

Town of Southern Pines
Planning Board Meeting, Thursday, 17, 7:00 PM, Douglass Community
Center, 1185 West Pennsylvania Avenue

I Call to Order

II Approval of the Minutes – April 17, 2014

III Public Hearing:

OA-03-14, Amendments to UDO; Petitioner, Town of Southern Pines

The Town of Southern Pines adopted the Unified Development Ordinance on October 8, 2013. As part of this adoption it was understood that there would likely be sections of the code that would need to be updated or modified as staff implemented the UDO. The town staff has compiled a list and coordinated with the consultants who helped write the UDO, Planning Works, to reconcile some of the issues that have arisen since the UDO was adopted last October.

V Old Business

Vi New Business

VII Other Business

VII Adjournment

Minutes
Town of Southern Pines Planning Board Meeting April 17, 2014,
7:00 PM, Douglass community Center

The Town of Southern Pines Planning Board met April 17, 2014, 7:00 _PM, at the Douglass Community Center, 1185 West Pennsylvania Avenue.

Planning Board members attending the meeting were Chairman Mike Martin, Jim Curlee, John McLaughlin and Jennifer Maples.

Vice-Chair Gerry Ridzon, Jim Ross and Beth Lyerly were not able to attend the meeting.

Planning Director Bart S. Nuckols, Planner Chris Kennedy and Neva Sherry, Secretary to the Planning Board, attended the meeting.

Chairman Martin called the meeting to order at 7:03 PM

Chair Martin welcomed new member to the Planning Board Jennifer Maples

APPROVAL OF THE MINUTES – FEBRUARY 20, 2014 MEETING

John McLaughlin, seconded by Jim Curlee, made a **motion** to approve the minutes from the February 20, 2014 meeting as written. The **motion carried unanimously.**

PUBLIC HEARING:

OA-01-14, Amendment to Chapter 5: Section 5.20. Single Family Attached Dwellings: Section 5.20.1 Maximum Number of Dwelling Units; Petitioner, Kevin S. Lindsay

Petitioner Kevin S. Lindsay of Crawford Design Company is requesting to amend the Town of Southern Pines Unified Development Ordinance Chapter 5: Section 5.20. Single Family Attached Dwellings: Section 5.20.1 Maximum Number of Dwelling Units; to change the standard of no more than eight (8) attached dwelling units to no more than nine (9) attached dwelling units.

Planner Chris Kennedy gave an overview of the proposed amendment.

Chair Martin opened the Public Hearing for OA-01-14.

Jim Curlee noted that the number of unites lacked meaning and felt this should be changed.

No members of the public wished to speak.

After a brief discussion, the Chair called for a motion to close the Public Hearing for OA-01-14.

John McLaughlin, seconded by Jim Curlee, made a **motion** to close the Public Hearing. The **motion carried unanimously.**

PLANNING BOARD RECOMMENDATION

Jim Curlee, seconded by John McLaughlin, made a **motion** to deny the requested text amendment and to made a finding and determination that the denial of the text amendment request is consistent with the adopted Land Use Plan and that the denial of the text amendment request is reasonable and in the public interest due to the denial being consistent with the comprehensive plan and, as a result, the denial furthers the goals and objectives of the comprehensive plan. The **motion carried unanimously.**

Jim Curlee, seconded by John McLaughlin, made a **motion** to recommend to the Town Council the approval of OA-01-14 with the following additional condition: the amendment language in Section 5.20.1 of the UDO, be changed to: a single-family attached development, no more five (5) units in one (1) structure except pursuant to a *Planned Development* or *Conditional Use Permit*. The **motion carried unanimously.**

Z-03-14 Request to Rezone Property from OS-CD to RM-2; 360 N. Bennett St.; Petitioner, Moore HL Properties

On behalf of Moore HL Properties, Mr. Tom Holderfield has submitted a request to rezone property at 360 N. Bennett St. The property is currently zoned OS-CD (Office Services – Conditional District) and the petitioner is requesting the property be rezoned to RM-2 (Residential Multi-Family – 2) to renovate the existing structure into a single family residence and build a second structure on a second lot that will also be a single family residence. The property is comprised of approximately 0.342 acres located along Bennett St. The property is identified with the following PIN: 858106394689 Parcel ID: 00038677 and according to the survey the property is three separate lots.

Staff presented an overview of the requested rezoning noting the parcel had been rezoned from RM-2 to the current zoning a few years ago. If the request is granted, this will restore the entire block to RM-2 zoning.

