

JACKSON COUNTY PLANNING BOARD

MINUTES

Date: June 10, 2021

Time Begin: 6:00 p.m.

Time End: 7:08 p.m.

Location: Southwestern Community College, Burrell Building, Room 102A

Members	Present	Absent		Present	Absent		Present	Absent
Emily Moss	X		Tamera Crisp	X		Joyce Cooper	X	
Sandy Davis	X		Brad Waldrop		X	Thomas Taulbee		X
Brian Barwatt	X		Mark Letson	X		Tommy White	X	
Kirk Shufelt	X		Ollin Dunford	X				

Staff Present:

Michael Poston- Planning Director

Allison Kelley- Administrative Assistant

Anna Harkins- Planner I

Oath of Office

Allison Kelley, clerk to the Board read the Oath of Office for the following new Board members, Ollin Dunford, Brian Barwatt and they affirmed to execute the duties of Planning Board Members according to the best of their skills and abilities.

Call to Order and Quorum Check

Chairman Mark Letson called the meeting to order at 6:01 p.m. and a quorum was present.

Approval of the Agenda

Kirk Shufelt made a motion to approve the agenda as written. Tommy White seconded the motion, and it carried unanimously.

Approval of the Minutes

Tamera Crisp made a motion to approve the minutes from April 8th, 2021. Kirk Shufelt seconded the motion, and it carried unanimously.

Public Comment

There were no public comments.

New Business

a) UDO Discussion

Mr. Poston stated the State of North Carolina has passed Chapter 160D legislation that empowers cities and counties to enact zoning and development regulations. These regulations and enabling statutes were located in two sections and were modernized into one document. Staff has changed statutory reference in the Unified Development Ordinance (UDO) from 153 to 160D. In addition, Mr. Poston presented the following changes (red font) made to the UDO for the board to consider:

- Section 1.14 Vested Rights and Permit Choice (b) If an Ordinance regulation changes after an application is submitted, the applicant may choose the version of the rule that applies. If the applicant delays the application process for six months, the applicant will have to comply with the new rules pursuant to NCGS 143-755 and NCGS 160D-108.
- Section 2.3.1 Jackson County Planning Board (c) The Planning Board shall have the power to perform the following duties at the direction of the Board of Commissioners:
 - 1) Make studies of the county and the surrounding areas;
 - 2) Determine objectives to be sought in the development of the study area;
 - 3) Prepare and adopt plans for achieving these objectives;
 - 4) Develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;
 - 5) Advise the Board of Commissioners concerning the use and amendment of means for carrying out plans;
 - 6) Exercise any functions in the administration and enforcement of various means for carrying out plans that the Board of Commissioners may direct;
 - 7) Perform any other related duties that the Board of Commissioners may direct.
 - 8) Performs the duties of the Watershed Review Board
 - 9) The powers and duties of the Board of Adjustment
- Section 2.4 Board of Adjustments
 - (a) AUTHORITY

The Jackson County Board of Adjustment (BOA) is established and may exercise those powers granted such boards by North Carolina General Statute Chapter 160D. The UDO provides that the BOA hear and decide special use permits, requests for variances, and appeals of decisions of administrative officials charged with enforcement of the ordinance. The Planning Board shall serve as the Board of Adjustments.
 - (c) MEMBERSHIP

(i) The Planning Board, serving as the Board of Adjustment, shall consist of the five members of the Planning Board serving as the District representatives appointed by the Board of Commissioners. The six at large members of the Planning Board shall serve as alternates to the Board of Adjustment.
- Section 2.5.1 Watershed Review Board
 - (a) ESTABLISHMENT

(i) There shall be and hereby is created the Watershed Review Board consisting of five members appointed by the Board of Commissioners. The Planning Board shall serve as the Watershed Review Board.
 - (b) Membership

(c) The Planning Board, serving as the Watershed Review Board, shall consist of the five members serving as the District Representatives as appointed by the Board of Commissioners. The six at large members of the Planning Board shall serve as alternate members of the Watershed Review Board.
- Section 2.6 CONFLICT OF INTEREST

Section 2.6.1-Conflict of Interest

 - (a) Governing Board

A Board of Commissioner member shall not vote on any legislative decision regarding a development regulation adopted pursuant to this Ordinance where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily available financial impact on the Commissioner. A Commissioner shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.
 - (b) Appointed Board

Members of appointed boards or councils shall not vote on advisory or legislative decisions regarding a development regulation adopted pursuant to the Ordinance where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board or council member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

(c) Administrative Staff

No staff member shall make a final decision on an administrative decision required by this Ordinance if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business or other associational relationship.

If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance.

No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this ordinance unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with the County to provide staff support shall engage in any work that is inconsistent with their duties or with the interest of the County, as determined by the County.

(d) Quasi-judicial Decisions

A member of any board or council exercising quasi-judicial functions pursuant to this Ordinance shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex-parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.

(e) Resolution of Objection

If an objection is raised to a board or council member's participation at or prior to the hearing or vote on the matter and that member does not recuse themselves, the remainder of the member of the board or council shall by majority vote rule on the objection.

(f) Familial Relationship

For the purposes of this section, a close familial relationship means a spouse, parent, child, brother, sister, grandparent, or grandchild, the term includes step, half, and in-law relationships.

- Section 3.7.19 Text Amendment

- (a) Purpose and Intent

- (i) This section provides a uniform means for amending the text of this Ordinance wherever the public necessity, changed conditions, convenience, general welfare, or appropriate land use practices require doing so. A text amendment may be initiated by the Jackson County Board of Commissioners, the Jackson County Planning Board, Community Planning Council, the Jackson County Planning Department, or an applicant.

