

Cullowhee Planning Council

Minutes

June 7, 2021

6:00 p.m.

**Hospitality Room, Ramsey Center Building
Western Carolina University**

| Members | Present | Absent | Members | Present | Absent | Members | Present | Absent |
|---------------|---------|--------|--------------|---------|--------|----------------|---------|--------|
| Rick Bennett | X | | Jim Lewis | X | | Chris Stuckey | X | |
| Joel Setzer | X | | Mike Byers | X | | Donna Huguelet | | X |
| David Claxton | X | | Carol Burton | X | | | | |

Staff Present

Michael Poston, Planning Director

Heather Baker, County Attorney

Anna Harkins, Planner I

Allison Kelley, Administrative Assistant

Oath of Office

Allison Kelley, clerk to the Council read the Oath of Office for the following new Council members, Carol Burton, and Chris Stuckey and they affirmed to execute the duties of Planning Council Members according to the best of their skills and abilities.

Call to Order

Chairman David Claxton called the meeting to order at 6:03 p.m. and a quorum was present.

Additions to Agenda

Rick Bennett made a motion to approve the agenda with the addition of item C "Planning Updates" under "New Business". Carol Burton seconded the motion and it passed unanimously.

Approval of Minutes

Joel Setzer made a motion to approve the minutes from April 5, 2021. Rick Bennett seconded the motion and it passed unanimously.

Public Comment- Sign-up sheet- 3 minutes per speaker

Hiddy Morgan: Ms. Morgan inquired what prompted the change for conditional zoning and asked for possible scenarios of this change. In addition, she stated there was no information in the Sylva Herald regarding this meeting, and asked the county to be more transparent for upcoming meetings. Ms. Morgan stated community members that have access to agendas and meeting materials allows for early involvement of the decisions made by the Cullowhee Planning Council and Planning Board.

Karen Kandl: Ms. Kandl stated she did not have a good understanding of the conditional zoning draft, what is designed to do, and how it would impact the existing rules and ordinances. She stated that she hoped that any changes the Council proposed would strengthen zoning and not weaken it. Zoning is meant to protect Cullowhee and its beauty from development in the wrong place or development in the wrong way. Ms. Kandl stated as we've seen recently throughout Cullowhee, development in the wrong places and in the wrong ways causes tremendous environmental destruction, including erosion and destruction of streams, and causes congested and dangerous roads and intersections. People who live and work in Cullowhee have bought property based on current zoning maps. If that zoning is changed or it

becomes easier to change that zoning because of these proposed modifications in this draft document, then that doesn't serve the people of this community. In addition, she stated if they want the community involved in proposed changes to consider the following:

1. Putting the minutes from past meeting on the Jackson County webpage in a timely fashion.
2. Providing a detailed agenda of the upcoming meeting, rather than an agenda that simply states "old business" and "new business".
3. Allowing speakers to speak after they have heard the discussion rather than at the beginning of the meeting. It is nearly impossible to formulate insightful comments for a meeting when one does not know what is being proposed or discussed.

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:

- 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 3.7.15 Special Use Permit (d) Special Use Permit Procedure (ii) Application Submittal and Acceptance 5. Upon review of an application and site plan for a special use permit, the Director will determine that the application is one of the following
 - a) **Complete**. If the Planning Director finds the application and site plan to be in compliance with the requirements of this Ordinance, they shall forward the **their report** and the special use permit application and site plan to the appropriate Community Planning Council for review and final action (Section 3.7.15 (v)), Community Planning Council Review and Decision). If the application is for a Wireless Communications facilities permit, the permit application shall be forwarded to the Board of Commissioners (Section 3.7.15 (vii)), Board of Commissioners Review and Decision).
 - b) **Complete with Recommended Conditions**. If the Planning Director has recommendations on the application, the recommendations shall be forwarded to the Community Council with the staff report, the special use permit application and site plan shall be forwarded to the Community Planning Council or Board of Commissioners for review and final action.
 - c) **Incomplete or Fails to meet ordinance standards**. If the application is incomplete or fails to meet the ordinance standards, the Planning Director shall provide, in writing, the reasons for the determination to the applicant. The special use permit may be revised to address the deficiencies and resubmitted in accordance with the provisions of this ordinance. The decision of the Planning Director shall be considered final action on the request unless, within 30 days of receiving the written determination, the applicant provides a written request for review by the appropriate Community Planning Council or the Board of Commissioners.
- Section 9.4.3 General and Special Use Districts
 - (b) Commercial District (C)
 - (iii) Development Standards.
5. **Setback**. The following minimum setbacks shall be required for structures in the Commercial District, for single family dwellings, setbacks shall be those set forth in Section 4-7.::
 - (c) Institutional District (INST)
 - (iii) Development.
5. **Setback**. The following minimum setbacks shall be required for structures in the Institutional District, for single family dwellings, setbacks shall be those set forth in Section 4-7.::
 - (d) Multifamily Residential-High Density District (MFH)
 - (iii) Development Standards