Neil Webster, 289 West Connecticut Avenue, noted that this property was rezoned several years ago with a Planning Board recommendation to the Town Council to deny the request. The Council approved the rezoning. He feels that most probably there will be two houses on this small lot, which would be inappropriate in his opinion. In addition, he expressed concern regarding the mature trees located on the site.

Alex Webster, said that she was worried because the agenda paperwork stated that the rezoning would allow a second home to be built on the second lot. Chris Kennedy stated that the lot already exists. He stated that it is compliant if the zoning is changed to build two homes. Mrs. Webster stated that she is against this happening.

John McLaughlin stated that the lot line already exists. He asked if a second home could be built on the lot. Chris Kennedy, Planner, replied that due to the fact the lot already exists, the answer would be yes. The lot lines are from the original grid that was established at the time the Town was established. In addition, he pointed out that the only thing was a changed with the approval of the request is the use. No matter if the rezoning is approved, the lot is buildable.

Jim Curlee pointed out the neighborhood currently is residential use with the exception of the property listed in the request for rezoning.

John McLaughlin, seconded by Jim Curlee, made a **motion** to close the Public Hearing for Z-03-14. The **motion carried unanimously**.

PLANNING BOARD RECOMMENDATION:

Jim Curlee, seconded by John McLaughlin, made a **motion** the proposed amendment is consistent with those documents that constitute the officially adopted land development plan and other applicable plans. The **motion carried unanimously**.

Jim Curlee, seconded by John McLaughlin, made a **motion** to recommend the Town Council approval the request Z-03-14. The **motion carried unanimously**.

Z-04-14 Request to Rezone Property from RS-1 to NB; 1064 W. Massachusetts Avenue; Petitioner, Creative Learning Center

On behalf of the Creative Learning Center, Ms. Elaine Owens has submitted a request to rezone property at 1064 W. Massachusetts Ave. The property is comprised of three lots that have been recombined into one parcel. The property contains one lot that is zoned RS-1 (Residential Single Family -1), one lot that is zoned NB (Neighborhood Business), and one lot that is split between RS-1 and NB zoning. The petitioner is requesting that the remainder of the property not currently zoned NB be rezoned to NB in order to construct the Creative Learning Center. The Creative Learning Center is categorized by Use 6830 Civic, Social, or Fraternal Organization. Use 6830 is permitted in the CB/DTO, GB, NB, and OS; staff recommends that the property be rezoned to NB should the Town Council wish to rezone the property. The property is comprised of approximately 0.611 acres located along the center of the block of W. Massachusetts Ave. between S. Hardin St. and S. Gaines St. The property is identified with the following PIN: 857220912515 (Parcel ID: 00041668- entire portion of lot zoned RS-1), PIN: 857220911465 (Parcel ID: 00041667-frontage of this lot currently zoned NB with rear of the lot zoned RS-1), and PIN: 857220912459 (Parcel ID: 00041664- entire lot currently zoned NB).

Dean King, 320 Lupin Place, stated the organization was trying to put a learning center in this area. He feels this use complies with the Long Range Plan for the Town of Southern Pines. He said that a few years ago the group was real close to getting a permit, now they need to start over as the organization did not have a vested interest.

Bart Nuckols, Planning Director, noted a few years ago they had received several approvals and even had architectural approval. Subsequently, the new UDO adopted last fall had several changes that require a rezoning to add the use for this project.

Latoya Haire, the current administer for the Creative Learning Center, gave an overview of the programs that the Creative Learning Center offers to the community.

Karen Mae, a board member for the Creative Learning Center After school program, stated that this would be a great asset for the community.

Jim Curlee noted this was a good location for the Creative Learning Center.

Chris Kennedy noted that the future long-range plan recognized that this location would be a transition zone.

Jim Curlee, seconded by Jennifer Maples, made a **motion** to close the Public Hearing for Z-04-14. The **motion carried unanimously**.

PLANNING BOARD RECOMMENDATION Z-04-14

Jim Curlee, seconded by John McLaughlin, made a **motion** the proposed amendment is consistent with those documents that constitute the officially adopted land development plan and other applicable plans. The **motion carried unanimously**.

Jim Curlee, seconded by John McLaughlin, made a **motion** to recommend the Town Council approve request Z-04-14. The **motion carried unanimously**.

