



The Salisbury Planning Board held its regular meeting Tuesday, December 13, 2011, in the City Council Chamber at Salisbury City Hall at 4 p.m. with the following being present and absent:

PRESENT: Robert Cockerl, Herman Felton, Jr., Richard Huffman, Benjamin Lynch, Thomasina Paige, Patricia Ricks and Bill Wagoner.

ABSENT: Karen Alexander, Tommy Hairston, Will Hasselmann, and Carl Repsher

STAFF: Trey Cleaton, Dan Mikkelson, Preston Mitchell, Diana Moghrabi and David Phillips

This meeting was digitally recorded for **ACCESS16 Television** by Jason Parks.

Dick Huffman called the meeting to order. The Planning Board adopted the agenda indefinitely deferring LDOTA 08-2011. Minutes of the November 8, 2011, meeting were approved as submitted.

The Institute of Government in Chapel Hill informed Preston Mitchell that Planning Board will not be required to hold quasi-judicial proceedings for the Special Use Permit. City Council will hold the evidentiary hearings. Planning Board will look at Special Use Permits strictly from a land use perspective. Planning Board can recommend land use conditions.

NEW BUSINESS

A. Special Use Permit

- 1) Staff Presentation
- 2) Courtesy Hearing
- 3) Board Discussion
- 4) Recommendation to City Council with any recommended conditions

David Phillips made a staff presentation for each of the following Special Use Permits. Cases will most likely go before City Council January 3, 2012.

- **SUP-02-11** A Little Sumthin Sumthin
 117 W. Innes Street

This is a request for on-site consumption of alcoholic beverages within an existing retail establishment. The zoning is DMX. The applicant would like to hold special events at the boutique. Since it is not a restaurant, it has to be approached like a bar, nightclub or tavern. They are not within 500 feet of any school.

Debbie Evans, proprietor of A Little Sumthin Sumthin, spoke to Planning Board. She has a vision to provide an upscale shopping experience that incorporates art, music,

and all forms of written word with her business. The opportunity to further refine and complete an adult venue with wine and beer will be a privilege not taken lightly. She plans to cater to a 35 and older clientele in the 1,700 square-foot shop. Events are often Fridays from 8 p.m. until 1 a.m. A membership application (\$25) is in place as a tool for community outreach to promote jazz and spoken word.

City of Salisbury, NC will not sign off on ABC permits until the use has been approved. The permit will run with the property.

Bill Wagoner made a MOTION to recommend to City Council approval of Special Use Permit (SUP)-02-11. It is in compliance with the Land Development Ordinance. Pat Ricks seconded the motion with all members voting AYE.

- **SUP-03-11** Stelia
 118 N. Main Street

The property (zoned DMX) was recently a restaurant but now owners request use of the property as a nightclub/private bar until restaurant upgrades can be made.

Josh Wainwright, General Manager of the new company, said that they did not want to lose momentum while upgrades to the kitchen were being made. (Upon an ABC inspection they found the kitchen was not up to code.) Later, they will re-open with a new brand and a new name with a full restaurant. Until food accounts for 30 percent or more of the gross sales, they will be required have to have a membership base. They hope to have acoustic type music. Hours will be 5 p.m. until midnight Thursday through Saturday.

Enforcement of the noise ordinance is a police power. It is understood that downtown is a mixed-use environment.

Based on the Vision 2020 Comprehensive Plan, Robert Cockerl made a MOTION to recommend to City Council approval of SUP-03-2011. Ben Lynch seconded the motion with all members voting AYE.

- **SUP-05-10** Nashville Nights
 125-127 E. Innes Street

This is an amendment to a previously approved Special Use Permit for a night club. They were going to use both levels of the building, but ran into issues regarding the fire code. City Council tabled this case pending approval of the plans by the fire marshal. Owners have now sprinkled both sides of the building and opened it up. While the plans were approved in September, the request now is to rescind SUP-07-10 and put the entire use under SUP-05-10. The condition of the guidelines and rules still applies. The upstairs of 125 East Innes will not be accessible.

Karen Littleton, 316 North Deerfield Circle, and Dick Palmore, 1011 Mocksville Avenue, spoke on fairness and equality. They have had to install a \$40,000 sprinkler system. They feel that they have been discriminated against.

Dick Huffman stated that it was not the intention of the Planning Board to discriminate and some of the differences were due to a learning curve of the new the code. He apologized for any unnecessary burdens.

