

**MINUTES
CITY-COUNTY PLANNING BOARD
VIRTUAL WORK SESSION
JANUARY 28, 2021
4:30 P.M.**

MEMBERS PRESENT: George Bryan, Melynda Dunigan, Jason Grubbs, Clarence Lambe,
Chris Leak, Mo McRae, Brenda Smith, Jack Steelman
MEMBERS ABSENT: Tommy Hicks
PRESIDING: Chris Leak

I. INTRODUCTORY DISCUSSION ON NCGS 160D TEXT AMENDMENT

A group of attorneys began working on a project to consolidate city and county chapters of the North Carolina General Statutes into one chapter several years ago, in an effort to reduce redundancy and standardize terms across both chapters. The State is requiring local governments to be compliant with the requirements of Chapter 160D by July 1, 2021. The creation of NCGS 160D is the first comprehensive recodification of the State planning regulations since 1905. Sections 1-29 are presented in the same order as they appear in the UDO. Chris Murphy reviewed these sections with Board members and then answered questions.

Regarding Section 3, George Bryan asked what would make a difference in why a plan would be vested for two, three, four or five years. Chris explained that projects are typically vested for two years, but if you are in the process of developing a site and see that you are not able to finish within that period of time, and there have been substantial changes to the UDO, you can go back to the elected body, through the site plan amendment process, and ask that vesting be extended from two to five years.

Regarding Sections 10 and 11, George made the comment that when a text amendment is discussed at the Planning Board level, the requirements for publication are different than at the elected body level. Chris stated that Planning Board hearings have requirements for advertisement, but specify that an ordinance be advertised once, not twice. Per state law, there is no statutory requirement for public hearings at the Planning Board level since the Board is acting in an advisory role. However, locally the decision was made that we would conduct a public hearing, and the publication notice would be sent one time between 10 and 25 days prior to the meeting. George also asked if citizen comments on a text amendment and the minutes going to the elected body are not scrubbed based on this amendment. Chris stated that as long as staff receives public comments before a certain date, staff forwards them on to the Board for their review in the agenda book, or they are provided at the meeting for Planning Board review. Citizen comments also go to the elected bodies as part of the information that is sent to them each month.

Regarding Section 17, Melynda stated that when our Neighborhood Conservation Overlay (NCO) regulations were being proposed, regulation of certain design elements was not allowed as an option for NCOs because of the state law regarding design elements. The Board was concerned such regulation would run afoul of state law so there was no language put in the UDO allowing for regulation of design elements. That being the case, it sounds like as long as there is 100 percent agreement to design standards, then it is possible that NCO standards can be enhanced to allow

regulation of elements that weren't allowed previously. Chris stated that if everyone in the NCO didn't agree to the elements that fall under this section, staff would need to seek advice from city and county attorneys. What this statute is doing is sending the message that if NCOs regulate any design elements, there needs to be 100 percent agreement among property owners. Melynda also asked if this rule applied to HO districts. Chris stated that it did not, that there were exemptions pertaining to design regulation in H and HO in the General Statute provisions.

Regarding Section 18 and 19, Melynda sought confirmation from Chris that this change does not preclude the Board from developing standards which relate to how small-scale communication facilities are put up in residential areas as long as they meet the 40-foot height limit. Chris stated that since these facilities are in the right-of way, our staff does not review them, they are regulated by engineering records staff, because these facilities will generally need an encroachment agreement. These statutes are utilized by engineering records and by the assistant city attorney who handles co-location agreements within the right-of-way.

George asked for an example of a temporary healthcare structure. Chris stated that it was a temporary structure in someone's backyard which exists in order to care for someone such as a family member, and he presented the provisions and requirements for such a structure. Chris Leak asked if there was a certain amount of time that the structure had to be removed after the need for care had been met. Chris Murphy stated that a structure would need to be removed 60 days after the person is no longer receiving care.

Regarding Section 23, Jack gave an example of seeing a portion of a larger tract being under contract to be purchased before it was subdivided, because there was no need to subdivide it if the purchase didn't go through, and asked what kind of situation this creates relative to Section 23's new requirements. Chris stated that there were already exemptions in the statute that allowed for parts of lots to be put under contract before they were subdivided.

Aaron added that not all of what is included in 160D has to be in the UDO, but the elements that staff and our attorneys have included in this text amendment are important because most petitioners do not look in the General Statutes regarding rules for development. They will mostly look in the UDO, so it is important that significant changes be in the UDO as well, so petitioners do not have to research multiple different sources.

