



*Vance County Planning & Development
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TO: Vance County Citizens Advisory Committee (CAC)
FROM: Ken Krulik, Assistant Director/Senior Planner
SUBJECT: Minutes of the March 16, 2006 CAC meeting
DATE: March 20, 2006

In Attendance

Committee Members: Reverend J.H, Daniels-Committee Chair, Connie Kenney-Committee Vice Chair, Helen Williams, Thomas Shaw III, Vincent Jefferson, Rusty McMahan, John Abbott, John Foster, Alan Rowland

County Staff: Robert Farnum, Ken Krulik (meeting facilitator)

Others Present: Marc Woodlief, Matthew Milliken (Daily Dispatch), members of the public

- ◆ Chairman Daniels called the meeting to order, requesting a change in the meeting agenda; he asked to have Ken Krulik to conduct his PowerPoint presentation on the basics of planning zoning. The Committee agreed to this request.
- ◆ Ken Krulik proceeded with his presentation on the basics of planning and zoning, the photographs used reflect Vance County and North Carolina (rather than examples from out of state used in prior presentations). Comments and questions include the following:
 - A. John Foster inquired, referring to one image of an illegal tire dump, if there are County regulations to have these sites cleaned up (and violations issued). Ken Krulik responded yes, there is a County Compliance Officer handling issues of dumping and littering. Ken Krulik continued that the County ordinances "lack some teeth," and work is on-going to revise them accordingly.
 - B. John Foster further asked, if there was no prior enforcement on these sites, how the proposed zoning ordinance will be enforced. Ken Krulik said he can't speak for what was done in the past, but work is on-going to improve the current ordinances and the proposed zoning will have the enforcement means for his staff to utilize.
 - C. Rusty McMahan inquired, based on the same photograph, if the tire dump is in the middle of a 500 acre farm, how it affects public health and safety. Ken Krulik responded that in this instance there are environmental issues of groundwater contamination and polluted water quality; breeding of mosquitoes, fire/pollution from burning rubber if such a fire occurred (all affect public health and safety).
 - D. Rusty McMahan inquired about non-conforming uses and if there has been any discussion regarding expansion of these uses (a concern for those who may be severely affected, if one is not allowed to expand their business then this will limit potential for new employment and expansion of economic growth). Ken Krulik responded that a potential revision to this is already being worked on for review.

- E. Chairman Daniels added that this concern has been raised in other public meetings as well, Ken Krulik responded that the Commissioners are aware of this concern (whether by his reports of concerns raised by their constituents) and work is on-going to determine a potential revision for consideration.
 - F. Alan Rowland inquired if the proposed Industrial Mining zoning category could also be considered Heavy Industrial. Ken Krulik responded yes, and this proposed category could be revised since this is a draft document.
 - G. John Foster asked about the lot size restrictions in the County's watershed areas. Ken Krulik explained the state minimum standards for the Anderson Creek (in the critical area lots can't be less than 1 acre-43,560 SF, in the balance of the watershed lots can't be less than 35,000 SF), for the Tar Pamlico lots can't be less than 30,000 SF. Ken Krulik also gave an overview of the difference between river basins (Roanoke, Tar-Pamlico) and watersheds as well buffer requirements for surface waters.
 - H. Rusty McMahon inquired about the public hearings required for the proposed zoning ordinance, if they were one per month or two per month. Ken Krulik explained the process to the Committee, stating that General Statues require two public hearings and there could be additional hearings set by the Commissioners.
 - I. John Foster inquired about what steps will be taken to educate the Board of Adjustment members, who would be appointed, if the draft zoning ordinance is adopted. Ken Krulik responded there will be a formalized process of education for those members, whether through classes by the Institute of Governments, in-house training by Planning staff, or a combination of the two. John Foster further commented this should be a recommendation of this Committee, Ken Krulik agreed.
 - J. Rusty McMahon asked that with the potential for this draft zoning ordinance (if adopted) to grow, how soon before the Board of Adjustments would need a full time staff to do their work. Ken Krulik explained that (in most areas) planning departments provide the staff to a Board of Adjustments (he and Robert Farnum would be the staff). It is possible, Ken Krulik added, there could be need for additional staff, he gave an overview of current staffing in the Planning Department.
 - K. John Foster asked what could be expected in staffing for a Board of Adjustments, Ken Krulik responded that for Vance County there would most likely be a zoning administrator dedicated to assisting the Board (and able to draw on other in-house as needed for assistance). He added there could be additional staff needed in the future.
 - L. Upon conclusion of the presentation, Helen Williams commented that Ken Krulik had put a lot of time and energy into the presentation and his work.
- ◆ With no further comments on the presentation Chairman Daniels then led the Committee in prayer before proceeding further. He requested the assembled members review the minutes of the March 2, 2006 meeting and asked if there were any changes to be made.
 - ◆ Helen Williams noted one correction, Ken Krulik noted the change (correct "are" to "if") for a comment made by Mrs. Williams in the last meeting.
 - ◆ Vincent Jefferson inquired if the minutes would be available to the public; Ken Krulik responded that upon the adoption of the minuets from each meeting (and any needed corrections) he would have them posted on the County's website. Copies would also be available in his office if requested by the public, as well as made available to the press.
 - ◆ With no further discussion or corrections from the members, Chairman Daniels entertained a motion to approve:

