

**Minutes of the Waxhaw Planning Board
Town of Waxhaw, NC
January 20, 2015**

The Waxhaw Planning Board met in a special session Tuesday, January 20, 2015 at 6:30 p.m. at the Waxhaw Police Department Community Room.

Special Called Meeting

1. Call to Order

David Godfrey called the meeting to order at 6:30 pm.

2. Roll Call and Determination of Quorum

A roll call and determination of quorum was made.

Present: Chairman Godfrey, Vice-Chairman Underwood, John Cannamela, Michael Kreimer, Fred Burrell, Staff Rice, Staff Oakley, Interim Manager Mahar, and Recording Secretary Oliver.

Absent: James Mathieson, Thomas Dwyer, Dan Gingrich, and Bob Morgan.

3. Work Session

NONE

4. Unfinished Business

NONE

5. New Business

- A. TA-003036-2014 - A request by J. Mark Fisher to amend Section 11.77.A.1 Planned Residential Developments of the Town of Waxhaw Unified Development Ordinance to decrease the minimum tract size required for a Planned Residential Development (PRD) in the R-3 zoning district from 50 acres to 20 acres. In addition, staff is proposing revisions to Sections 11.77.A.2 and 11.77.A.3 to reduce the required minimum tract size for a PRD in the R-4 and RM-1 zoning districts.

Staff Oliver gave a presentation on TA-003036-2014 (see attached).

Chairman Godfrey asked why staff did not propose to remove the minimum required tract size. Staff Oliver explained that staff felt the Board of Commissioners would be more comfortable with a reduction than an elimination of a minimum tract size.

John Cannamela asked if the case was a variance. Staff Oakley stated that it was not a variance.

Staff Oakley explained the history of the text amendment and the reduction to the minimum tract size that was requested by the developer of the Millbridge subdivision and passed in May of 2013.

Fred Burrell stated that he has an issue with reducing the minimum required tract size while the comprehensive plan is being rewritten. He asked what the benefit of reducing the minimum tract size for Planned Residential Developments was for Waxhaw. He stated that he does not understand the logic behind the text amendment. He also stated that the UDO should be streamlined and better thought out.

Staff Oakley explained that the subdivision ordinance is in the process of being rewritten and that Planned Residential Developments will be replaced by cluster subdivisions. She explained the concept of a cluster subdivision and why it promotes smart growth and reduces sprawl.

The text amendment applicant, Mark Fisher, explained the reasoning as to why he proposed the text amendment. He presented some research he gathered about PRD requirements in surrounding communities and all communities that he researched required either no minimum tract size or minimums of 10 or 15 acres.

Fred Burrell asked Mark Fisher what the time frame would be for his proposed development. Mark Fisher stated that it would be about 12 months before construction would begin.

Michael Kreimer stated that he appreciates Staff Oakley's explanation of cluster subdivisions.

Vice-Chairman Underwood motioned to send favorable for TA-003036-2014 to the Board of Commissioners. Chairman Godfrey seconded. The motion passed, (3-2).

Michael Kreimer abstained from voting. An abstention is counted as an affirmative vote.

Fred stated that he feels staff did not give the text amendment enough consideration with regard to the comprehensive plan rewrite. He stated that he feels there may be unintended consequences.

Michael Kreimer stated that he did not have enough information to make a decision, therefore he did not vote.

John Cannamela stated that he was not sure about the numbers and why 20 acres was proposed. He stated that he needs more information to decide whether or not the text amendment is good for Waxhaw.

- B. RZ-003035-2014 - A request by Neil Gimon, on behalf of Bill and Holly Stewart, for a rezoning/map amendment on parcel 05-113-034 from NMX (Neighborhood Mixed Use) to TC (Town Center) located at 116 McDonald Street.

Staff Rice gave a presentation on RZ-003035-2014 (see attached).

Michael Kreimer asked if the applicant wanted to rezone the property to allow for a light industrial use. Staff Rice stated that the proposed use is for a microbrewery and restaurant. Staff Rice stated that the microbrewery would fall under the classification of light industrial.

Fred Burrell stated that there are several doughnut holes in the Town Center (TC) zoning where Neighborhood Mixed Use (NMX) is in place. Staff Rice stated that during the initial Downtown Code rezoning some of the property owners requested to be zoned to NMX rather than TC.

John Cannamela asked what else could be put on that site if it was not developed as a brewery. Staff Rice stated that light industrial uses allowed in the TC district could not produce any fumes or noise and would include things like art studios and light manufacturing of things such as clothing.

The applicants, William and Holly Stewart, stated that they initially wanted to remain in the NMX district so that they could possibly live upstairs or rent out the living quarters of their business if they needed to.

Michael Kreimer motioned to send a favorable recommendation for RZ-003035-2014 to the Board of Commissioners. Vice-Chairman Underwood seconded. The motion passed unanimously, (5-0).

