

February 6, 2007

The Union County Planning Board met in regular session on Tuesday, February 6, 2007, at 7:00 p.m. in the Union County Board of Commissioner's Board Room, located on the First Floor of the Union County Government Center, 500 North Main Street, Monroe, NC, 28112, with Chairman King presiding.

PRESENT: Chairman Jim King, Vice Chairman Mark DiBiasio, Lee Godwin, Nathan Hopper, Liza Kravis, Robert Allen and Andy Williams

ABSENT: David VanDenabeele and Dan Wooten

ALSO PRESENT: Richard Black, Roger Horton and Amy Pressley

ITEM NUMBER ONE

Call to Order

The Chairman called the meeting to order at 7:03 p.m.

ITEM NUMBER TWO

Agenda Additions & Deletions

Chairman King noted that Dean Harrell, Beulah Church Road Partners, LLC., has requested to remove Rezoning Petition #001091, from the agenda.

Stephen Goodwin, Jr., Attorney representing Mr. Harrell, was present to answer questions from the Planning Board.

Motion was made by Liza Kravis and seconded by Robert Allen to approve the agenda with deleting Agenda Item 4, Rezoning Petition #001091, Beulah Church Road Partners, LLC. The vote was 6 to 0.

At this time, Chairman King made Andy Williams a voting member.

ITEM NUMBER THREE

Approval of the January 3, 2007 minutes

Motion was made by Nathan Hopper and seconded by Liza Kravis to approve the January 3, 2007 minutes. The vote was 7 to 0.

ITEM NUMBER FOUR

Rezoning Petition #001091, Beulah Church Road Partners, LLC., requesting rezoning classification from R-40 (Residential) to B-2 (Community Business) containing 9.40 acres, being on Tax Map #06-042-001, located at the intersection of S.R. #1346 (Beulah Church Road) and Waxhaw-Indian Trail Rd. (S.R. #1008) and being within Sandy Ridge Township.

This agenda item was deleted.

ITEM NUMBER FIVE

Discussion on Board of Adjustment and Planning Board Training

Lee Jenson, Land Use Administrator, contacted the following surrounding counties for their training requirements for the Board of Adjustment and for the Planning Board.

Anson	No specific requirements but encouraged.
Cabarrus	No specific requirements but encouraged.
Mecklenburg	All members go to Planning 101. Other training is encouraged.
Stanly	No specific requirements but encouraged.

Chairman King asked how long the training sessions lasted. Mr. Black said some sessions were three days and other sessions were for one day (a morning session and an afternoon session). Chairman King said in looking back at past Planning Board minutes, a minimum of three hours of training was recommended for new Planning Board members.

Another source of training for the Board of Adjustment that was offered is Web Training from the Institute of Government. The American Planning Association and Centralina Council of Government also have training courses available. Mr. Black noted that the Union County Personnel Department and the Griffin Room at the Union County Library (Main) have available training facilities.

The Planning Board felt that the publications of the “Fundamentals of Zoning” and “Introduction to Zoning” were beneficial to them when they began with the Planning Board and said the new Planning Board members should receive these books as well.

Mr. Black said it might be possible to join with Charlotte Mecklenburg’s Planning Board training, “Training 101” for their new Planning Board members.

ITEM NUMBER SIX

Amendments to the Union County Land Use Ordinance

- A. Amendment to the Board of Adjustment Ordinances
- B. Amendment to the Planning Board Ordinances

The following was sent to the Planning Board members for their review:

TEXT AMENDMENT: UNION COUNTY LAND USE ORDINANCE

SECTION 1

AMEND Staff’s version of Section 21, Appointment and Terms of Planning Board Members, as follows:

- (a) There shall be a planning board consisting of **seven** ~~nine~~ regular members and two alternates, all appointed by the board of commissioners. One regular member shall be a resident of each of the county’s **six school board districts** ~~nine townships~~, **one regular member at large**, and the alternate members **must** ~~may~~ reside ~~anywhere~~ within **different school board districts** ~~the county~~. ~~Any person serving on a municipal board of adjustment or planning board shall be ineligible to serve as a member of the Union~~