- A. **Motion** was made by Connie Kenney to approve the minutes of the March 2, 2006 meeting with the noted correction. **Second** was made by Thomas Shaw.
- B. All members voted to approve the March 2, 2006 minutes.
- ◆ Chairman Daniels then moved to Old Business, Ken Krulik distributed a “clean” copy of the Committee’s bylaws for their final review (adopted per changes at the prior meeting, if there were no further changes these would be signed). Upon final review by the Committee, Chairman Daniels signed as Chair and Ken Krulik as Secretary.
 - ◆ Ken Krulik then continued with the Old Business which included a review of the points of discussion and potential recommendations based on review of Sections I and II of the draft ordinance. He explained he had summarized this information from the prior meeting, as well as provided information on of potential revisions to the definition of bona fide farm (inclusive of what the Tax Office uses to define a farm for tax purposes).
 - ◆ Ken Krulik distributed this information to the Committee for their consideration and review; he had included half a dozen examples of bona fide farm definitions from across the state to give some perspective on the range of definitions used.
 - ◆ John Foster recommended that the Committee review the distributed material at home and provide comments at the next meeting, after some general discussion of the Committee Chairman Daniels and the members agreed. Ken Krulik added that he had noted several additional points of discussion at the end of the material he distributed.
 - ◆ Chairman Daniels continued with the meeting, he stated that before the Committee reviewed Section III, Rusty McMahon had requested the opportunity to share some his concerns with the Committee
 - ◆ Rusty McMahon read from a prepared statement (copies distributed to the members and are available in the Planning and Development Department) with a recommendation for a motion of the Committee at the end of the statement.
 - ◆ Rusty McMahon’s statement expressed his concerns with public input into the review and recommendation of the draft zoning ordinance and draft map. The motion, as recommended in the prepared statement reads as follows: “I make a motion that we invite the Commissioners and the County Manager to meet with this committee, to tell us what’s in their hearts about land-use planning and the future of Vance County, and to identify the objectives of countywide zoning, this document in particular. Without this background and these objectives, this committee cannot fully execute its charge and represent the citizens of Vance County....”
 - ◆ Upon conclusion of the statement being read, Chairman Daniels entertained the motion:
 - A. **Motion** was made by Rusty McMahon to invite the Commissioners and County Manager to meet with this Committee and answer the questions as read in the prepared statement. **Second** was made by John Abbott.
 - B. Chairman Daniels asked if there were any comments or discussion before voting, Vincent Jefferson objected to the motion, comments are as follows:
 1. Vincent Jefferson stated the Committee was appointed to do work in the best interest of the County and the members agreed to put personal interest or bias aside to that end. He continued that this Committee is working at the request of the Commissioners, with the intent to do so in an objective manner.
 2. Vincent Jefferson also noted that this Committee needs to make a decision to move forward without any personal agenda, “and be in one accord,” which is what he thought the original charge of this Committee was at its inception.

