



Town of Navassa
Planning Board Minutes
September 9, 2009
7:30 PM

IN ATTENDANCE:

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

Staff: Travis Barnes, Town Planner.

Other Attendees: None

Call to Order – Al Beatty called the meeting to order at 7:45 PM.

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

NEW BUSINESS:

1. Staff requested that the Planning Board reschedule the November 11th meeting because it is scheduled to be on Veteran's Day and staff will be out of the office for a holiday. The Planning Board decided to reschedule the November Planning Board meeting for Tuesday, November 10, 2009 at 7:30 pm.

OLD BUSINESS:

1. Minor Subdivision Application off Cedar Hill Road- Mr. Beatty stated that this application has been on the agenda for a few months now and he asked staff if anything has changed. Mr. Barnes stated that he called the applicant over the past week although his phone call was not returned. Mr. Barnes stated that as far as he knows the applicant is still waiting on their wetlands delineation. Mr. Beatty suggested that we take the application off of the agenda until the applicant has a complete application and the rest of the board agreed.
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.
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. Barnes stated that this amendment is in regards to daycare facilities and that in the previous meeting staff was asked to research what the state laws are that regulate daycare facilities. Mr. Barnes stated that the state requires daycare facilities be licensed and he went on to describe the other state requirements related to daycare facilities. Mr. Barnes then recommended that the board added text amendments to the zoning ordinance that more clearly informs potential daycare providers of the state requirements and also requires the daycare facility to keep the Zoning Administrator informed of state violations and certification status. Mr. Beatty asked staff to include a reference to the proper NC General Statutes that pertain to daycare facilities within the text amendment. The board agreed that the recommended amendments are acceptable.
 - In regards to **text amendment 7**, Mr. Barnes stated that in the last board meeting we discussed the NC law that prohibits towns from regulating amateur radio towers to under 90 feet. Mr. Barnes then recommended changing the maximum height allowed in residential districts from the current 100 feet to 90 feet. The

Planning Board agreed to this change. Mr. Barnes then recommended not allowing commercial telecommunication towers in the General Business district for aesthetic reasons. Mr. Beatty stated that he would like to keep commercial towers as a conditional use within the general business district because you never know when a business might need a tower for something. The rest of the board agreed.

- In regards to **text amendment 8**, Mr. Barnes then reminded the board that they need 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 stated that he recommends defining “amateur wireless facility” and that the town allow the amateur radio towers as an accessory use in all zones. Mr. Beatty asked that we change part of the language in the proposed definition to state “with an overall height of 90 feet or less” as opposed to “less than 90 feet”. The board agreed that we need to define amateur wireless facilities separately and that the definition provided is acceptable.

Mr. Barnes clarified that the max height limit would be measured from the ground to the highest point on the tower in order to address Mr. McMillan’s concern from last months meeting. Mr. Barnes stated that now that we have agreed to define amateur wireless facilities we need to write some additional development standards to regulate them and he read his recommendations. Mr. Beatty asked if we want to place additional restrictions about where the tower can be placed to keep people from putting them in their front yards, etc. Mr. Barnes stated that there is a separate article in the Zoning Ordinance that regulates all accessory uses and the amateur towers would also have to adhere to those development standards which already regulates siting. The board agreed to adding the amateur wireless facilities in the table of permitted uses an accessory use in all zones and to include the development standards that were recommended.

- In regards to proposed **text amendment 9**, Mr. Barnes reviewed the existing development standards in the current zoning ordinance and recommended that we maintain the 200 feet height limit. Mr. Barnes 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 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 if we have separation requirements between group homes and boarding homes. Mr. Barnes stated that we have separation requirements form one group home to another group home and from a boarding home to a group home.

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

5. Mr. Beatty asked staff to put in the proper corrections and language to the Zoning Ordinance to have an official version with a recommendation to send up to the Town Council and to send a copy to all of the Planning Board members.

6. Ms. Graham made a motion to recommend that the Town Council approve the proposed text amendments to the Zoning Ordinance with the agreed upon corrections. The motion was seconded by Mr. McMillan and the vote passed unanimously.

7. Mr. McMillan made a motion to recommend that the Town Council approve the proposed text amendments to the Subdivision Ordinance. The motion was seconded by Ms. Graham and the vote passed unanimously.

