.

Mr. Walker moved, seconded by Mr. Malinowski, for reconsideration.

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In Favor: Myers

Opposed: Malinowski, Livingston, Walker, Manning, Newton

Not Present: McBride, Kennedy

The motion for reconsideration fails.

5. **ADJOURNMENT** – Mr. Malinowski moved, seconded by Mr. Walker, to adjourn the meeting.

The meeting adjourned at approximately 5:43 PM