3. Vincent Jefferson further commented that unless this Committee works in an unbiased manner, it is possible for the process to be stalled until the November elections, he added that the draft ordinance they are reviewing, as compared to other areas of the state, is very “gratuitous compared to other similar ordinances.”
 4. Vincent Jefferson noted that this Committee has been appointed by, and is subordinate to, the Commissioners. It was his understanding (as noted in the adopted meeting minutes) that the Commissioners have already reviewed the draft document before delegating its further review to this Committee and there is a qualified staff member in Ken Krulik to assist the Committee in its work.
 5. Vincent Jefferson closed by asking, in light of the statement read, “Are we here to do our business or to be contrary to what we have the responsibility to accomplish? If so, then this Committee should dissolve or come to some other understanding as this appears to be a stall tactic.”
 6. Rusty McMahon said this is not a stall tactic and he does not want this (the work of the Committee) to stop, he wants “to go until we complete the task at hand.” He continued that without background, without knowing what our Commissioners objectives are for zoning “we are working in a vacuum.”
 7. Rusty McMahon continued that without background and context this Committee can’t judge this document in its entirety.
 8. Vincent Jefferson stated that in volunteering to be on this Committee, he set aside any impartialness he had in order to accomplish the work of the Committee.
 9. Rusty McMahon countered how does this Committee and the residents know what the objectives are of the Commissioners, what’s in the best interest of the land owners and residents of this County. He asks why was this draft document created, how does this Committee do that?
- C. Chairman Daniels intervened stating that a “meeting of the minds” may not happen at this point, but there is a motion on the table to invite the Commissioners and County Manager to the Committee to answer the questions stated earlier. Rusty McMahon added that his request was not intended to be in an adversarial sense.
- D. Chairman Daniels asked if there were any further discussion.
- E. John Foster commented he has no problem with inviting the Commissioners to the Committee’s meeting, but to do so in an effort to only answer the questions stated.
- F. Alan Rowland asked for the Committee to consider “what does this Committee think the document should accomplish?”
- G. Chairman Daniels restated that if they invite the Commissioners and County Manager, that it be stressed they are only being asked about their objectives of the ordinance and not the Committee’s charge. Rusty McMahon again stated that these questions be asked of the Commissioners, not in an adversarial sense.
- H. Vincent Jefferson asked, if in inviting the Commissioners to speak with this Committee and one or several decline the invitation then would there be action taken (such as to subpoena). The Committee agreed there would be no action taken in this instance.
- I. Connie Kenney asked were it possible to get the questions (based on the statement read) in writing to the Commissioners and responses back in kind.

- J. Alan Rowland added that this Committee could request to be put on the next Commissioners meeting agenda to pose these questions to the full Board.
- K. The Committee had some general discussion on this issue, Chairman Daniels reminded the members that there is still a motion on the table and it is the intent to get clarity on these questions as proposed by Rusty McMahan. Both Vincent Jefferson and Rusty McMahan stated that this would be done not in an adversarial sense.
- L. Vincent Jefferson stated that Section 1.1 of the draft ordinance clearly identifies the, intent and purpose of the draft zoning ordinance and why it was written (under the Legal Provision of Section 1). The Committee had some general discussion on this point raised, Ken Krulik added the Commissioners have reviewed this draft document (inclusive of Section 1 and Section 1.1) during its development.
- M. Rusty McMahan commented that he would like to have the objectives stated from the Commissioners themselves since they are representatives of the people.
- N. Chairman Daniels again re-stated the motion made asking for any further discussion.
- O. Alan Rowland said that if they invite the Commissioners (and County Manager) to this Committee's meeting, then it becomes a public meeting and must be advertised. There was some additional discussion by the Committee on this point raised.
- P. Chairman Daniels addressed an amendment to the original motion then to have the questions, as read in Rusty McMahan's statement, made as a presentation at the next Board of Commissioners meeting. The actions as entertained by Chairman Daniels are as follows:
 - 1. To amend the original motion by Rusty McMahan to have the Commissioners come to the Advisory Committee to be asked to inquire about their objectives of countywide zoning and land use planning:
 - a. **Motion** to amend the original motion was made by Alan Rowland. **Second** was made by Rusty McMahan.
 - b. The motion for the amendment was approved by the majority with one opposed (Connie Kenney).
 - 2. The amended motion is now to have the Committee be on the County Commissioners April meeting agenda to inquire (based on the questions from Rusty McMahan's statement) about the Commissioners objectives of countywide zoning and land use planning:
 - a. **Motion** was made by Rusty McMahan. **Second** was made by John Abbott.
 - b. The motion was approved by a majority with three opposed (Connie Kenney, Vincent Jefferson, and Alan Rowland).
- Q. Chairman Daniels asked to have the questions in writing sent to the Commissioners before their next meeting; Ken Krulik responded he would do so with the questions identified in Rusty McMahan's prepared statement.
- ◆ Upon conclusion of this discussion Chairman Daniels requested a five minute break, the Committee agreed. After the break, Chairman Daniels called the meeting order to proceed with the agenda, this included review of Section III.
- ◆ With Section III inclusive of the draft zoning map, the Committee had discussion on the colors to identify proposed zoning categories (need to clearly identify differences), as

