



*Vance County Planning & Development
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TO: Vance County Citizens Advisory Committee (CAC)
FROM: Ken Krulik, Assistant Director/Senior Planner
SUBJECT: Minutes of the March 23, 2006 CAC meeting
DATE: March 27, 2006

In Attendance

Committee Members: Reverend J,H, Daniels-Committee Chair, Connie Kenney-Committee Vice Chair, Helen Williams, Thomas Shaw III, Vincent Jefferson, Rusty McMahan, John Abbott, John Foster, Alan Rowland

County Staff: Robert Farnum, Ken Krulik (meeting facilitator)

Others Present: Marc Woodlief, Matthew Milliken (Daily Dispatch), members of the public

- ◆ Chairman Daniels called the meeting to order, requesting review of the minutes for the March 16, 2006 meeting and asked if there were any corrections.
- ◆ Vincent Jefferson identified corrections to be made on Page 3, Item B-1 (removing repeated text), Page 4 Items B-8 and H (correcting text/grammar), and Page 5 Item P (correcting text/grammar).
- ◆ Rusty McMahan noted on Page 2 Item H, it was asked in the prior meeting about the requirements for public hearings (one per month, two per month, every three days) if an answer had been obtained. Ken Krulik responded he was still researching this question.
- ◆ Alan Rowland noted on Page 5 Item P-2-b, the motion made by Rusty McMahan (“...to have the Committee be on the County Commissioners April meeting agenda to inquire, based on the questions from Rusty McMahan’s statement, about the Commissioners objectives of countywide zoning...”), Alan Rowland noted he was opposed to the action.
- ◆ Alan Rowland continued that on Page 7, the text regarding “lots that adjoin Corps property,” should be corrected to read “lot lines that adjoin Corps property.”
- ◆ Rusty McMahan noted on Page 7, it was asked in the prior meeting about researching legal advice on takings and to insure that the County is not bearing financial burden or taking away opportunities from landowners and developers. Ken Krulik responded he was researching this through several resources (attorneys, the Institute of Governments, local planners) and he noted the stated corrections (correct the minutes accordingly).
- ◆ With no further discussion or corrections from the members, Chairman Daniels entertained a motion to approve the minutes as corrected:
 - A. **Motion** was made by Alan Rowland to approve the minutes of the March 16, 2006 meeting with the noted corrections. **Second** was made by Vincent Jefferson.
 - B. All members voted to approve the corrected March 16, 2006 minutes.

