



**TOWN OF HARRISBURG, NORTH CAROLINA
HARRISBURG TOWN HALL
BOARD OF ADJUTMENT MEETING**

**October 15, 2019
6:00 PM**

AGENDA

1. CALL TO ORDER

A. AGENDA ADOPTION

2. CONSENT AGENDA

A. Consider the meeting minutes of September 17, 2019 Board of Adjustment meeting.

3. PUBLIC HEARINGS

4. ADJOURNMENT

Town of Harrisburg's Vision Statement

Harrisburg will be the best small town in North Carolina based on low density housing, excellent economic opportunities, a safe living environment, and efficient and effective municipal services. Amenities such as excellent recreational programs, adequate open space, attractive shopping opportunities, a diversity of restaurants, and a connected system of roadways, sidewalks, greenways, and bicycle lanes will continue to enhance the quality of life of the Town. These services and amenities will be provided while retaining reasonable tax rates and debt levels.



TOWN OF HARRISBURG

Agenda Item Details

Title:

Consider the meeting minutes of September 17, 2019 Board of Adjustment meeting.

Presenting Personnel:

Suggested Motion or Action:

Motion to approve the meeting minutes of August 20, 2019 Planning and Zoning Board meeting

Description/Background:

Recommendation:

Fiscal Impact:

Attachments:

1. BOA SEP 17, 2019

**TOWN OF HARRISBURG, NORTH CAROLINA
HARRISBURG TOWN HALL
BOARD OF ADJUSTMENT MEETING
TUESDAY, SEPTEMBER 17, 2019
6:00 PM**

MINUTES

1.

CALL TO ORDER

Lloyd Quay called the meeting to order.

PRESENT: Lloyd Quay, Thelma Thorne-Chapman, John Overcash, Andy Rathke, Rodney Garner, Jacob Carpenter, Kevin Schaffner

A.

AGENDA ADOPTION

Andy Rathke made a motion to adopt the agenda as presented. Second was made by John Overcash. **The motion passed 5-0.**

2.

CONSENT AGENDA

3.

PUBLIC HEARINGS

H2019-01-(CUP) - Conditional Use Permit request for Starbucks with a drive through facility. James Walters, on behalf of Woodfield Holdings, LLC has submitted an application for a Conditional Use Permit (CUP) for a restaurant with a drive through facility (PIN# 55076643400000). The property is currently zoned C-1, Light Commercial District. Table 4.6-1 of the Unified Development Ordinance (UDO) lists this use as an allowed use for C-1, subject to conditional use review criteria in Article 3 of the Unified Development Ordinance. All those speaking concerning this case were sworn in. Sushil Nepal, Planning Director, presented the background information.

Sushil Nepal

The agenda in front of you is for a Conditional Use Permit with a drive through facility. The applicant has requested conditional use permit. With the code, it has to be approved by the board since it is not allowed in this zoning. The property is located at the corner of Hwy 49 and Patricia. The total area of the property we are looking at is .938 acres. The only reason we are having this discussion is because of the drive through that will be a part of the restaurant. I wanted to show this table that is taken from our Zoning Code, the restaurant service has a letter C which means a Conditional Use Permit is needed. In your packet we did attach the site plan that was provided from the applicant for your review. At this point, staff has done a high level review including some of the access points coming in and out of the site, site layout, but a

detailed site review will be done from the decision of the board today. The Board of Adjustment will make a decision on the conditional use and depending on that decision the next step will be determined. These are some of the renderings for your review provided by the applicant, again we have not gone through the commercial design review so there will more than likely be a lot of changes to comply with our UDO because we do have some pretty high standards for commercial design. This will not be the final design. Some requirements of the applicant, applicant paid the fee for the conditional use permit as required by our UDO, preliminary site plan was attached in the packet, in terms of time line, if the Board of Adjustment chooses to approve the Conditional Use Permit they have 12 months from today to do a final plat plan for review and approval. If a TIA is needed, that will come in later. Public notices were published, the property owners next to the property were notified by US Mail and the sign was posted on the property about this project. We included in your packet the 6 conditions that are needed to be met, this is not staffs response this is the applicant's response for your review. Staff did look at these and it is up to the Board to make the final recommendation on the conditions listed, staff cannot make a recommendation on Conditional Use Permits. I will not read through them all but I will post them if you would like to look at them. The first one talks about the character and how it fits in the neighborhood, the second one talks about the traffic measures, third is if there is any noise or offensive vibrations coming out of the project, fourth is for if it complies with the zoning district by the permitted uses, fifth is the establishment is detrimental to public health, and six does it comply with any other section of the Ordinance. Staff recommends opening public hearing on this matter and request to consider the application for the Conditional Use Permit. Thank you.

Lloyd Quay

Thank you, would the applicant like to speak at this time?

Jim Walters

I am the engineer for the project, I did all the planning for the layout based on the Harrisburg UDO to comply with all the requirements.

Lloyd Quay

Are there any questions from the board for Mr. Walters?

