

Zebulon Board of Commissioners
Minutes
November 7, 2022

Present: Glenn York, Beverly Clark, Quentin Miles, Larry Loucks, Shannon Baxter, Jessica Harrison, Joe Moore-Town Manager, Lisa Markland-Town Clerk, Chris Ray-Public Works, Jacqui Boykin-Police, Chris Perry-Fire, Sheila Long-Parks & Recreation, Bobby Fitts-Finance, Michael Clark-Planning, Aaron Chalker-Planning, Eric Vernon-Town Attorney, Sam Slater-Town Attorney

Mayor York called the meeting to order at 7:00pm.

PLEDGE OF ALLEGIANCE

The pledge of allegiance was led by Commissioner Miles.

APPROVAL OF AGENDA

Commissioner Baxter requested to add the 100 County Quilt under new business and to remove Resolution 2023-15 – 2023 Street Closures for Events from consent.

Mayor York moved the items to New Business under B.

Commissioner Clark made a motion, second by Commissioner Baxter to approve the agenda as amended. There was no discussion and the motion passed unanimously.

SCHOOL RECOGNITION

Mayor York recognized student Antonio Ponzio and teacher Abigail Pearce, both from Zebulon Middle School.

PROCLAMATION

Mayor York read the Zebulon National Historic District Proclamation.

Mayor York read a Proclamation recognizing Avery Denton.

PUBLIC COMMENT PERIOD

Lisa Markland read comments submitted by Susan and Dallas Pearce of Dallas Pearce Realty about the façade grant program.

John Saffold from the Zebulon Chamber of Commerce gave an update and spoke about upcoming events.

Jay Estes spoke about the rezoning of the property at 125 W. Vance Street and was available if there were questions about the property.

CONSENT

A. Minutes

Board of Commissioners

Minutes

November 7, 2022

Commissioner Clark made a motion, second by Commissioner Miles to approve the minutes of the September 15, 2022 work session. There was no discussion and the motion passed unanimously.

Commissioner Clark made a motion, second by Commissioner Miles to approve the minutes of the September 19, 2022 Joint Public Hearing. There was no discussion and the motion passed unanimously.

Commissioner Clark made a motion, second by Commissioner Miles to approve the minutes of the September 22, 2022 mini retreat. There was no discussion and the motion passed unanimously.

Commissioner Clark made a motion, second by Commissioner Miles to approve the minutes of the October 10, 2022 Joint Public Hearing. There was no discussion and the motion passed unanimously.

Commissioner Clark made a motion, second by Commissioner Miles to approve the minutes of the October 20, 2022 work session. There was no discussion and the motion passed unanimously.

Commissioner Clark made a motion, second by Commissioner Miles to approve the minutes of the October 25, 2022 special called meeting. There was no discussion and the motion passed unanimously.

B. Finance

Commissioner Clark made a motion, second by Commissioner Miles to approve the Wake County tax report. There was no discussion and the motion passed unanimously.

Commissioner Clark made a motion, second by Commissioner Miles to approve the monthly financial report. There was no discussion and the motion passed unanimously.

C. Public Works

Commissioner Clark made a motion, second by Commissioner Miles to approve Ordinance 2023-14 – Appropriation of Insurance Proceeds. There was no discussion and the motion passed unanimously.

D. Parks and Recreation

Commissioner Clark made a motion, second by Commissioner Miles to approve Resolution 2023-11 – Holiday Event Street Closure (Amended). There was no discussion and the motion passed unanimously.

OLD BUSINESS

A. Parks and Recreation

i. Resolution 2023-16 – Little River Park Specific Master Plan

Sheila Long gave a presentation on the project for the Little River Park Site Specific Master Plan. The final concept of the plan was shown. Staff recommended the plan to be in three phases to allow time for design development and permitting. The Parks and Recreation Advisory Board recommended adoption at their October 24, 2022 meeting.

Commissioner Baxter asked about the type of playground that would be installed based upon the types of feedback that was given from the public. During the design phase, staff would work with the Board of Commissioners, Parks and Recreation Advisory Board and the community for guidance on the type of playground to be installed.

Commissioner Baxter made a motion, second by Commissioner Miles to approve Resolution 2023-16. There was no discussion and the motion passed unanimously.

ii. Special Event Standards

Sheila Long presented the special event standards. The original draft was presented to the Board at their August work session and a final draft at their October regular meeting. The feedback from those meetings was added and the revised policy was before the Board. At the October meeting, Commissioner Baxter requested language to disallow balloon releases due to environmental impacts from such activities. The draft did not include that language, but it could be added if the Board chose to do so. Staff recommended the policy effective January 1, 2023. Public would be made aware of the updated policy through social media, Town's website, and emailed to groups who have hosted past events.