5. Setback. The following minimum setbacks shall be required for structures in the MFH District, **for single family dwellings, setbacks shall be those set forth in Section 4-7.:**

(e) Multi-Family Residential-Medium Density District (MFM)

(iii) Development standards.

5. Setback. The following minimum setbacks shall be required for structures in the MFM District, **for single family dwellings, setbacks shall be those set forth in Section 4-7.:**

(f) Multifamily Residential-Low Density District (MFL)

(iii) Development standards.

5. Setback. The following minimum setbacks shall be required for structures in the MFL District, **for single family dwellings, setbacks shall be those set forth in Section 4-7.:**

- Table 9.9: List of Permitted Uses

Recreational uses, governmental are a permitted use in the Institutional (INST) District.

- Section 9.4.4 Additional Standards: Special Uses

12. Manufactured home parks.

(f) The minimum land area required for any mobile home space shall be **3,500** square feet.

- Section 9.4.8 Design Standards

(c) Building Materials and Color

(i) Materials

1. **All buildings shall be constructed of stone, exposed timber, fiber cement siding, wood siding, shingle siding, brick, or other high quality material as approved by the architectural review committee. No building shall be covered with sheet or corrugated metal or with vinyl siding, unless it is a high quality material approved by the architectural review committee.**

- 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.

Mr. Poston stated staff is not recommending any policy changes that have not already been discussed or approved by the Council. Staff has made the required 160D changes to the ordinance and general cleanup of existing regulations to ensure the ordinance complies with previous amendments made by the Council. In addition, he stated Cullowhee has special district zoning also known as conditional zoning written into the ordinance that is not as robust as staff's proposal. Staff changed the term special district zoning to conditional zoning, as the state statute requires uniformed terminology.

b) Conditional Zoning Discussion

Mr. Poston stated conditional zoning is a voluntary process that developers can choose to use that would incorporate the community more in the process. This process would allow more flexibility such as community feedback earlier in the process before a final application is submitted to the county. Mr. Poston presented a conditional zoning working draft that would be used for all county Planning Council's. Mr. Poston stated they would discuss the set of circumstances that would trigger a conditional zoning process at a future meeting. In addition, he asked the Council to review and provide feedback to staff regarding the conditional zoning draft document.

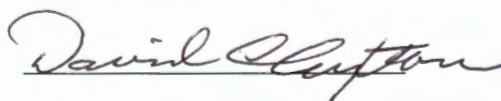
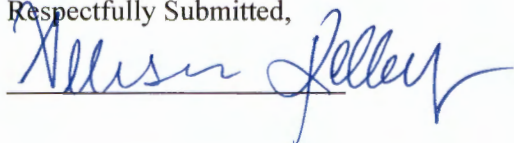
c) Planning Updates

Mr. Poston stated staff was asked to provide an update on the River Park. During a Board of Commissioners work session, staff was asked to work with NCDOT about the remnant properties leftover from the Wayehutta Road realignment bridge project. One portion of the property that is next to the apprentice house is in the process of being surveyed. In addition, there is property on the north side of Wayehutta Road in the DOT right-of-way that is a cut slope which does not have any recreational use for the county. The NCDOT would want to keep the cut slope property to maintain the integrity of the road and would be a minimal recreational benefit to the county. He stated they would talk to NCDOT regarding river frontage that would provide additional access points. Mr. Poston stated the process could take up to a year to complete as they are in the queue for completion of the survey.

Adjournment

With no further business, Joel Setzer made a motion to adjourn. Carol Burton seconded the motion and the meeting adjourned at 7:30 p.m.

Respectfully Submitted,



Allison Kelley
Administrative Assistant- Planning

David Claxton
Planning Council Chair