John Overcash

I have a question regarding the driveway. Looks like it is shared with the bank, can you give us any information on that.

Jim Walters

We are actually removing the banks two driveways at the intersection on Patricia and 49 they will be closed off completely. Their driveway access will be further South on Patricia to get away from the intersection and we just have a right in right out, we have been working with DOT to provide a median to block any can of left turns.

John Overcash

Sushil, is it too early to be talking about this subject?

Sushil Nepal

Correct, so after the decision is done today we will get into those discussions. The only reason we are in front of the Board Of Adjustment right now is because of the drive way.

Lloyd Quay

Ok, are there any other questions? Thank you, sir. Now if anyone would like to speak against or for this Conditional Use Permit please do so now.

Jeff Watson

I am the applicant for the property, the owner of the property. We have a drive way component here in front of you guys for approval. We will be moving forward to the TIA after this but right now we have shared access on Patricia with the bank. We are in conversations with DOT for improvements for 49. We have roughly a 2500 sq ft building proposed with a drive through on the property.

Lloyd Quay

So what is existing now the shared access will not be how it is once approved?

Jeff Watson

That is correct, as you may know there are two access points and in order to eliminated any kind of traffic movements that close to the intersection we would want to move it further South more lined up with the Bojangles access.

Lloyd Quay

Are there any more questions for Mr. Watson?

Andy Rathke

I have a question for Sushil, the Access Agreement, I did not see that listed in the packet.

Sushil Nepal

That was done when we recorded the plat, before this was submitted the plat was subdivided and it was recorded.

Jeff Watson

The shared access is along with the shared utilities, maintenance, so there is in interconnectivity.

Lloyd Quay

Any other questions? Ok I would like to close the open session and go to the board. We need a motion to either grant or deny the Conditional Use Permit.

MOTION:

Rodney Garner made a motion to approve H2019-01-(CUP) Conditional Use Permit request with a second from Thelma Thorne-Chapman.

VOTE:

Passed 4-1 with John Overcash voting against.

Lloyd Quay

Rich will we be needing a Findings of Fact?

Rich Koch

Yes I will provide those and that Granting Order for the Board.

Lloyd Quay

Is there any other business before the board? Being none I make a motion to Adjourn.

4.

ADJOURNMENT

There being no further business, Lloyd Quay made a motion to adjourn with a second from Andy Rathke. **The motion passed 5-0.**

Findings of Facts as prepared by Attorney Rich Koch are as follows:

FINDINGS OF FACT

1. The use as proposed is not detrimental to the public health, safety or general welfare.

a) See Applicant's response to this requirement, which is incorporated by reference as a Finding of Fact.

b) The proposed use as a restaurant with a drive-thru facility will not adversely affect the public health, safety and general welfare in that it is being located in a part of Town with many like uses.

2. The use as proposed is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, etc.

a) See Applicant's response to this requirement, which is incorporated by reference as a Finding of Fact.

b) All such facilities, which are specifically required for this additional use, are located nearby.

3. The use as proposed will not violate neighborhood character nor adversely affect surrounding land uses.

a) See Applicant's response to this requirement, which is incorporated by reference as a Finding of Fact.

b) The proposed use as a restaurant with a drive-thru facility will not adversely affect the neighborhood character or surrounding land values in that it is being located in a part of Town with many like uses.

4. The use as proposed will comply with the general plans for the physical development of the Town as embodied in the Ordinance or in the area development plans that have been adopted.

a) See Applicant's response to this requirement, which is incorporated by reference as a Finding of Fact.

b) The proposed use complies with the general plans for the physical development of the Town and is in the place where the Town wants these types of uses to be located.

Based on the foregoing Findings of Fact, the Board makes the following

CONCLUSIONS OF LAW

1. The Board makes and adopts the Findings of Fact contained in the attached Exhibit 1 labeled Findings of Fact.
2. It is the Board's CONCLUSION that the proposed use does satisfy the first General Standard listed in Section 3.5.3 of the Town of Harrisburg Unified Development Ordinance ("Ordinance"); namely, that the use will promote the public health, safety and general welfare, if located where proposed and developed and operated according to the plan as submitted.
3. It is the Board's CONCLUSION that the proposed use does satisfy the second General Standard listed in the Ordinance; namely, that the use will maintain or enhance the value of contiguous property.
4. It is the Board's CONCLUSION that the proposed use does satisfy the third General Standard listed in the Ordinance; namely, the use does not adversely affect the adequacy of sewage disposal facilities, solid waste and water, police, fire and rescue, equal protection, schools, transportation systems (in and around the site) and other public facilities.
5. It is the Board's CONCLUSION that the proposed use does satisfy the fourth General Standard listed in the Ordinance; namely, the use is in compliance with the general plans for the physical development of the Town as embodied in the Ordinance or in the Comprehensive Plan, or portion thereof, adopted by the Town Council.

6. It is the Board's CONCLUSION that the proposed use does satisfy the specific standards listed in the Ordinance for this use.

Lloyd Quay, Chairman

Carly Bedgood, Secretary