

MINUTES

LOUDON BOARD OF ZONING APPEALS

JULY 11, 2007

The July meeting of the Loudon Board of Zoning Appeals was called to order at 12:30 PM. Present were Mr. Carey, Mr. Brennan, Mr. McEachern, Mr. Melton, Mr. Greenway, Mr. Gammons, Mr. Brewster and Ms. Millsaps. Absent was Mr. Garner.

Motion to approve the minutes of the June 6, 2007 meeting was made by Mr. McEachern, seconded by Mr. Gammons and approved 8-0.

Agenda Item A: Appeal of staff interpretation of permitted uses in C-4, Interchange Commercial District for location of Pilot Travel Center/Truckstop. Applicant: Pilot Travel Centers, LLC [07-05-114-RGZ-LO]

Mr. Carey read from staff's memo regarding this item (attached). "Pilot Oil Corporation has presented a concept plan to our office for the construction of a Pilot Travel Center on approximately 8 acres of property located in the southwest quadrant of the I-75/Highway 72 Interchange and includes parcels 99, 100, 101 and 102 of Loudon County tax Map 40. The property has frontage on Highway 72 and Commercial Park Blvd. Pilot's Travel Center business model is a truck stop. The Pilot Company also develops a convenience store business model, which is a permitted use in the C-4 district, but that is not the use being proposed. The concept plan submitted by Pilot will provide 68 tractor trailer parking spaces, bath facilities for truckers, a restaurant, fuel sales, truck scales, convenience store sales, and car parking for 92 vehicles. Pilot's estimate of daily traffic volume generated by this land use is 300-350 trucks and 40-450 cars. While Pilot Travel Centers vary in size, by comparison, the Lovell Road Pilot Travel Center has 60 tractor trailer parking spaces, but by Pilot's estimates generates significantly more truck traffic than projected for this site. Photos are attached of the travel center. In December 2004 the City of Loudon Planning Commission reviewed and recommended to City Council an amendment to the C-2 and C-4 zoning districts that removed a permitted use called "motor vehicle transportation." The discussion, as indicated in the minutes from the meeting, specifically addressed "truck stop" related businesses and the adverse impacts these uses would have on the interchange. The City Council adopted the amendment deleting "motor vehicle transportation" from the list of permitted uses in the commercial zoning districts of the City of Loudon Zoning Ordinance February, 2005. The BZA has the authority and is responsible for interpreting the City's zoning ordinance and under that authority may grant variances or approve special exceptions from the requirements of the ordinance. To grant a variance the BZA should find that the requirements of the ordinance created an undue hardship due to the use of a parcel of property generally related to shape, topography, or size. A special exception for a proposed use should only be granted where it can be determined that a proposed use is essentially the same as a use already listed as a permitted use

in that zoning district.” He then told the audience members that City Council, the Planning Commission, and the Board of Zoning appeals are responsible to the city and to all the residents of Loudon. They answer to all the residents of the city. He realizes this is an emotional issue, as everyone’s homes were important to them, and the tax rate is important to them. He further stated that facts should be balanced to facts, and emotions should be kept out of the issue.

Mr. Brad Butcher, Pilot’s senior real estate manager, stated that everyone is excited about industrial and residential development in Loudon County. He stated that Pilot is well-respected and involved in the community, supporting local charities in communities. He handed out to board members a folder containing information about what was planned at this location, noting that if the retail sales were broken down, this center would be allowed in the C-4 zone. He stated a travel center can be a truckstop, a convenience store, or a tourist destination. If different customers at one of their stores were asked what their store was, there would be a variety of opinions. All of their locations take on the geographic area they are in. Compared to a Petro or a TA, theirs is not a dedicated truck stop. They are in discussions with Denny’s for this location for a restaurant; originally they had been in discussions with Subway. Two-thirds of their traffic is car related if there is a fast-food restaurant on the premises. There will be 68-70 parking spaces for truck parking but no full service such as a truck wash. They want the fleet purchasers in and out, not there overnight. They will have a game room, and that is a permitted use in the C-4 district also. Pilot is excited about the car traffic and the local business.

Mr. Carey expressed concern over the truck traffic and the air pollution versus the new jobs and taxes that would be created, and city council would be looking at the income. Property owners around the area would be greatly affected.

Ms. Joy Littleton asked about the number of vehicles that would be anticipated.

Mr. Butcher said 300-350 cars per day and 500-550 truck per day. Lovell Road has an average of 600 trucks per day and 700-800 cars per day because of two interstates and local traffic.

Ms. Littleton questioned who would pay for the improvements to the infrastructure in the area and there was no response.

Mr. Kevin Hannekin asked how the proposed Orange Route bypass would affect the vehicle traffic and wouldn’t it add to the numbers if Knoxville and Lovell Road were being bypassed.

Mr. Butcher said they had not considered those numbers; they were looking at Hwy 72, I-75 and the industrial traffic in the area, and then adding in local residential traffic.

Mr. Gammons asked if the addition of another station would help the fuel prices at the intersection.

Mr. Butcher said it would make the pricing more competitive.

