

Town of Navassa
Planning Board Minutes
August 12, 2009
7:30 PM

IN ATTENDANCE:

Planning Board Members: Al Beatty, Diane Graham, Melvin Walker, Walter Ballard, Robert McMillan

Staff: Travis Barnes, Town Planner.

Other Attendees: Antonio Hooper, LBH Properties; Stephanie Barnes, LBH Properties.

Call to Order – Al Beatty called the meeting to order at 7:38 PM.

Approval of Minutes – Mr. Ballard made a motion to approve the minutes from the previous meeting. Ms. Graham seconded the motion to approve the minutes and the vote passed unanimously.

NEW BUSINESS:

1. Rezoning Request Z-2009-001: Antonio Hooper, with LBH Properties, has submitted an application to rezone 1.99 acres located at 124 North Navassa Road (Parcel ID# 030GB003) from R-10 to R-MF. Mr. Beatty asked Mr. Hooper to explain to the board why he is proposing to rezone this piece of property. Mr. Hooper stated that he is a Navassa native and that he would like to rezone the property in order to put multi-family housing on the parcel. He stated that he believed the development would raise the tax value of the land, provide quality housing for the community, and would also help produce jobs for the local citizens. Mr. Beatty asked how many units are proposed. Mr. Hooper stated that right now he is proposing two 2-story buildings with 8 two-bedroom units each for a total of 16 units if the zoning ordinance would allow it. Mr. Walker asked if there were any sketch plans yet. Mr. Hooper stated that he was waiting on the rezoning to be approved before pursuing sketch plans. Mr. Barnes stated that the applicant has discussed with him the requirements of the zoning ordinance in regards to parking, open space, density, etc. Mr. Graham asked how far in the future would the development be proposed to begin. Mr. Hooper said as soon as possible. Mr. Beatty asked what the price range was for the units and Mr. Walker asked if they would be rental units. Mr. Hooper stated that they would be rental units and that he would like to have a mixture of price ranges with a few for the elderly and maybe a few for low-income individuals, but also some at the market rate. Mr. Beatty asked if the project would be built in phases. Mr. Hooper stated that right now he would plan to do two phases. Mr. Walker asked staff how the zoning ordinance addresses phased development. Mr. Barnes stated that he would have to research how phased development would work for this type of project, but that it is his understanding that all of the open space and other public amenities would have to be built along with the first phase before the second phase could begin. Mr. Barnes stated that he would look into this for the board. Mr. Beatty stated that this would be the first R-MF district in the town and asked the board for any comments. Mr. Beatty stated that his only concern is that he does not want the development to become a “Creekwood” type development. Mr. Hooper stated that he planned on having an administrative management team on site to manage the site. Mr. Walker made a motion that the board send up the rezoning application to the Town Council with the recommendation of approval. Mr. Ballard seconded it. Ms. Graham read out loud the board’s written recommendation. The motion passed unanimously.

OLD BUSINESS:

1. Minor Subdivision Application off Cedar Hill Road- Mr. Beatty stated that the applicant is proposing to put a road in across the railroad track on the property across from the graveyard on Cedar Hill Road. The applicant is still working with CSX to secure an agreement to use the abandoned railroad track as part of their proposed access road and they are also waiting to receive their wetlands delineation from the Army Corps of Engineers.
2. Text Amendments to Subdivision Ordinance – Mr. Beatty asked staff to discuss the proposed text amendments. Mr. Barnes stated that nothing has changed from the text amendments that were discussed and agreed upon at the last Planning Board meeting. All of the proposed changes are to correct existing typos in the ordinance except for on page 37, item (D) under Stormwater Drainage. After talking with Jim Vithalani from Right Angle Engineering and John Klein from Stewart Engineering, the engineers feel that our current slope requirements of

3 to 1 for surface drainage courses is too stringent and that it should be changed to 2 feet of horizontal distance for each 1 foot of vertical drop. The board agreed that these amendments are fine as they are.