In conclusion, Aaron recommended that if the Board has any additional questions to submit those to staff. There will be time in February to discuss this item further if needed.

II. FOLLOW-UP DISCUSSION ON UDO-CC8 (COTTAGE COURT AND PUD TEXT AMENDMENT)

Text Amendment UDO-CC8 was first presented to the Board at the January 2021 Planning Board public hearing, and some questions were asked and answered at that time. After much discussion, Board members felt they had additional questions that needed to be answered and they submitted those questions to staff via email in the past month. Based on the questions submitted, some adjustments were proposed to the language in the text amendment, and Tiffany addressed each of those proposed changes.

When referring to Cottage Courts and the number of units allowed, George asked if this number referred to the number of structures or the number of households. Tiffany stated that it was the number of units.

Melynda asked if there was any reason to cap the size of parking areas relative to the size of a development site. Tiffany explained that none of the Cottage Court ordinances from peer communities specified the size of a parking area, and staff felt that it should be up to developers to propose how parking might be handled. She also addressed the other requirements that have to be met related to parking. Mo noted that parking is very expensive and developers usually provided the minimum amount feasible.

Melynda also asked whether the potential for Cottage Courts in GMA 3 was consistent with PRD rules. There is a minimum lot size of three acres for PRDs in GMA 3, and most Cottage Courts would be on three acres or less. Tiffany stated that staff saw Cottage Courts as being good for sites under three acres, and PRDs be good for sites over three acres in GMA 3. Staff saw a benefit in allowing Cottage Courts on smaller acreage infill sites in GMA 3.

Melynda asked why PRDs were not allowed on sites less than three acres in GMA 3. Kirk explained that this reflects the late '80s/early '90s model of thinking in the original UDO, and that staff could consider amending this in the future as this provision may not reflect where our community is at in 2021. Melynda stated that she still has reservations extending Cottage Court provisions to GMA 3, mainly because of the lack of infill standards that exist in GMA 2. Without infill standards in GMA 3, she was concerned that you could get a design on a three-acre site that could potentially be incompatible with surrounding development. Kirk stated that staff attempted to put our ordinance in the mainstream of other peer communities across the nation and didn't see another community who had adjacent lot setback averaging provisions. Additionally, GMA 2 has a much greater consistency in lot and setback patterns along the street than GMA 3, and he gave some examples of this. Melynda suggested that the Board and staff monitor Cottage Courts in GMA3, should they get approved, and revise the ordinance if needed.

George asked about the development example shown in Rocky Mount and how applicable it is to what our city is promoting, as its buildings looked larger than the Cottage Courts we have been discussing. Tiffany explained that the Rocky Mount project was a pocket neighborhood, which is slightly different than a Cottage Court neighborhood.

George asked staff what input neighbors have on where a Cottage Court can be located. Tiffany explained that Cottage Courts would need to meet all requirements recommended by the Planning Board, the same as a PRD or subdivision project would. George also asked if a neighborhood would have any input on the style or design of Cottage Courts. Aaron stated this is not allowed by statute.

After further discussion pertaining to fencing, connectivity and aesthetics, it was Chris Leak's suggestion that the Board move forward with the current proposal. Clarence Lambe stated that he was supportive of the amendment and felt that all questions have been asked and answered thoroughly and also suggested that the Board move forward on this item. He did suggest the Board and staff revisit the three-acre minimum size requirement for PRDs in GMA 3 as a future work item. Melynda agreed with Clarence on this change for PRDs if Cottage Courts are allowed in GMA 3. Aaron stated that this item will come back to the Board for a vote at the Board's February public meeting.

III. 2020-2021 PLANNING BOARD WORK PROGRAM MID-YEAR UPDATE

Kirk told the Board that staff has started the planning process for the next comprehensive plan, and he also gave an update on changes to key items in the mid-year work program report.

Regarding the UDO ClearCode graphics being pushed back as a result of an employee leaving, Chris Leak asked when staff could expect the vacant urban designer position to be filled. Kirk stated that assuming the position fits in with the City's overall priorities in terms of hiring (due to Covid-related challenges), this could take upwards of several months.

IV. DEBRIEFING PUBLIC HEARING MEETING OF OCTOBER

No new business to discuss.

V. STAFF REPORT

The next Planning Board public meeting will be February 11. Stay safe and healthy.

VI. FOR THE GOOD OF THE ORDER