

Madison County Regular Planning Board

DRAFT

Meeting Minutes

Date: 9/20/2022

Location: Marshall Public Library

6:30 PM: Madison County Planning Board Meeting Called To Order

Members in Attendance: Chair Jered Silver, Vice Chair Allan Wyatt, Daniel Rice, Sue Keener, Jackie Ball

Absent: Josh Norton, Mary Rice and Kevin Morton

***Quorum was confirmed with five Voting Members in attendance.**

At 6:30 PM Chair Jered Silver called the meeting to order. Meeting Minutes of both the August 2nd Special Mtg. and the August 16th Regular Mtg. were approved. (Vote 5-0 to approve both Mtg. Minutes).

I. Mr. Ken Dinino, (applicant attended via Zoom from Conroe, Texas home) requesting re-zoning of a +/- 38.31 acre parcel (13490 US 25/70 Hwy, Marshall, NC) from its "legacy" (historic) zoning of **Retail-Business ("R-B")** to **R/A Zoning** for the sole purpose of constructing his primary residential home. (Residential land uses are not allowed in any form of historic or current commercial zoning land use districts.)

T. Dolan reviewed for the Board the historic R-B land use district category. Mr. Dinino has no direct access to US 25/70 Hwy from this parcel; however, he also owns the adjacent highway frontage (1.7 acre R-B) parcel, and this will provide a legal access for his future driveway.

Attorney John Noor asked T. Dolan several questions pertaining the parcel's re-zoning procedural matters. He reminded the Board this re-zoning is a legislative matter, and not a Quasi-Judicial Process. Planning Board reviewed the "Consistency Statement", as provided by Planning Staff. Mr. Dinino stated for the record he has no other intentions other than to construct his home on the overall 38 acre property. General Public Comments: Mr. Tony Ponder asked if Mr. Dinino's motivation was to circumvent the newly implemented Short Term Vacation Rental Temp. Moratorium conditions. The Board corrected him stating Mr. Dinino was not attempting to circumvent the Temporary Moratorium. No other speakers, and Chair closed Public Comments.

Vice Chair Allan Wyatt asked if additional conditions could be placed upon a re-zoning request, and John Noor stated "No". Brief discussion of Comp Plan Consistency (Chapter 11.2), Terrey Dolan noted the physical site constraints make all but single family homes viable on this parcel. All others would likely be cost prohibitive.

Chair Jered Silver then made a **Motion to Approve** the parcel re-zoning from its current legacy "Retail-Business" (R-B) to "Residential/Agricultural" (R/A); Vice Chair Allan Wyatt seconded the Motion.

Vote: 5-0 to approve.

II: Mr. Johnny Moore (Lonesome Mountain Market and Rentals) (temporarily has the same address as Mr. Dinino's parcel, 13490 US 25/70 Hwy). 10.25 Acre parcel. Re-Zoning Request to convert from "R/A" to "CD" (Commercial District)

Site has been utilized for over 55 years as the historic (commercial) *Martins Grocery Store*, and then in late 1990's, sold and then used as USA Rafting's Headquarters for a number of years. Dormant business property was purchased by Mr. Johnny Moore in Feb. 2021, after several years of no site usage by USA Rafting.

Terrey Dolan reviewed the physical site constraints of the site with the Planning Board, as only about 1.5 acres of the historical 10-acre site is usable for any land uses, due to the portion of the property (+/- 8.75 acres) is a sheer granite cliff hillside behind the store. Ms. Deanna Ponder spoke on behalf of Mr. Moore.

She reviewed the 2018 overall parcel split by the then (USA Rafting) property partners. Terrey Dolan then reviewed the mystery of this historic commercial business area being zoned as Residential/Agricultural ("R/A"). Historical file records are poor within the county. The applicant's rep stated there are no further intentions to excavate further behind the existing store to expand the usable

portion of the site. Terrey Dolan further elaborated regarding the strategic location of the site which is excellent for a commercial retail business location as it reduces vehicular trips greatly. He reviewed the present eight mile distances from the site to the two nearest grocery stores, either on the Marshall By-Pass or in Hot Springs. He noted this site is a good fit as a convenience store facility.