CU-02-14; Conditional Use Permit for Major Subdivision for Single Family Homes along Crestview Rd.; Petitioner, Steve Floyd

Mr. Steve Floyd is requesting a Conditional Use Permit (CU-02-14) for a Major Subdivision for nine (9) single-family homes along Crestview Rd. Per Section 2.20 Major Subdivisions of the Unified Development Ordinance, any subdivision of land creating greater than five (5) lots requires a Conditional Use Permit (CUP). The proposed development will require a CUP. The subject property is a 4.48 acre tract comprised of three (3) parcels located at the beginning of Crestview Rd. as it connects to Bennett St with the following parcel identifiers: PIN #8588219515601 (Parcel ID: 00032803); PIN #8588219515436 (Parcel ID: 00032806); PIN #8588219515264 (Parcel ID: 00032805). The property is currently zoned Residential Multi-Family (RM-2) which allows 5-7 dwelling units per acre. Single Family Residences are also permitted in the RM-2 zoning classification so this request requires no rezoning of the property. The petitioner is seeking to subdivide the property into ten (10) parcels, nine (9) of which will have single-family residences and one (1) will remain dedicated to open space. The open space is provided to act as a buffer from neighboring properties in addition to housing a storm water management facility and protecting an active Red-Cockaded Woodpecker tree. The proposed site plan shows the installation of new sidewalks along the frontage of Crestview Rd. as well as a driveway encroachment onto Crestview Rd. for each residence. Each lot exceeds the 10,000 square feet minimum so each proposed lot is compliant with the RM-2 zoning classification for single-family residences. Per Section 2.20 of the Town of Southern Pines Unified Development Ordinance, all subdivisions creating more than five (5) lots require a Conditional Use Permit. Per the Moore County Tax records, the property owner is listed as J. Christopher Davis. The property is adjacent by RM-2 (Residential Multi-Family-2) zoned property to the North, South, and West and is adjacent to RS-2 (Residential Single-Family-2) zoned property to the East.

Chris Kennedy, Planner, presented a brief overview of the proposed project, stating that this project was for 9-lots that is less density than the current zoning. They were not asking for any other waivers under the Conditional Use Permit. The lot size is compliant.

David Wilson, said that he was in support of the proposal.

Ryan Pascal, 100 Midland Road, stated he was happy with the plan. His property adjoins the proposed subdivision.

John McLaughlin, seconded by Jennifer Maples, made a **motion** to close the public hearing for CU-02-14. The **motion carried unanimously.**

PLANNING BOARD RECOMMENDATION

Jim Curlee, seconded by John McLaughlin, made a **motion** the proposed amendment is consistent with those documents that constitute the officially adopted land development plan and other applicable plans. The **motion carried unanimously.**

Jim Curlee, seconded by John McLaughlin, made a **motion** to recommend the Town Council approve the request. The **motion carried unanimously.**

Z-02-14; Request to Rezone Property along N. Page St. from RM-2 to RM-1 for the New Construction of Townhomes; Petitioner, Pine Group Ventures LLC

On behalf of Pine Group Ventures LLC, petitioner Mr. Pete Mace is requesting to rezone property along N. Page from RM-2 to RM-1 for the new construction of thirteen (13) townhomes along the frontage of N. Page St. The property is comprised of three parcels identified by the following: PIN: 858106390954 (PARID: 00038954); PIN: 858218301044 (PARID: 00031134); PIN: 858218302173 (PARID: 00031133). Per the Moore County Tax records, the property owner(s) are listed as Robert E. & Donna M. Carter and Karl L. Martin. The property is along the frontage of N. Page St. between W. Connecticut Ave. and W. Vermont Ave. The property is surrounded by RM-2 (Residential Multi-Family-2) zoned property to the North, South, East, and West.

Per Section 2.1 Major Subdivisions of the Unified Development Ordinance, any subdivision of land creating greater than five (5) lots requires a Conditional Use Permit. The proposed development will require a CUP; the CUP application will proceed concurrent with the rezoning request.

CU-01-14; Conditional Use Permit for Major Subdivision for Townhomes along N. Page St.; Petitioner, Pine Group Ventures LLC

On behalf of Pine Group Ventures LLC, petitioner Pete Mace is requesting a Conditional Use Permit (CU-01-14) for a Major Subdivision for twelve (12) townhomes along N. Page St. Per Section 2.1 Major Subdivisions of the Unified Development Ordinance, any subdivision of land creating greater than five (5) lots requires a Conditional Use Permit. The proposed development will require a CUP; the CUP application will proceed concurrent with the rezoning request. As part of the CUP application, the petitioner is requesting setback relief per Section 4.2.2. The petitioner is permitted the ability to request such relief per Section 2.21.8 Conditions of a Conditional Use Permit if the applicant can convey extraordinary circumstances that justify the variation from the specified requirements. The property is comprised of three parcels identified by the following: PIN:858106390954 (PARID:00038954); PIN:858218301044 (PARID:00031134); PIN:858218302173 (PARID:00031133). Per the Moore County Tax records, the property owner(s) are listed as Robert E. & Donna M. Carter and Karl L. Martin. The property is along the frontage of N. Page St. between W. Connecticut Ave. and W. Vermont Ave.

