

**March 4, 2014**

The Union County Planning Board met in regular session on Tuesday, March 4, 2014, 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.

**PRESENT:** Everette Medlin, James Howie, Christopher Duggan, Don Fisher, Patrick Harrison, Roger Stanton, Robert Traficanti, Russell Wing

**ABSENT:**

**ALSO PRESENT:** Richard Black, Roger Horton, Lee Jenson, Brian Matthews

**ITEM NUMBER ONE**

Call to Order

Chairman Everette Medlin called the meeting to order at 7:00 p.m.

**ITEM NUMBER TWO**

Additions and/or Deletions to the Agenda

There were no Additions or Deletions to the Agenda.

**ITEM NUMBER THREE**

Approval of the Agenda

Motion was made by Robert Traficanti and seconded by Roger Stanton to approve the agenda. The vote was 7 to 0.

**ITEM NUMBER FOUR**

**Rezoning Petition #001102, Carlton Tyson**

**Rezoning Petition #001102, Carlton Tyson**, requesting rezoning classification from RA-40 (Residential Agricultural) to R-6 (High Density Residential) containing 43.64 acres, being on Tax Map #07-027-033 90, located on Rocky River Road North and Secrest Short Cut Road, being within Vance Township.

Roger Horton discussed with the Board the Rezoning Petition and went over the Land Use Map and the County Zoning Map.

Mr. James Lee, representing petitioner Carlton Tyson, presented the rezoning request and answered questions from the Planning Board.

James Lee stated that Mr. Tyson has owned the property since 2003 and would like to be able to develop the property but has been waiting all this time because of not knowing whether the Monroe Bypass was ever going to get built and that rezoning the property to allow high density residential would allow for more single/multi-family development.

Mr. Carlton Tyson stated that he does not want to keep paying taxes on this land that he cannot do anything with and he really wants to be able to do something with this property and that the state has not required any right of way at this time.

Jess Perry with Walt Perry Realty stated that this area of the county where this property is located would be very beneficial for this type of development.

Board member Russell Wing stated that this project would be good for the county to have more multi-family development.

Board member Robert Traficanti stated he is just concerned that if the Bypass does get approved what would happen if the subdivision plan was approved and the homes were already built.

Board member Christopher Duggan stated I do not think there is any better use for this property but still not sure about it with the Bypass coming thru and the water and sewer issue.

Board member Don Fisher stated that water and sewer is a major concern but you also don't want to keep paying taxes on land that you cannot do anything with.

Board member James Howie stated I agree with everyone and you cannot just sit and wait to see if the Bypass will ever get built.

Roger Stanton stated that he too was concerned about the water and sewer issue.

Roger Horton read the staff recommendations:

#### **FAVORABLE CHARACTERISTICS OF PETITION**

1. The site is located near the interchange of the Monroe Bypass Connector with Rocky River Road North.

#### **UNFAVORABLE CHARACTERISTICS OF PETITION**

1. The Union County Land Use Plan projects future land use to be low density residential.
2. The R-6 district is designed to accommodate single-family, two-family and multi-family development at higher densities in areas where public water and sewer are available. Per Union County Public Works Dept. county water/sewer is not available.
3. The predominant land use in this area is low density residential.
4. The site is split by the Monroe Bypass Connector, has access issues and substantial floodplain.
5. Union County Schools have stated that this request if approved will add to current over-capacity problems.

**STAFF RECOMMENDATION: UNFAVORABLE**

Favorable to rezone: 30  
Unfavorable to rezone: 240

Motion was made by Russell Wing and seconded by Don Fisher to approve the Rezoning Petition. The vote was 5 to 2.

**ITEM NUMBER FIVE**

Planning Staff Report (Work In Progress)

Brian Matthews went over the UDO Module 2 Review with the Board:

**UDO Module 2 Review**

In reviewing this document, keep in mind that other sections and provisions of the UDO will be created at a later date. There may be reference to sections that do not exist at this time or you may have questions about items that have not been developed. Please make notes of any issues or concerns you have so that we may attempt to address them in later sections. Items that are in “green underline” are proposed new and items in “red strikethrough” are proposed for deletion. Staff will attempt to highlight changes we believe to be of significant interest to the Commissioners. This is by no means an exhaustive list of all changes. We also wish to point out that we are proposing changes to our regulations that in some cases allow more flexibility but in other cases they are less flexible. Our recommendations are meant to promote a discussion with the Commissioners. We seek direction from the Commissioners on their goals for future development of the County. There are also sections of the ordinance that we feel may be better suited for an administrative manual. At the end of the process we intend to submit an administrative manual that removes those items from the ordinance. For now we are showing them as part of the ordinance. Please do not hesitate to contact us if you have any questions concerning any of the proposed changes. Also, keep in mind that one of the major components of the new UDO will be the provision to allow “conditional zoning” for properties. This will mean that many of the zoning districts indicated will not actually exist unless the Commissioners decide to approve a conditional zoning application for the district. It also allows the Commissioners to approve projects on a case by case basis with the ability to adjust uses, etc which best suit the proposed area.

- Section 65.020 – B (5)(d) (page 65-7):  
New language taken from the North Carolina model floodplain ordinance. This specifies that significant repairs and changes to a building not in compliance with the current floodplain regulations must bring the building up to the requirements if during a 5-year period the repairs or changes exceed 50% of the market value of the structure. There are two possible exemptions.
  
- Section 65.020 – B (9) and (10) (page 65-9):

New language taken from the North Carolina model floodplain ordinance. This specifies that there are requirements for liquid storage tanks and temporary structures and construction of development components that are not buildings.

- Section 65.030 – A (page 65-10):  
New language taken from the North Carolina model floodplain ordinance. This is language specific to zones without an established base flood elevation. It allows development closer to the stream if a technical data is provided determining a base flood elevation or that the development will have no impact on the flood levels.
- Section 65.040 – A (pages 65-11 and 65-12):  
Previous regulations did not allow any development in the floodplain. NC model ordinance allows development in the floodplain but not in the floodway. We are proposing to allow development in the floodplain if supporting technical data is provided.
- Section 65.040 – B (pages 65-12 and 65-13):  
Would not allow development in floodway unless supporting technical data determines no impact will occur from the development.
- Table 70-1 (page 70-1):  
Changes the review and approval of major subdivision preliminary plans to staff and not the planning board. This is a common practice in that the review and approval is technical and most boards lack technical experience in making these decisions.
- All sections in Article 70 require a pre-application meeting with the staff and the owner/developer prior to submittal. This allows staff to alert the owner/developer to future issues and to develop a better end product.
- Section 70.010 – G (page 70-5):  
This eliminates the requirement that the BOA continue a hearing if any interested party requests the continuance. This is uncommon and problematic. The BOA should have the authority to make decisions on the validity of a request to continue a hearing and not be mandated to comply with the request.
- Section 70.020 Vested Rights (pages 70-7 and 70-8):  
Our current ordinance does not specify the process for vesting a project. The new language provides a detailed explanation of vesting.
- Section 70.030 – F (pages 70-9 and 70-10):

This replacement language better defines the criteria that should be used when making a decision to approve or deny ordinance text changes.

- Section 70.040 – A (page 70-10):  
Removed the provision that anyone can request a property to be rezoned. Specifies only the Commissioners, the planning board or the property owner can make the request.
- Section 70.040 – F (page 70-10):  
Removed the requirement that the planning board meeting be noticed in the same manner as the public hearing with the Commissioners. State statutes do not require the planning board meeting to be noticed in the same manner.
- Section 70.040 – H (page 70-12):  
Clarifies the criteria that should be used in making a legislative zoning map amendment.
- Section 70.050 Conditional Zoning Map Amendments (pages 70-13 through 70-16):  
This is a new section which adds the standards for utilizing conditional zoning for properties that will have an existing underlying zoning district. It requires a community meeting with the surrounding property owners. It allows the Commissioners to discuss the project and meet with neighbors or the owner/developer prior to the hearing. This particular process allows the County and the owner to negotiate and agree on terms that are more stringent than the underlying zoning requirements but not less stringent.
- Section 70.060 Exempt Subdivisions (pages 70-16 and 70-17):  
Item 1 clarifies combination or recombination. Item 3 is expanded and items 5, 6 and 7 are all new exemptions. The Commissioners have the ability to expand the list of exemptions from the statutory list.
- Section 70.060 – B and C (page 70-17):  
Requires the owner to submit an application for determination of exempt status and placement of a statement on the plat that the property may not meet requirements to qualify for a building permit. Places the property owner on notice.
- Section 70.070 – A (Minor Subdivision) (page 70-18):  
The current ordinance allows a parent parcel (lot of record since 1978) to be divided into no more than 5 lots and allows for unlimited lots if no new streets, roads, public water or sewer, sidewalks etc. are required to be built. We are proposing that the number of lots be increased to 8 but remove the provision to allow unlimited lots if no new streets etc. are required. This does not prevent the owner from having more than 8 lots that do not require new streets, etc. It only requires that they go through a major subdivision review process.