Preston Mitchell stated that previously the Special Use Permit was a quasi-judicial process on both the Planning Board and City Council levels. The Planning Board will not be using the quasi-judicial proceedings any longer for Special Use Permits, but City Council will.

Ben Lynch made a MOTION to recommend to City Council approval of SUP-05-10, Nashville Nights, located at 125-127 E. Innes Street and the areas they will inhabit (two sides and lower level of one side) which was seconded. All members voted AYE. (7-0)

Patricia Ricks made a MOTION to keep the rules and guidelines that were previously attached to the SUP. (Ben did not accept Ms. Ricks' amendment to his motion so she made a separate one.) Robert Cockerl seconded the motion. After discussion, Ms. Ricks withdrew her motion.

Discussion

Dick Palmore asked Ms. Ricks why she would require conditions for their business and not the other two cases before them. "We're all selling alcohol; treat us the same." She responded that she is mainly concerned with the safety of the citizens of Salisbury and the intensity of the level of alcohol at Nashville Nights.

Tommie Paige said she did not believe that you could compare Nashville Nights and A Little Sumthin Sumthin. The size alone is a big difference.

Herman Felton, Jr. added that the question of equity is fair given that Stelia is a private bar/nightclub. All offer live entertainment.

Robert Cockerl reminded the board that they had previously gone through the quasi-judicial procedure at the Planning Board level. It is a simpler process now.

Bill Wagoner made a MOTION that Ben's motion be sent to City Council with two notes: (1) that we did have a lengthy discussion regarding the prior conditions (they didn't go silent) and (2) that Planning Board suggests that City Council specifically review each of the prior conditions at their deliberation. Then, choose to adopt the conditions as they see fit. Patricia Ricks seconded the MOTION with Ben Lynch, Tommie Paige, Robert Cockerl, Patricia Ricks and Bill Wagoner voting AYE and Dick Huffman and Herman Felton, Jr. voting NAY. (5-2)

Dick Huffman said he believes in the fairness issue. Stelia's is a fulltime bar that will have a sole purpose to serve alcohol, and it is not appropriate to treat them any differently than the way we treat Nashville Nights.

B. Text Amendments

- 1) Staff Presentation
- 2) Courtesy Hearing
- 3) Board Discussion
- 4) Statement of Consistency and recommendation to City Council

Bill Wagoner is the Technical Review Committee representative for Planning Board and was a part of the TRC review of the following amendments. Preston Mitchell made a staff presentation and provided text underline and strikethroughs.

• **LDOTA-05-2011: Additional Use Standards for Gas Stations**

The Land Development Ordinance (LDO) establishes additional use standards for certain uses listed in the Chapter 2 Use Matrix. These uses are identified in the Use Matrix with a 'PS' and indicate that the use is permitted by right in the applicable [zoning] district; however, they are sensitive enough in nature that establishment of the use is not permitted without meeting the additional standards. This is the case for all gas stations within all permitted districts: the NMX, CMX, DMX, HB, and TND.

This text amendment is meant to remove/relax the provision that prohibits the outdoor service area of an accessory car wash (i.e. the vacuum and air hoses, etc.) from being placed in the front or side yards and then requiring their screening when appropriately placed in the rear yard. Staff's recommendation to remove/relax this provision was based on the fact that the LDO does not make the same requirement applicable for stand-alone full-service or self-service car washes. Additionally, most gas stations provide a variety of outdoor services – most of which are intended for the transient customer and need to be located in the front or side yards and visible.

This item was placed on the agenda of a called special meeting of the TRC (Technical Review Committee) on November 22, 2011. The committee unanimously recommends this text amendment to the Planning Board with additional clarifications. Please see the strikethrough/underline excerpt from page 3-7 of Chapter 3: Additional Use Standards.

M. Gas Station – For All Districts

1. Automobile fuel pumps and canopies, and associated service areas are prohibited in any established front yard abutting a street. All canopies shall be a minimum of ten feet (10 ft) from any adjoining non-residential property use or public right-of-way and twenty feet (20 ft) from any residentially zoned property use. (Not applicable in CMX-B, HB district).
2. All areas where vehicles are stored temporarily shall be considered as parking lots and shall comply with the provisions of Chapter 10.
3. All such vehicle storage areas shall be located at the rear of the building.
4. The outdoor service area of a car wash (such as vacuum cleaners) shall be placed in the rear yard only and screened from view from the public street(s). (No screening required in CMX-B, HB).
5. Lighting provided by canopies shall be per the specifications of Chapter 11.
6. No outdoor public address systems shall be permitted which can be heard beyond the boundaries of the property.