Per Section 2.1 Major Subdivisions of the Unified Development Ordinance, any subdivision of land creating greater than five (5) lots requires a Conditional Use Permit. The proposed development will require a CUP; the CUP application will proceed concurrent with the rezoning request. As part of the CUP application, the petitioner is requesting setback relief per Section 4.2.2. The petitioner is permitted the ability to request such relief per Section 2.21.8 Conditions of a Conditional Use Permit provided that the applicant can convey extraordinary circumstances that justify the variation from the specified requirements.

Chris Kennedy introduced the proposed rezoning request; noting that the rezoning request is only to increase the density.

Bart Nuckols, Planning Director advised that the Public Hearing for both the rezoning and CUP request could be held concurrently if the Planning Board so desired. Chair Martin felt this might be beneficial and less confusing for the members of the public who wished to speak regarding the proposed rezoning and CUP requests.

Chris Kennedy, Planner, reviewed the CUP request stating 13 units are proposed for the Townhome project. He pointed out that there were two, two, two, and three units per building. In addition, there was just enough land available for the 13 units.

Vince Zucchini, 128 Longleaf Road, Southern Pines, spoke in support of the proposal. He submitted a written statement, to the Secretary of the Planning Board. He read the statement at the meeting. This statement is a part of these minutes by reference.

Maureen Sutton, 345 North Page Street, spoke in opposition to the request. Her house was built in 1910 and on this side of the street, there are four homes. Her home is located across the street from the proposed Townhomes. She is concerned about preserving the trees noting the developer spoke about trying to save them. She feels this should be put in writing and the said trees should be designated and tagged. In addition, she feels the 13 proposed townhomes density on 1½-acre site is too dense. In addition, no one had spoken with her as an adjoining neighbor to the project site; she felt this should have been done.

Brent Bissett, 340 W. Vermont Avenue, spoke in opposition to the request. His property runs along the back of the site. He noted that no one had spoken with him regarding the project. He cannot imagine that all of the trees mentioned could be saved and still develop to the stated density. He is not opposed to Townhomes on the site however; he is very opposed to the density proposed. He would appreciate that the developer would most likely have safety lighting for the parking lot. His home is over 100 years old and this does not seem compatible with the existing neighborhood.

Chris Kennedy noted that if the property is not rezoned, the CUP could not be approved.

Rayan Pascal, 100 Midland Road, is opposed to the project. He noted that the developer most likely paid over ½ a million for the lots and if signal family houses would mean the lots would be approximately \$25,000 each.

Dean King stated that he would love to put five houses on the site. What has driven the plan has been the cost/return factor.

George Kephart, just purchased property at 137 Tower Street, spoke in opposition to the request. He restored approximately nine houses and was very interested in restoring the house located at 380 Page Street. This is also known as the Magnolia Inn. This property has a number of elements that are in good condition. Generally, the house is structurally sound. The tree scape will be ruined.

Neal Webster, spoke in opposition to the request. He stated that he could not have expressed the concerns as well as Mr. Kephart. He feels that it would be tragic if the houses were torn down and the tree statement is not possible. Thirteen Townhouses do not fit in the neighborhood. There is no way the density of the proposed structures could be built and retain any of the trees.

Karl Martin, 605 No. Poplar Street, spoke in favor of the request. He owns one of the houses on the site and spoke on the cost to repair the building.

Greg Stivland, 340 W. Vermont Avenue, spoke in opposition to the request. There typically are just one tenet occupying each unit of the existing three buildings currently. The impact of increasing the density is a concern.

Lizabeth Thornack, 355 No. Page Street, spoke in favor of the request. She is tired of looking at the falling down houses across the street. She noted that it is her understanding the developer is going to try to save as many of the trees as possible. She feels that anyone who objects to the project because they do not want to look out and see Townhomes located across the street should reconsider this view. Where she comes from, you can live in a neighborhood of single-family

homes and across the street, you see row houses, townhouses, or apartment buildings. She would much prefer to have this project than the existing run-down houses.