well as the potential for changing the proposed zoning categories on the map. Ken Krulik said it is possible the draft zoning map could change based on recommendations from the Advisory Committee, he reviewed the process for re-zoning property as well.

- ◆ The Committee and Ken Krulik also had discussion on the identification of proposed zoning categories based on current use of the land. Ken Krulik reiterated that in his field work and research through County resources, for example if a cluster of homes were noted on a tract of land and the tax records indicated each lot size was approximately 30,000 SF, then that area was designated as a proposed R-30 zone (3/4 acre lots).
- ◆ Chairman Daniels asked, and the Committee had general discussion on this issue, if the individual property owners would be informed of their proposed zoning designation before the draft ordinance and draft map are considered for adoption.
- ◆ Ken Krulik responded he is working on establishing the most efficient method to address this issue, he stated (as has been done in prior meetings) that General Statutes require two public hearings with notices mailed to property owners concerning initial zoning. He added it's very costly send out notices to all property owners for every meeting. As such he is working to address to this issue as raised by Chairman Daniels and still meet the requirements of the General Statues.
- ◆ With no further discussion Chairman Daniels moved to Section 3.1, noting one correction to add an Item F on page 15 that reads **“the zoning classification of all property shall be noted on the County tax bill...”**
- ◆ Rusty McMahon suggested that in the case of notifying property owners of their proposed zoning category, he asked if a map showing the property and proposed zoning could be mailed. Ken Krulik responded he would work on a cost efficient method.
- ◆ Ken Krulik added that the draft zoning map is currently available online at the website of the Planning and Development Department, as well as linked to the Vance County Website. He continued that once the work of the consultant that are “digitizing” the County’s tax map and property boundaries (based on the Register of Deeds), the maps identifying individual property boundaries will be available online.
- ◆ Chairman Daniels then moved the Section 3.2 for review.
- ◆ Alan Rowland. Page 16 Section D Items 2 and 3, he commented that the text here addresses the setbacks for lots and is the as what is in the County’s Subdivision Ordinance. If these stay the same, then this could cause some issues for lots that are smaller such as in the proposed residential zones for all new lots.
- ◆ Ken Krulik stated this was to keep from contradicting the two ordinances.
- ◆ Alan Rowland commented that the Committee should consider a modification of the setbacks since these stated provisions are the same as subdivision regulations (need to consider different setbacks for different zoning categories).
- ◆ Ken Krulik stated his recommendation would be that at the time the draft zoning ordinance is considered for adoption that the Subdivision Ordinance should be amended to remove the setbacks provision from that document.
- ◆ Ken Krulik added that if there were a lot that did not meet the setbacks requirement as outlined in the draft zoning ordinance, and it were adopted, and then this would a case in which the property could apply for a variance form the setback regulations. He continued that in this instance it would have string justification for getting approval.
- ◆ Alan Rowland further added that if the draft zoning ordinance were adopted with the setbacks as identified (same as the Subdivision Ordinance) then those setbacks would be