~~County planning board.~~

- (b) Planning board regular members as well as alternates shall be appointed for three year staggered terms, but members may continue to serve until their successors have been appointed.
- (c) Members are limited to two successive terms. **The service of a member in filling an unexpired term shall not count as a three-year term in determining whether a member has served for two successive terms of less than a full calendar year shall not be counted as a member's term.**
- (d) Regular planning board members may be removed by the Board at any time for failure to attend three consecutive meetings or for failure to attend thirty percent or more of the meetings within any twelve month period or for any other good cause related to performance of duties. Alternate members may be removed for repeated failure to attend or participate in meetings when requested to do so in accordance with regularly established procedures. Upon request of the member proposed for removal, the Board shall hold a hearing on the removal before it becomes effective.
- (e) If a regular planning board member moves outside the **school board district township** he or she represents or if **the at large member or** an alternate member moves outside the county, that shall constitute a resignation from the planning board.
- (f) Alternates may sit in lieu of any regular member and shall, when so seated, have the same powers and duties as any regular member.
- (g) Within one year of appointment, each new member of the planning board, whether a regular member or alternate, shall undergo **a minimum of 3 hours** of training pursuant to a course of study approved by the Planning Division Director. Failure to attend such training shall be grounds for removal for cause of pursuant to subsection (d).

SECTION 2

ADD a new Section 27 to read as follows:

Upon adoption by the board of commissioners on _____ [insert actual date of adoption], 2007, of an amendment revising Section 21 of the Land Use Ordinance ~~to increase membership on the planning board from seven to nine regular members and~~ to provide for geographical representation by **school board districts township**, the terms of sitting planning board members, both regular and alternate, shall expire at the time of such adoption and all positions shall be deemed vacant. Notwithstanding Section 21(b) of the Land Use Ordinance, such members shall not continue to serve until their successors have been appointed. In order to achieve staggered terms upon filling these vacancies, the board of commissioners shall appoint new members as follows: (i) **two three** regular members and one alternate for a term of three years; (ii) **two three** regular members and one alternate for a term of two years; and (iii) ~~two~~ **three** regular members for a term of one year. During the first meeting of these newly appointed members at which a quorum is present, the planning board shall elect one of its regular members to serve as chairman and preside over the board meetings and one regular member to serve as vice chairman. Prior to the election of a chairman at such first meeting, the Planning Division Director shall temporarily preside over the meeting until the chairman

takes office. The officers so elected shall serve until new officers are elected the following calendar year pursuant to Section 24(a).

SECTION 3

ADD a new Section 35 to read as follows:

Upon adoption by the board of commissioners of an amendment to repeal in its entirety subsection (a) of Section 29, Appointment and Terms of Board of Adjustment, the board of adjustment in existence at the time of such adoption shall be immediately abolished.

SECTION 4

REPEAL in its ~~their~~ entirety ~~subsections (a), (b), and (e) of~~ Section 29, Appointment and Terms of Board of Adjustment, such that the board of adjustment established therein is abolished.

SECTION 5

AMEND Staff's version of Section 29 of the Land Use Ordinance as follows:

- (a) There is hereby established a board of adjustment consisting of ~~seven~~ **nine** regular members and two alternates, all appointed by the board of commissioners. One regular member shall be a resident of each of the county's ~~six school board districts~~ **nine townships**, ~~one regular member at large~~, and the alternate members ~~must~~ **may** reside ~~anywhere~~ within ~~different school board districts~~ **the county**. ~~Any person serving on a municipal board of adjustment or planning board shall be ineligible to serve as a member of the Union County board of adjustment.~~
- (b) Board of adjustment regular members and alternates shall be appointed for three-year staggered terms, but both regular members and alternates may continue to serve until their successors have been appointed. In order to achieve staggered terms upon initial appointment following establishment of the board of adjustment, the board of commissioners shall appoint new members as follows: (i) ~~two~~ **three** regular members and one alternate for a term of three years; (ii) ~~two~~ **three** regular members and one alternate for a term of two years; and (iii) ~~two~~ **three** regular members for a term of one year.
- (c) Members are limited to two successive ~~three-year~~ terms. **The service of a member in filling an unexpired term shall not count as a three-year term in determining whether a member has served for two successive terms of less than a full calendar year shall not be counted as a member's term.**
- (d) Regular board of adjustment members may be removed by the Board at any time for failure to attend three consecutive meetings or for failure to attend thirty percent or more of the meetings within any twelve month period or for any other good cause related to performance of duties. Alternate members may be removed for repeated failure to attend or participate in meetings when requested to do so in accordance with regularly established procedures. Upon request of the member proposed for removal, the Board shall hold a hearing on the removal before it becomes effective.

- (e) If a regular board of adjustment member moves outside the **school board district township** he or she represents or if **the at large member or** an alternate member moves outside the county, that shall constitute a resignation from the board of adjustment.
 - (f) An alternate member may serve on the board in the absence or temporary disqualification of any regular member or to fill a vacancy pending appointment of a member. When so seated, alternates shall have the same powers and duties as the regular member they replace.
 - (g) Within one year of appointment, each new member of the board of adjustment, whether a regular member or alternate, shall undergo **a minimum of 3 hours of** training pursuant to a course of study approved by the Planning Division Director. Failure to attend such training shall be grounds for removal for cause of pursuant to subsection (d).
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SECTION 6

AMEND subsection (a) of Section 33, Board of Adjustment Officers, as follows:

- (a) Each year during the first meeting at which newly appointed members are seated, the board of adjustment shall elect one of its members to serve as chairman and preside over the board's meetings and one member to serve as vice-chairman. The persons so designated shall serve in these capacities until new officers are elected the following year. Vacancies in these offices may be filled for the unexpired terms only.

At the first meeting of the board of adjustment following the effective date of this **approved amended ordinance or following abolition and re-establishment of the board of adjustment pursuant to Sections 35 and 29, respectively**, the board of adjustment shall hold elections for the offices of chairman and vice chairman. Prior to the election of a chairman at such first meeting, the Land Use Administrator shall temporarily preside over the meeting until the chairman takes office. The officers so elected shall serve as chairman and vice-chairman until new officers are elected the following calendar year.

SECTION 7

Except as herein amended, the provisions of the Union County Land Use Ordinance shall remain in full force and effect.

Approved following public hearing this the _____ day of _____, 2007.

Vice Chairman Mark DiBiasio made a motion to reject the language sent from the Board of County Commissioners for Item A, Board of Adjustment, and to substitute language defined at the last Planning Board meeting; particularly where members of the Board of Adjustment would be assigned from the school districts instead of townships; one member at-large and two alternates may reside in any district, as long as they are not from the same district. The motion was seconded by Lee Godwin. The vote was 5 to 2; Chairman King abstained from voting.

Vice Chairman DiBiasio made a motion to reject the language sent from the Board of County Commissioners for Item B, Planning Board, and substitute the language listed in the Planning Board's text; this means Planning Board members would be assigned from

the school districts instead of townships; one member at-large and two alternates may reside in any district, as long as they are not from the same district. The motion was seconded by Liza Kravis. The vote was 5 to 2; Chairman King abstained from voting.

Other concerns and comments from the Planning Board members:

- Lee Godwin said that the Planning Board's revised version provides a better thought-out process to get people involved and to keep the board at a manageable size.
- Chairman King said the current Planning Board was the best board that he had served on because more people are concerned about the general well-being of Union County. He said that he could not vote to change the Planning Board's criteria.
- Nathan Hopper said he did not see the amendments as the solution; but the question is what is fair and reasonable.
- Vice Chairman Mark DiBiasio said he was very pleased to have been a member of the Planning Board.