Alex Webster, requested the developer to reconsider the proposed project.

Cariey Sutton, 345 North Page Street, stated that she has lived in this home for 20 plus years. She would be very upset to see a project such as the one proposed located in this neighborhood. She is opposed to the proposal. It is totally not in keeping with the *vernacular* of the area. The rendering only shows nine out of the purposed 13 units.

Chair Martin asked the applicant if given the feedback from the public during the Public Hearing, if they would care to offer any changes to the petitions. The developer did not wish to do this.

Jim Curlee, stated that what he has heard during the Public Hearing was that there was an adverse impact on the neighborhood from the existing situation and then there would be an adverse impact with the proposed 13 townhomes. He asked Mr. Mace if he would consider doing a very responsible layout of the existing trees noting the ones he feels they can keep and come back to the Planning Board next month with this document.

Pete Mace, said this is on the survey and could locate the trees, sidewalks, etc.

John McLaughlin noted that there seems to be the landscape of existing trees is an issue, in addition to a density issue. He felt that if there could not be some movement from the two groups on both issues, then the Planning Board needs to look at what makes sense. He noted that the properties had been on the market for a considerable length of time. He noted that everyone has diverse views on what is a reasonable return on investment. He recognized that there is a group that had worked to develop a plan and secure funding to move forward.

The developer discussed the drainage plan for the site. Noting underground storage for water would be a little more expensive than a drainage ditch, however, they felt the neighborhood would be better served with the underground storage.

An unidentified citizen stated that she had a problem with the density change to allow the greater density.

The closest area with this density would be the downtown area.

Jim Curlee requested Mr. Mace to come back in May before the Planning Board after looking at the whole plan once again and maybe consider the density and layout of the townhomes.

Pete Mace said there is not a lot that is going to change between now and May. The Planning Board is only a recommending board, the Town Council has the final say.

Chair Martin said that each time a request such as the one before the board, he puts himself in the position of the person who is trying to improve the area. He hears that the old buildings could be renovated, they could be used; however, the petitioner has come forward with a proposal to actually do something. He feels that the vote should be taken at this meeting and forward the proposal to the Town Council.

Jim Curlee, seconded by John McLaughlin, made a motion to close the Public Hearing on Z-02-14. The motion carried unanimously.

Jim Curlee, seconded by John McLaughlin, made a **motion** the proposed amendment is not consistent with those documents that constitute the officially adopted land development plan and other applicable plan. The **motion carried 3 to 1 (Mike Martin opposed)**.

Jim McLaughlin made a **motion** to recommend denial of Z-02-14 to the Town Council. The **motion carried 3 to 1 (Mike Martin opposed)**.

John McLaughlin requested to make a statement. He said that the Planning Board is an advisory group for the Town Council. Everyone on the board has gone through a level of review to be

able to be appointed to the board. He feels there should be a level of compromise to work through the differences expressed during the meeting. He did not see this willingness at the meeting. This is why he voted the way he did.

Chair Martin closed the public hearing for CU-01-14; Conditional Use Permit for Major Subdivision for Townhomes along N. Page St.; Petitioner, Pine Group Ventures LLC.

Jim Curlee, seconded by John McLaughlin, made a **motion** the proposed *Conditional Use Application* is not consistent with the documents that constitute the officially adopted land development plan or other applicable plans. The **motion carried unanimously**.

Jim Curlee, seconded by Jennifer Maples, made a **motion** to recommend denial of CU-01-14 to the Town Council. **Motion carried 3 to 1 (Mike Martin – opposed)**.

PUBLIC HEARING CONTINUED FROM FEBRUARY 20, 2014 PLANNING BOARD MEETING

Z-01-14, Request to Rezone the Southern Pines Corporate Park from Industrial (I) to Planned Development (PD), Petitioner, Chris Jordan

