

Town of Mineral Springs
Town Hall
3506 S. Potter Road
Town Council Joint Meeting with Planning Board
Special Meeting
September 26, 2018 ~ 7:00 PM

Minutes

The Town Council of the Town of Mineral Springs, North Carolina, met in Special Session at the Mineral Springs Town Hall, Mineral Springs, North Carolina, at 7:00 p.m. on Wednesday, September 26, 2018.

Present: Mayor Frederick Becker III, Councilwoman Valerie Coffey, Councilman Jerry Countryman, Councilwoman Lundeen Cureton, Councilwoman Peggy Neill, Town Clerk/Zoning Administrator Vicky Brooks, and Deputy Town Clerk Janet Ridings. Planning Board Members: Vice Chairman Richard Helms, Barbara Ann Ballew, Jeff Krafft, Jim Muller, Gabriella Rink and Michael Rutland.

Absent: Mayor Pro Tem Bettylyn Krafft Councilwoman, Janet Critz and Attorney Bobby Griffin.

Visitors: Erin Burris.

With a quorum present Mayor Frederick Becker called the Special Joint Town Council/Planning Board Meeting of September 26, 2018 to order at 7:14 p.m.

1. Opening

- With a quorum present for the planning board, Vice Chairman Richard Helms called the Special Joint Planning Board/Town Council meeting to order at 7:14 p.m.

2. Presentation/Discussion with Benchmark Planning on the Zoning and Subdivision Ordinance Assessment

- Ms. Brooks introduced Ms. Erin Burris from Benchmark Planning, which is out of Charlotte in the University area. Ms. Burris has been with Benchmark Planning for 13 years and her specialty is ordinances. Ms. Burris explained she has worked with several towns in North and South Carolina helping them with their day-to-day planning, so she is familiar with the inner workings of zoning administration and what works and what doesn't. When the town approached Benchmark Planning to see about helping them with taking a look at their zoning and subdivision ordinances, Ms. Burris was happy to try and help the town with that because it is something she is very good at doing.
- Ms. Burris explained what was in their scope of work to start with was to take a look at the zoning and subdivision ordinances to see what was working and what was not working, to see if there were and legal updates or anything like that that needed to be done and to take a look at the town land use plan to see if anything in that needed to be implemented in the development regulations.
- Ms. Burris did a PowerPoint presentation as follows:

- The zoning and subdivision ordinances were adopted in 2002 and there have been 150 zoning ordinance amendments (a lot of which were done at the same time) listed. Ms. Burris complimented whoever was responsible for the meticulous documentation of all the text amendments; it was the best documentation she had ever seen on text amendments – “you win”. There were 34 subdivision ordinance amendments. Benchmark Planning will just need to make sure the ordinances are updated to meet current statutory and case law requirements and to make sure the ordinances are implementing the adopted land use plan, which was adopted in 2006. Ms. Burris believed some folks from UNC Charlotte did that for the town and there are 17 strategies related to development regulations, which are listed in the draft assessment and they vary from things like limiting new retail development and encouraging a mix of uses, creating a downtown area and providing amenities associated with the traditional downtown with specific recommendations to amend the ordinances to require sidewalks, allowing the town to have more control over developments in the downtown area. There is a heavy focus on the downtown area, so those are things Benchmark will take a look at when they are going through the ordinance to make sure the 17 development related strategies are incorporated into the zoning and subdivision ordinance. Benchmark interviewed town staff to become familiar with staff experience of what has been working and what hasn’t been working, what may be confusing and what needs to be looked at; there are about nine things with the zoning ordinance that were documented.
 - The downtown overlay can be confusing at times.
 - It would be helpful to have diagrams and illustrations to sort of explain specific concepts.
 - The setbacks in the light industrial district are large; it makes sense to have larger setbacks on the outside and keep uses buffered for adjacent uses, but for parcels in the interior of the district where you have light uses next to each other it doesn’t make much sense to separate those by such a large amount; this is something Benchmark will take a look at.
 - The town hall property is zoned light industrial, which could potentially cause problems if the town needs to do anything on the property.
 - At times, it is hard to keep the planning board and the board of adjustment positions filled, so they may look at combining them or using the same group of people to make sure that vacancies are all filled at all times.
 - Landscaping requirements need to be reviewed.
 - Accessory structure sizes on larger lots need to be reviewed.
 - Sidewalk requirement for new development needs to be reviewed, which is mentioned in the land use plan.
 - There are several inconsistencies in section references that are incorrect throughout, so they need to be checked and updated.
- Compliance with existing law – there are 11 things listed, some of which the town has taken care of, but some that still need to be taken care of. These are mainly changes to the North Carolina General Statutes that need to be complied with and a couple of them deal with case law, which has gone through the court system and a decision has been made and the town needs to make

