

Draft

BOARD OF COMMISSIONERS
REGULAR MEETING February 2, 2009

ALEXANDER COUNTY
STATE OF NORTH CAROLINA

PRESENT: W. Darrell Robertson, Chairman
 Ryan Mayberry
 Larry G. Yoder

ABSENT: Wes Bolick, Vice-Chairman
 Harold M. Odom

STAFF: Rick French, County Manager
 Jamie Starnes, Clerk to the Board

MEDIA: Micah Henry, The Taylorsville Times

The Alexander County Board of Commissioners held a regular meeting on Monday, February 2, 2009 in the Catawba Valley Community College / Alexander Center Multipurpose Room, Taylorsville, North Carolina. A quorum was present.

CALL TO ORDER

Chairman Robertson called the meeting to order at 6:00 PM.

INVOCATION & PLEDGE OF ALLEGIANCE

Chairman Robertson gave the invocation. Bryant Wicker and Logan Gant, students and Wittenburg Elementary School, led the Pledge of Allegiance to the Flag.

COMMISSIONER'S REPORT

Chairman Robertson reported that Commissioner Bolick was out of town and that Commissioner Odom was ill.

ADOPTION OF AGENDA

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

PUBLIC COMMENT

There was no one present to speak during the Public Comment Period.

PUBLIC HEARING: REZONING CASE 08-4 – STAFFORD

Sylvia Turnmire, Director of Planning & Development, discussed Rezoning Case 08-4 submitted by Hall Stafford, Jr. and reviewed by the Board on November 17, 2008. At that time, the Board tabled any action on the rezoning until several issues were addressed, including a traffic impact study and more information from the NC Department of Transportation as to roadbed requirements.

John Marshall, WPCOG Transportation Manager, conducted a traffic study of the area using the Trip Generation Manual to generate approximate vehicle trips for the existing marina, proposed marina expansion, and proposed boat storage facility. Mrs. Turnmire reviewed the findings with the Board, pointing out that the approximated trips if the marina was expanded and the boat storage facility was constructed was 466.82 vehicle trips per day for a weekday, 504.52 vehicle trips on a Saturday, and 965.62 vehicle trips per day on a Sunday.

She informed the Board that Jerry Campbell completed a title search on the common access lot and found restrictive covenants which included:

1. No commercial, residential, or other building shall be erected upon the property.
2. No piers, boathouses, or other structures shall be erected upon or adjacent to the property.
3. This lot is to be used as an access area to the waters of Lake Hickory by the owners of the individual lots of the Taylorsville Beach Subdivision, a map of which is recorded in Map Book 4, page 64, said registry, and is to be maintained and used exclusively for this purpose.

She also stated that Patrick Norman, the NCDOT District Engineer, received specifications on the forklift that Mr. Stafford proposed for moving boats. Based on those specs, Mr. Norman initially stated that the roadbed would require 12-inch concrete in order to support the weight of the forklift and boats; however, she noted that she received an email on Friday, January 30th from James Burgess, Engineering Technician, who stated that NCDOT could not allow the proposed facility to use a NCDOT maintained road to move boats from the storage facility to Lake Hickory due to safety and liability issues. Mr. Burgess stated that the section of roadway in question would have to be abandoned from state maintenance to facilitate the use to which all property owners would have to agree upon. Ms. Turnmire noted that Patrick Norman met with property owners affected by this issue on January 30th and determined that property owners were not receptive to the idea of abandoning the roadway.

Chairman Robertson asked if Mr. Stafford or any of the surrounding property owners had been informed of Mr. Burgess' email. Ms. Turnmire replied that she contacted Mr. Stafford today regarding the email. Chairman Robertson also asked if Mr. Campbell had rendered an opinion regarding the use of the common access lot for transporting boats. Ms. Turnmire replied that all neighbors would have to come to an agreement regarding the issue and sign another document stating that which was agreed upon.

Chairman Robertson called the public hearing to order and requested any public comment. The following comments were heard:

Public Comment

Crystal Stafford stated that the restaurant was not doing well and that her family was simply trying to advance their business, noting that advancing a business and changing it over time would be better than not having a business at all.

Jim Kearney was out of town when the first public hearing was held and therefore did not have an opportunity to speak. He stated that he was against the rezoning for the boat storage facility, noting that there was nothing in the matrix that would guarantee that this business, which would be located in a remote location off the main highway, would be successful. He also noted that he would not sign off of abandoning state road maintenance.

Hall Stafford felt the boat storage facility would bring much-needed revenue into the county.

Libby Stowe stated that none of the neighbors were against progress or increased revenue for the county but noted that this was a neighborhood with families, children, and pets, not a business district. She also mentioned that she would not agree to state road maintenance abandonment.