Mr. Chris Jordan has submitted a request to rezone the Southern Pines Corporate Park from Industrial (I) to Planned Development (PD) to allow for an additional list of permitted to be added to the Conditional Use Permit for the property. The Southern Pines Corporate Park is zoned Industrial (I) and was approved under the Conditional Use Permit (CU-03-06). The Southern Pines Corporate Park is comprised of 103.32 acres located at 115 Yadkin Road with the PIN: 858200844750 (Parcel ID 00039569); PIN: 858216941750 (Parcel ID: 00031777); PIN: 858216839247 (Parcel ID: 00039763); PIN: 8582008597112 (Parcel ID: 20071012). The Future Land Use Map designates the subject properties as Industrial. The permitted uses within the Corporate Park include primarily manufacturing, distribution, storage oriented, and large facility uses. The petitioner submits this request to expand the permitted uses to include more supportive-type uses in addition to the currently permitted uses. The requirements for the Planned Development process are attached below. The Planned Development (PD) zoning classification allows any use in the Table of Permissible Uses upon Town Council approval. The process requires a conceptual development plan, a preliminary development plan, and a final development plan approval. The petitioner is using development plans from the previously approved Conditional Use Permit to satisfy the conceptual development plan and preliminary development plan requirement. The petitioner will still need to provide the final development plan at a later date.

The applicant did not attend the meeting. There were no citizens present who wished to speak for or against the proposed rezoning.

A Planning Board discussion on the proposed rezoning and uses ensued.

PLANNING BOARD RECOMMENDATION Z-01-14

Jim Curlee, seconded by John McLaughlin, made a **motion** that the proposed amendment is consistent with those documents that constitute the officially adopted land development plan and other applicable plans. The **motion carried unanimously**.

Jim Curlee, seconded by John McLaughlin, made a **motion** to recommend approval of Z-01-14 to the Town Council with the following conditions: (1) the buffer standards cited in Section 4.3.4 Industrial, be required to be applied to all adjoining residential lot lines, including exhibit 4-3 & 4-5. (2) A text amendment to Section 3.5.1 of the UDO, striking out the word “limited” “and “limited light industrial uses”. The **motion carried unanimously**.

The meeting adjourned at 10.02 PM.

Neva Sherry

MEMORANDUM

To: Planning Board
Via: Bart Nuckols, Planning Director
From: Chris Kennedy, Planner
Subject: OA-03-14, Amendments to UDO; Petitioner, Town of Southern Pines
Date: May 22, 2014

OA-03-14, Amendments to UDO; Petitioner, Town of Southern Pines

The Town of Southern Pines adopted the Unified Development Ordinance on October 8, 2013. As part of this adoption it was understood that there would likely be sections of the code that would need to be updated or modified as staff implemented the UDO. The town staff has compiled a list and coordinated with the consultants who helped write the UDO, Planning Works, to reconcile some of the issues that have arisen since the UDO was adopted last October. Attached to this memo is a list of those corrections.

Attachments:

- Ordinance Amendment Application

Planning Board Actions:

The Planning Board shall vote on whether the proposed amendment is consistent with *Comprehensive Long Range Plan* that has been adopted and any other officially adopted plan that is applicable. The Planning Board could make one of the following motions for recommendations or any alternative they wish:

1. Motion to **approve** the requested text amendment and to make a finding and determination that the approval of the text amendment request is consistent with the adopted Land Use Plan and that the approval of the text amendment request is reasonable and in the public interest due to the approval being consistent with the comprehensive plan and, as a result, the approval furthers the goals and objectives of the comprehensive plan; OR
2. Motion to **deny** the requested text amendment and to make a finding and determination that the denial of the text amendment request is consistent with the adopted Land Use Plan and that that the denial of the text amendment request is reasonable and in the public interest due to the denial being consistent with the comprehensive plan and, as a result, the denial furthers the goals and objectives of the comprehensive plan.

Then:

1. I move to recommend to the Town Council the approval of OA-03-14;
2. I move to recommend to the Town Council the denial of OA-03-14; OR
3. I move to recommend to the Town Council the approval of OA-03-14 with the following additional conditions...

Memo

To: Planning Board
From: Michael Lauer, AICP - Principal
Date: May 6, 2014
Re: UDO Revisions

This memo highlights the substantive changes to the UDO that will be presented to the Planning Board for consideration in May. While numerous edits will be proposed throughout the document, the intention of this memo is to highlight amendments that, due to their substantive nature, merit explanation and discussion during the Council’s March 24 work session. The proposed edits will generally fall within the following categories:

- **Errata.** Typographical errors, formatting glitches, pagination errors and consistency errors created when parallel provisions were not edited during the adoption process and hyperlink (cross reference) repairs will not be discussed at the workshop. An example of a consistency error is the reduction of minimum lot area per dwelling unit for the CB district, which is reflected in section 4.1, but not in the zoning district summary table in chapter 3.
- **Clarifications.** Clarifications that merely simplify the language without changing the meaning will not be discussed. Clarifications of existing provisions will be discussed when there is some question of the intent of the provision being clarified. For example published notice in section 2.17.5 is required 10 to 25 days before the public hearing before the permit issuing authority, which generally means the Town Council or the Board of Adjustment. This clarifies that published notice is not required for the Planning Board when there is a subsequent Council hearing.
- **Gaps.** Subsequent to adoption, there have been several regulatory issues that are not adequately addressed by the UDO (e.g., deer fencing for gardens). While not all of these proposed changes are significant, they are all substantive and will be discussed at the works session.