- ◆ Chairman Daniels then moved to Old Business, Ken Krulik responded by addressing setbacks (as raised at the prior meeting) and reviewed that the setbacks in the draft zoning ordinance were incorporated from the County's Subdivision Ordinance (to prevent contradiction between the documents). He added a concern raised by Alan Rowland in using the draft zoning ordinance setbacks, smaller lots may be adversely impacted and if appropriate setbacks for each draft zoning category were available.
- ◆ Ken Krulik continued that based on this request he had he compiled this information a summary of individual (proposed) setbacks for each proposed zoning category, he distributed this information to the Committee for their consideration and review.
- ◆ Ken Krulik further added that a proposed lot width minimum, per a request for the last meeting, was added to the A-R zone for consideration and review as well.
- ◆ Chairman Daniels noted that in one of the ordinances he reviewed that there was a provision regarding "lot width to depth ratio."
- ◆ Alan Rowland and Ken Krulik both responded that a lot's "depth can't exceed more than four times its width" (per the County's Subdivision Ordinance).
- ◆ The Committee discussed the potential for lot width requirement based on a one acre lot.
- ◆ Rusty McMahon commented on the material distributed by Ken Krulik, it noted "potential setbacks." He asked if this means the Committee makes this decision.
- ◆ Ken Krulik responded that this Committee reviews the material and decides whether or not to incorporate these proposed recommendations in their work, as potential revisions to the draft ordinance (inclusive of these proposed setbacks) to the Commissioners.
- ◆ Chairman Daniels added the Board of Commissioners has the final decision on approving the recommendations from the Committee, once their work has been completed, and then if the recommendations are to be incorporated into the draft ordinance.
- ◆ John Foster noted that the material distributed consisted of proposed (potential) setbacks for incorporation into the draft zoning ordinance, Ken Krulik responded that is correct.
- ◆ Chairman Daniels inquired about the existing setbacks in the County Subdivision Ordinance and their relationship to the speed limits established. Ken Krulik responded that was not involved in the developmetn of the original County Subdivision Ordinance could not answer as to rationale for the established setbacks.
- ◆ Chairman Daniels continued the meeting, directing the Committee to a letter received from the Board of Commissioners Chairman, Tim Pegram. The letter is in response to the Committee's request for an appointment at the next Commissioners meeting (to answer questions from the previous Committee meeting). Copies were distributed to Committee members, it stated that while the Board appreciates the work of the Advisory Committee, the Board feels an appointment on the agenda is unnecessary and the content of the letter should provide the guidance needed for the Committee to "properly fulfill its charge."
- ◆ Chairman Daniels requested the letter be entered into the minutes; Ken Krulik noted he would do so. Chairman Daniels stated he appreciates the Board's response and directed the Committee to proceed with its meeting.
- ◆ Rusty McMahon expressed his disappointment with the Board's response, the Committee put forth an effort to create a dialogue with the Commissioners (as elected representatives of County residents) was "brushed off." This Committee, he added represents "a lot of citizens," and the Committee, by a majority vote, asked to be a part of a public meeting to have their questions answered.
- ◆ John Foster added that the Committee had posed their questions to be answered by the Board of Commissioners and this letter answered those questions.

- ◆ Rusty McMahon and Chairman Daniels both stated that now we know their (the Commissioners) answers.
- ◆ With no further discussion Chairman Daniels moved the meeting forward, Section I and II material as reviewed by the Committee. Included in this material was information as related to definition of bona fide farms, based on the County Tax Office definition.
- ◆ Chairman Daniels noted in the distributed material that planning staff had provided examples of farm definitions used by other counties in North Carolina.
- ◆ Thomas Shaw provided information from his perspective as a farmer, noting the provision used by the County Tax Office that identifies \$1,000 annually and sold under normal circumstances.
- ◆ The Committee had general discussion on this topic, including that some of the material distributed (per the County Tax Office) was challenging to read and interpret. It was noted that the application used by the Tax Office defines general Statutes provisions identifying classifications of agriculture.
- ◆ Chairman Daniels and Thomas Shaw commented that it would be wise to utilize the same definition (for a bona fide farm) as identified by the County Tax Office, since there are provisions based on State General Statutes included in the documentation. This would prevent legal issues from arising.
- ◆ After further decision, the Committee agreed to leave the original proposed farm definition (per the County Tax Office-includes the average annual income over three years and three identified use classifications). Chairman Daniels added that the draft zoning ordinance definition should reference the appropriate General Statutes. Ken Krulik responded he would address these recommendations.
- ◆ Chairman Daniels then moved to items noted for review from Sections I and II including research zoning versus subdivision covenants.
- ◆ Ken Krulik distributed material in reference to this research; it included information researched from local planners and the Institute of Governments as to how to address zoning as compared to subdivision covenants. He added that the “bottom line,” is that both can apply when it comes to development.
- ◆ John Foster inquired about whether, in regards to setbacks, if there an encroachment into a setback would the Zoning Administrator have leniency (flexibility) in addressing the situation. Ken Krulik responded yes, and that there is a process built into the review of variances by the Board of Adjustments when reviewing these instances.
- ◆ Ken Krulik added that in regards to zoning versus subdivision covenants, the more restrictive provision would apply.
- ◆ Rusty McMahon noted that in either instance (subdivision covenants or zoning); if there were an encroachment into the setbacks the property owner would still have to ask someone’s permission. Ken Krulik responded yes, but in the case of a subdivision covenant, any discrepancies would be a civil matter.
- ◆ Alan Rowland added, as an example, under the proposed zoning ordinance if a restrictive covenant had a 15 foot side setback but the proposed zoning ordinance had a 25 foot side setback, the more restrictive provision would apply.
- ◆ The Committee had general discussion on existing subdivisions and the draft zoning ordinance, it was asked if in the case of existing (recorded) subdivisions would the proposed zoning regulations apply for setbacks (on existing lots). Ken Krulik responded he would research this further to provide clarification.

