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Berkeley Park Bulletin

November 2009

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Election News

It's election time again in Berkeley Park. While we await the upcoming city runoff elections on December 1, please be sure to attend the November 16 BPNA meeting to vote on the Board of Directors for 2010. Here are the nominated candidates.

President

Michael Wagoner (incumbent)

Treasurer

Nina Kleine-McCormack (incumbent)

Vice President

Chandler McCormack (incumbent)

At-Large Board Members (choose only 3)

Jim Martin

Secretary

Michael Hagearty (incumbent)

Joel Iverson

Melody Harclerode

No amendments to the by-laws were submitted prior to the deadline, so we will only be voting on the candidates. Please come out and vote on November 16 at 7 pm! You must be a dues-paying member of the BPNA to vote, but you will be able to join at the meeting if you have not yet done so for 2009.

In addition, we will be discussing the potential expenditure of \$1500 for signs to notify the neighborhood of important issues (i.e. freeze warnings, etc.). Details will be discussed at the meeting as well as a vote.

Community News

The following is an article that was published in the Underwood Hills newsletter by Eva Nason. The issue was brought up at the October NPU-D meeting, and this issue affects Berkeley Park residents directly, so I asked Eva for permission to reprint this article in order to try to understand the history of the issue. The city will be hearing this

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case on December 3, and neighborhood turnout would be a good way to give them our opinions about this issue. See the [article about the NPU-D meeting](#) for more information, - *Maureen Hetrick*

The Ethanol Off-loading Issue in Howell Rail Yard There has been reference lately to the issue of the off-loading of flammable/explosive ethanol in the Howell rail yard next to Chattahoochee Avenue. A brief report of what has occurred regarding this issue is that the Department of Code Compliance, directed by Mike Renshaw, issued a directive to CSXT/TRANSFLO, the company doing the off-loading, to apply for a Special Use Permit through the Atlanta Zoning Review Board (ZRB) to allow it to do so. CSXT/TRANSFLO appealed this directive to the Atlanta Board of Zoning Adjustment (BZA), which handles such appeals, and then engaged in legal maneuvering as regarded who had ultimate say in whether ethanol was a hazardous substance of the sort requiring a Special Use Permit. Director Mike Renshaw was told he did not have the legal basis for requiring a Special Use Permit and, therefore, withdrew his directive before the issue came before the BZA on September 9, 2009.

The issue of safety measures, which a Special Use Permit would have addressed, is now in the hands of the Fire Department. Captain Kenneth Thomas has said that safeguards of the sort in place at the airport in the vicinity of the fueling of planes would be a manner of safeguarding the ethanol off-loading operation; I was left with the impression that Captain Thomas was poised to pursue that course on behalf of the Fire Department. His email address is kennetht@AtlantaGa.Gov and his phone number is 404 557-5055 if anyone is concerned to encourage Captain Thomas to put in place as stringent measures as possible to safeguard the communities surrounding the Howell rail yard as well as Atlanta's water reservoir nearby.

One final note: at least one resident very close to the ethanol off-loading facility wishes to pursue further means to obtain better safeguards than those which the Fire Department can provide, safeguards such as a very high wall separating the facility from its surroundings as was constructed in the Cabbagetown area. If anyone wishes to join this effort, please contact hleonent@bellsouth.net.

by Eva Nason, Zoning/Land Use

NPU-D Report

by Jim Martin

james.martin@me.gatech.edu

I was not able to attend the October 27 th NPU-D meeting because I was out of town for work. In my absence, Karyn Hudson chaired the meeting. By all reports, things went much more quickly and efficiently than they have at the meetings that I run. Karyn clearly has an aptitude for this job. The meeting ended at 8:35 well before things would usually wrap up.

On the agenda there was one zoning case, one liquor license, and an appeal of an administrative decision. The zoning case was a side yard setback reduction for a single-family residence in Riverside. This was approved. The liquor license was for Johnny's New York Style Pizza, which should be opening soon in the Selig development at the corner of Chattahoochee and Collier Rd (formerly called Hills Ave). This development has been completed for some time (over a year) and is apparently about to get its first tenant.

The appeal was filed by Harry Leon, who lives in the portion of Berkeley Park on the west side of Howell Mill Road. It involves CSX's practice of handling hazardous materials (primarily ethanol) in the Howell Rail Yard behind his house (and alarmingly close to the rest of Berkeley Park). This practice was forbidden by the city many years ago but was quietly restarted by CSX this year. At Harry's request, the city cited CSX for the violation (i.e. not having a hazardous-materials-handling permit and handling hazardous materials adjacent to a residential area) several

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months ago. CSX then appealed that citation. Their argument was essentially that the city has no right to regulate the railroads. The city subsequently rescinded the citation rather than defending their action. Harry is now appealing that rescission and asking the city to reinstate the original citation. NPU-D has previously resolved, first, to request that the city issue the citation and, second, to oppose CSX's appeal of the citation. At our November meeting we will discuss a resolution to support the current appeal, which would be consistent with our past positions.