STAFF REPORT:

1. **Development Summary:** There has been 1 zoning compliance application approved for construction of a single-family home at the newly created address of 2315 Cedar Hill Road.
2. On Thursday, September 17th, staff has registered for a free webinar sponsored by Rutgers University. The Planning Board is invited to attend. The webinar will showcase real-world opportunities, challenges and practices targeting equitable development and urban design within African-American and Latino communities.

Course Description Includes:

- Recognize how to account for equitable development in urban design and planning practices with respect to diverse cultures, building typologies/techniques, socio-economic outcomes and returns on investment.
- Improve understanding of the role of urban design in promoting equitable development and better design practices within communities of color.
- Learn how to communicate urban design and equitable development connections with community stakeholders and officials with greater depth and sophistication.
- Explore approaches for leveraging resources to reinvest in communities of color and encourage community parity.

CHAIR’S REPORT:

1. Next Planning Board meeting will be Wednesday, October 14th at 7:30 PM.
2. Mr. Beatty stated that eventually we are going to need to start looking at the addressing problems in the town. Currently there are many streets that have unorganized addressing systems and now that new development is taking place we will have to reevaluate the addressing system in order to make sure the EMS can do there job properly. Mr. McMillan and Ms. Graham stated that there would be some people upset if we changed their address. Mr. Beatty and staff agreed, but it is something that is going to have to be fixed in the future.
3. Mr. Beatty reminded the board that on Thursday, September 10th at 6:30 pm there is a workshop scheduled between the Planning Board, the Town Council, and the River Bend Development Team in order to discuss the River Bend PUD project.
4. Staff is directed to continue to research noise/nuisance ordinances.

MEMBER COMMENTS

PUBLIC COMMENT: None.

ADJOURNMENT

Minutes prepared by Travis Barnes, September 14, 2009.



TO: Planning Board
FROM: Travis Barnes, Town Planner
DATE: September 4, 2009
RE: Suggested Text Amendments to the Zoning Ordinance DRAFT 3

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)

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~~ for 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

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.

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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, Staff was directed to research state laws regarding day care facilities. After research Staff recommends that the town verify that the day care facilities be licensed and that they also must provide written notification of violations to the town. Staff does not recommend that we regulate these facilities anymore than the state does.

Recommended Language for “Day Care Center and Day Care Home”:

(E.) “The construction and operation of day care facilities shall comply with the provisions of the General Statutes of the State of North Carolina and any other applicable federal, state, and local laws, including but not limited to any licensing requirement. Once a license is obtained the day care facility shall provide the Zoning Administrator with written verification of the fact.”

(F.) “Day care facilities must provide the Zoning Administrator with written notification of all violations recorded by the proper North Carolina authority responsible for regulation of day care homes and day care centers. Following the substantiation of any abuse or neglect complaint or the issuance of any administrative action against a child care facility, the child care operator shall notify parents of children currently enrolled and the Navassa Zoning Administrator. The notification shall be in writing and shall include information on the nature of the substantiated complaint or the type of administrative action taken. This includes administrative actions that are under appeal with the Office of Administrative Hearings. The operator shall maintain copies of documentation of the substantiated complaint investigation or the administrative action issued against the facility for the past three years in a binder, which shall be accessible to parents and the Zoning Administrator.”

(G.) “Child day care facilities shall have seventy-five (75) square feet per child of outdoor play area for the total number of children for which the center is licensed.”



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, Staff has found that due to NC Legislative Law 2007-147, municipalities cannot restrict “amateur radio antennas” to heights of 90 feet or lower. **I recommend changing the maximum height allowed in residential districts from the current 100 ft max height to 90 ft. 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 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							C, D	C, D 200ft	C, D 200ft

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8. On page 2-2, we also need to define “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 ninety (90) feet, as measured from grade to the highest point on the tower, 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 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 after each addition to an existing tower or new tower construction.

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

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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 following additional development standards for “Boarding and Rooming House” needs to be added;

Boarding and Rooming House

(F) Appearance. The boarding and rooming house shall be architectural appearance compatible with the GB or NB 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 or NB district (Appendix 1) whether contiguous or not.



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

**GROUP HOME
(1)**

GROUP HOME, SPECIAL NEEDS PERSONS

- (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:

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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:

- 1 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.
2. A group home development standards application supplied by the 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.

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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 property owners as well as lessees, tenants and occupants.
13. The home shall be operated in a manner that is compatible with the

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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.
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.

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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.