sure what regulations are in their ordinance match that case law. Specifically, the following two:

- U.S. Supreme Court Case – Reed vs. Town of Gilbert, Arizona (dealing with sign regulations). Case law says sign regulations need to be content neutral. You should not have to read the sign to regulate the sign; it needs to be based on size of the sign, location, land use, zoning district, but it cannot be political sign vs. church sign vs. any other noncommercial message type sign. You cannot regulate signs based on what type of sign or what they say. Benchmark will ensure the town is in compliance with that since that was a first-amendment U.S. Supreme Court Case.
 - Unlisted Uses – there is a Union County Court Case to thank for this specific one. Benchmark calls it the “Land Decision”. There was a gun range that a gentleman had and he was told that it was not a permitted use, but it was not listed in the Table of Uses to be unpermitted. Benchmark just needs to make sure that any uses the town finds particularly offensive or that they don't want or don't think belongs in the town are defined and shown as not allowed in the Table of Uses to avoid the situation.
 - In addition, there are several other things dealing with temporary health care structures, electronic gaming, bee keeping, protest petitions (can no longer be done), board of adjustment proceedings (already mostly updated in the ordinance), changes on consistency statements with rezonings and some changes with wireless telecommunication towers and billboards.
- Benchmark will be reviewing the ordinances to make sure the above regulations are in the ordinances.
 - Benchmark had some recommendations for organizational changes:
 - The first article would be “Purpose and Authority”, which consists of all of the legal status and enabling legislation provisions in one place.
 - Then “Administration Procedures and Enforcement” would all be in one Article, which would deal with who administers the ordinance, establishment of the boards, what procedures are followed to get something approved and how the ordinance is enforced.
 - Article 3 would be “Zoning Districts and Uses”, which would include the establishment of the zoning districts, how to do conditional zoning, table of uses, supplemental use regulations. Currently there are several use regulations spread throughout the zoning ordinance in different places. Telecommunication towers have their own section, which is really no different than some of the other regulations dealing with specific uses. This all needs to be brought into one place as well as conditional uses.
 - Article 4 would be “Development Standards”, which is how a site is supposed to look when you develop it. Everything dealing with dimensions, environmental standards, open space standards, landscaping standards, parking and loading and infrastructure would be in one location. Building design would be something that would be introduced, which the town doesn't necessarily have (a little bit in the downtown overlay, but if a new nonresidential commercial building gets built the town could have a few

design standards to make sure that it complements the character of the community.