There was conversation about the Town having a bicycle event. Staff explained a bike event would be classified as either a road race or a parade depending on the specifics of the event.

Commissioner Baxter asked for clarification of the limitations on race and walk events.

Commissioner Miles thanked staff for their work on the standards and would like it to be tabled until November 17 to allow more discussion.

Commissioner Miles made a motion, second by Commissioner Baxter to table the special events standards to the November 17, 2022 work session. There was no further discussion and the motion passed unanimously.

Sheila Long asked if there was specific information the Board would like. Commissioner Miles stated he wanted more time to review the standards.

B. Planning

i. Ordinance 2023-09 – TA 2023-02 Public Hearing Notifications

Michael Clark spoke about the notification requirements for Public Hearings. The Town's internal policy was 150ft from the outer boundaries of the subject development. Other notification methods the Town utilized included signs on the property, publication in the newspaper, an emailed newsletter, a post on the Town website and the interactive development map.

At the October 10, 2022, meeting, the Planning Board unanimously recommended approval of TA 2023-02 to increase public hearing notifications to 750ft from the outer boundaries of a development including mailed notices.

Commissioner Loucks asked for clarification, if the text amendment would include notification of property owners of annexation. Staff confirmed it would include notification.

Commissioner Harrison made a motion, second by Commissioner Miles to approve Ordinance 2023-09. There was no further discussion and the motion passed unanimously.

ii. Ordinance 2023-10 – TA 2023-03 Industrial Ground Signs

Michael Clark stated UDO Section 5.3.3.E.8 established an 18-foot height maximum for multi-family residential structures within 100 feet of the property line of single family detached residential structures. This section also prevented the Board of Commissioners from approving requested deviations from this standard as part of a Conditional Zoning or Planned Development Request. At the work session on September 15, 2022, the Board of Commissioners acknowledged they would like the ability to approve requested deviations on a case-by-case basis.

Michael Clark explained UDO Table 5.11.9.E.2 stated ground signs were permitted in all districts other than the industrial zoning districts (LI, CI, & HI). However, subsection 3 included dimensional standards allowing signs to be up to 15 feet tall and a sign face area of up to 36 square feet.

At the Board Work Session on September 15, 2022 the Board of Commissioners supported the consideration of a text amendment to permit signs within industrial zoning districts. The proposed text amendment provided that ability.

At the October 10, 2022 meeting the Planning Board unanimously recommended approval of TA 2023-03.

Commissioner Baxter made a motion, second by Commissioner Loucks to approve Ordinance 2023-10. There was no further discussion and the motion passed unanimously.

iii. Ordinance 2023-11 – TA 2023-04 Building Height Limitation

Michael Clark stated UDO Section 5.3.3.E.8 established an 18-foot height maximum for multi-family residential structures within 100 feet of the property line of single family detached residential structures. This section also prevented the Board of Commissioners from approving requested deviations from this standard as part of a Conditional Zoning or Planned Development Request. At the work session on September 15, 2022, the Board of Commissioners acknowledged they would like the ability to approve requested deviations on a case-by-case basis.

At the October 10, 2022 meeting the Planning Board unanimously recommended approval of TA 2023-04.

Commissioner Miles asked what the maximum height of a residential structure would be. Michael Clark explained it would depend on the zoning district and gave some examples.

Commissioner Clark made a motion, second by Commissioner Loucks to approve Ordinance 2023-11. There was no further discussion and the motion passed unanimously.

iv. Ordinance 2023-12 – TA 2023-05 Article 10 Corrections

Board of Commissioners
Minutes
November 7, 2022

Michael Clark presented the corrections to Chapter 10 of the UDO. The first correction was to decrease the ETJ representation by one member and increase the in-town representation by one member, establishing a 5-2 Town/ETJ board. Another modification removed the reference to ex-parte communication. Since the Planning Board did not hear quasi-judicial cases, this regulation was not applicable. Other amendments included the Planning Director having the authority to designate other staff to officiate Technical Review Committee meetings, providing direction to the Building Inspector and clarification of the role of Town Manger to oversee existing tasks as listed in the UDO.

At the Joint Public Hearing on October 10, 2022, a Planning Board member raised questions regarding the Building Inspector amendment and staff noted that the Town subcontracted this to Wake County.