- (ii) County initiated text amendments do not require an application to be submitted.

- Section 4.9 Completion and Maintenance Guarantee

- (a) Completion

- (i) All applicants shall be required to complete all the street, sanitary sewer and storm drainage, sidewalks, street signs, monuments, erosion control, street lights, and other required improvements as approved by the Planning Director, prior to approval of the final plat or Certificate of Occupancy for projects not requiring a platted process, except as provided in Subsection (b) below concerning performance guarantees.

(b) Performance Guarantees

(i) In lieu of completion of all or part of required improvements prior to approval of subdivision final plats or approved phased development, the applicant may post a performance guarantee in the amount as indicated under subsection (d) of this section for the construction, installation and dedication of the uncompleted portion of the required improvements.

1) Type of guarantee. The type of the guarantee shall be as provided herein.

a) Surety bond issued by any company authorized to do business in this State.

b) Letter of Credit issued by any financial institution licensed to do business in this State.

The terms of the letter shall include the absolute right of the County Manager to withdraw funds from the bank forthwith upon the County Manager's certifying to the bank that the terms and conditions of the performance guarantee have been breached.

The expiration date of the letter of credit shall be at least six months past the anticipated completion date of the required improvements.

d) Other forms of guarantee that provides equivalent security to a surety bond or letter of credit.

e) No person shall have or may claim any rights under or to any performance guarantee provided pursuant to this subsection or in the proceeds of any such performance guarantee other than the following:

i) The local government to whom such performance guarantee is provided.

ii) The developer at whose request or for whose benefit such performance guarantee is given.

iii) The person or entity issuing or providing such performance guarantee at the request of or for the benefit of the developer.

(g) Guarantee Time Limits

(iv) The performance guarantee shall only be used for completion of the required improvements and not for repairs or maintenance.

(d) Inspections; Reports; Cost Responsibility

(i) Procedures for inspections and reports and the responsibility shall be as provided herein

1) The applicant shall have a registered, licensed professional make regular inspections to document progress based on the required construction schedule and provide a final inspection report to confirm work has been completed per ordinance regulations.

- Section 5.4.3 Development Regulations

(h) Buffer Areas Required

(i) A minimum thirty (30) foot vegetative buffer for development activities is required along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies.

- Section 10.3 Procedures

(a) Notice of Violation

(ii) When staff determines work or activity has been undertaken in violation of the Ordinance or other local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State or in violation of the terms of the development approval, a written notice of violation may be issued. The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property. The person providing the notice of violation shall certify to the local government that the notice was provided and the certificate shall be deemed conclusive in the absence of fraud. Except as provided in NCGS 160D-1123, 160D-1206, or otherwise provided by law, a notice of violation may be appealed to the board of adjustment pursuant to NCGS

160D-405.

(c) Remedies Cumulative

(vi) For each day the violation is not corrected, the violator will be guilty of an additional and separate offense and subject to additional civil penalty.

- Article XI Definitions

Section 11.1 Purpose

For the purpose of interpreting this Ordinance, certain words, concepts, and ideas are defined herein. Except as defined herein, all other words used in this Ordinance shall have their everyday meaning as determined by their dictionary definition or, for more planning-specific terminology, their definition found in the most recent edition of "A Planners Dictionary", published by the American Planning Association. When any of these defined terms conflict with the definition found in state law or regulation, the state's definition shall be used.

Tamera Crisp made a motion to call for a public hearing at the Board's regularly scheduled August meeting. Kirk Shufelt seconded the motion, and it passed unanimously.

b) Updates

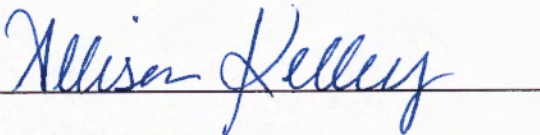
Mr. Poston stated staff has some ideas to relieve the Board of some of their responsibilities, as there is a need for policy review. The Board is responsible for reviewing and approving major subdivision plans throughout the county. Major subdivision reviews are considered a legislative process where the Board reviews these and makes a decision. However, the approval of a subdivision plat based on statute is an administrative role where staff evaluates the standards of the ordinance to determine if they meet the standards. Staff asked the Board to consider determining based on the subdivision size recommend as a staff approval. Mr. Poston stated this process takes up the majority of the Boards meeting. He asked the Board to consider moving forward with this request and they would discuss the number of lots that would trigger for their review. In addition, any modifications or appeals would still come before the Board for consideration. The Board asked staff to bring back additional information and language regarding major subdivision reviews.

Mr. Poston informed the Board they would go back to developing a multifamily development ordinance that happens outside of the counties regulated districts. The Board did amend the subdivision ordinance to include developments with 60 beds or more as there were no regulations regarding multifamily housing. These standards were in-place prior to the Cullowhee zoning regulations. He stated the subdivision ordinance is not designed for multifamily development as it is more centered on roads and parking lots. In addition, the Board would review the outdoor lighting ordinance, and water recharge standards

Adjournment

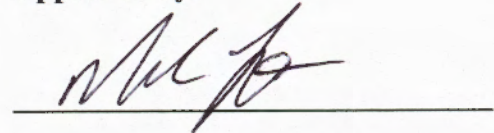
With no further business, Kirk Shufelt made a motion to adjourn. Tommy White seconded the motion and the meeting adjourned at 7:08 p.m.

Submitted by:



Allison Kelley
Administrative Assistant – Planning

Approved by:



Mark Letson
Planning Board Chairman