MURRY, NC LAND DEVELOPMENT ORDINANCE
ADOPTED DECEMBER 18, 2007; EFFECTIVE JANUARY 1, 2008
 AMENDED: 10/19/10, ORD.2010-42; 1/18/11, ORD.2011-00; 3/15/11, ORD.2011-13

3-7

Staff finds that LDOTA 05-2011 is not inconsistent with the goals, objectives and policies of the Vision 2020 Comprehensive Plan.

Herman Felton, Jr. made a MOTION, stating that LDOTA-05-2011 is not inconsistent with the Vision 2020 Comprehensive Plan and should be adopted. Patricia Ricks seconded the MOTION with all members voting AYE. (7-0)

- LDOTA-06-2011: Sight Triangles

The Land Development Ordinance (LDO) establishes sight triangle standards for development of a corner lot at an intersection. Sight triangle standards require that nothing be placed, erected, constructed, or planted taller than three feet within the triangle at the corner of the property closest to the intersection.

This text amendment is meant to address concerns raised by the city’s traffic engineer. Essentially, her concern with the current provisions meets the “one size does not fit all” test. She states that the use of sight triangles should not be required or relaxed based solely on the [zoning] district. Each intersection is unique and requires independent study based on the development proposal and intersection type.

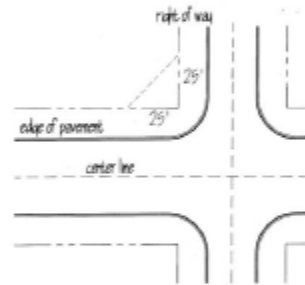
This item was placed on the agenda of a called special meeting of the TRC (Technical Review Committee) on November 22, 2011. The committee unanimously recommends this text amendment to the Planning Board.

L Intersections

Close – an alternative to out-of-area

1. All streets shall intersect at right angles as nearly as possible and no street shall intersect at less than 60 degrees.
2. Where practical, intersections should be aligned to create four-way intersections.
3. **Intersection Offsets:** Intersections with major thoroughfares shall have a centerline offset of at least 400 feet. Intersections on other streets shall have centerline offset of at least 150 feet.
4. **Sight Triangles:** On a corner lot in any district, no planting, structure, fence, wall or obstruction to vision more than three (3) feet in height measured from the respective street center lines shall be placed or maintained within the triangular area formed by the intersection of the street lines (right-of-way) and a straight line connecting points on said street lines, each of which is twenty-five (25) feet distant from the point of intersection. NCDOT standards may also apply. In the RMX, NMX, CMX, DMX, and TND districts sight triangles may be relaxed subject to an engineering study of the intersection.

Sight triangles are not required in the RMX, RMX, TND, and DMX districts at intersections with all-way stops, except as required under NCDOT jurisdiction or traffic signs.
5. Curb extensions to demarcate parking areas and to narrow the street width at intersections are encouraged.
6. A median island located in the center of a street shall not be considered an intersection; however, this treatment can be used as a horizontal traffic calming measure.



Dan Mikkelsen offered clarification saying, “From a land use stand point, the ‘X’ districts in the TND are the ones most likely to have a style of development where the city would want to consider encroachments into a more conventional sight triangle. These are the districts we would want to grant the most flexibility. The other zoning districts are more or less conventional districts and we would expect our conventional standards to be applicable. If you are going to relax standards, I concur it’s best to relax in this fashion, in these districts—they are the ones where we are trying to promote a different style of development.”

“For an all-way stop, a sight triangle is not necessary.”

Bill Wagoner made a MOTION, “LDOTA-06-2011, Sight Triangles, is not inconsistent with the Land Development Ordinance and Planning Board recommends approval to City Council.” Herman Felton, Jr. seconded the motion with all members voting AYE. (7-0)

- LDOTA-07-2011: Technical Review Committee

The Land Development Ordinance (LDO) establishes the Technical Review Committee (TRC) and its authority, duties, and responsibilities. When the LDO was drafted, adopted in 2007 and became effective in 2008, the engineering, development, and planning functions of the city were organized differently.

This text amendment is meant to clarify some of the TRC duties and responsibilities (after having been in use for the last four years), and to address the recent city department organizational changes.