Jarrett Stafford felt a dry boat storage facility would be a very successful business. He also stated that boats could be transported down to the marina on a trailer instead of the forklift being used, explaining that the forklift would only be needed to lift the boats from the boat storage onto the trailer.

Jim Kearney stated that Mr. Stafford's suggestion for boat transport did not make sense, noting that a pad would have to be built and a forklift would be needed at the marina to load boats onto the trailer and another to stow the boat into the storage facility. He pointed out that traffic was going to increase tremendously due to the addition of the boat docks at the marina and that another business on the other end would increase the traffic even more and change the neighborhood.

Hall Stafford discussed the traffic study provided, stating that he had operated the restaurant for many years and had never seen as many vehicles pass by as that stated in the traffic study. He also pointed out that, even though Duke Power had approved the

addition of 193 boat slips at the marina, there would not be that many people at the marina at one time because there was not enough room.

Jodie Butler addressed concerns she had with the liability the property owners in the common access lot would incur in the event of an accident. She asked if she and her neighbors would be responsible for injuries, noting that the marina had not obtained insurance for that purpose. She felt that this rezoning would increase traffic and negatively affect property owners located between the boat storage facility and marina.

Crystal Stafford informed the Board that most of the neighbors in the immediate area of the restaurant supported her family's efforts with the rezoning.

Libby Stowe stated that those against the rezoning were the property owners located in the common access lot, which were the ones that would be mostly affected.

Patricia Kearney pointed out that the person that bought the marina a year ago was aware of the neighbors' and the problems with parking and traffic.

There being no further comment, Commissioner Yoder made a motion to close the public hearing. Commissioner Mayberry seconded the motion. The Board voted unanimously in favor of the motion.

Chairman Robertson discussed concerns with the new information provided on Friday from NCDOT as well as questions with the restrictive covenants. He stated that he did not feel comfortable making a decision on the case until these concerns were addressed. Commissioner Yoder agreed and suggested that all parties involved including NCDOT, Attorney Jerry Campbell, and the County Attorney if possible attend the March 2, 2009 Commissioners' Meeting to clear up any and all issues so a final decision could be made by the Board.

Chairman Robertson felt a meeting should be scheduled with the property owners and NCDOT representatives prior to the March 2nd meeting.

Commissioner Mayberry made a motion to table Rezoning Case 08-4. Commissioner Yoder seconded the motion. The Board voted unanimously in favor of the motion.

PUBLIC HEARING: REZONING CASE 09-1 – CHILDERS

Sylvia Turnmire, Director of Planning & Development, presented Rezoning Case 09-1 submitted by Stacy Childers / Childers Body Shop. The applicant requested rezoning of property located at 4078 NC Highway 16 North from RA-20 (Residential Agricultural) to H-C (Highway-Commercial) to allow for the continuation of the body shop and also automobile sales. The size of the property tract is .78 acres and the current land use is a body shop. Ms. Turnmire stated that zoning within 100 feet of the property was RA-20 on all sides and she noted that land uses within 100 feet of the property was single-family site-built homes and a manufactured home park

to the north, a recreational area to the south, single-family site-built to the east, a church and vacant property to the west.

Ms. Turnmire stated that the subject property was obtained by the current owner in 2000. Tax records indicate that the structure was built in 1975 and the body shop existed prior to the adoption of countywide zoning in 2001.

She explained that, because the property was completely surrounded by a zoning district considerably different from the requested district, this was a “small scale rezoning” or spot zoning request which is “invalid or illegal unless there is a clear reasonable basis for treating the singled out property differently from adjacent land.” Ms. Turnmire mentioned that for any case involving spot zoning, the following questions must be addressed:

1. Did the zoning activity in the case constitute spot zoning as our courts have defined that term?; and
2. If so, did the zoning authority make a clear showing of a reasonable basis for the zoning by determining the following 4 factors?:
 - a. The size of the tract.
 - b. The compatibility of the disputed zoning action with an existing comprehensive plan.
 - c. The benefits and detriments resulting from the zoning action for the petitioning property owner, neighbors, and surrounding community.
 - d. The relationship between the uses envisioned under the new zoning and the current uses of adjacent land.

Ms. Turnmire addressed staff comments in regard to these 4 factors to show a reasonable basis for zoning, which included:

2a. The size of the tract:

The size of the subject property is .78 acres. The sizes of surrounding properties are:

North – 4.3 acres
South – 5.29 and 31.92 acres
East – 3.95 acres
West – .42 acres

2b. The compatibility of the disputed zoning action with an existing comprehensive plan:

1. Section 154.140 of the Alexander County Zoning Ordinance states that the RA-20 District is established as a district in which the principal use of the land is for low-density residential and agricultural purposes including single-family dwellings, two-

family dwellings, and individual manufactured homes, and related uses necessary for a sound neighborhood.