3. Text Amendments to the Zoning Ordinance– Mr. Barnes stated that the Planning Board also has been given a list of proposed text amendments to the Zoning Ordinance and then he proceeded to review each of them with the board members. Mr. Barnes stated that the check marks next to some of the proposed text amendments indicated that those are the ones the board had agreed to at the last meeting and that have not been changed. This list can be found as an attachment to the end of these minutes. The board agreed that we did not need to discuss the amendments that were unchanged and already agreed upon. The Planning Board member comments for the other amendments can be found below:

- In regards to **text amendment 5**, Mr. Beatty asked staff to describe what the state laws are in regards to regulating day care facilities. Mr. Barnes stated that he is not familiar with these regulations. Mr. Walker stated that we need to check on how the state regulates them so we can better determine how we want to regulate them, because we don't want to shut them down for a violation that the state deems as minor. Mr. Beatty stated that we need to require the daycare centers to report all of their violations to the town if possible. Mr. Barnes stated that he would look into the state regulations and whether or not we can require the day care centers to report violations to the town. Mr. Walker stated that we might need to have different classifications or levels of violations.
- In regards to **text amendment 7 & 8**, Mr. Barnes stated that in the last board meeting we discussed limiting the height of telecommunication towers in residential districts to 50 feet in order to protect neighborhood aesthetics. Mr. Barnes stated that he has had time to further research telecommunication policy and has found a NC law that prohibits towns from regulating amateur radio towers to under 90 feet. Mr. Beatty asked what the difference is between amateur radio towers and commercial ones. Mr. Barnes then stated that the board needs to consider defining amateur radio towers in the zoning ordinance because right now we do not distinguish between amateur towers that would be considered an accessory use from the commercial cell phone and radio towers. Mr. Barnes stated that as of right now we do not allow amateur towers to be an accessory use and that this is a problem according to the state law. Mr. Barnes then stated that he recommends that the town allow the amateur radio towers as an accessory use in all zones. Mr. McMillan asked whether the 90 feet height limit would be measured from the ground or the base of the towers. Mr. Barnes stated that it would be measured from the ground and that he would write language into the text amendment to make that clear. The board agreed that we need to define amateur radio towers as a separate use from commercial towers although they would like staff to also research some additional standards that we might want to impose on them such as, setbacks, separation requirements, etc.
- In regards to proposed **text amendment 9**, Mr. Barnes reviewed the existing development standards in the current zoning ordinance and then stated that the proposed additional development standards for telecommunication facilities will be added due to the planning board's concern that we would not adequately be able to review an application to install a wireless facility due to the complexity of the engineering designs. Mr. Barnes stated that the new requirements that are proposed would require that a certified engineer provide the town with information about the capacity of the tower to support future antenna rays and would also allow the zoning administrator to request a third party engineer to review the application and all of the technical requirements if it is deemed necessary. The applicant would have to pay for this third party review, so the fee schedule will also need to be updated. The applicant for a tower would also have to provide a map that would show all of the other towers that were located near by and all towers in the town owned by the applicant. The board approved of the additional standards.
- In regards to proposed **text amendment 10**, Mr. Barnes stated that at the last board meeting he was asked to research whether or not the town can regulate boarding homes by district and specifically if we could not allow them in residential districts. Mr. Barnes stated that he has reviewed materials from the American Planning Association and has discovered that it is in fact legal to regulate boarding home by district and we can choose not allow them in residential zones as long as we make reasonable accommodation for them in other areas of the town. This proposed text amendment is design to make sure that boarding homes will look like the surrounding land uses. Additionally, Mr. Barnes stated that he recommended that the board allow boarding homes in the NB zone in addition to just allowing them in th GB zone. Mr. Beatty stated that he agreed that boarding homes should be allowed in the NB and GB districts.