Ms. Debbie Hannekin stated that Pilot may be a reputable company with fast food and gas, but those items were already available at that intersection, and those parking lots are never filled. She asked how this proposed truck stop would benefit the area other than just benefit truck drivers. She expressed concern about drivers that already drive 14 hours a day, the drugs they use to stay awake, and the elements a truck stop would bring with it.

Mr. Butcher cited comparisons of this facility and a normal truck stop. They expect a customer count of 2500 – 2800 people a day. They will employ 50-75 people with a payroll of about one million dollars plus sales tax revenue.

Ms. Hannekin said that Pilot may be bringing in more money, but the community would lose because of the trucks. She asked how the community would be protected.

Mr. Brewster questioned her information regarding drug use by truckers.

Ms. Hannekin read from an article she had researched noting a shortage of quality truckers and related a discussion she had had with a truck driver in a doctor's waiting room regarding the use of drugs to stay awake and his fear of other drivers that used harder drugs than he did.

Mr. Butcher said that 70% of their truck business is fleet business, versus businesses such as the Flying J, TA and Petro, where 30% of their business is fleet versus 70% being independent operators.

Ms. Hannekin is concerned about no one holding the drivers accountable and also cited hours driven not being enforced in the article she was quoting from.

Mr. Carey noted that safety enforcement is not up to this body, and there are also safe trucks.

Ms. Judy McGill-Keller stated she had been involved in the downtown area for 30 years, and aside from her personal considerations of traffic at the interstate exit, she had concerns about Loudon's downtown area. She stated that Pilot had not been a good citizen when they were located on Grove Street – they had never offered to improve their property, there had been no response to requests for improvements, they had made no contributions to the downtown improvements and not even given a response when they were asked to help with the Lyric Theatre. They had not shown themselves to be good corporate citizens to Loudon. She cited the Tennessee National development, and the work that had been involved in drawing them to Loudon, noting that those residents will not fight trucks to come into downtown Loudon to spend their money. The residents of Tellico Village already go to Lenoir City for their purchases, and she feels that Tennessee National would naturally use the 72 corridor and the sales tax revenue would come to Loudon. She does not see enough of an advantage to having the truck stop to compensate for what would be lost. She supports industry, and that has afforded Loudon residents the luxury of a wonderful town people now want to come to. She also cited Centre 75, which the City and County have together spent 5 million dollars on, 40% of which came from the City of Loudon. This proposed usage will not help the development of Centre 75 due to the increased volume of traffic. Quality of life and the continued development of the downtown area are what is important to Loudon. The utility rates and property taxes continue to be lower due to the industry that is already in the area. She is not anti-development, but at this point she feels Loudon is more able to pick and choose what they do or do not want in their community. Families are raised here, she has raised her daughter here, Loudon is a great place, and that needs to be maintained and kept as a priority. Tax dollars to the city and county are not enough of a benefit to forego the quality of life, the investment in Centre 75, and the monies in the downtown area that are going to be redirected into the courthouse revitalization grant will continue to help the downtown area grow. She does not want to see the city give up on the good things happening to the town at this point.

Mr. Brewster asked about the effect on the Hwy 72 corridor. Do stores such as Lowe's not look at traffic counts instead of just rooftops?

Ms. Keller said not when the traffic count is truck drivers and transient travelers. That will provide sales tax at that location only and they won't drive any further on Hwy 72 for any other services. It won't create activity on Hwy 72 or in the downtown area. It won't provide for quality of life, it will just deter it.

Mr. Butcher said he was not aware of the experience with the former Pilot station in Loudon. He cited Lovell Road as being a rural exit 10 years ago and now has built up. Pilot has lots of loyal automobile customers and he is confident their truck stop would not be a detriment.

Mr. Brennan referenced the minutes from the December 2004 meeting where the Planning Commission discussed the intersection, and the commission felt as a body that they did not want a truck stop at that interchange. If nothing has changed, he wanted to know why Mr. Butcher was here.

Mr. Newman said that it is a process. In his discussion with Pilot, he explained the Zoning Ordinance amendment removing the "motor vehicle transportation" use from the C-2 and C-4 zoning district. The BZA is responsible for interpreting the Zoning Ordinance. A truck stop/travel center is not a permitted use in the C-4 district. If the pilot request is allowed, the Flying J, TA, Petro and others could not legally be denied if they followed the same process.

Mr. Brennan stated that even if Pilot were a good addition, what would happen on the next corner, if someone wanted a truckstop that did not cater to the same clientele. He had talked with 7 truck drivers where he works and 5 of the 7 stated they encounter drugs at truck stops and 4 of the 7 said they encounter prostitutes. He has an issue with this request in this community.

Mr. Newman said if the Board allowed a truckstop at this location, it would be challenged if the same use was denied at another location in the C-4 district.

Mr. Butcher said that a truck stop and a travel center have two different meanings. A travel center does not have truck stop amenities.

Mr. Brennan stated that what Mr. Butcher was asking is that our community take that fine line and assume that we can win that legal battle in court, to keep the Flying J and non-desirable truck stops out.

