



Bruce Andersen, Chairman
Sam Mount, Vice Chairman
Harold Bankirer
Todd Bowland
Addison Causey
Leonard Cook
Barry Hester
JoAnne Miller
Jeff Neely
Randy Poindexter
Joe Sailers

The Regular Meeting of the Planning Board was held at the Huntersville Town Hall at 6:30 p.m. on August 25, 2009.

Call to Order

The Chairman called the meeting to order at 6:30 p.m.

Board Member Attendance

Bruce Andersen, Harold Bankirer, Todd Bowland, Leonard Cook, Barry Hester, JoAnne Miller, Sam Mount, Jeff Neely, Randy Poindexter, and Joe Sailers. Addison Causey was absent.

The Board was introduced to and welcomed two (2) new members, Harold "Hal" Bankirer and Todd Bowland, who were appointed by the Town Board on August 17, 2009 to fulfill unexpired terms through June 30, 2011.

Staff Attendance

Jack Simoneau, Planning Director, David Peete, Principal Planner, and Michelle Haines, Secretary.

Consent Agenda

Sam Mount made a **Motion to Approve** the Minutes of the July 28, 2009 Regular Planning Board Meeting. Jeff Neely seconded the **Motion**. Leonard Cook abstained from the vote, which was considered an affirmative vote. The vote was unanimous. The vote taken was only from members seated on the Board during the July meeting.

Action Agenda

Prior to the commencement of the Action Agenda, Jack Simoneau, Planning Director took the opportunity to discuss the new Agenda section for public comments. By decision of the Town Board on August 17, 2009, this section is now included on the Planning Board's Agenda. Public comments will be taken at the beginning of the meeting for any case, and will allow ten (10) minutes for the proponent(s) and ten (10) minutes for the opponent(s) on each agenda item. At the closing of public comments each case will then be heard. Neither Staff nor the applicant will go through the details of the public hearing and recite their presentation. The Agenda for tonight's meeting is set with a Public Comment section before the Action Agenda.

Bruce Andersen suggested that the sign-up sheet be corrected to reflect the changes. Jack Simoneau advised that his staff has implemented the change in preparation of tonight's meeting, and the revised sheet is being used. The sign up sheet includes the new procedures for addressing

the Board. Additionally, Staff will include information concerning public comments in all letters sent to adjoining property owners (“APO’s”).

Sam Mount was concerned about knowing who was a proponent or opponent on each item, and hearing their concerns at the beginning of a meeting prior to the specific item they were addressing. Jack Simoneau explained the intentions of the Town Board’s procedural changes concerning public comments. He further advised the members that this issue could be revisited in six (6) months to see how it was working.

1. David Peete, Principal Planner presented Petition R09-03, which is a request by American Asset Corporation (Bryton Town Center, LP & Bryton Corporate Center Limited Partnership) to rezone 11.55-acres located at the southern portion of Bryton, as follows: 1) add 0.46 ac located on Alexanderana Rd approx 600’ east of Old Statesville Rd. from Neighborhood Residential (NR) to Special Purpose-CD (SP-CD); 2) rezone 7.32 ac approx 500 ft north of Alexanderana Rd from Highway Commercial-CD (HC-CD) to Special Purpose-CD (SP-CD); 3) rezone 3.77 ac located along Alexanderana Rd. (between old rail bed & new rail bed) from Special Purpose-CD (SP-CD) to Highway Commercial-CD (HC-CD). A copy of the Staff Report is attached hereto as Exhibit “A”, and incorporated herein by reference. Staff supports the request as presented.

Bruce Andersen questioned the alignment of Alexanderana Road along the small triangular area, and if any changes would be made due to the request. Barry James with American Asset Corporation appeared before the Board. He stated that ultimately the plan for Alexanderana Road is to be relocated as part of I-485, which will be located below the Dixon property. Bryton will have one (1) access point, and DOT will extend the access point to the new road, which does not affect Bryton property.

Sam Mount made a **Motion to Approve** as presented, and Joe Sailers seconded the Motion. The vote was unanimous.

2. Jack Simoneau, Planning Director re-addressed the members about the modification of the Planning Board Rules of Procedure. Sam Mount reiterated his concerns about the public comments procedures, and feels that it is a bad idea. That it does not address any of the Town Board’s original concerns that they wanted to address, and feels they came out with a worse situation. His biggest concern is that the public comments will not be topically taken, but heard just because of procedures. He did not feel that it is a service to the citizens, Town Board and the Planning Board.