- In regards the proposed **text amendment 11**, as of right now the Zoning Ordinance does not define “group homes” and this definition would do that. The board approved of the definition.
- In regards to **text amendment 12**, the addition of group homes to the list of defined land uses will necessitate us to describe additional development standards for them. Staff read out the proposed development standards to the board. Mr. Barnes stated that at the last board meeting he was asked to find out whether or not the town can require group homes to be licensed. Mr. Barnes stated that he has done some research and the American Planning Association recommends that town’s require a license and it is legal to do so. Mr. Barnes then read to the board the language that would require them to be licensed. Mr. Barnes also said he recommends increasing the separation requirements to a minimum of 500 feet. Mr. Beatty asked if we could require separation between boarding homes and group homes. Mr. Barnes recommended that the town not do this because group homes are to be treated as regular single-family residences under the Fair Housing Act. Ms. Graham stated that she would recommend getting rid of item 5 of the additional development standards seeing that we are going to now require a license. Mr. Barnes said that he also recommended that. The board agreed.
- In regards to proposed **text amendment 16**, Mr. Barnes stated that this amendment would list family care homes as a residential use in Appendix 1 as opposed to a commercial use.
- Mr. Beatty asked staff to recap all of the tasks the board has requested. Mr. Barnes stated that he will review the NC state requirements and regulations regarding day care facilities and how the town could also regulate them. Mr. Barnes stated that he would also research additional development standards for amateur wireless facilities. Mr. Walker asked staff to review Wilmington’s regulations. Mr. Barnes stated that he would revise the language in all of the proposed amendments to reflect what was agreed upon.

4. Noise/Nuisance Ordinance : This item was tabled.

STAFF REPORT:

1. **Development Summary:** There have been no zoning compliance applications, although staff is waiting on the BOA to set a date to review a variance application for the siting of a home off of Cedar Hill Road. Also staff is waiting on some additional information from a few property owners for a couple of other projects.
2. The Zoning Administrator and Staff have met with Jon Vincent and his planner, Dan Weeks, regarding a proposed PUD application located in Area 1. Staff has also had an additional meeting with Dan Weeks.
3. Staff has been attending meetings as part of the update to the Brunswick County Joint Hazard Mitigation Plan and also for the Brunswick County Disaster Recovery Plan.
4. Staff also attended the TCC meeting and voted to oppose transferring funds in order to accelerate building the A Section of the I-140 bypass.
5. Staff also met with the Cape Fear River Watch, the Town of Leland, and a graduate student from UNCW about developing a regional trail system.

CHAIR’S REPORT:

1. Next Planning Board meeting will be Wednesday, September 9th at 7:30 PM.
2. Staff is directed to continue to research noise/nuisance ordinances.

MEMBER COMMENTS

PUBLIC COMMENT: None.

ADJOURNMENT

Minutes prepared by Travis Barnes, August 14, 2009.



TO: Planning Board
FROM: Travis Barnes, Town Planner
DATE: August 7, 2009
RE: Suggested Text Amendments to the Zoning Ordinance DRAFT 2

The following list outlines suggested text amendments to the Zoning Ordinance. Upon the Planning Board's recommendation, they will be sent to the Town Council for review. In accordance with N.C.G.S. 160A-383, the Planning Board shall advise and comment on whether the proposed amendment is consistent with the adopted land use plan and any other applicable officially adopted plan. The Planning Board shall provide a written recommendation to the governing board that addresses plan consistency and other matters deemed appropriate by the Planning Board (staff has drafted a written statement for the Planning Board). The Town Council will have to hold a public hearing on the proposed text amendments and the town will have to publish the notification of the hearing in the newspaper for two consecutive weeks. (N.C.G.S. 160A-364)

Staff Tasks (more details are provided in the text amendment section):

1. Al Beatty directed staff to research adequate sizes of cell phone towers and amateur radio towers. Staff has found that due to NC Legislative Law 2007-147, municipalities cannot restrict "amateur radio antennas" to heights of 90 feet or lower, so I propose that we limit the height in residential districts to 90 feet as opposed to 50 feet as last recommended.
2. Melvin Walker directed staff to research whether or not the Town can limit the location of boarding homes to non-residential districts. Staff has determined that we can legally prohibit boarding homes from residential districts as long as we allow them in the Town in other districts (American Planning Association). Staff recommends allowing them in NB and GB in order to provide for "reasonable accommodation" of these land uses.
3. Al Beatty directed staff to see if we can require a license for people to operate group homes. Staff has determined that it is within the town's right to require a license and it is considered to be a best practice (American Planning Association).