There appears to be very little ambiguity over the underlying facts of this case. If it were not a railroad, then the city would prevent CSX from doing this. Harry's argument, based on the precedent of the city's previous decision, is that the truck-to-rail transfers occurring in the Howell Yard are not a part of the railroads' special privilege because they are an ancillary business activity that is not required for the actual rail transport of the materials. Thus, CSX is attempted to extend its privilege to undermine the city's legal authority. Similar arguments surround other issues involving railroads and zoning because the railroads can profit by using their extraordinary rights to circumvent local ordinances in a variety of ways. A similar example, which was in the news a few years ago, was the practice of leasing railroad land for the construction of cell phone towers that were otherwise forbidden by the city.

Harry's appeal will be heard by the Board of Zoning Adjustment (BZA) on December 3rd. A good neighborhood turnout at this meeting should help his cause, which is clearly in the best interest of the city and the neighborhood. In addition to the threat to our health that CSX's actions pose, they are also impeding the redevelopment of land surrounding this site. It is unlikely that any of this land would be used for purposes other than heavy industry if hazardous chemicals are handled next door. The city's plans for the area, which is part of the Beltline overlay, are that it will be "mixed use" residential.

**Next NPU-D meeting:
Tuesday, November 24, 2009
7:30 pm
Agape Center, 2351 Bolton Road, NW
ALL NPU RESIDENTS ARE WELCOME**

Announcements

Fire Station #23 Fundraiser

From Captain Keith---- We are starting to move toward our fundraising for Station #23. We have received the first order of t-shirts and we will begin selling them this week. The sign company at Northside and Bellemeade donated a sign for us. One of our members covered the cost of the shirts out of his own pocket, so I'd like to get enough sold quickly, so that we can pay him back. I would like to encourage folks to come in and buy a shirt? I am meeting with Bill Rhodes from the Atlanta Fire Foundation on Tuesday about starting a Foundation account for the renovation of #23. This will give us the ability to accept tax-deductible donations and avoid the interference and delays from City Hall. This will also help us as far as accounting of what we take in.

Calling for Park Pride Leader

With a name like Berkeley Park, we should have a neighborhood park! There is a growing interest to find a person to spearhead a park initiative for our neighborhood. There are a few ideas out on the table but we need someone who has the time to make phone calls to the city, create some publicity for a park, as well as encourage our neighborhood volunteers and gather input. If you have some free time to work on this initiative, please contact Mary Stuart or Melody at marystuart.iverson@harrynorman.com or mharclerode@TheArchitectureGroup.com

New Urgent Care Clinic Opens

Doctors Express Urgent Care will open this December at 1800 Howell Mill Road, at I-75 in the new Piedmont West medical building. This location will be extremely close and convenient for the residents of Berkeley Park the next

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time you have a need for immediate medical care. In coming months we will reach out to find out how we can best let the residents of Berkeley Park know that we are a new resource for your community.

Just some quick facts on our services:

- Open extended hours, no appointments needed, short wait times: M-F 8am – 8pm; Sat-Sun 10am-6pm
- Staffed by physicians, nurses and x-ray techs
- Our lead physician, Dr. John Destito, is a 15 year emergency medicine physician who also did his residency in internal medicine and pediatrics.
- One-stop medical care: X-ray, lab and most pharmaceutical prescriptions filled on site
- We handle illnesses; injuries including lacerations and sprains; allergies; sports physicals; travel vaccinations; and much more.

Check us out on Facebook!!

Follow Berkeley Park on Facebook by joining our group. Go to [Facebook.com](https://www.facebook.com/BerkeleyParkNeighborhoodAssociation) and search for Berkeley Park Neighborhood Association.

About Us

The Berkeley Park Bulletin is published monthly in print and at www.berkeleypark.org by the Berkeley Park Neighborhood Association, a non-profit organization. It is distributed to all Berkeley Park residents 3 times a year. To subscribe to the monthly edition, submit an article or Talk Back letter, or inquire about advertising, contact the editor, Maureen Hetrick, at 404-609-9873 or maureenfh@mindspring.com. We accept appropriate articles from all Berkeley Park residents or other interested community members at the discretion of the editor and as space permits.

Effective January 1, 2009, membership in the BPNA is \$20 per person (up to 3 adults per address are eligible to become members), and \$10 for seniors. To join the association, attend a monthly meeting and pay dues to the treasurer, [Nina-Daniela McCormack](mailto:Nina-Daniela.McCormack@berkeleypark.org), or the president, [Michael Wagoner](mailto:Michael.Wagoner@berkeleypark.org). If you cannot attend a meeting but wish to join, or for more information, email us at info@berkeleypark.org.

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