2. Section 154.170 of the Alexander County Zoning Ordinance states that the H-C District is to provide suitable locations for those commercial activities which serve primarily the traveling public, including those which function rather independently of each other.
3. The 2008 Comprehensive Plan shows this area as remaining residential in nature.
4. The 1995 Thoroughfare Plan identifies this section of NC Highway 16 North to be an Urban Thoroughfare and is an identified future need for upgrading the existing two-lane facility from the Catawba River to the Wilkes County line. The 2007 annual average traffic county is 7,000 trips per day for this section of Highway 16.

2c. The benefits and detriments resulting from the zoning action for the petitioning property owner, neighbors, and surrounding community:

The Board must determine what impact the rezoning will have upon the adjacent property owners and the surrounding community. The benefits of the rezoning should outweigh any potential inconvenience or harm to the community.

2d. The relationship between the uses envisioned under the new zoning and the current uses of adjacent land.

The nearest H-C zoning district, comprised of an antique shop, is within 560 feet of the subject property. A Light Industrial zoning district is located approximately 400 feet from the subject property. Surrounding uses are primarily residential in nature with Salem Lutheran Park located to the south. Please note that all of the uses allowed in H-C should be considered, not only the use for which the applicant is applying.

Ms. Turnmire stated that letters were sent by first class mail to the property owners within 100 feet of the parcel boundary, a sign was posted on the property, and an advertisement was placed in *The Taylorsville Times*. She noted that staff had not received any comments in favor or in opposition to the request.

She informed the Board that Planning & Development staff recommended approval of the request due to the following:

1. Proximity of similar zoning districts.
2. The size of the subject property in relation to surrounding tracts.

She also stated that the Planning & Zoning Commission held a public hearing on January 8, 2009 to consider the request, where the Commission unanimously voted to approve the rezoning request based on the following findings:

1. The size of the subject tract is in harmony with surrounding properties.
2. The requested zoning district is consistent with the intent of the comprehensive plan.
3. The rezoning would be a benefit to both the applicant and the surrounding community.
4. The business existed prior to the adoption of countywide zoning in 2001.
5. Given the location of the subject property and safety concerns, the Commission asked that staff be given flexibility in regards to screening requirements.

Ms. Turnmire stated that based on the information provided, the Board must determine whether the rezoning request meets the guidelines set forth above. She also noted that Section 154.351(C)(2) of the Alexander County Zoning Ordinance required the Board to provide a statement analyzing the reasonableness of the proposed rezoning and reflecting consideration of the 4 legitimate factors for differential zoning treatment of the property involved.

Chairman Yoder called the public hearing to order and requested any public comment. There being no public comment, Commissioner Yoder made a motion to close the public hearing. Commissioner Mayberry seconded the motion. The Board voted unanimously in favor of the motion.

Commissioner Mayberry asked about Mr. Childers' plans for the automobile sales. Mr. Childers explained that he did not plan to operate a large dealership, only to sell a few cars occasionally.

Commissioner Yoder made a motion to approve Rezoning Case 09-1 based on the 5 findings provided by the Planning & Zoning Commission.

Chairman Robertson added that the buffer between the body shop and Salem Lutheran Park should be held back at a safe distance for entering/exiting the body shop to/from Highway 16 North. The Board agreed.

Commissioner Mayberry seconded the amended motion. The Board voted unanimously in favor of the motion.

PUBLIC HEARING: TEXT AMENDMENT 08-05 – TELECOMMUNICATION TOWERS

Sylvia Turnmire, Director of Planning & Development, informed the Board that the NC General Assembly recently adopted new statutes regulating what criteria counties could govern when reviewing applications for the placement, construction, or modification of telecommunication towers. N.C.G.S. 153A-349.52 states that counties may only address public safety, land development, or zoning issues including aesthetics, landscaping, land use based location priorities, structural design, setbacks, and fall zones. She also noted that counties could also evaluate the feasibility of collocation on existing structures.

She presented Text Amendment 08-05 which revised the Telecommunications Tower portion of the Alexander County Zoning Ordinance to coincide with these changes, noting that the Planning

& Zoning Commission held a public hearing on December 4, 2008 where they unanimously recommended approval of the revisions. While under revision, the Commission also elected to increase the spacing requirements between towers.

Chairman Robertson called the public hearing to order and requested any public comment. There being no public comment, Commissioner Yoder made a motion to close the public hearing. Commissioner Robertson seconded the motion. The Board voted unanimously in favor of the motion.

Commissioner Yoder made a motion to approve Text Amendment 08-05 as presented. Chairman Robertson seconded the motion. The Board voted unanimously in favor of the motion.