Text Amendments:

- ✓ 1. On page 2-2, the definition of "Boarding and Rooming House" needs to be changed to read; "An owner-occupied dwelling, or part thereof, in which lodging is provided to ~~more than two (2), but~~ not more than six (6) paying guests on a daily or longer basis and where the rooms rented do not constitute separate dwelling units."
- ✓ 2. On page 2-4, under the definition of Family Care Home, the word "with" should be deleted because it is unnecessarily placed in the sentence twice.
- ✓ 3. Also on page 2-4, the definition of "Family" should be changed to read;
FAMILY
(1) An individual; or

Two (2) or more persons related by blood, marriage, or adoption living together in a single housekeeping dwelling unit (unless the dwelling contains an accessory dwelling unit), which may also include not more than two (2) unrelated persons; or

ATTACHMENT 1

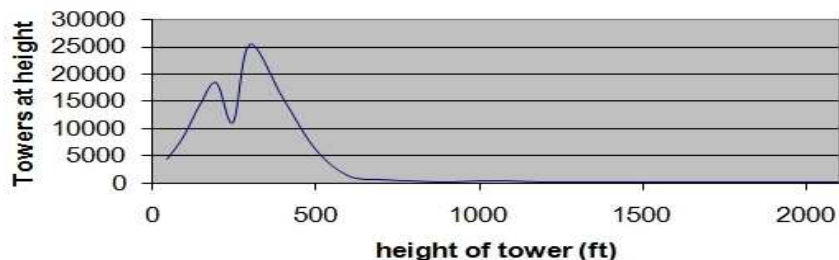
A number of persons not exceeding two (2) separate from and in addition to the persons related by blood, adoption or marriage in a single housekeeping dwelling unit; or

In addition to two (2) or more persons related by blood, marriage, or adoption living together in a single housekeeping dwelling unit, a family may include five (5) or fewer foster children placed in a family foster home licensed by the state.

- ✓ 4. In Article 4 all of the formatting needs to be corrected to be the same as in the previous Articles.
- ✓ 5. On page 9-5, under “Day Care Center” and “Day Care Home” the following language can be added as an additional development standard; “For day care centers any more than three (3) final determinations of violations of the Town code and/or criminal convictions related to the premises within one (1) month, or six (6) within one (1) year, shall constitute inadequate supervision and a violation of the day care center development standards. Offenders shall include property owners as well as lessees, tenants and occupants.”
- ✓ 6. On page 9-25, the numbering bullet system for “Telecommunication, Wireless Facility, Broadcasting Tower and Facility” needs to be corrected to resemble the rest of the article.
- 7. On page 9-26, the Planning Board needs to discuss the development standards for cell phone towers vs personal radio towers. **I recommend changing the maximum height allowed in residential districts from the current 100 ft max height to 90 ft in order to comply with NC Legislative Law 2007-147.** Additionally, in the non-residential districts I recommend taking the towers out of the GB district and only allowing them in (RU, LI, and HI). We can then add an additional development standard that states that “In the RU district a tower cannot be placed within 500 ft of any residential property line”, which would protect existing homes in the RU district. We need to consider the effect on home owners in the Rural district who have large lots and may want to place a tower on their property.

Use	LUC	CR	RU	R-20	R-15	R-10	R-8	R-6	R-MH	R-MF	NB	GB	LI	HI
Telecommunication, wireless facility, broadcasting tower and facility	D		C, D 200ft	C, D 90ft	C, D 90ft							G, D	C, D 200ft	C, D 200ft

FCC_ASR Aug07 tower height



8. We also need to think about defining “Amateur Wireless Facility” as: Non-commercial, amateur, ham radio or citizen’s band antenna supporting structures, antennas or antenna arrays with an overall height less than 90 feet.

AND I recommend that “Amateur Wireless Facilities” be added to the Table of Permitted Uses as an accessory use that is permitted within all zoning districts.

AND that in Article 8 under “Accessory Uses” we include the following requirements:

8.2 (4) Amateur Wireless Facility: Non-commercial, amateur, ham radio or citizen’s band antenna supporting structures, antennas or antenna arrays with an overall height less than 90 feet may be developed in accordance with the following requirements:

(A) Towers shall meet the setback requirements for the zoning district in which the proposed facility shall be located or 100% of the tower height, whichever is greater.

(B) Applicant shall commit in writing that the facility will be erected in accordance with manufacturer’s recommendations.