- Section 70.080 Major Subdivision (page 70-19):  
Substitutes a major development permit for a preliminary plan review and approval. Staff reviews and approves the plan based on technical requirements.
- Section 70.080 – F (4) (page 70-21):  
Better defines amendments and modifications to a preliminary plan. Current ordinance does not clearly define these changes.
- Section 70.100 Master Planned Development (page 70-24):  
This section is not complete at this time and will be submitted at a later date. This section will apply to the creation of a new conditional zoning district from scratch. There will be a proposed size requirement.
- Section 70.110 – F (page 70-25):  
Changes the required notices for special use permits to follow the state statutes. Does not mandate that the County provide greater notice requirements.
- Section 70.110 – H (page 70-27):  
Adds detailed language to help guide in decision making for the Board of Adjustment.
- Section 70.120 – B (page 70-31):  
Items 2, 4, 5 and 6 are new. This clarifies what provisions of the ordinance are allowed for variance requests.
- Section 70.120 – H (page 70-33):  
Revised to reflect the state statutes.
- Section 70.120 – I (page 70-33):  
Revised to reflect the state statutes. The county clerk by statute must have the decision filed with him/her and the notice of the decision must come from the county clerk.
- Section 70.130 – A (page 70-35):  
Revised to meet the state statutes.
- Section 70.130 – C (page 70-36):  
State statutes require the county clerk to receive applications for appeal.
- Section 70.130 – H (page 70-38):

County clerk must provide notice of the decision of the appeal per state statute.

- Article 75 (pages 75-1 through 75-9):  
Many of the items in this section are suitable for an administrative manual. They are shown at this time but may be removed prior to the completion of the UDO and placed in an administrative manual.
- Section 75.030 – G (page 75-7):  
While the BOA has previously had authority to issue subpoena for witnesses, this new language provides for the ability of persons with standing to request a subpoena be issued.
- Section 80.010 – A through F (pages 80-1 through 80-3):  
This section provides for greater clarity and detail on determining nonconformities, allowing their continuance, allowing repairs and maintenance and any changes. The current regulations limited to repair and maintenance if the cost exceeded 25% of the value. The revision allows for repair and maintenance.
- Section 80.020 Nonconforming lots (page 80-3):  
The current ordinance allows for nonconforming lots to be further subdivided potentially creating greater nonconformity. Revision allows for the use of the nonconforming lot but does not allow further division of the lot.
- Section 80.030 – F (page 80-4):  
Increasing the period to reconstruct a nonconforming use if destroyed or damaged at no fault of the owner from 180 days to 12 months. This is standard for many jurisdictions. It also increase the threshold for repair or replacement when it is the fault of the owner from 25% to 50% of the appraised value.
- Section 80.040 Nonconforming Uses (page 80-5):  
Our current ordinance allows property owners to change from one nonconforming use to another nonconforming use. This is problematic in the intent of nonconforming uses is eventually for the use to go away or to come into compliance. Allowing another nonconforming use will only further delay the property to come into compliance.
- Section 80.040 – G (page 80-6):  
This clarifies that accessory structures for nonconforming uses are not allowed to continue being used for the nonconforming use once the use has been abandoned.
- Section 80.050 Nonconforming Development Feature (pages 80-6 and 80-7):

This new section defines that there are features that are deemed nonconforming which do not fall under lots, uses or structures. This better defines some of those features for regulatory purposes.

Brian Matthews stated that the Board of County Commissioners has seen this UDO Module 2 and that there would be public involvement on the entire document eventually.

Richard Black stated that the Board will elect new officers at the May 2014 Planning Board Meeting.

**ITEM NUMBER SIX**

Brief Comments

Everette Medlin	No Comment
Christopher Duggan	No Comment
James Howie	No Comment
Don Fisher	No Comment
Roger Stanton	No Comment
Robert Traficanti	No Comment
Russell Wing	No Comment

**ITEM NUMBER SEVEN**

Adjournment

Motion was made by Roger Stanton and seconded by Robert Traficanti to adjourn. The meeting adjourned at 8:00 p.m.