HIDDENITE SEWER PROJECT UPDATE

Gene Haynes, HSMM Assistant VP/General Manager, reported that crews had hit rock on Suphur Springs Road where boring was taking place underneath the railroad to install a manhole for the school to connect to. Crews have also hit rock at the Craftmaster pump station and are about 300 feet away from getting the force main in and the wet well set. He noted that the wet well had been set at the Statesville Palette pump station and most of the mechanics were in the ground.

He stated that the project had been held up by NCDOT who claimed there was no encroachment for the 300 foot extension at the water booster pump station but he pointed out that all the equipment was ready to begin with the pump station. There are currently no issues with the grant or financing for this project.

Commissioner Mayberry asked Mr. Haynes when he expected total completion of the project. Mr. Haynes explained that Neill Grading had requested a 30 day extension due to the amount of rock; therefore, he expected completion and pumping in 45 days.

Chairman Robertson conveyed his appreciation to HSMM for their engineering services as well as Neill Grading.

NORTHEAST AREA WATER PROJECT UPDATE

Rick French, County Manager, provided a progress report from Benjie Thomas, West Consultants, regarding the Northeast Area Water Project, which included the following:

1. The loop on Poplar Springs Road and Sloan Road was recently completed. That loop still needs to be sterilized, tested, and put into service.
2. The water lines on Allen Road and Johnny Wike Road are complete and tested. Those lines can be put into service after the results from a bacteriological test are received.

3. Pipe laying is currently being done on York Institute Road. Work will proceed from there to Vashti Road.
4. Approximately 7 miles are left to install (not including Hopewell Church Road).
5. The project is on schedule. The deadline has been extended to July 5, 2009 due to the addition of 2,000 cubic yards of rock excavation.
6. The project is still within budget, such that the Hopewell Church Road project is still expected.

Commissioner Yoder asked if many residents had signed up to use the water. Mr. French replied that there had not been as many as hoped for.

JAIL PROJECT UPDATE

Rick French, County Manager, discussed the work session held with Jack Hemphill, Jail Architect, on Wednesday, January 28, 2009 where preliminary drawings, the base bid project, and several alternate bids projects were discussed. He noted that Mr. Hemphill planned to also meet with Sheriff Hayden Bentley and Seth Chapman, Clerk of Court, to review these items.

Mr. French stated that another work session needed to be held in late March to discuss the financing of this project.

BUDGET ORDINANCE AMENDMENTS #21 - #23

Rick French, County Manager, discussed the purpose of Budget Amendments #21 - #23, which included the following information:

Budget Amendment #21 – To increase the Information Technology budget for costs associated with the cable PEG channel. To increase the Fire/Emergency Services budget for receipt of a \$2,000 Wal-Mart grant for smoke detectors. To increase the DSS budget for an additional allocation of Crisis Intervention payment funds from the state.

Budget Amendment #22 – To reimburse the E911 Special Revenue Fund for fiscal year 2008 telephone bills that should have been paid from the General Fund's 911 Communications Department.

Budget Amendment #23 – To budget for the 2008 CDBG Scattered Site Housing Program.

Commissioner Yoder made a motion to approve Budget Amendments #21 - #23. Commissioner Mayberry seconded the motion. The Board voted unanimously in favor of the motion.

OTHER BUSINESS

Rick French, County Manager, discussed the following issues during Other Business:

- A. The annual Chamber of Commerce banquet is scheduled for Tuesday, February 24, 2009 at the ACHS Auditorium/Cafeteria. The President's Reception begins at 5:30 PM, awards and presentations at 6:00 PM, and dinner at 6:30 PM.
- B. A letter was received from GEM Management advertising the Mountainwood Apartments in Taylorsville, who offer one and two bedroom apartment with rental rates based on applicant income.

CLOSED SESSION – N.C.G.S. 143-318.11(a)(1, 4, 5, & 6) TO PREVENT THE DISCLOSURE OF CONFIDENTIAL INFORMATION, ECONOMIC DEVELOPMENT, CONTRACTUAL, & PERSONNEL

Chairman Robertson made a motion to enter into Closed Session at 7:11 PM to prevent the disclosure of confidential information and to discuss economic development, contractual matters, and personnel issues pursuant to N.C.G.S. 143-318.11(a)(1, 4, 5, & 6). Commissioner Yoder seconded the motion. The Board voted unanimously in favor of the motion.

ADJOURNMENT

There being no further business, Commissioner Yoder made a motion to adjourn at 8:20 PM. Commissioner Mayberry seconded the motion. The Board voted unanimously in favor of the motion.

W. Darrell Robertson, Chairman

Jamie M. Starnes, Clerk to the Board