At the October 10, 2022 meeting the Planning Board unanimously recommended approval of TA 2023-05.

There were questions about ex-parte communication and the Planning Board. Eric Vernon explained the Planning Board did not handle quasi-judicial matters and there was no need to limit their discussions about the topic. Sam Slater offered more details about ex-parte communication and conflict of interest rules.

There was a question about the power and duties of a contracted inspector being assigned by the Planning Director and not also the Board of Commissioners. Michael Clark explained the Board's role was to guide and set policy and had authority over the Town Manager, Town Attorney and Town Clerk. Other employees reported to the department director and a building inspector reported to the Planning Director.

Commissioner Miles stated he wanted to leave in the Board of Commissioners under the powers and duties section and add the Planning Director.

Commissioner Miles made a motion to approve Ordinance 2023-12 and to add the Planning Director to the powers and duties.

The motion died for lack of a second.

Commissioner Harrison made a motion, second by Commissioner Clark to approve Ordinance 2023-12. There was no further discussion and the motion passed with a vote 4 to 1 with Commissioners Loucks, Harrison, Clark and Baxter voting in favor and Commissioner Miles voting in opposition.

v. Ordinance 2023-13 – Rezoning/Future Land Use Map Amendment 125 W. Vance St. Michael Clark stated this was a staff initiated rezoning request for a split zoned property. Staff recommended rezoning the parcel to Downtown Periphery (DTP) District based upon the building's characteristics and existing conditions.

Aaron Chalker presented the rezoning request for a 0.18-acre parcel from Downtown Core (DTC) District to Downtown Periphery (DTP) District. The property, located between Arendell Ave and N Church St, was bounded by Vance Street to the north and railroad tracks to the south. The property contained an 8,625 square-foot warehouse building that encroached onto the adjacent lot to the west.

Staff was reviewing a recombination plat that would align the parcel boundaries with the building footprints. The plat was submitted after the Joint Public Hearing for this case.

The aerial map and photos of the parcel were shown. Mr. Chalker stated the DTP zoning could add 44 additional uses.

At their September 19, 2022 meeting, the Planning Board voted 3 to 1 to recommend approval of the proposed rezoning.

Commissioner Baxter stated she was made aware that the Planning Board member who made the motion to recommend approval of the rezoning could potentially benefit financially from the rezoning. It was also stated she was unclear of the validity but wanted to make the Board aware.

Commissioner Clark made a motion, second by Commissioner Loucks to approve Ordinance 2023-13. There was no further discussion and the motion passed unanimously.

Mayor York stated there would be a 10-minute recess.

The meeting was reconvened at 8:34pm.

vi. SUP 2023-01 – Written Findings of Fact

Michael Clark explained at the meeting October 3, 2022, the Board of Commissioners held a quasi-judicial hearing regarding a request for an Asphalt Plant at 1324, 1320, and 1310 Old US 264 Hwy. Following the hearing, the Board deliberated the evidence against the standards of UDO Section 2.2.18.F. and voted 3-2 to deny the requested Special Use Permit finding that standard #1 was not met.

The Town's attorney prepared an order denying the special use permit for SUP 2023-01 and presented it to the Board for their approval.

Commissioner Baxter made a motion, second by Commissioner Miles to approve SUP 2023-01 written findings of fact. There was no further discussion and the motion passed unanimously.

C. *Public Works*

i. Ordinance 2023-08 – Zebulon Swimming Pool Demolition

Chris Ray presented the Ordinance to approve demolition of the pool by approving the budget amendment to appropriate funds. The architect and geotechnical engineer recommended demolishing the site, disposing of all debris, and filling the pool with off-site compactable material at an estimated cost of \$250,000. The option removed all liability and safety concerns and provided the greatest flexibility for choosing future development options.

Commissioner Loucks asked if the work included removal of the parking lot and Chris Ray confirmed it did.

Commissioner Baxter made a motion, second by Commissioner Loucks to approve Ordinance 2023-08.

It was asked when the work would begin. Staff stated the work would be complete by the end of FY 2023.

There was discussion about the site being included on the national registry.

There was no further discussion and the motion passed unanimously.

NEW BUSINESS

A. Administration

i. Appointed Boards

1. Update on Board make-up and participation requirements

Lisa Markland provided an update of the seats, vacancies and attendance of the Planning Board and Parks and Recreation Advisory Board.