- C. RZ-003043-2015 – A request by the Town of Waxhaw Planning & Community Development Department, on behalf of the Town of Waxhaw Board of Commissioners, for a rezoning/map amendment (for initial zoning) on approximately 18.571 acres, including 5.389 acres of right-of-way for Kensington Drive, (a portion of Tax Parcel ID number 06-162-001) located on the west side of Kensington Drive across from the Union County Public Works sewer treatment plant. The proposed zoning for the site is R-3.

Staff Rice gave a presentation on RZ-003043-2015 (see attached).

Fred Burrell stated that he was in favor of finishing the Kensington Drive project and that he understands that staff is proposing to rezone the property to R-3 to allow for a

park. He stated that he was concerned that the town could at a later date, sell the property and housing could be developed by right under the R-3 zoning district.

Town Attorney, Chaplin Spencer, stated that there is a deed restriction placed on the property that only allows it to be developed for public uses and preservation.

Fred Burrell motioned to send a favorable recommendation to the Board of Commissioners for RZ-003043-2015. Michael Kreimer seconded. The motion passed unanimously, (5-0).

- D. VA-003046-2015 - A request by the Town of Waxhaw for a subdivision variance from Sections 18.4, 18.4.1.D, 18.9 and 18.10.6 of the Waxhaw Unified Development Ordinance to allow the Town Board of Commissioners to accept dedication of Kensington Road (from Hwy. 16 to Waxhaw Marvin Road) as a public road while not meeting all of the requirements of the Town's subdivision regulations.

Staff Oakley gave a presentation on VA-003046-2015 (see attached).

Attorney Spencer stated that the findings of fact were proposed by the applicant. He stated the Planning Board does not need to vote on the individual findings of fact but to simply give a favorable or unfavorable recommendation on the variance as a whole.

Attorney Spencer explained the normal road dedication and acceptance process and the issues that lead to the situation that the town is now in with Kensington Drive. He stated that the town has the right to choose whether or not to accept a road after the plat has been recorded.

Attorney Spencer stated that public funds cannot be used to fix a private road and that the town must approve the variance in order to use Powell Bill funds to help pay for the improvements along the entire length of Kensington Drive. He stated that Wells Fargo Bank has volunteered to contribute 400 thousand dollars to the project as they were the bank that took over ownership of the road after the original developer went bankrupt.

Chaplin recommended that the Planning Board send a favorable to the Board of Commissioners on the variance.

John Cannamela asked what would happen in regards to the road if the Board of Commissioners does not approve the variance. Attorney Spencer stated that if the variance is denied, the road will continue to deteriorate and parts of the road could be closed because of dangerous conditions.

Fred Burrell stated that several of the neighborhoods have threatened to petition de-annexation if Waxhaw does not take responsibility for the road. Fred Burrell stated that that there are obviously costs associated with repairing the road but the costs are innumerable if the town does not repair the road.

Fred Burrell thanked everyone involved in working out a solution to the issues with Kensington Drive.

Attorney Spencer stated that this issue has been on the table for several years but now the pieces have fallen into place to move forward on the project.

Fred Burrell motioned that the proposed variance meets the findings of fact and to send a favorable recommendation for VA-003046-2015 to the Board of Commissioners. Michael Kreimer seconded. The motion passed unanimously, (5-0).

6. Other Business - Update on previous case(s) heard by the Planning Board

Staff Oakley stated that there was not a Planning Board meeting in November and that the case heard in December has gone to public hearing but a decision has not been made. She stated that the applicant of the Berger Day Care case, heard in October, delayed the case by a couple of months but that a public hearing was just held on the case at the last Board of Commissioners meeting.

7. Minutes for correction and approval: December 15, 2014 regular meeting

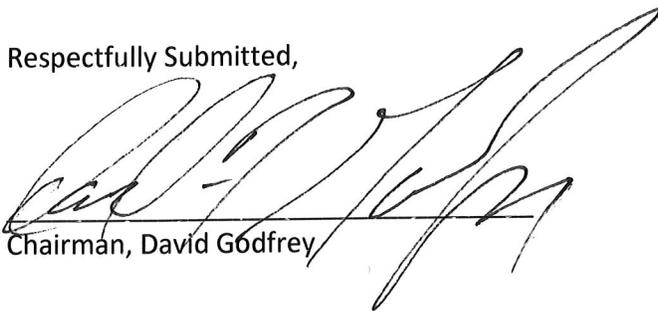
Vice-Chair Underwood motioned to approve the minutes from the December 15, 2014 regular meeting. John Cannamela seconded. The motion passed unanimously, (5-0).

8. Adjournment

John Cannamela motioned to adjourn the meeting at 7:27 p.m. Fred Burrell seconded. The motion passed unanimously, (5-0).

The meeting adjourned at 7:27 p.m.

Respectfully Submitted,



Chairman, David Godfrey



Recording Secretary, Maxx Oliver