9. On page 9-24, under the additional development standards for Telecommunication and Wireless Facilities, I would recommend using language similar to the Brunswick County Ordinance that would state;

Telecommunication, Wireless Facility, Broadcasting Tower and Facility excluding Amateur Wireless Facilities

11. *Other Requirements.*

a. Proof of ownership of the proposed site or authorization to use it and copies of any easements impacting the site is required.

b. A map of all sites owned/operated by the applicant with parcel numbers and addresses for each site shall be required.

c. Certification by a registered engineer of the loading or percentage capacity of the facility, breaking out any existing antenna arrays and the capacity they represent is required. It is also required to indicate the amount of unused capacity available on the facility.

13. *Third Party Review:*

Where due to the complexity of the methodology or analysis required to review an application for a wireless communication facility, the Zoning Administrator may require the applicant to pay for a technical review by a third party expert, the costs of which shall be in addition to other applicable fees, as specified in the approved fee schedule. Any additional consultant fees required above the minimum listed will be the responsibility of the applicant. Any unused

portion of the consultant review fee not utilized by the Town will be reimbursed to the applicant. Based on the results of the expert review, the approving authority may require changes to the applicant's application or submittals.

Brunswick County has their fee listed at \$250 and the consultant fee at \$6,000 if applicable.

10. On page 9-4, the additional development standards for "Boarding and Rooming House" needs to be changed to add the following language;

Boarding and Rooming House

(F) Appearance. The boarding and rooming house shall be architectural appearance compatible with the GB neighborhood and streetscape for the district in which it is located. Any proposed change to the facade of an existing structure shall be architecturally compatible with the surrounding neighborhood.

(G) Separation. A boarding and rooming house (Definitions - Article 2) shall be located no closer than within a two-hundred and fifty (250) feet radius from any existing, permitted group home large or boarding and rooming house within the GB district (Appendix 1) whether contiguous or not.

11. On page 2-5, the definition of "group home" needs to added to read;

GROUP HOME

**(1)
NEEDS PERSONS**

GROUP HOME, SPECIAL

(A) Group home special needs persons for the purposes of this ordinance are:

1. Battered individuals,
2. Abused children,
4. Pregnant women and their children,
5. Runaway children,
6. Temporarily or permanently disabled mentally, emotionally or physically, individuals recovering from drug or alcohol abuse; and

(B) All other persons who possess a disability which is protected by either:

1. The provisions of the Americans with Disabilities Act of 1990, 42 USC 12101,

2. The Fair Housing Act as amended, 42 USC 3601 et seq., or
3. G.S. Ch. 168, Art. 3, as they may be amended;

(C) But does not include:

1. Any persons who currently use illegal drugs,
2. Persons who have been convicted of the manufacture or sale of illegal drugs, or
3. Persons with or without disabilities who present a direct threat to the health, safety or property of others.

(D) Note: Foster children are allowed as part of a family provided the family foster home is licensed by the state (see family definition in Article 2 - Definitions). There are no separation requirements for family homes with foster children.

(2) GROUP HOME, SMALL

A dwelling unit in which up to three (3) special needs persons as defined reside with a family.

(3) GROUP HOME, MEDIUM

A dwelling unit in which up to eight (8) special needs persons as defined reside. However when a resident supervisor is provided, then the number of special needs persons permitted to reside therein is reduced by the number of resident supervisors residing therein.

(4) GROUP HOME, LARGE

A dwelling unit in which up to twelve (12) special needs persons as defined in this section reside. However when a resident supervisor is provided, then the number of special needs persons permitted to reside therein is reduced by the number of resident supervisors residing therein.

12. On page 9-12, the additional development standards for group homes needs to added;

(21) Group Home

(A) *Prescribed Conditions.* Any group home for special needs persons (see Article 2 – Definitions) small, medium, and large shall meet the following prescribed conditions:

3. The group home shall not be established, constructed, expanded, altered, changed, operated or occupied, except in accordance with the Town and or County housing code, and all applicable federal, state, and local regulations, including but not limited to licensing requirements.

4. A group home development standards application supplied by the

ATTACHMENT 1

Town for group home small and medium or a conditional use permit application for group home large shall be submitted by the applicant to the Town.