- ◆ The Committee continued its discussion on the time period a zoning permit would be valid. Ken Krulik stated at a prior Committee meeting it was determined to have the time period of a zoning permit being valid to be the same as a County building permit.
- ◆ Committee members further discussed non-conforming uses and if a disaster occurs that damages 60% or more of the structure on the property (per the draft zoning ordinance) does the new construction have to be in compliance with the new zoning if the original development was grandfathered prior to zoning.
- ◆ Chairman Daniels commented that based on the draft zoning ordinance, if a house was built prior to zoning (and it was non-conforming) if it be destroyed by fire or disaster then it can still be re-built as it was. Ken Krulik responded that is correct, homes that are non-conforming can be rebuilt in the same footprint regardless of the extent of the destruction.
- ◆ Alan Rowland noted that Page 27 references Substandard Lots of Record, as an issue was also discussed regarding smaller lots that may be non-conforming.
- ◆ Rusty McMahan then commented that if there would be diminished property value by lots being determined to be non-conforming and if the County would be responsible for providing compensations on de-valued property.
- ◆ With some continued discussion on these points, it was asked of Ken Krulik to research further these points raised as well as the related legalities. Ken Krulik agreed to do so; he added that the review process of the Board of Adjustments would consider all factors in its decision on issues such as non-conforming uses and building on non-conforming lots.
- ◆ Rusty McMahan commented in relation to lot sizes that if the state minimums requirements for health (septic systems-lot size is 30,000 SF), and then mapping the entire county would be simplified. Ken Krulik said there are other conditions to consider.
- ◆ The Committee noted that there are soil conditions to consider (adequate soils for septic systems and development in general), as well as the watershed regulations which have specific lot size minimum requirements that the County cannot go below.
- ◆ Rusty McMahan added it seems that laws are in place already to cover these issues.
- ◆ Chairman Daniels inquired about the possibility of subdivisions covenants and joint administration between a County and private landowners to guide development and that are enforceable by the County. Ken Krulik responded it is feasible and he would research this information for the Committee as a potential method to guide development.
- ◆ Rusty McMahan stated that covenants are agreements between the buyer and seller of property and that he could not see the County being involved in that particular process (County could “sit in” on the process, but not be the administering entity).
- ◆ After further discussion, Chairman Daniels moved the meeting back to its focus.
- ◆ Alan Rowland noted that it was discussed to have clarity in the draft ordinance on the timeframe for zoning and building permits to coincide and to insure adding appropriate text in the draft ordinance with regards to the appeals process (time limit, such as 10 days). Ken Krulik noted this and would make appropriate revisions as recommended.
- ◆ Chairman Daniels then moved the discussion to small business operations on farms that don't affect the public health safety and welfare of the community. He asked of the Committee if they wish to address issues of types of businesses allowed on farms.
- ◆ Ken Krulik commented that the Table of Permitted uses on Page 21 states: “This table of permitted uses is not intended to limit or prevent certain operations that are a normal secondary extension (part) of existing development and uses.” He added that this was added with the intent of addressing uses on farms such as welding shops or auto repair that is considered part of the farm operation (agricultural residential zone).