Public Comment: 1) Tony Ponder: Stated the applicant had courage to open a business and he seemed in favor of the request. 2) Danny Wyatt: Felt the applicant could as easily be served to retain the business, but not going through a re-zoning request, but just keep the parcel as "R/A", and go through the alternative *Special Use Permit* process. Complained about the lack of building permits being pulled by the applicant, and felt it set a bad precedent for the county to allow this business to be open ahead of all proper building permits being in place. It was noted by both Deanna Ponder and Terrey Dolan that the County Building Dept. has been and continues to work to get the store in full compliance with all necessary building permits. Mr. Wyatt also mentioned the "*NC Scenic By-Way*" that this segment of US 25/70 Hwy is located, as it is one of the most photographed areas of the county. Stated proper Building Permits and Zoning are supposed to protect the citizens of the County. He further mentioned that re-zoning this parcel to "CD" shall allow a whole variety of (Permitted) Commercial Land Uses to use this site that may not be appropriate for the site or the area.

Terrey Dolan then read late rec'd e-mail comments by both Mr. Rick Bridges and by Dr. Janis Coverdale (and her husband Dr. Louis Schroeder) into the Record. Comments touched upon the *NC Scenic By-Way*, and possible sediment run-off from Barney's Branch, which originates along this 10-acre parcel.

Chair Silver then closed Public Comment at 7:34 PM.

He reviewed the status of the Building Dept. process with Terrey Dolan in order to bring the building work up to compliance. It was noted that the building permit process had been temporarily frozen until this zoning matter was resolved. It was noted by Ms. Ponder that the property has long been taxed by the county as "*Commercial Improved*". She also noted that long ago, part of the parking lot had been taken for the expansion and improvements to US 25/70. She went on to state that Mr. Moore had no other intentions for the property other than to run the store.

Board continued its discussion on the *pros and cons* of doing a Re-zoning vs. a Special Use Permit (retaining the R/A zoning). Brief discussion on the Re-Zone Request's Comp Plan Consistency (Consistency Statement review), and the Comp Plan Commercial Corridor showing this segment of US 25/70 Hwy as facilitating commercial uses. Chair Silver reiterated his opinion of the project: Historical use of the property for commercial business, perhaps an error in labeling this commercial tract as "R/A" on the County GIS files and the gentleman purchased this tract with the intent to continue its historical commercial use.

He then made a *Motion to Approve* the Re-Zoning Request from its existing "R/A" to "CD" (Commercial District). Seconded by Sue Keener. **Vote 5-0 to Approve the Re-Zoning to Commercial District (CD)**

III. "0" Grandview Road Sub-Division: Terrey Dolan made mention that late this same day, the applicant for "*0*" *Grandview Road* Single family Home (16 Lot) Sub Division (Mr. Glenn Taylor) had called and pulled his request for the Planning Board to continue its discussion for the required *Sketch Plan Review* at the 9/20/22 meeting. No new hearing date on the Continued Item was set. TBD.

IV. General Public Comments: 1) Tony Ponder: Stated he had attended the 9/19 Board of County Commissioners meeting, and was distressed over some of the approved text amendments to the Land Use Ordinance. Seemed to be anti-*Short Term Vacation Rentals* (STVR's) in Madison County. He used Roam Farm's newly released press announcement about their future *cabin look* which was never discussed by the Planning Board during their deliberations to approve the project. Worries about a wave of developers coming into the county. 2) Clayton Honeycutt: Said that STVR's are not the problem in Madison County. They assist families in *making ends meet* and provide the necessary money to pay their county tax bills. Chair Silver & Vice Chair Allan Wyatt agreed. Further general discussion by the Board on the topic. Other Board members agreed that tourists bring in and spend their money in the county, plus the resulting Occupancy Taxes are also provided, through the use of STVR's.

End of Public Comment.

V. Assembly Moratorium: Development Services Director Brad Guth briefly updated the Board on the continuing process, and highlighted the ongoing weekly meetings held by the Sub-Committee. Reported the Noise Ordinance is nearly drafted (in a completed re-write form). It is hoped that all moratorium

matters could be completed in time for a November Planning Board review, and then a December County Commissioner approval. He further noted that Attorney John Noor, at the Commissioners' request has drafted a *Bio Mass Temporary Moratorium*, and that it should be presented to the Commissioners at their October Mtg.

VI. Adjournment: Having no further business to discuss, the Cahir asked for a Motion to Adjourn, Jackie Ball made the Motion and _____ seconded it. **Vote: 5-0 to Adjourn at 8:17 PM.**

Signed: _____

Terrence S. Dolan

Director of Planning & Zoning

Madison County