

Draft

**JOINT MEETING BETWEEN  
THE ALEXANDER COUNTY BOARD OF COMMISSIONERS &  
THE ALEXANDER COUNTY PLANNING & ZONING COMMISSION  
Thursday, March 3, 2005 – CVCC/ALEXANDER CAMPUS**

**PRESENT:** William L. Hammer, Chairman  
W. Darrell Robertson, Vice-Chairman  
Wesley E. Bolick  
W. Norris Keever  
Larry Yoder

**PLANNING:** Eric Fritz, Chairman  
Coy Reese, Vice-Chairman  
Don Harrington  
L.E. Herman  
Jennifer Martin  
Jon Molesa  
Brian Walker

**STAFF:** Rick French, County Manager  
Seth Harris, Building Development Coordinator  
Jamie Starnes, Clerk to the Board  
Sylvia Turnmire, Director of Planning & Development

A joint meeting was held between the Alexander County Board of Commissioners and the Alexander County Planning & Zoning Commission on Thursday, March 3, 2005 in the Catawba Valley Community College / Alexander Center Multipurpose Room, Taylorsville, North Carolina.

**CALL TO ORDER**

Chairman William Hammer called the joint meeting to order at 6:07 PM. Chairperson Eric Fritz also called the joint meeting to order at 6:07pm. Jennifer Martin, Planning & Zoning Commission member, entered the meeting at 6:08 PM.

**ADOPTION OF AGENDA**

Commissioner Keever made a motion to adopt the agenda as presented on behalf of the Board of Commissioners. Commissioner Yoder seconded the motion. The Board voted unanimously in favor of the motion.

Don Harrington made a motion to adopt the agenda as presented on behalf of the Planning & Zoning Commission. Jon Molesa seconded the motion. The Planning & Zoning Commission voted unanimously in favor of the motion.

## **FIREWISE PRESENTATION**

Russell Greene, Fire Marshal, introduced Forest Ranger Dennis Wahlers who discussed the Firewise Program and the concern for access to homes and property during wildfires. He explained that developments, such as Jake Reese Court on Barrett Mountain, did not have adequate roads that were wide enough for fire engines to reach homes in the case of a wildfire. He stated that many of these developments only had one driveway entering and exiting the area, which would create problems for emergency vehicles coming in while residents were trying to evacuate. Mr. Wahlers presented a Power Point slide show presentation that included photos of homes in the county surrounded by woods that would be completely lost if a wildfire was to occur. Other photos shown were several dirt roads leading to these homes, some without road signs, and examples of the devastation caused to homes by wildfires. Mr. Wahlers mentioned several key elements that helped fire agencies including paved roads, a dedicated water supply, and visible road signs. He stated that there was only one water supply for Barrett Mountain which was a pond at the bottom of the mountain.

Mr. Wahlers stated that the Firewise Program was a federally funded program that focused on raising awareness of wildfire devastation to homeowners. He pointed out that the goal of this program was to have homes survive wildfires with little or no intervention from fire agencies. Mr. Wahlers also mentioned that the Firewise Program Title 4 grant funding would allow for controlled fires or hazard reducing fires to occur in areas that had potential for wildfires. He informed the Board that these controlled fires would reduce fire intensity in the event of a wildfire as well as eliminate fuel loads up to 70%. Mr. Wahlers also noted that he hoped to have this program active in Alexander County by late spring or early summer. He also stated that a block grant would be applied for if Title 4 grant funding was not received.

Rick French, County Manager, suggested Representative Mark Hollo and Senator John Garwood be made aware of the need for the Title 4 grant funding so that they may support Alexander County in the competition.

Mr. Wahlers stated that he had spoken to several homeowners who were at risk for property loss during a wildfire about steps they could take to protect themselves and their homes. He also stated that the citizens of Jake Reese Court had actually formed a Firewise Board.

Commissioner Keever suggested Mr. Wahlers be a guest on his talk show "What Do You Think?" to discuss the Firewise Program.



Commissioner Bolick stated that his subdivision only had one access road and he asked if the Zoning Ordinance addressed subdivision requirements. Ms. Turnmire replied to Commissioner Bolick that his particular subdivision had been platted before the Subdivision Ordinance was adopted in 2000. She explained that the Zoning Ordinance did specify that subdivision roads be designed to N.C. Department of Transportation specifications.