- ◆ Rusty McMahon commented there is much not addressed by this provision, such as a small welding shop with only a few customers is different than a major diesel plant. He added that Ken Krulik has stated a use such as this would not be allowed to grow and if the neighbors don't like what's being done on that property then can go to the zoning board and have the operation shut down ("squelches" entrepreneurship).
- ◆ Rusty McMahon further asked if it is the burden of the County to prove safety and health endangerment.
- ◆ Ken Krulik explained that the Board of Adjustments would review the cases and base decisions on findings of fact to determine if there is a genuine problem with affecting safety and health of the community
- ◆ Rusty McMahon further asked why does a property owners have to seek permission to operate a business on their property.
- ◆ Ken Krulik responded there is a difference between a small business (such as a surveying office for example) and developing a facility that will have hazardous materials and storage of fuels (hazards of fire/explosions for example if not properly stored). In this instance there is a definitive hazard to safety and welfare if it is constructed near a residential community.
- ◆ Rusty McMahon commented that there are many types of small business that can be operated not interfere with neighbors or affect the community at large. It seems that these business are either going to be allowed to operate or they will need special permission, his question is why?
- ◆ Ken Krulik again commented that the basic premise of zoning is to protect the health and welfare of the community at large and there are some uses are incompatible with others.
- ◆ Thomas Shaw asked about what if an owner wanted to put an ethanol operation on their property which was agriculture, would they be allowed. Ken Krulik responded that if that use is secondary (in the stated example) and on a bona fide farm they are exempt from the zoning regulations and could operate.
- ◆ Rusty McMahon asked about buying materials elsewhere, per Thomas Shaw's example, could the business still be conducted. Ken Krulik responded yes, if in using the same example, the property were a bona fide farm.
- ◆ Rusty McMahon then commented that the only people that will be allowed to be entrepreneurs will be bona fide farms.
- ◆ Ken Krulik responded that was not what he was saying, the draft ordinance seeks to protect the County from inappropriate lands uses and maintain the rural character of the County, there is a process built into the document allow for growth and development of businesses in a safe manner.
- ◆ Rusty McMahon again asked why does the individual have to go before a zoning board to seek approval to do the business, if there are already rules and regulations in place at the state and federal levels.
- ◆ Alan Rowland further added that there are specific land uses that are appropriate for certain areas, in order to reduce safety issues and increased traffic (keeping development and certain land uses separated that would not be appropriate next to each other).
- ◆ The Committee continued to have general discussion on types of uses that may or may not be allowed based on the draft ordinance, with several examples related farms.
- ◆ Ken Krulik added that the permitted use chart utilizes general categories and types of development for each potential zoning category, it is possible this use chart could be 10 times bigger than it is currently and still not cover every possible use.

- ◆ Chairman Daniels made a recommendation to utilize in the draft ordinance examples of secondary uses (such as auto or tract or repair) that are allowed under a bona fide farm, in order to provide guidelines for the administration of the draft zoning ordinance. Ken Krulik responded he could add this recommended revision.
- ◆ Ken Krulik further explained several examples of uses allowed, based on the proposed Permitted Use Chart, adding what could be permitted by right, what would not be permitted, and what would require a conditional use permit (based on the discussion of the Committee). The Committee continued its discussion on what is an appropriate land use and what is allowed per the draft zoning ordinance.
- ◆ Helen Williams commented that it would be very difficult to think of all the anticipated uses possible to address in this draft ordinance and to develop the language necessary to handle all possible uses. She gave an example within her community of a property owner wanting to put in a shooting range in the development. This is a concern for her, but even with some restrictions in her community it is difficult to cover every possible use.
- ◆ Alan Rowland added that the draft ordinance addresses generalized uses, Helen Williams further added that it's possible to another 25 proposed uses to the draft zoning ordinance and still not accomplish handling every conceivable use proposed.
- ◆ Vincent Jefferson commented that the County's land use plan alludes to certain areas that are appropriate for development, as well as a number of environmental issues (such as soils) that affect where development occurs. He added that zoning is one of the recommendations from the land use plan.
- ◆ Rusty McMahon asked if the land use plan (and Subdivision Ordinance) would suffice, conceivably, to address these development issues.
- ◆ Vincent Jefferson stated that the land use plan is a guide that was developed, with recommendations such as zoning and a public water/sewer system for the County to promote and guide growth in the County.
- ◆ Chairman Daniels stated he gathers from the comments that there be flexibility in the A-R (agricultural residential) zone and that a concern property owners have is to insure consistency and fairness when people apply for zoning permits, variances, re-zonings, and conditional use permits. He recommended revisions be considered to make permitted uses more flexible in the A-R zone as well as for large tracts of land.
- ◆ Chairman Daniels brought the focus of the meeting back to review of the Section III on Page 16 and reviewed the distributed material on setbacks (and lot width) as provided by Ken Krulik.
- ◆ Alan Rowland provided some background on the setbacks being identified from the right of way. Chairman Daniels recommends that this be clarified in the draft ordinance, Ken Krulik noted this recommendation.
- ◆ The Committee had general discussion on lot widths in a rural area with large tracts of land, the issue of shared driveways (and NC-DOT requirements) and setbacks.
- ◆ Alan Rowland also provided some additional explanation on road requirements and interior roads in subdivisions.
- ◆ After some further discussion and comments from the Committee, Chairman Daniels suggested utilizing, for the A-R zone lot width, a minimum of 150 feet. Committee members agreed and Ken Krulik noted this recommendation.
- ◆ Conversation then moved to development and associated regulations (as defined by the State) in the watersheds. Ken Krulik provided information on the lot size requirements for the Tar Pamlico and Anderson Creek watersheds, as compared to the proposed zoning ordinance, and identified the boundaries for these watersheds to the Committee members.