- Article 6 would be "Sign Standards".
 - Article 7 would deal with nonconforming situations.
 - Article 8 would have definitions.
 - Appendices would be at the end.
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- The proposed organizational changes aren't much different, but they group things together to make the document a little bit easier to navigate. The current formatting doesn't need much updating; the town uses a numbering system that Ms. Burris always recommends, because it makes the document easier to navigate. Ms. Burris did recommend adding a page header, so you know what Article you are in at all times, because it helps when you are flipping through and to have a little bit of a font change on the pages so that you can see that hierarchy of the sections a little bit easier. Those changes will make the document easier to navigate, but otherwise it is in pretty good shape.
 - Benchmark is also recommending that they incorporate some tables, diagrams, illustrations and photos to explain what they are talking about when they have these regulations. For example, explaining what the different landscaping areas are – is it a buffer yard? A street yard? Where those sit and the relationship on the property, or how do I measure height? You can read text all day long, but sometimes it doesn't make sense until you see a diagram – how exactly do I measure height? Or if I've got building design regulations, you can see this is what you do on the left and this is what you don't do on the right, so you have that explanation and a picture is worth a thousand words; this can be done in the ordinance to help explain those things.
 - The third formatting change recommended mainly affects the table of uses and it would probably affect the supplemental regulations. Ms. Burris thinks it's a good idea to always categorize the land uses. Currently everything is alphabetized, which is great, but when you are trying to figure out generally what commercial type uses are allowed in this district its hard to go through the alphabetical list; it's just a lot easier when you group them. These categories are really useful when you want to know what retail uses are allowed or what residential uses are allowed in a given district; you just go to that section, which makes it a lot easier to find.
 - The fourth recommendation is completely up to the town. At first glance it really didn't look like it was necessary to combine the zoning and subdivision ordinances (and it's not), but a lot of communities choose to take their zoning, subdivision, flood plain prevention ordinance and any other related development ordinance and put it all into one document. It makes it a little bit more cohesive, reduces conflict a lot, because sometimes between the zoning and subdivision ordinance they may say two different things. At first glance, it didn't really look like it would be a benefit one way or another, but looking at it in a little more depth, there is a lot of reference to different subdivision types, there is a reference in the land use plan; they are refenced in both ordinances, so to ensure you don't have those conflicts it might be a little easier for people to understand what you are talking about when you are talking about the different subdivision types and how to get them approved. It could benefit the town to have them all in one document, but it is completely up to the town. Ms. Burris

- will be happy to accommodate the town either way, but it is a trend that a lot of communities are going to the one document.
- The recommended procedural changes to the zoning ordinance are:
 - To have all approval procedures in one section. For example - How do I get a rezoning approved? How do I go through the appeal process? How do I get a variance? If it is all in one place it makes it easier to know who approves what. There will be a chart that shows who approves what (i.e. planning board, board of adjustment, town council); those would all be in one place.
 - It is also a good idea to incorporate flow charts with step-by-step lists. For example, someone wants to know how to get a zoning permit approved, they just open it up and say “okay, it would probably be a good idea to have a sketch plan, that’s optional, I need to submit an application, if it’s for nonresidential then I am going to have both the administrator review it as well as the technical review by folks that help the administrator, then it’s going to get approved and then I can go get my building permit”. Right after the flow chart will be a step-by-step telling you exactly what you’re doing in each step. This makes it very simple for people to understand what they are doing in each stage of the approval process.
 - This is probably done to some extent, but a more informal way is to actually have a technical review committee where (you don’t necessarily have to pull together a meeting) you have a distribution list. This would more likely affect your subdivision and nonresidential development, as to where you are sending it to Union County, utilities, fire marshal and town consulting engineer. This is just to formalize the process so the administrator doesn’t feel like she is completely alone in approving something; she has all of these technical professionals and DOT making sure that she has all of their comments. The administrator would be the keeper and the coordinator of all her comments and it just organizes the process.
 - In a wrap-up of the zoning ordinance assessment, Ms. Burris noted the following:
 - There is a list of 18 regulatory changes that are recommended.
 - 17 development-related strategies that are in the land use plan that need to be incorporated into the zoning ordinance.
 - There are the statutory and case law updates.
 - The roles for the administrator and board need to be included; consider combining the board of adjustment and planning board or at least appointing the same group of people for consistency and making sure the boards are filled at all times.
 - Looking at instead of having a downtown overlay creating an actual downtown district, which would make it a lot more functional and less confusing as far as what is expected in the downtown and giving a level of flexibility for the uses allowed in that district.
 - Placing all of the supplemental use regulations in one location.
 - Introducing the building design standards.