Proposed Revisions for Discussion

Page 1-1 - Section 1.2.2 and subsequent sections throughout the ordinance. The defined term “Development Order” will be replaced with the phrase “Development Approval” which is more easily understood.

Page 1-4 – Section 1.6.4.(C). Delete the provision: “No land dedicated shall be used of a public purpose, nor shall a subdivision or property containing such land or part thereof be made or recorded prior to obtaining Final Plat approval.” While the intent of this provision is to ensure improve land records, this provision could complicate needed dedications and is inconsistent with subsequent provisions that provide for dedication of street right-of-way, easements and other public lands prior to plat recordation.

Page 2-5 – Exhibit 2-1. Move vacation of streets, to new section 2.29 to reflect statutory requirement for a public hearing.

Page 2-6 – Exhibit 2-1. Add a row for watershed protection permits, which are approved by the Planning Director subsequent to the Town Council’s allocation of built-upon area, appealable to the Town Council and described more fully in section 2.46.

Page 2-9 – Section 2.8.2.(B). In this provision that allows for extensions of Development Approvals, change the last sentence as follows: “However, the Permit Issuing Authority may condition the extension on compliance with Town Standards applicable when ~~substantial work commences or continues~~ the extension is granted.”

Page 2-13 – Exhibit 2-1. Insert notice provision for vacation of streets and alleys

Page 2-14 – Section 2.12.2.(A). Clarify that modifications to applications at a public hearing may not result in a more intensive development than was advertised for the public hearing.

Page 2-21 – Section 2.17.5.(A). Modify the second sentence to state that: “The notice shall be published for the first time not ~~less~~fewer than ten (10) days or more than twenty-five (25) days before the date fixed for the hearing before the Permit Issuing Authority.”

Page 2-41 – Section 2.20.8.(C)(3). Modify the provision as follows: “The property owner agrees to make contributions of capital improvements for community facilities for one or more types of public improvements, ~~which are in excess of the Development’s proportionate share of the costs of the facilities needed to serve the Development and which thereby advance provision of facilities needed to serve the~~ community.”

Page 2-54 – Section 2.24.4. Change the provision so the Town Council evaluates compliance with a consent agreement rather than the Board of Adjustment.

Page 2-54 – Section 2.25.1. Change the provision so the Town Council addresses appeals to revocations of Development Approvals.

Page 2-60 – Section 2-29. Insert new section with current statutory requirements for vacation of streets and alleys and renumber subsequent sections.

Page 2-65 – Section 2.32.1.(A)(1). Should minor subdivisions be limited to lots intended for residential and agricultural uses?

Page 2-78 – Section 2.47. Clarify that the Planning Director may approve a Watershed Protection Permit only after the Council has approved an allocation of built-upon area through a formal development approval.

Page 3-9 – Exhibit 3-6. Note that minimum lot width is not applicable to Townhome development in the RM-1 district.

Page 3-10 – Exhibit 3-7. Note that minimum lot width is not applicable to Townhome development in the RM-1 district.

Page 3-11 – Section 3.5.8.(C)(2). Limit the 20 percent limit on professional offices per block face to the historic district along Broad between Vermont and Massachusetts and along Pennsylvania between Bennett and Ashe.

Page 3-12 – Exhibit 3-8. Adjust the Additional lot area per additional dwelling unit to 1,500 sq.ft. to match Exhibit 4-1.

Page 3-19 – Section 3.5.14.(A). Modify the PD district purpose as follows:

The PD district is designed to accommodate mixed land uses, such as office, residential, service, commercial, public or private recreational Development, and ~~under limited circumstances~~ where consistent with the future land use map, light manufacturing and assembly uses that comply with the employment center development patterns established in section 6.5 of this UDO. This district is intended to allow mixed-use Developments in areas where sufficient public water and sewer service is available (or can be readily extended) and where the street system is adequate (or can be readily improved) to handle the projected traffic volumes generated by the Development. The regulations of this district are intended to:

(1) Encourage planned, large-tract Development, including service, office, commercial, residential, public or private recreational Development, and limited light industrial uses;

(2) Exclude heavy commercial and heavy industrial land uses;

Note: Heavy commercial and heavy industrial should be defined to include noisy uses, and uses with outdoor storage or operations. Heavy commercial development would include noise generators such as auto-body shops and lumber yards.

