Minutes
Morganton Planning & Zoning Workshop
December 12th, 2013

| Members Present: | Members Absent: |
|---|---|
| Hank Dickens, Chairman | Charlie Sasser |
| Bill Lennon | Don Smith |
| Claude Huffman | vacancy |
| Waits Gordon | |
| Judy Francis | |
| Rick Lingerfelt | |
| Kim Woolard | |
| Pete Wallace | |

Also present from the City staff were Lee Anderson, Director Development Design Services; Louis Vinay, City Attorney; Russ Cochran, Senior Planner; Terry Jordan, Zoning Enforcement; and Jackie Cain, Administrative Assistant.

Others: Benchmark Planning Consultants present, Erin Burris, Richard Smith and Vagn Hansen.

## I. Welcome

Mr. Dickens welcomed attendees.

## II. New Zoning Ordinance

- Article 1: Purpose and Authority
- Article 2: Administration, Procedures and Enforcement
- Article 3: Zoning Districts
- Article 4: Development and Performance Standards
- Article 5: Sign Standards
- Article 6: Nonconformities
- Appendix: Definitions

Ms. Burris stated Administration, Procedures and Enforcement review would begin today. She stated Administration, Procedures and Enforcement will be located in Article 2 of the Zoning Ordinance. This section of the ordinance establishes the roles of elected, appointed and administrative bodies as they relate to the ordinance. It also sets forth procedures for development approval, variances and appeals. Mechanisms for the enforcement of the ordinance are also addressed.

Provided is a proposed outline of Article 2.

**2.1 Administration**

2.1.1 Ordinance Administrator

2.1.2 Technical Review Committee

Ms. Burris stated the Technical Review Committee would be City Engineer, Water Resources, Public Works, Fire Inspector, Public Safety, Building Inspection, NCDOT, and other local, state or federal entities.

2.1.3 Planning and Zoning Commission
2.1.4 Board of Adjustment

Ms. Burris discussed NCGS 160A-388 amendment. She stated after reviewing previous years of Board of Adjustment cases, the majority were adjusting non-conforming situations. She stated the Legislative Changes to NCGS 160A-388 were:

- Clarification on appeal procedures and stay of enforcement
- 4/5 majority only required for variances
- Findings-of-fact for variances
- Removal of the term "special exception"

She questioned if the City of Morganton wanted the ability to adjust nonconforming situations?

Mr. Anderson reviewed the types of special exceptions which had occurred for Board of Adjustment, i.e. go-cart facility, cell towers, sign heights along I-40 etc.

Mr. Dickens questioned non-conforming lots also as a special exception need.

Mr. Wallace voiced hesitancy…stating having the latitude would be beneficial, as it could be problematic without the option.

Mr. Gordon asked the frequency of the use of special exceptions.

Ms. Burris stated perhaps a mechanism for method to deal with special exceptions is needed.

2.1.5 City Council

**2.2 Procedures**

Ms. Burris stated procedures for development approval, variances, appeals etc. would follow an APPROVAL PROCEDURES chart.

She reviewed the approval types, i.e. Zoning Permit w/plot, Zoning Permit w/ Site Development Plan, Appeal, Variance, Map Amendment, Text Amendment, Sign Permit, Subdivision, Floodplain Development Permit. She stated each would have checkpoints for approval and would allow a smoother transition for the customer.

Mr. Wallace questioned removing the ability to allow people to do their own thing…not burden them…
Ms. Burris stated having options built in and choices…she stated this would actually allow options and the guidelines.

Ms. Woolard asked if the desgn would be so vague being objective.

Ms. Francis state pre-concept planning meeting is key. She stated this meeting should not be optional!

Mr. Anderson stated there are contractors or developers that do not "need" the meeting, they follow the rules…

Mr. Lingerfelt stated he felt it should be optional.

Ms. Burris asked if the flow chart looked ok?

Commission agreed.

2.2.1 Purpose
2.2.2 Applicability
2.2.3 Zoning Permits
2.2.4 Site Development Plans
2.2.5 Variances
2.2.6 Appeals
2.2.7 Zoning Map Amendments

Ms. Burris provided a zoning map of Morganton which included the Extra Territorial Jurisdiction/one-mile perimeter. She stated the city of Morganton consists of 12,250 acres and the ETJ is 12,284 acres. Ms. Burris commented the positive of having an ETJ is control of the gateways and peripheral development. The negative is the City has to administer development regulations to an area that doubles the jurisdiction.