Mr. McEachern asked what it was about this parcel that gives it a reason to be granted a special exception over the C-4 section of the Zoning Ordinance. He stated he did not feel this was even an item that should be up for discussion and made the motion to deny the request.

Mr. Mike Cartwright, City Council member, stated that in 2005 the council voted to change the Ordinance to exclude motor vehicle transportation, specific to truck stops. 95% of the problem with this request is the trucking aspect of it. Parking for 75-100 trucks with scales and a bath house is a truckstop and he personally would not go there after dark. There would not be an Idle-Aire system, so supposedly there would not be overnight parking, but it would not be policed to be certain. "Druggies at the intersection" is an unfair stereotype to a whole segment of the population, but the BZA and city council specifically talked about the exclusion of truckstops, and that they were not wanted was the interpretation. If the center was scaled back, there may or may not be a problem. Everyone should have an opportunity

to have their business, but they should also be responsible citizens. He has a responsibility to the citizens to keep the community as they want it and would not support changing the ordinance to accommodate this request.

Mr. Butcher said they only planned 8 diesel lanes, where the truckstops at Watt Road had 12 lanes. They would only be parking 70 trucks where Watt Road facilities can park 150. He feels that according to the outline provided, by breaking down their services that they should be allowed to build this facility.

Mr. Tommy Nicholson stated he owns a business on Highway 72 where he has been located for 29 years. The road now is a nightmare with 4 lanes going down to 2 lanes, and around Purdy Brothers and McDonalds the traffic is already terrible. Two out of 5 trips he has made through the intersection today were close calls. Pilot has nice facilities, and he is not afraid of the competition because the more business the better for everyone, but he asked the Board to be careful about what is there because 350-400 trucks a day will not make things any better.

Mr. Butch Early stated he is already fearful of riding a motorcycle through that intersection. He thinks Loudon could be a magnet for better restaurants, but he has never seen a big rig parked at an Outback Steakhouse. He travels a lot and is on and off the interstate, but when he stops to eat he looks for a good restaurant, not a truck stop. Truckstops are not magnets for better business. If he goes to Lovell Road to IHOP he gets off the interstate early to avoid the Pilot facility there.

Ms. Ruthie Melsia stated she had been a resident for 36 years, and had left the area she lived in Illinois because of the truckstops moving into the outlying areas which brought the property values down. Loudon is a charming and beautiful town. She also cited 20/20, Dateline and 60 minutes on the facts Ms. Hannekin had quoted.

Mr. John Easter and Mr. Mike Crosby of the Loudon County Air Quality Task Force (LCAQTF) were present. Mr. Crosby stated that the LCAQTF had been made aware at their last meeting about this request, and he asked the Board to consider the air quality issues associated with the proposed truckstop. The LCAQTF is not taking an official position at this point as there has not been enough information provided. Loudon County is in non-compliance for both ozone and particulate matter, both of which are added to by idling trucks. Each truck idling at the truckstop could add up to 5 tons of both ozone and particulate matter per year. It is unknown at this time how many trucks will idle for how long, and he would like Pilot to answer the question of how much would be added to the ozone load and the particulate matter addition.

Mr. Brewster asked Pilot's position if this use is not allowed and asked if they would consider a center with no trucks.

Mr. Butcher said there were several factors and variables. Because of the varying owners, they will have to purchase more property, and because of the investment they will need to do more than a convenience store. He did not anticipate this opposition, but he understands the concerns. They are proposing the trucks enter from Corporate Park Drive, and cars from Hwy 72.

Mr. Brewster asked if City Council could override the BZA's decision.

Mr. Newman said that City Council could not override the decision, any appeal would go to Chancery Court. City Council could change the ordinance which would require planning commission review, two readings and a public hearing by City Council to approve the change..

Mr. McEachern noted that if the decision to eliminate truckstops as a permitted use was a unanimous vote then it should be a unanimous vote now.

Mr. Carey asked for staff recommendation. Mr. Newman stated that this body has the authority to grant a variance or a special exception use, and referred to the memo Mr. Carey read from at the beginning of the meeting. In this case, a special exception is being requested because the use is not a permitted use, and unless the Board reaches the conclusion that the requested use is similar to other permitted uses in the zoning district because some of the components are already permitted, the trucking aspect is in conflict with the ordinance based on the 2005 amendments. He recommended that this board did not have the authority to approve the request. If Pilot asks that the ordinance be amended, it would take action by City Council to do so.

Mr. Melton stated that he is for new business, but feels the community should be selective. He sees no pros compared to the cons of this proposal. He seconded the motion.

Mr. Gammons stated that if Pilot would eliminate the truckstop aspect, they would be welcome to come back.

Mr. Cartwright stated that all anyone needed to do was fit into the planned usage.

Mr. Carey called for the vote and the Board voted unanimously, 8-0, against the request.

Mr. Brennan thanked everyone in the audience for being there.

With no additional comments from the Board or the audience, the meeting was adjourned at approximately 1:30 PM

Signed

Dated