2. Board Appointments

Lisa Markland stated there was one in-Town vacancy on the Planning Board and had received applications from Latoya Carter and Peggy Alexander. Neither applicant was in attendance and there was consensus among the Board for the applicants to come before the Board of Commissioners prior to appointment.

Lisa Markland read the comments submitted by Wendi Watson who had applied to be on the Parks and Recreation Advisory Board. Commissioner Baxter made a statement recommending Wendi Watson.

Commissioner Miles wanted to know Sheila Long's thoughts on appointing Wendi Watson. Sheila Long stated she had worked with Ms. Watson on several occasions and she would be a tremendous asset to the Board.

Commissioner Clark made a motion, second by Commissioner Miles to appoint Wendi Watson to the Parks and Recreation Advisory Board. There was no further discussion and the motion passed unanimously.

B. General

i. Resolution 2023-15 – 2023 Street Closures for Events

Sheila Long stated there was a typo in the packet about the street closure and provided an updated copy to the Board.

Commissioner Loucks asked staff about adding vendors to the Rock the Block event. Sheila Long wanted to make sure there was staff capacity and it was being evaluated.

Commissioner Baxter made a motion, second by Commissioner Miles to approve Resolution 2023-15 as submitted. There was no further discussion and the motion passed unanimously.

ii. 100 County Quilt Project

Commissioner Baxter provided details about the 100 County Quilt Project.

Commissioner Loucks was in favor of the quilt coming to Zebulon and would like to see it displayed downtown.

Commissioner Clark made a motion, second by Commissioner Miles to approve displaying the 100 County Quilt in Zebulon. There was no further discussion and the motion passed unanimously.

C. Planning

i. Public Hearing

a. Storage Max Special Use Permit 2023-02

Mayor York opened the public hearing. Sam Slater gave instructions about the quasi-judicial public hearing process.

Michael Clark was sworn in by Lisa Markland. Staff requested to add the presentation, testimony and staff report as evidence.

Mr. Clark stated James Todd, attorney with Smith Law Partners, applied on behalf of property owners Storage Family LLC for a special land use permit to construct a multi-building self-storage facility at 901 Proctor Street near the intersection of Proctor Street and Shepard School Road.

The parcel totaling 6.5 acres was zoned Heavy Commercial (HC). The UDO Table 4.2.3 lists “Self Service Storage, External Access Only” and “Self Service Storage, Internal Access Only” as Special Land Uses for the HC District. The parcels to the west were zoned R2 Residential and HC Heavy Commercial, and the parcels to the north and south were zoned HC Heavy Commercial. The parcels to the east are on the opposite side of Shepard School and were zoned R-13-SUP which was a legacy zoning from past Special Use permitted districts in the former Zoning Code.

The public hearing notification process was detailed. The vicinity map, pictures of the property, concept plan and building elevations were shown. Mr. Clark provided details of building one and building two and details of the primary wall, secondary facades and tertiary facades. There was discussion and examples of customer entrances, building articulation, material and colors, roof form and fenestration as specified under UDO section 5.3.1

Michael Clark stated UDO Section 2.2.18.F stated a special use shall be approved upon determining the use:

1. Will not materially endanger the public health or safety if located where proposed;
2. Complies with all required standards, conditions, and specifications of this Ordinance, including Article 4: Uses;
3. Will not substantially injure the value of the abutting land, or the special use is a public necessity;
4. Will be in harmony with the area in which it is to be located;

5. Is in general conformity with the Town's adopted policy guidance; and
6. Includes a concept plan that accurately depicts the proposed use's configuration.

Commissioner Baxter asked staff if the application was compliant. Michael Clark stated the one side of building two was not consistent with the standards in the UDO.

James Todd was sworn in by Lisa Markland. Mr. Todd showed pictures of the site and proposed site plan which consisted of two storage buildings, internal self-storage, an on-site stormwater pond, public access sidewalk, a pedestrian gathering area and type D and type A buffers. The proposed elevation drawings were shown.

Allen Massey was sworn in by Lisa Markland. Mr. Massey of Storage Family spoke about his company and the vision for the property.

Mr. Todd stated all the special use permit standards were satisfied and reviewed the six criteria. It was further explained there would be limited sound and light traffic impact from the use with little disruption to the neighbors. The property would comply with façade requirements and would make sure it met UDO Section 5.3.1 before obtaining a building permit.

David Lewis from Dickinson Lewis Land Appraisers was sworn in by Lisa Markland. Mr. Lewis offered expert testimony about how the proposed development would not substantially injure the value of abutting properties.