The City can relinquish all or part of its ETJ.

Discussion on ETJ.

Ms. Woolard discussed relinquishing the ETJ and losing the corridor control.

2.2.8 Zoning Ordinance Text Amendments

**2.3 Enforcement**
2.3.1 Violations
2.3.2 Enforcement Procedures
2.3.3 Remedies and Penalties

**Handout from Ms. Burris:**
**Discussion Topics**
**1. Technical Review Committee**

We propose adding a formal Technical Review Committee to assist the Zoning Administrator in the review of site plans for multi-family and non-residential development. The following language is proposed for the Ordinance to establish the Committee:
**(A)** "The Technical Review Committee (TRC) is hereby established in order to assist the Zoning Administrator with the review of site development plans for zoning permits other than single-family and two-family residential development. The TRC shall consist of the following entities or designee:
**(1)** Zoning Administrator
**(2)** Public Works Director
**(3)** City Engineer
**(4)** Fire Marshal
**(5)** Police Chief
**(6)** NCDOT representative
**(7)** Other local, state, or federal agencies that have an interest in the proposed development.

**(B)** The TRC shall meet on as needed basis as determined by the Zoning Administrator."
Are there any other entities that should have a permanent role on the Technical Review Committee?
**2. Board of Adjustment**
In the last legislative session, NCGS 160A-388, regarding Board of Adjustment, was heavily amended to change the notice requirements for quasi-judicial public hearings and reduce the requirement for the 4/5 supermajority in voting for appeals and conditional use permits. The changes also include clarification on appeals and stay of enforcement. The new legislation adds clear findings-of-fact to be addressed in the granting of a variance. All of the changes will be included in the updated Zoning Ordinance.

Based on review of past Board of Adjustment cases, it appears that special exceptions granted by the Board of Adjustment have primarily been used for adjusting nonconforming situations. The statutes were previously unclear as to what a "special exception" is. The new legislation now excludes "special exception" from the language and only leaves provision for special and conditional use permits. Does the City wish to retain the ability to adjust nonconforming situations? If so, then the language regarding flexibility in administration may have to take the place of "special exceptions.

**3. Approval Procedures Format**
The following is a draft excerpt of the Zoning Ordinance showing the steps and procedures for obtaining a Zoning Permit for multi-family residential or non-residential development. The question for this particular process is: Should the pre-application meeting with the Administrator be optional or mandatory?
***"2.2.3.3 Zoning Permit Procedures for Multi-family Residential and Non-residential Development***
Zoning Permits for multi-family residential and non-residential development shall be approved administratively. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.

**Step 1** Pre-application
Discussion with
Sketch Plan
(optional)
**Step 2** Applicant Submits Application & Site Plan
**Step 4** Administrative
Approval
**Step 5** Applicant Obtains Building Permit
**Step 6** Final Zoning & Building Inspections for Certificate of Occupancy

**Step 1. Pre-Application Meeting with Sketch Plan (optional)**

**(A)** To minimize development planning costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the developer and the Administrator concerning the application of this Ordinance to the proposed development is recommended.

**(B)** Before submitting a Zoning Permit application and Site Plan, the developer may submit to the Administrator a Sketch Plan, drawn at a scale no smaller than 100 feet to one (1) inch (100:1) with the following information:

**(1)** Existing Features Plan (for development sites of greater than one (1) acre) showing property boundaries; existing structues; topographical contour lines, a minimum of five (5) foot intervals, the location of severely constraining elements such as steep slopes (over 20 percent), wetlands, watercourses, perennial streams, intermittent streams and 100-year floodplains and all rights-of-way and easements; and the location of significant features such as woodlands, tree lines, open fields or meadows, scenic views into or out from the property, watershed divides and drainage ways, fences or stone walls, rock outcrops and existing structures, streets, tracks and trails.

**(2)** Name of proposed development

**(3)** Tract boundary and total acreage

**(4)** Proposed site layout

**(5)** Location of nearest existing and proposed water and sewer lines and statements regarding how property will be served with water and sewer.

**(6)** Sketch of any proposed drainage facilities

**(7)** Zoning of subject and adjacent properties

**(C)** The Administrator shall meet with the developer as soon as conveniently possible to review the Sketch Plan.

**(D)** The Administrator shall review the Sketch Plan for general compliance with the requirements of this Ordinance and any other applicable requirements. The Administrator shall advise the developer or his authorized agent of the regulations pertaining to the proposed development and the procedures to be followed.