- Clarifying subdivision types in relationship between zoning/subdivision ordinance making sure that between the two (if the town chooses not to combine them) it is clear how you do a conservation subdivision, what zoning district it is allowed in and how you go about getting that approved, what types of infrastructure is required for that subdivision so they fit together.
 - Establishing a threshold for accessory structure size based on lot size since there are larger lots in Mineral Springs and it doesn't necessarily make sense for someone to be limited to a teeny tiny little accessory structure if they have five or six acres.
 - There is a column in the use table for parking requirements with nothing in it, so it needs to come out.
 - Parking standards are going to be in the parking section.
 - There is a family care home duplication (listed twice) and it is allowed in two different places, so that needs to be taken out (family care homes, by statute, have to be allowed in any district that allows single-family residential, it can allow up to six residents with a half mile separation).
 - The table of uses should combine retail uses with similar intensities (size of establishment, level of traffic, etc.).
 - Make sure that electronic gaming operations are fully addressed and the town needs to decide if they want to allow them on any level.
 - Place the dimensional standards in a table, because right now they are all just text and hard to understand.
 - There are currently standards for nonconforming structures, but sometimes you run into a situation where a site is being redeveloped or reused and they have nonconforming parking and nonconforming landscaping, the town needs provisions in the ordinances for how to deal with that and to establish a threshold based on how much they are expanding or significantly changing that triggers having to bring it up to certain standards.
 - Establish a threshold to require curb and gutter in (usually) nonresidential parking lots, the threshold for that requirement could be 20 spaces (this will be discussed when going through the process).
 - Providing additional buffer yard and building yard standards and make sure that it is clear what we are trying to achieve with the buffer yard and introduce some building yard standards between the building and parking areas to soften that transition.
 - Time sidewalk installation to what is in the adopted comprehensive transportation plan for this area; while you might be requiring sidewalks, you're making sure that you're not requiring them just wherever, you're requiring them based on an actual plan that says this is where your pedestrian amenities should be and if you happen to be in one of those areas then you need to construct that sidewalk, not just requiring a piece of sidewalk somewhere on the edge of town that is never going to connect to anything.
- With the subdivision ordinance, staff just recommended that Benchmark look at sidewalk requirements, conservation subdivision standards and compliance with existing laws. Ms. Burris noted there are some statutory changes about performance and maintenance guarantees for new streets and they will need to

make sure the ordinance is updated with that. There is a very recent change to the subdivision definition that just affects when you do and do not have to submit a plat for something that's more like a minor subdivision. They will also need to make sure the infrastructure standards are consistent with the fire code, because a lot of times ordinances will conflict with the fire code (i.e. standards for cul-de-sacs, turnarounds, road width, secondary access); these need to be consistent.

- There are no organizational changes recommended really, unless the town decided to combine it with the zoning ordinance and then they would just integrate that into it, it's very easily integrated. If it is not combined with the zoning ordinance, Ms. Burris recommended utilizing the same numbering system as the zoning ordinance, because currently there are two different numbering systems; it would make more sense to be on the same system and the same page heading should be included.
- The procedural changes that are recommended are to include the flow chart with the step-by-step lists; establishing the technical review committee; and minor subdivisions should be an administrative approval, because there is no wiggle room, it basically meets the ordinance or it doesn't, so the administrator and a technical review committee are saying it meets the ordinance, the board has no other decision to make, it's a rubber stamp for the subdivision administrator saying that it meets the ordinance, requiring board approval is a step that people shouldn't have to go through.
- The regulatory changes are to make sure that the land use plan is being implemented, that statutory and case law updates are in there and clarifying the subdivision types in relationship between the zoning and subdivision ordinances as mentioned earlier.
- Ms. Burris explained since they have completed this draft assessment, based on any comments or questions tonight, they will prepare a final ordinance assessment. It will basically go over what they went over and what they need to do as the plan of action, so they will know what to expect going forward. They will then produce a draft scope of work for what this process would look like, including a timeline of how long this would take. Ms. Burris noted this is not a complete ordinance overhaul, which would take a minimum of 12 months, but many of the same steps are involved, so the town is probably looking at a timeframe between six to nine months depending on what they want to do. The timeline will be refined going forward and then they will also prepare a cost opinion to let the town know the approximate cost of a project like this to get everything updated and reorganized.
- Ms. Burris asked if anyone had any questions for her at this point. The questions and answers are as follows:
 - ❖ Question – Do you have an email address that we could contact you for any questions that we may have?
 - Answer - Ms. Burris. In addition, Jason Epley who is the president of the company (and the guy who signs the contracts), can also answer questions if Ms. Burris is not available.
 - ❖ Question – Will combining the zoning/subdivision ordinances take more time and add more expense?