JoAnne Miller stated that she agrees with Mr. Mount. She pointed out that the Planning Board has heard items that were still in the public hearing process, and it was expected of this Board to make premature recommendations, or continuously defer a matter. The Town Board has implemented this procedure and she would like to revisit the matter in six (6) months (maximum). Furthermore, she wants to insure that the Planning Board does not hear any item until the public hearing is closed. One reason for deferral is due to the public hearing being still

open, and hearing an item at the Planning Board level at that time creates a problem. She wants that addressed in the Rules.

Bruce Andersen addressed the latitude that was given by him to the public speakers and Board members in the past. It is the Town Board's prerogative as clearly stated that they do not want that latitude. At the Town Board meetings the public is not allowed to bring an issue during the item discussion. The public has an open forum period in which to speak. The Planning Board is not under this requirement. He suggested that at each item the Petitioner be allowed to speak first, then the proponents, opponents and staff. The requirements set by the Town Board would still be adhered to concerning the 10 minutes. He requested of the Secretary to include on the sign up sheet the position of the person requesting to speak. This will allow the individuals to talk together to share the 10 minutes, if necessary. It would be unfair if the first few citizens used the full 10 minutes. Jack Simoneau responded that if the Chairman sees there are six (6) people signed up to speak in opposition, the Chairman would need to apportion the time for each speaker to adhere to the 10 minute rule.

JoAnne Miller brought up the point that the Petitioner should be allowed to speak before the public, which may address some of their issues. It would allow the public to be more informed before giving their statement.

Randy Poindexter commented that it could be first come first serve if a group was not able to select speakers for the 10 minute period. The Chairman would prevent, if possible, a speaker going too long. Jeff Neely commented that the Chairman can clarify the time limitation and divide the time among the public wishing to speak. Sam Mount did not feel the new language in the Rules gave them latitude. Jack Simoneau indicated that the Town Board would want the 10 minutes apportioned to speakers. He suggested that a sentence be added to the Rules stating, "The Chairman will allocate the time proportional to the number of people who have signed up."

Joe Sailers asked if the Town Board was open to adjustments so that the speaking can be with the Agenda item. It is not predicted that future meetings will contain a large amount of items, such as the past Agendas. Out of respect to the public, they need to be allowed to address items during the Action Agenda. Jack Simoneau reminded the members that there are not many occasions that the public has signed up to speak at the meetings. It is the Planning Board's choice how they want to address the Town Board with this issue. However, the Town Board clearly made their decision to not give the public multiple chances to get up and speak during the Planning Board meetings. Jeff Neely reminded the other members of the Town Board meeting and the length they discussed this issue. He feels the Planning Board needs to implement the changes approved by the Town Board. Randy Poindexter included that he is comfortable with the ten (10) minute rule and the public commenting at the beginning of the meeting. He added that there are not many items that people sign up to speak about, and he would take notes and remember them when the item is heard. If the process is not working it can be revisited. Bruce Andersen supported the comment that the 10 minute limit being used will be few and far between. Joe Sailers stated that he felt the Town Board wanted the Chairman to control the time, to which Jeff Neely agreed. Bruce Andersen stated that he understood that message.

Jeff Neely felt that a petitioner should understand that the Planning Board can only approve, deny or defer, and if the projects comes with voluminous waivers, in his opinion, it will be a denial. The Petitioner needs to work harder with Staff to avoid the waivers. The Planning Board will not have time for the back and forth about waivers (most of which are ridiculous). Bruce Andersen added that the Town Board does not want negotiations and/or micro-management by the Planning Board.

Jack Simoneau suggested that the added sentence read, "The Chairman of the Planning Board shall allocate time for each speaker depending on the number of persons who signed up to comment." Sam Mount requested that the word "allocate" be replaced by "apportion".

Joe Sailers requested that the new Rules for public comments be placed outside the Board room for public awareness. Jeff Neely suggested a poster with large lettering to explain the 10 Minute Rule. JoAnne Miller thought the poster may be the best way, and also suggested a hand out. Jeff Neely suggested that the screen could be used before the meeting. Jack Simoneau advised of the letter sent to the adjoining property owners which will state how public comments will be received at the Planning Board meeting. Also, the web site can have that information as well.