This item was placed on the agenda of a called special meeting of the TRC (Technical Review Committee) November 22, 2011. The committee unanimously recommends this text amendment to the Planning Board. Please see strikethrough/underline excerpts from pages 14-5, 14-6, and 14-7 of Chapter 14: Agencies, Boards, and Commissions.

D. Technical Review Committee (TRC)

The authority to establish the Technical Review Committee for the City of Salisbury is granted under the authority of G.S. 160A-361 & 373.

1. Authority and Responsibility

The Technical Review Committee shall have the following duties and responsibilities:

- a. To establish the technical requirements for all applications, including submission schedules, size and number of drawings, type of media, etc.;
- b. To review for compliance with all applicable provisions of this Ordinance and for consistency with all adopted comprehensive and area plans and ~~then provide a write recommendations, with any recommended conditions, to the Planning Board and City Council on Conditional Districts and Text Amendments.~~
- c. To review and, when applicable, approve Major Site Plans, Major Subdivision Plats, and other methods of development requiring compliance with this Ordinance. In determining compliance with this Ordinance, the TRC may take the following actions:
 - (1) Approve the Major Site Plan or Major Subdivision plat as submitted upon determining compliance with all applicable provisions of the Ordinance
 - (2) Grant provisional approval of the Major Site Plan or Major Subdivision plat by providing to the applicant a detailed description of the applicable areas of non-compliance with the Ordinance, in turn, allowing the applicant to make all necessary changes to receive approval. Following resubmission of plans by the applicant, the Administrator may grant approval or require placement on another TRC agenda for review and approval

- (3) Deny the Major Site Plan or Major Subdivision plat with a written statement of non-compliance for all applicable provisions of the Ordinance.
- (4) Temporarily suspend review of the Major Site Plan or Major Subdivision plat pending additional information, clarification, or modification of the submittal by the applicant. Once review has been suspended, the case must be placed on another TRC agenda before review can resume.

2. Membership

The Technical Review Committee shall consist of the following members:

- One (1) City Council Member (ex-officio, non-voting)
- One (1) Planning Board Member (ex-officio, non-voting)
- The following department representatives ~~Departments Directors~~, or their designee:
 - Community Planning Services (2)
 - Engineering ~~& Development Services~~ (2)
 - Salisbury-Rowan Utilities (1)
 - Fire (1)
 - Public Services (1)
- ~~The following technical staff (on a project by project basis):~~
 - ~~Planner (1)~~
 - ~~Engineer (1)~~
 - ~~Zoning Administrator (1)~~
- In addition, the Chair may, at their discretion, or at the request of other TRC members, invite other administrative staff members from the following organizations to participate in the meetings. Such participants shall serve in a non-voting capacity:
 - Other City of Salisbury Departments
 - Departments of Rowan County
 - NC Department of Transportation
 - Other NC State Agencies
 - Other Federal Agencies

Any and all adopted rules of procedure shall be kept on file at the Development Services division of Community Planning Services Land Management & Development Department office and shall be made available upon request.

All bodies authorized under this Chapter shall meet at regularly-scheduled times and at such other times as determined by the chairman as provided for in the applicable rules of procedure.

Bill Wagoner made the following MOTION: “LDOA-07-2011, Technical Review Committee (TRC)—these amendments to the Land Development Ordinance are not inconsistent and the Planning Board recommends approval to the City Council.” Robert Cockerl seconded the motion with all members voting AYE. (7-0)

- LDOA-08-2011: Development Process has been deferred.

OTHER BOARD BUSINESS

2011-2012 Goals Review

A Planning Board committee will convene early January to recommend 2012/2013 Planning Board Goals which will be adopted at the annual meeting (the second meeting in January).

Goals follow the fiscal year and not the calendar year. Preston Mitchell admitted that Planning Board is behind in the 2011-2012 goals as they finish up the OPEN SPACE STUDY and THE USE MATRIX STUDY. Staff hopes to get back on track this winter and spring.

1. Investigate the development of a Southern I-85 Corridor Area Plan where, by the end of the goal year, the budget, geographical parameters and partners would be determined for possible execution of the study in 2012-2013.
2. Conduct a study to consider Land Development Ordinance amendments that would allow for concept (preliminary) CD's.
3. Conduct a split-zoning study by planning district.
4. Conduct a study to consider Land Development Ordinance amendments that would develop fencing standards.

ADJOURNMENT

There being no further business to come before the Planning Board the meeting was adjourned at 5:39 p.m. Happy Holidays!

Dick Huffman, Chair

Diana Moghrabi, Secretary