Page 3-24 – Section 3.6.3.(D). Add a provision that the maximum lot width of the CB district does not apply within the DTO district.

Page 3-29 – Exhibit 3-14. Remove the Morganton Road Overlay district map and related references. This overlay should be shown on the official zoning map along with the other overlay districts. The map is no longer needed because the subarea within 800 feet of Morganton Road is no longer relevant.

Page 3-37 – Exhibit 3-15. Use 1112 should be renamed to Townhome and the references corrected to show that it is allowed in the RM-1, RM-2, CB/DTO, NB and OS districts subject to a zoning permit and supplemental conditions in Chapter 5.

Page 3-38 – Exhibit 3-15. Multi-family units should be labeled ZC to reflect the requirement that a CUP is required prior to approval of developments with 10 or more dwelling units.

Page 3-57 – Exhibit 3-15. Adjust the table of authorized land uses so that small religious institutions are not permitted in the OS district per section to be consistent with Chapter 5.

Page 4-5 – Exhibit 4-1. Note that the minimum lot width does not apply to Townhomes in the RM-1 and RM-2 district. Replace the minimum lot width in the CB district with the maximum lot width of 50 ft.

Page 4-25 – Section 4.5.4.(C). Modify the parking lot design flexibility provisions to be consistent with the administrative relief provisions in chapter 2.

Page 4-28 – Section 4.5.13. Add a provision exempting the CB district, but not the DTO district from loading zone requirements.

Page 4-32 – Section 4.6.7. Rename this section to Number of Signs Allowed and consolidate all provisions addressing the number of signs, including provisions for freestanding and wall signs.

Page 4-36 – Section 4.6.13.(H). Modify this section so that business names/logos can be used on parking and traffic direction signs if they are not legible from public right-of-way. For example, “parking reserved for [insert business name] patrons”

Page 4-38 – Section 4.6.15. Insert a section addressing awning signs as part of attached signage allocation.

Page 4-40 – Section 4.7.(C). Modify provision 3 to allow wrought iron style fences to be 4 feet in height. Modify provision 4 to allow split rail fences not to exceed five feet in height.

Page 4-40 – Section 4.7. Add a new section H to allow deer fences to be erected around gardens that as long as they are located at least 10 feet from a property line.

Page 5-6 – Section 5.10.2.(A)(1). Clarify that a Town business license is required only for home occupations established within the Town.

Page 5-12 – Section 5.14.1.(D). Clarify whether the intent of this provision is to require separation between all multi-family developments or merely multi-family developments including 10 or more dwelling units.

Page 5-12 – Section 5.14.3.(B). Replace the requirement that no more than 8 units may be located within a single building with a statement that units should be clustered into buildings of an appropriate scale within the development. Since 10 or more dwelling units require a Conditional Use Permit, the Planning Board and Town Council have the authority to address building scale on a site-by-site basis.

Page 5-18 – Section 5.20.1. Allow up to 9 townhomes to be connected unless otherwise approved through a conditional use permit.

Page 5-21 – Section 5.24.(B). Eliminate the area requirements for living spaces in Special Services Homes that are not regulated by the State. Rely on the building code for minimum room sizes and occupancy requirements.

Page 6-16 – Section 6.5.3.(A) and 6.5.5.(A). The corporate village option was deleted from this section, but the text retains references to the corporate village and the option to include mixed-use buildings with a residential component. Clarify whether a residential component should be allowed within the corporate campus/business park development pattern by right, PDD or CUP.

Page 7-1 – Section 7.1.4.(C). Clarify that a CUP is required for the entire lot or parcel when any non-conforming structure on the lot is repaired at a cost exceeding 25 percent of the value of the applicable structure.

Page 7-2 – Section 7.1.7. Clarify that the City Council has ultimate responsibility for determining the conditions that are required for expansion of a non-conforming situation through the CUP process.

Page 7-3 – Section 7.1.10.(A). Clarify that registration of non-conforming situations is voluntary unless the owner applies for a development approval.

Page 10-1 – Section 10.2. Add definitions from previous code for special services homes, including distinctions between the different types.