Chairman Hammer felt that some of these homes were in serious danger and he thanked Mr. Wahlers for talking to the homeowners and making them aware of the dangers.

## **TEXT AMENDMENT 05-1: LANDSCAPING REQUIREMENTS**

Sylvia Turnmire, Director of Planning & Development, presented Text Amendment 05-1, which was reviewed by the Board of Commissioners at the February 21, 2005 regular meeting. Ms. Turnmire pointed out that, at that particular meeting, the Board had expressed a need for the regulations to include the essential width for emergency access.

Ms. Turnmire stated that the International Building Code Commentary (Chapter 7: 704.8.2) and the International Fire Code (Chapter 5: 503.2.1) specified the emergency access requirements of an obstructed access road no less than 20 feet in width. She also noted that the fire lane could be incorporated with a parking lot as long as the lane was marked as such. Ms. Turnmire presented a new copy of the proposed text with the addition of the emergency access in **bold type**, listed below, as well as a suggested plant list to be made available to the public, as requested by Commissioner Robertson.

- Proposed Definition:

**BUFFER.** A horizontal distance from a side or rear lot line which may only be occupied by underground utilities, retention areas, landscaping materials and screening used to visually separate property boundaries and adjoining land uses.

### **§ 154.039 Landscaping and Screening Requirements.**

In order to reduce the impact of a use of land on adjacent uses which are significantly different in character, density or intensity, buffers or screening shall be required in accordance with this section.

- (A) General requirements. A buffer shall be required between a non-residential use located in the N-B, H-C, PUD H-C, L-I, H-I or PUD-I Districts and an adjacent residential use or vacant, residentially zoned property (R-20, RA-20 and R-SF). Such screening devices shall be provided along the full length of any common property line and shall be maintained as long as the conditions requiring the screening exist. The screening device shall not be required where the use on the abutting property is a non-residential use or along a street, road or highway right-of-way. The buffer shall only be occupied by underground utilities, retention areas, landscaping materials and screening devices allowed by this section.

(B) Screening Devices. The screen or buffer may be composed of a landscaped earthen berm, hedges, planted vegetation, existing vegetation, fences or walls or a combination thereof. Screening devices must follow the requirements as described in this section.

(1) Planted vegetation shall consist of at least the following:

- (a) A mixture of both deciduous and evergreens for year-round effectiveness. The deciduous plants shall comprise no more than 30% of the total trees and shrubs required by this section.
- (b) Trees at least three (3) feet high when planted and shall be of such variety that an average height of at least six (6) feet could be expected by normal growth within no later than two (2) years from the time of planting.
- (c) The trees and shrubs shall be no less than six (6) feet and no more than ten (10) feet apart based upon the mature width of the plant material being used to form an opaque barrier.
- (d) All planted vegetation shall be located at least five (5) feet from the side and/or rear property lines.
- (e) In the case of multiple required rows, a row of evergreen conifers or broadleaf evergreens shall be planted bordering the adjoining property line.

(2) Other Screens.

- (a) Fences must be opaque and at least six feet in height. Fences must be one (1) foot from the adjoining property lines and are permitted as one of the rows when the required buffer width exceeds ten (10) feet.
- (b) Earthen berms must be at least six feet in height.

(3) In no case shall the screening device required by this section interfere with the visibility at street or driveway intersections.

(4) The preservation of existing vegetation shall be maximized where such vegetation contributes to the required screening. The Code Enforcement Officer is authorized to approve existing vegetation as compliance with the requirements for screening; provided, however, that the spirit and intent of this section and the provisions pertaining to the required buffer are adhered to.

(C) Required Buffer Widths. The required buffer width and number of required rows between a use in a non-residential district and a residential use or vacant residentially zoned property is set forth below:

<u>Non-Residential District:</u>	<u>Minimum Buffer Width:</u>	<u># of Required Rows:</u>
N-B (Neighborhood-Business)	10 feet	1
H-C (Highway-Commercial)	15 feet	2
PUD H-C (Planned Unit Development)	25 feet	2
L-I (Light-Industrial)	20 feet	2



H-I (Heavy-Industrial)	30 feet	3
PUD-I (Planned Unit Development)	30 feet	3

**(D) The property owner shall provide a fire lane between the aforementioned buffer and the proposed building as required by the International Building Code and International Fire Code, as amended.**

(E) Maintenance. The buffer strip shall be maintained by the property owner and/or occupant(s) of the premises. The plant material shall be periodically trimmed or pruned at a height of not less than six (6) feet, and diseased or dead plant material shall be removed and replaced with planted vegetation that conforms to this section.