Commissioner Baxter asked how the property values compared to the increase in residential property values outside of being next to storage facilities. Mr. Lewis spoke about the study performed and analytics tools used to determine the property values.

Mr. Lewis gave his education and professional background.

Michael Clark asked Mr. Lewis to expand upon the development on Green Pace Road that was used in his comparison. Mr. Lewis stated the development was a similar 30,000 sq. ft. industrial building. Michael Clark stated the development was pulled before construction began and the site was for sale.

Mr. Todd spoke about how the use was in harmony with the surrounding area. A type D buffer would be added around the church and parking lot and a type A buffer would be added around the other areas.

Mr. Todd entered the traffic impact analysis into the record as evidence.

The type A and type D buffer locations were shown on a map. Mr. Todd spoke about how self-storage was a complementary use to residential and commercial uses and spoke about how it was consistent with Town policies.

The concept site plan was detailed. An October 3, 2022 comment letter with a list of issues with the concept plan from the Town was entered in as evidence.

Mr. Todd showed on a map where the type A buffer and type D buffers would be located.

Robert High was sworn in by Lisa Markland. Mr. High stated he was a part owner and spoke about how customers could enter the private drive and parking lot. Details of the architectural components of the buildings were given. Mr. High stated this type of business was in demand and wanted to bring the business to the community.

Sam Slater asked if anyone wished to speak in favor.

Laura Gay was sworn in by Lisa Markland. Ms. Gay gave detail of the property and spoke about how it would be a good addition to the community.

Sam Slater asked if anyone else wished to speak in favor. There were none.

Sam Slater asked if anyone wished to speak in opposition. There were none.

Mr. Todd asked that the PowerPoint be added to the record.

Commissioner Loucks asked if there was a way to inspect a storage area if someone suspected hazardous materials or illegal items were stored there. Michael Clark stated if the Town received a credible concern the management company would be contacted to perform their own investigation, or the Town could seek an administrative search warrant if the management company was not cooperative.

Mr. Massey explained the NC Self-Storage Association lease did not allow storage of hazardous or illegal materials and worked with law enforcement to help with the management of the facility.

Commissioner Miles asked for clarification of type D buffer. Michael Clark stated a type D buffer was the most densely planted buffer the Town had and was completely opaque.

Sam Slater gave the options for the board:

1. Deny request and establish findings of fact
2. Approve request and establish findings of fact
3. Approve with conditions and establish findings of fact
4. Keep Quasi-Judicial Hearing open and table to a date certain
5. Close the Quasi-Judicial Hearing and table to a date certain

Commissioner Baxter stated she needed more time to review the evidence.

Commissioner Baxter made a motion, second by Commissioner Loucks to keep the Quasi-Judicial Hearing open and to table to December 5, 2022 at 7:00pm.

Mr. Todd stated if the Board had concerns or questions to please let him know.

Sam Slater clarified that since it was a quasi-judicial hearing there could not be any ex-parte communication and the Board could ask questions during the December 5, 2022 meeting.

There was no further discussion and the motion passed unanimously.

- ii. Storage Max Special Use Permit 2023-02 – Deliberations

Note: hearing tabled until 12/5/22 at 7:00pm.

BOARD COMMENTS

Commissioner Loucks reminded everyone to vote, the Veterans celebration was November 9, coffee with the Police Department was November 10, Candy Cane Lane was November 19, the Christmas parade was December 3 and asked people to do their part to help keep kids out of trouble.

Commissioner Harrison reminded everyone to go vote.

Commissioner Clark also encouraged everyone to vote.

Commissioner Miles thanked Town staff for their hard work, encouraged everyone to vote and to attend the Veterans celebration on November 9 and thanked all of those who have served our country.

Commissioner Baxter stated she hoped voting was record breaking this year, thanked the Police and Fire Departments for serving the community on Halloween and spoke about Operation Greenlight.

Mayor York stated he did a Mayoral Proclamation for Operation Greenlight and would read it at the Veterans Day Celebration. Commissioner Miles was thanked for his service.

MANAGER'S REPORT


Joe Moore gave an overview of topics for the upcoming work session meeting on November 17.

Michael Clark gave a developmental update.

Commissioner Baxter made a motion, second by Commissioner Loucks to adjourn. There was no discussion and the motion passed unanimously.

Adopted this the 9th day of January 2023.




Glenn L. York—Mayor


Lisa M. Markland, CMC—Town Clerk