**(E)** One (1) copy of the Sketch Plan shall be retained as a part of the record of the Administrator with one (1) copy being returned to the developer or his authorized agent along with any comments made by the Administrator concerning the proposed development.

**Step 2. Applicant Submits Application and Site Plan**

**(A)** The applicant shall submit the application, fee and the Site Plan that provides the following information:

**(1)** Title
**(2)** Original submittal date and revision dates
**(3)** Vicinity map
**(4)** North arrow
**(5)** Scale {no smaller than one inch equals 100 feet (1”=100’)}
**(6)** Lot lines with bearings and distances
**(7)** Zoning district and applicable overlay districts
**(8)** Adjacent property owner names, parcel numbers and zoning
**(9)** Total acreage
**(10)** Acreage in right-of-way
**(11)** Density per acre (for multi-family residential)
**(12)** Building setbacks in table format and building envelopes show on lots
**(13)** Existing Features Plan (for development sites of greater than one (1) acre) showing property boundaries; existing structures; topographical contour lines, a minimum of five (5) foot intervals, the location of severely constraining elements such as steep slopes (over 20 percent), wetlands, watercourses, perennial streams, intermittent streams and 100-year floodplains and all rights-of-way and easements; and the location of significant features such as woodlands, tree lines, open fields or meadows, scenic views into or out from the property, watershed divides and drainage ways, fences or stone walls, rock outcrops and existing structures, streets, tracks and trails.
**(14)** Grading Plan (if applicable)
**(15)** Soil and Erosion Control Plan (if applicable)
**(16)** Written approval from NCDENR for Soil and Erosion Control (if applicable)
**(17)** Stormwater Plan (if applicable)
**(18)** Landscaping Plan
**(19)** Utility Plan
**(20)** Lighting Plan (if applicable)
**(21)** Building Elevations showing:
**(a)** Exterior wall materials
**(b)** Roof materials
**(c)** Dimensions including building height, width and roof slope
**(d)** Front façade window dimensions including sill height, window height, window width and window area.

**(B)** The following submittal requirements may be altered by the Zoning Administrator as applicable.

**(1)** Seven (7) full-size paper copies for review and revisions
**(2)** One (1) digital copy in PDF format

**Step 3A and B. Administrator and Technical Review Committee Review**

**(A)** The Administrator and Technical Review Committee shall review the Site Plan in accordance with the requirements of this Ordinance and any other applicable local, state, or federal requirements.

**(B)** The Technical Review Committee may provide comments to the Administrator regarding the design of the development. It shall be the responsibility of the Administrator ensure that the comments area addressed by the developer.

**Step 4. Administrative Approval**
If a Site Plan is found to meet all of the applicable regulations of this Ordinance, then the Administrator shall issue a Zoning Permit. The developer may then obtain a building permit from the Building Inspections Department.

**Step 5. Applicant Obtains Building Permit**
Following approval of the Zoning Permit by the Zoning Administrator, the applicant may then obtain a Building Permit from the Development and Design Services Department.

**Step 6. Final Building and Zoning Inspections for Certificate of Occupancy**
Prior the issuance of a Certificate of Occupancy by the Building Inspector, the Administrator or his designee shall conduct a final zoning inspection to ensure that the approved plan has been followed and all required improvements have been installed to City standards."
Does this format clearly spell out the process, submittal requirements, and what is expected of the applicant? If so, then this format will be used for all approval procedure.

**4. Conditional Zoning-Overlap with Article 3**

NCGS 160A-382 provides the option to allow for Conditional Zoning (legislative), which allows the Planning Commission and City Council to consider site specific plans with rezoning requests. Some form of this is in the current Zoning Ordinance. The question of whether to exercise the option of Conditional Zoning will affect the procedures portion of the updated Ordinance. However, deciding to exercise this option should be discussed after the Committee has reviewed the proposed base zoning districts and overlay districts that will be discussed at the January and February meetings. This will allow the Committee to take into account the flexibility of the proposed zoning districts.

**5. ETJ**

Should the Zoning Ordinance be prepared with provisions for extraterritorial jurisdiction? Should the Committee recommend that the City initiate the process of relinquishing all or a portion of the ETJ? Maps showing the existing ETJ and City Limits will be provided at the meeting to facilitate discussion. The presence or absence of ETJ will have a major impact on the structure of the Ordinance.