- applied to all zoning categories. He recommended that individual setbacks be created for each individual zone, the Committee agreed to this and Ken Krulik stated he would provide appropriate recommended setbacks for the Committee to review and consider.
- ◆ Chairman Daniels suggested that further review of these items on Page 16 be conducted at the next meeting, when Ken Krulik provides more information on individual setbacks for each proposed zoning category.
 - ◆ Chairman Daniels inquired about Item 5 on Page 16 that reads “Lots located adjacent to Kerr Lake shall be allowed a zero (0) lot line setback, per the Vance County Subdivision Ordinance.” In his review he could not find a reference to this provision in the Subdivision Ordinance. Ken Krulik commented he was researching this issue already and would get back to the Committee with where it is located in the Ordinance.
 - ◆ Alan Rowland commented that this provision was written in the Subdivision Ordinance because “people want to build as close as they can to lake...” In this way there is no development on the other side of the lot line to obstruct the lake view (on the water side of the lot. The Committee had general discussion on this matter.
 - ◆ Chairman Daniels recommended that the provisions should, for item 5 on Page 16: “lot lines that adjoin Corps Property.”
 - ◆ Vincent Jefferson noted corrections to the numbering system for Section 3.2, Items 1-3, it was inconsistent and need to be corrected appropriately. Ken Krulik noted he would correct the numbering for Items 1-3 and the sub-items A-D on Pages 15 and 16.
 - ◆ Vincent Jefferson also questioned the proposed zoning category of C-1 on Page 15, he suggested that since this is a General Commercial zone that it could be identified as G-C-1. Ken Krulik noted would make appropriate corrections throughout the document (also several recommended corrections include acronyms for state agencies on Page 15).
 - ◆ Chairman Daniels moved to Section 3.2.1 for the A-R zone on Page 16.
 - ◆ Rusty McMahon commented that state minimum requirements for health safety and welfare is 30,000 SF, if we keep this lot size minimum of one acre are we taking someone’s property or opportunity without compensation.
 - ◆ Ken Krulik responded that if a County or municipality renders property un-developable, it is a taking. He explained that one court case in planning law in particular addresses that if a unit of government denies a property of all economically viable uses of their land or if the regulation does not meet a governmental goal, then it is a taking.
 - ◆ Ken Krulik continued that the recommend lot size minimum of one acre for the A-R zone is a recommendation from the Planning Board in maintaining the rural and agricultural character of Vance County. Also, he added that the 30,000 SF minimum Rusty McMahon mentioned is the minimum size requirement from the state level to insure adequate lot for a septic system and repair area. Ken Krulik continued that this lot size (as with the others) can be reviewed for potential changes.
 - ◆ The Committee had general discussion on this issue; several members stated a preference for two acre minimum lot sizes in order to maintain the rural character of the County. There was also some discussion by the Committee on the process to apply for a re-zoning; Ken Krulik added that an application for a re-zoning includes justification of the re-zoning with factual evidence as part of the hearing process.
 - ◆ Rusty McMahon commented that some legal advice should be researched in this matter so as to insure that the County is not bearing an undue financial burden or to take opportunities from landowners and developers.

- ◆ After more discussion, the Committee agreed that if there are changes made to this proposed zone of one acre it could change the other proposed categories as well. It was stated several times that the intent of the draft ordinance and the county's land use plan is to maintain the rural and agricultural character of the County.
- ◆ Chairman Daniels asked the Committee if they agree to leave the lot size minimum for the proposed AR zone as it stands (one acre), until further research by planning staff is conducted (with legal advice if needed). The Committee agreed to do further review of this proposed zoning category at the next meeting.
- ◆ Alan Rowland added that the issue of lot width needs to be addressed in the proposed AR zoning category. Ken Krulik noted this and stated he would research this further.
- ◆ Helen Williams noted at this time the meeting has gone beyond the two hour time limit establish at the prior Committee meeting.
- ◆ As the Committee concludes their work, Ken Krulik asked the members as to when they wanted to meet next. It was discussed as to when the next Commissioner meeting would be held (April 3rd). The members agreed to meet the next Thursday on March 23rd.
- ◆ With no further business the meeting was adjourned.