- ◆ Chairman Daniels raised a point regarding Kerr Lake that is this is the primary water supply for the area and major natural resources for the County, why encourage development of less than one acre around the lake (water quality issues).
- ◆ Ken Krulik asked what lot size minimum the Committee would recommend to have for the O-S (open space) zone; it seems the concern to insure preservation of open space should be preserved around the lake.
- ◆ Alan Rowland added that the O-S zone does have regulations for impervious surface coverage requirements (how much land can be built upon) to follow. This does include any structures such as building and accessory structures sidewalks, driveways, and even gravel for driveways is considered impervious surface due to compaction.
- ◆ John Foster recommended adding text to the draft ordinance to require use of Best Management Practices (BMP's) where feasible to reduce the amount of runoff from development and aid in protecting water quality (for use in and out of the watershed).
- ◆ Ken Krulik noted he would write up a proposed text revision as a recommendation, he also added some further explanation on the percentage of built on area in the watershed, based on a question from the Committee.
- ◆ Alan Rowland also commented that on Page 17 Item D there should be consistency for the lot sizes-as identified in the draft zoning ordinance and the County's Watershed Protection Ordinance and Item C should be removed (no Critical Area in the WS-IV watershed). He further added that a definition of the watershed classifications should be included and further added that for floodplains the Corps of Engineers considers a floodplain elevation of 321 feet (not 320 feet). Ken Krulik noted the recommendations.
- ◆ The Committee continued its discussion of development around the lake and in the watershed, it was commented during this discussion that there could be justification for larger lot minimums in these areas (setbacks and lot width issues). Chairman Daniels stated it may be a consideration for the Commissioners to make if the lot sizes proposed the draft ordinance are too small.
- ◆ Alan Rowland added some insight by stating the in regards to the measure of lot width, is measured at the minimum building line (MBL), not at the road frontage and he provided several examples (including for example in cul-de-sacs due to their design they could have a 70 foot setback).
- ◆ Committee members had more development around the lake area, use of impervious surface limits, and working to protect the County's natural resources. It was recommended to consider Alan Rowland's comments when addressing the setbacks and lot widths (for cul-de sacs) in the draft ordinance, Ken Krulik noted the recommendation.
- ◆ The Committee also agreed to recommend a once acre minimum for all the watershed areas of the County, Ken Krulik noted this recommendation as well.
- ◆ Chairman Daniels stated the two hour time limit for the meeting had arrived; it was the consensus of the members to focus on the remainder of Section III and the Permitted Use Table of the draft ordinance for the next meeting on March 30. It was also determined to extend the meeting time to three hours, all members agreed.
- ◆ With no further business the meeting was adjourned.