Jack Simoneau discussed the issue of attendance. Currently there is no attendance policy, and the Town Board did not include this in their Motion on August 17th. Additionally, not included in their Motion for the Text Amendment was the issue about the Planning Board making a recommendation at the next regularly scheduled meeting instead of 30 days. In speaking with Commissioner Jeter and the Town Attorney it was stated that the Motion can be clarified by Commissioner Jeter at the September 8, 2009 meeting; the Text Amendment will be forthcoming. Back to the attendance policy, Jack Simoneau provided the members with the suggested language that if members miss seventy-five percent (75%) of the Regular meetings, or three (3) consecutive regular meetings in a twelve (12) consecutive month period the Town Board may remove the member. Joe Sailers informed Mr. Simoneau that he was told during his orientation that he could not miss more than three (3) meetings, which Jeff Neely understood as well. Jack Simoneau reiterated that there is nothing in the Rules of Procedure or Ordinance that pertains to attendance. Bruce Andersen questioned if staff would maintain the attendance, to which Mr. Simoneau affirmatively responded. Furthermore, the policy does not mean a member is removed automatically, but it will be put on the Town Board's Agenda for discussion. In that case, the member would be notified. Staff will maintain the attendances starting next month.

Staff requested the Board vote on the matter. Also, the Rules should include an Amendment clause.

Several members brought up the opinion that they are being required to attend the Town Board meetings. Jack Simoneau responded that the Town Board expects the Planning Board to attend the public hearings, but it is not mandated. If you are not able to attend the public hearing you will be provided with the Minutes relative to the public hearings for your review and information.

David Peete stated to the members that as new members to the Planning Board are oriented it is stressed that the public hearings are not mandatory, but important as it is their opportunity to hear public opinion(s) and ask questions. Jack Simoneau informed the new members of the Board how the Town Board meetings are scheduled.

If there are no objections, Mr. Simoneau suggested that further language be added for amending the Rules of Procedure at any time by majority vote of the Planning Board. Currently, the Rules are silent on amendments. In the future, the amendments can be presented at a meeting and voted on at the next regular meeting. Bruce Andersen suggested a Conflict of Interest clause in the Rules. Jack Simoneau responded that the Conflict of Interest is in the Zoning Ordinance. Sam Mount requested that the Secretary include the Amendment clause as Section 20 in the Rules of Procedure.

Joe Sailers made a **Motion to Adopt** the Planning Board Rules of Procedure as presented which includes the following:

- a. Section 5) Addressing the Planning Board, Paragraph i) Persons wishing to address the Planning Board on an agenda item will be recognized to speak by the Chairman during the Public Comment section of the Agenda. Each speaker shall identify himself by name and residence address. Persons desiring to speak on a non-agenda matter may be recognized to speak at the end of the Public Comment section.
- b. Section 5) Addressing the Planning Board, Paragraph ii: When considering any agenda item before the Planning Board, such as amendments to the zoning ordinance (text or map), and subdivision sketch plans, comments from proponents and opponents will be received only during the Public Comment section of the Agenda. For each agenda item, proponents shall be heard first and shall be provided a total of ten (10) minutes notwithstanding the number of persons desiring to be heard. Opponents shall be heard after the proponents for that particular agenda item, and shall be provided a total of ten (10) minutes notwithstanding the number of persons desiring to be heard. The Chairman shall apportion time for each speaker depending on the number of persons who signed up to comment.
- c. Section 9) Attendance: In order for the Board to carry its duties and responsibilities, it is necessary for all members to attend the regular meetings. The Town Board may remove members who do not attend seventy-five percent (75%) of the Regular meetings in a twelve (12) consecutive month period, or miss three (3) consecutive regular meetings.
- d. Section 20) Amendment: The Planning Board may amend the Rules of Procedures at any time provided that the amendment is presented at one meeting and action is taken at the next scheduled meeting.

Included in the Motion is the issue of public comments at the beginning of the Agenda, which shall be re-visited by the Planning Board in six (6) months.

Sam Mount seconded the Motion. Jack Simoneau clarified with the member that since the amendment procedures are not in existence, this is the action to make the amendments

effective immediately. Any future amendments will follow the new Rules of Procedure (i.e. two meetings). The vote was unanimous.

Other Business

Non-Agenda Item: The Chairman requested that the Planning Director give an update of the projects known as Holly Crest and JDH Capital. Jack Simoneau, Planning Director, advised the Board of the current status of each matter. Updated information on the Northwest Huntersville Thoroughfare and Exit 25 Interchange Modification Report was also requested. Jack Simoneau responded that the Secretary will electronically advise them on August 26, 2009 after discussing the request with Bill Coxe, Transportation Planner.

Adjournment

Joe Sailers made the Motion to adjourn and Jeff Neely seconded the Motion. There being no further business the meeting was adjourned.

Approved this 22nd day of September 2009.

Bruce Andersen, *Chairman*

Michelle V. Haines, *Secretary*