ITEM NUMBER SEVEN

Discussion on definition of Retail

The following was given to the Planning Board members for discussion on the definition of Retail:

Anson

Retail Center: A grouping of businesses providing goods and services to individuals.

Retail Fabrication Business: Establishments in which products may be manufactured, processed, or assembled on site, for on site retail sale, including metal work, sign painting, and cabinet making. There is no outside storage or operations involved.

Retail Garden Center: A retail sales operation providing lawn and garden supplies and small equipment rental primarily for home landscaping. Typical products include, but are not limited to, decorative stone, garden ornaments, decorative pots, container, plant stock, and bagged or bulk sand, mulch, and topsoil. Seasonal sales such as Christmas trees, pumpkins and flowers will be permitted in the outdoor display area. A retail garden center serves as a storage facility to store and resell plants, lawn and garden supplies. It is designed to serve primarily individual homeowners, rather than farmers. It is a principal use, and not a part of a bona fide farm operation.

Retail Stores and Shops: Establishments selling goods to the public for consumption but not for resale, usually in small quantities, as well as services incidental to the sale of these goods. This shall not include vehicle or heavy equipment sales but shall include video rentals.

Charlotte

Retail establishment: A building, property, or activity the principal use or purpose of which is the sale of goods, products, or merchandise directly to the consumer.

Cabarrus

Retail establishment: A building, property, or activity the principal use or purpose of which is the sale of goods, products or merchandise directly to the consumer.

Retail sales, shopping center: Typically, a group of two or more retail establishment and/or restaurants constructed, planned and developed with a unified design of buildings. Includes associated out parcels and coordinated parking and service areas. Shopping centers may consist of only one retail entity.

The Planning Board asked staff to bring back to them the following:

- 1. To expand on the definition of Retail to include anything that serves the consumer.***
- 2. Shopping Center definition – two or more retail or services establishments.***
- 3. Look at Anson County's definition of Retail.***
- 4. To ensure that Lee Jenson's interpretation of Retail is the same as the Planning Board's (goods and services).***

ITEM NUMBER EIGHT

Planning Staff Report (Work in Progress)

Richard Black noted that he went to the Indian Trail Planning Board meeting to discuss the APFO. He said the County Commissioners had approved the Memorandum of Understanding for Mineral Springs, Marvin and Wesley Chapel. Mr. Black said he will call the Town of Waxhaw to follow-up with them on when he would be able to discuss the APFO.

Mr. Black said the County Commissioners renewed the contract for Mark White, with White & Smith, LLC. He noted that Lee Jenson would be handling the hiring process for the APFO Administrator.

Chairman King noted that the current Planning Board would have a March meeting.

ITEM NUMBER NINE

MUMPO Comments

Lee Godwin gave an update on the recent MUMPO meeting. Mr. Godwin said that Pat Mumford was nominated as Chairman for MUMPO and Brian Sisson was nominated as Vice Chairman.

Mr. Godwin noted that the Rea Road Extension was pushed very heavily and that the Martin Luther King Boulevard would be funded from the bypass money.

The next MUMPO meeting will be Thursday, February 15, 2007. The topic of discussion will be TIP (Transportation Improvement Plan) funding.

ITEM NUMBER TEN

Brief Comments

Liza Kravis

Wanted to thank Lee because I have not been able to go to the MUMPO meeting and he has done a great job and I really appreciate him stepping up there, thank you, Lee.

Robert Allen

No comment.

Chairman King

No comment.

Vice Chairman DiBiasio

No comment.

Nathan Hopper

No comment.

Lee Godwin

I guess I will save my comments until next month, but I will say that I don't know if I'm doing a great job with MUMPO but it is definitely interesting.

Andy Williams

No comment.

ITEM NUMBER ELEVEN

Adjournment

Chairman King adjourned the meeting at 8:25 p.m.