§ 154.079 AREA, YARD AND HEIGHT REQUIREMENTS - TABLE.

(d) Where any proposed non-residential use abuts directly upon any residential use, an additional setback of 15 feet shall be required. A densely planted buffer shall be provided as set forth in 154.039 along the side and/or rear lot lines abutting the residential use.

Ms. Turnmire reported that the boards needed to decide whether to preserve or reduce the proposed buffer width and/or number of rows, given the width of the access road along the side of a building.

Commissioner Robertson pointed out that businesses could lose approximately half of an acre with the current proposed buffer width and the emergency access lane regulations.

Commissioner Keever asked if there would be enough room for 3 rows if the buffer width for industrial property was reduced to 20 feet. Chairperson Fritz recommended lowering the number of required rows to 2 rows.

Commissioner Robertson asked if the intent of the buffer was between the uses of commercial / industrial and residential. Ms. Turnmire replied that was, in fact, the intent of the amendment.

This being a public hearing, Commissioner Yoder called the joint public hearing to order on behalf of both boards and requested any public comment. Commissioner Keever seconded the motion. The motion passed unanimously.

There being no public comment, Commissioner Yoder made a motion to close the joint public hearing. Commissioner Keever seconded the motion. The motion passed unanimously.

After discussion between the two boards, Don Harrington made a motion to recommend to the Board of Commissioners to reduce the required buffer widths for H-C (Highway-Commercial), H-I (Heavy Industrial) and PUD-I (Industrial Planned Unit Development) to 20 feet and to reduce the number of required rows to 2 rows. Jennifer Martin seconded the motion. The Planning & Zoning Commission voted unanimously in favor of the motion.

Therefore, Commissioner Bolick made a motion to accept the Planning & Zoning Commission's recommendation to reduce the required buffer widths H-C (Highway-Commercial), H-I (Heavy Industrial) and PUD-I (Industrial Planned Unit Development) to 20 feet and to reduce the number of required rows to 2 row. Commissioner Keever seconded the motion. The Board voted unanimously in favor of the motion.

## **TEXT AMENDMENT 05-2: ADULT USES**

Sylvia Turnmire, Director of Planning & Development, presented Text Amendment 05-2, which related to the regulation of adult uses. Ms. Turnmire explained that a similar proposal was made in March 2001 as a part of the countywide zoning process at which time the Board of Commissioners elected not to include such regulations. However, she pointed out that several court cases had altered the manner in which local governments could regulate adult uses.

Ms. Turnmire stated that in order to regulate one adult use, all types of adult uses would have to be regulated. She pointed out that the text amendment included definitions, purpose, spacing and additional requirements, the type of permit required, conditions for permit issuance, and optional licensing requirements.

Ms. Turnmire discussed some regulatory options allowed by the N.C. General Statutes, which included:

- Limits on location
  - Specified zoning districts
  - Minimum separation requirements
- Limits on operation
  - Hours of operation
  - Open booths
  - Exterior advertising
  - Noise
  - Age of patrons and employees
  - Separations between patrons and performers
  - Clothing requirements for masseuses, servers, and entertainers
- Licensing, disclosure and regulation requirements
  - Restricting ownership or employment for those with criminal records relating to adult oriented businesses
- Moratoria on new facilities or expansions
- Amortization requirements for nonconforming adult uses

Ms. Turnmire also discussed the courts views on the local government's burden of establishing that the following steps have been taken:



1. Analyze the potential adverse secondary impacts.
2. Conduct an analysis of the sites available for location of adult uses without totally excluding the constitutionally protected speech.
3. Consider how the regulations will protect the adverse secondary impacts.
4. Establish clear and definite standards for procedural steps and review if permits or licenses are required.
5. The number of potential sites should be relative to the jurisdiction's total population.

Ms. Turnmire also presented maps of several locations in the County that adult uses could be located if the text amendment was approved as presented.

This being a public hearing, Commissioner Yoder called the joint public hearing to order on behalf of both boards and requested any public comment. Commissioner Robertson seconded the motion. The motion passed unanimously.