- Answer – *It would probably add a month and it wouldn't add much cost. Ms. Burris prefers a combined ordinance. They do tend to work better together and that is the trend, but it is not a 100% necessarily.*
- ❖ Question – *Would the two options be presented to the council or would it be decided now?*
 - Answer – *The way Ms. Burris organizes ordinances is really just a matter of taking those subdivision regulations and plugging them into the appropriate spot in the zoning ordinance. It might actually be shorter than having two separate ordinances, because you are not having to repeat a lot of the same things. When the scope is produced, the cost can show the difference between the two.*
- ❖ Question – *Does the cost include walking the planning board through each step or is it just to turn it over to them.*
 - Answer – *Benchmark usually walks people all the way through from beginning to the end. They typically work with a steering committee through the process and just have three review sessions for a town this size. Some communities choose to have their planning boards be the steering committee while other communities will take two people from the council, two from the planning board and two from the board of adjustment. Usually it needs to be people that are accustomed to looking at the ordinance and have some idea of what's in them and what about them works and what doesn't.*
- ❖ Question – *Are solar panels an option for this review/amendment?*
 - Answer – *Farms and individuals should have been included; it will be added to the assessment.*
- ❖ Question – *Is there a process for public involvement sessions?*
 - Answer – *That is where the expense starts to go up, but you can have a workshop. Normally this comes up in a community when your land use plan has got some age on it (and it does). Ms. Burris thought that the ordinance works best when they have recently done a comprehensive plan and they are using the ordinance to implement a good chunk of their comprehensive plan and they've already gone through an extensive public input process and they already have the "buy in" on the comprehensive plan and they are just carrying the ordinance through, because people have already said what they want as far as what they want their community to look like and the ordinance is helping to make sure the community looks like what people said. That's sort of a smooth transition, when you have these public input sessions that far removed from doing the ordinance. Sometimes it's beneficial to have some of that community input. There's also an option to do stakeholder interviews with developers that maybe you are familiar with their process and you don't open it to the public at large, but maybe you just do a few stakeholder interviews to folks who know development in the community; realtors or whoever. You could have a workshop at the end and say here is our ordinance and here is what has changed, does anybody*

have any questions. Beyond that, it really is better to tie it to a planning initiative on the front end to get that what your community will look like kind of thing.

- ❖ **Question** – Will there be an opportunity to have a finished product versus having a walk through of the board to complete this process?
 - **Answer** – This is the assessment part of the process. Benchmark will produce the actual ordinance the town will end up adopting. What they are doing when they are walking it through is making sure that everybody understands what is being proposed for changes and reorganization and then at the end they town will have their full ordinance in their hand to take to the planning board for recommendation, to hold the public hearing, get it adopted by the town council and it's done.
- ❖ **Question** – Benchmark will write it and give it to the town in some digital format, so the town could do amendments later.
 - **Answer** – Yes, they will keep it in Word for the town. Recently they have used the software program called "InDesign", which is an Adobe product, which makes it much easier when you have diagrams, but most people don't have it and they wouldn't expect the town to purchase it, so they will try to keep it in Word.

3. **Adjournment**

- **Michael Rutland made a motion to adjourn the planning board meeting and Jim Muller seconded. The motion passed unanimously as follows:**

*Ayes: Ballew, Helms, J. Krafft, Muller, Rink and Rutland
Nays: None*

- The planning board meeting was adjourned at 7:56 p.m.
- **Councilwoman Coffey made a motion to adjourn and Councilman Countryman seconded. The motion passed unanimously as follows:**

*Ayes: Coffey, Countryman, Cureton and Neill
Nays: None*

- The meeting was adjourned at 7:56 p.m.
- The next regular meeting will be on Thursday, October 11, 2018 at 7:30 p.m. at the Mineral Springs Town Hall.

Respectfully submitted by:


Vicky A. Brooks, CMC, NCCMC, Town Clerk




Frederick Becker III, Mayor