5. All group homes must provide verifiable proof that they are licensed or certified by the appropriate state, national, regional, or local licensing or certification body in order to protect the welfare of their residents.
6. Off-street parking must be provided in accordance with Article 10.
7. The group home must conform to one (1) or more of the following:
 - a. It is licensed by the federal or state government.
 - b. It is funded in part by governmental grants or loans.
 - c. It provides room and board, personal care, and habilitation services in a family environment.
8. For new construction, the facade of the structure shall be designed to be architecturally compatible with the streetscape for the district in which it is located. Any proposed change to the facade of an existing structure shall be architecturally compatible with the surrounding neighborhood.
9. No group home shall be occupied or operated without a certificate of occupancy.
10. Any group home small, medium or large shall have no more than two (2) persons occupying a bedroom.
11. Adequate supervision shall be provided in accordance with ~~any the~~ licensing requirement. ~~If a license is not required, then~~ Written operating procedures or a manual, including established goals and objectives for persons receiving supervision, care, treatment or therapy, and a structured system of management and adequate supervision shall be submitted as part of a group home development standards application for group home small, medium and large. A conditional use permit application is required for a group home large. A plan for staff supervision shall be provided in the application or permit.
12. For group homes any more than three (3) final determinations of violations of the Town code and/or criminal convictions related to the premises within one (1) month, or six (6) within one (1) year, shall constitute inadequate supervision and a violation of the group home development standards application for group home small or medium; or conditional use permit for group home large. Offenders shall include

ATTACHMENT 1

property owners as well as lessees, tenants and occupants.

13. The home shall be operated in a manner that is compatible with the neighborhood and shall not be detrimental to adjoining properties as a result of traffic, noise, refuse, parking or other activities.
14. For group home small and medium the home shall maintain a residential appearance compatible with the neighborhood.
15. For group home large the home shall maintain an appearance compatible with the NB or GB neighborhood.

(B) *Separation requirements.* Any group home (see Article 2 – Definitions) small, medium, and large shall meet the following separation requirements:

1. A proposed group home small (Definitions - Article 2) shall be located no closer than within a one-half mile radius from any existing permitted family care home or, permitted group home small within any of the following rural and residential districts (RU, R-20, R-15, R-10, R-8, R-6 and R-MH) (Appendix 1) whether contiguous or not.
2. A proposed group home medium (Definitions - Article 2) shall be located no closer than within a five-hundred (500) feet radius from any existing permitted family care home or, permitted group home medium within the R-MF district (Appendix 1) whether contiguous or not.
3. A proposed group home large (Definitions - Article 2) shall be located no closer than within a two-hundred and fifty (250) five-hundred (500) feet radius from any existing, permitted group home large within the NB and GB districts (Appendix 1) whether contiguous or not.
- ~~4. A proposed group home large (Definitions - Article 2) shall have no separation requirements from another permitted group home large in the GB district (Appendix 1).~~
5. With respect to the distance between the proposed group home use (and family care home use) and the existing, permitted group home use(s) (and family care home use(s)) the distance shall be measured by following a straight line from the nearest point of the lot line of the proposed use to the nearest point of the lot line of the lot on which the existing facility is located.

ATTACHMENT 1

6. The board of adjustment may grant a variance from the separation requirement if shown to be a reasonable accommodation under the Fair Housing Act.

13. In Appendix 1 – Table of Permitted Uses, the following “Group home” and “Boarding and rooming house” uses need to be changed under the “Residential Uses” as follows;

Use	LUC	CR	RU	R-20	R-15	R-10	R-8	R-6	R-MH	R-MF	NB	GB	LI	HI
Boarding and rooming house	B				G,D	G,D				G,D	C,D	C,D		
Group home, small	A		P,D	P,D	P,D	P,D	P,D	P,D	P,D					
Group home, medium	B									G,P,D				
Group home, large	B										C,D	C,D		
Dwelling, single-family detached	A		P	P	P	P	P	P		C	P			

- ✓ 14. In Appendix 3 – Table of Minimum Off-Street Parking Standards, the “group home” parking requirements need to be added to read; “1 space per employee + 1 per every 3 residents”
 - ✓ 15. The Cover Page, Table of Contents and the Text Amendment Revisions List will all be edited to reflect the above changes.
16. Family Care Home needs to be moved to be listed as a “Residential Use” in Appendix 1 as opposed to a “Education, Government, and Institutional Use” because they are to be considered as residential uses under the Fair Housing Amendments Act of 1988.