### **Public Comment**

Marcus Benfield, Senior Pastor of Northside Baptist Church, stated that he understood that the boards were required to allow adult uses. He asked that the boards be as stringent as possible with the regulations for these types of establishments and he also requested a licensing requirement of 21 years of age instead of 18 years of age. Mr. Benfield also requested that the boards only specify certain types of adult uses.

Lana Davidson asked the boards to make the restrictions as strict as possible by law for these types of establishments.

Lynn Pritchard also requested that the boards be as strict as possible with the regulations for adult uses.

Commissioner Robertson mentioned that Sheriff Hayden Bentley had spoken to the Board of Commissioners at a recent Commissioners' Meeting regarding domestic violence statistics. He stated that, according to the most recent statistics, domestic violence in the county had increased 75% and he noted that child abuse had increased 78%. Commissioner Robertson suggested several revisions to the proposed text amendment to hopefully keep those statistics from increasing including:

1. Increase the age of owners and employees from 18 to 21 years of age.
2. Limit the license requirements so that no employee can have a felony conviction.
3. Revise the Sunday operating hours to be closed from 1:00 AM to 1:00 PM.
4. Include that the side and rear yards be buffered by the maximum standards of the screening requirements to include a 20-foot wide buffer consisting of 2 rows regardless of the adjoining uses or zoning districts.
5. Increase the boundary from residential zoning districts and sensitive uses to a 1,300 foot radius.
6. Increase the licensing application and renewal costs to \$1,500.

7. The Zoning Enforcement Officer should be the individual to coordinate the review of the license application. In addition, the Zoning Code Enforcement Officer should forward the application to the County Attorney for additional review.

Commissioner Keever suggested that the H-I (Heavy-Industrial) district should be the only zoning district where adult uses were allowed as a conditional use.

Commissioner Yoder also suggested that the investigation fee charged when a manager of an adult use business be increased from \$100 to \$500.

Seth Harris, Building Development Coordinator, stated that several other counties required parking at the front of adult use buildings instead of side and rear yards. Brian Walker recommended for the stipulation regarding parking in the front only to be included in the regulations.

There being no further public comment, Commissioner Bolick made a motion to close the joint public hearing on behalf of both boards. Commissioner Keever seconded the motion. The motion passed unanimously.

Coy Reese made a motion to table Text Amendment 05-2 for further review. Jennifer Martin seconded the motion. During discussion, Ms. Turnmire stated that Planning & Development staff had received a telephone call from someone interested in locating an adult use in the county. She explained that if the amendment was not passed in some form tonight, an individual could apply for any use and that use could be located anywhere in the county because there were no restrictions in place at the present time.

Therefore, Jennifer Martin withdrew her second and Coy Reese withdrew his motion. After discussion, Jon Molesa made a motion to recommend to the Board of Commissioners approval of Text Amendment 05-2 with the changes listed below:

1. Increase the age of owners and employees from 18 to 21 years of age.
2. Limit the license requirements so that no employee can have a felony conviction.
3. Revise the Sunday operating hours to be closed from 1:00 AM to 1:00 PM.
4. Include that the side and rear yards be buffered by the maximum standards of the screening requirements to include a 20-foot wide buffer consisting of 2 rows regardless of the adjoining uses or zoning districts.
5. Increase the boundary from residential zoning districts and sensitive uses to a 1,300 foot radius.
6. Increase the licensing application and renewal costs to \$1,500.
7. The Zoning Code Enforcement Officer should be the individual to coordinate the review of the license application. In addition, the Zoning Code Enforcement Officer should forward the application to the County Attorney for additional review.
8. Adult uses are allowed as a conditional use in the Heavy-Industrial zoning district only.
9. The investigation fee for a change in managers of the business be increased from \$100 to \$500.



10. Employee and patron parking shall be located in the front yard only.

L.E. Herman seconded the motion. The Planning & Zoning Commission voted unanimously in favor of the motion.

Therefore, Commissioner Keever made a motion to accept the Planning & Zoning Commission's recommendation to approve Text Amendment 05-2 with the recommended changes as outlined. Commissioner Robertson seconded the motion. The Board voted unanimously in favor of the motion.

### **OTHER BUSINESS**

There were no items discussed during Other Business.

### **ADJOURNMENT**

There being no further business, Commissioner Yoder made a motion to adjourn at 8:21 PM on behalf of both boards. Commissioner Keever seconded the motion. The motion passed unanimously.

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William L. Hammer, Chairman

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Jamie M. Starnes, Clerk to the Board