

MINUTES
MOORE COUNTY PLANNING BOARD
THURSDAY, OCTOBER 6, 2022, 6:00 PM
MOORE COUNTY HISTORIC COURTHOUSE – 2nd FLOOR

Board Members Present:

Joe Garrison (Chairman), Bobby Hyman (Vice chair), Tucker McKenzie, Jeffrey Gilbert, Amy Lynn, Farrah Newman, John McLaughlin, Mick McCue, David McLean

Board Members Absent:

None

Staff Present:

Debra Ensminger, Planning Director; Stephanie Cormack, Admin Officer; Jaimie Walters, Senior Planner; Ruth Pedersen, Senior Planner; Tron Ross, Associate County Attorney

CALL TO ORDER

Chairman Joe Garrison called the meeting to order at 8:00 pm.

INVOCATION

Chairman Joe Garrison offered the invocation.

PLEDGE OF ALLEGIANCE

Chairman Joe Garrison led in citing of the Pledge of Allegiance.

MISSION STATEMENT

Chairman Joe Garrison read the Moore County Mission Statement.

PUBLIC COMMENT PERIOD

Jonathan Haley-1034 Shaw Rd., Carthage; Mr. Haley is concerned about how Moore County will look in the future.

APPROVAL OF THE CONSENT AGENDA

- A. Approval of Meeting Agenda
- B. Approval of Minutes of August 4, 2022, Regular Meeting
- C. Approval of Minutes of September 15, 2022, Special Meeting
- D. Consideration of Abstentions

Board Member Tucker McKenzie made a motion for approval of the consent agenda and approval of the minutes of August 4, 2022, and September 15, 2022, meeting. Vice Chair Bobby Hyman seconded the motion and the motion passed unanimously 9-0.

PUBLIC HEARING

Public Hearing #1 – Moore County Planning Staff is requesting to amend and restructure the Moore County Unified Development Ordinance – Debra Ensminger

Planning Director Debra Ensminger presented a request by Moore County staff to amend and restructure the Moore County Unified Development Ordinance.

Ms. Ensminger went over the item within the packet regarding amending the Moore County Unified Development Ordinance. Ms. Ensminger confirmed to the board that Moore County is currently following the law as per NCGS 160D even though it is not clearly outlined in the current ordinance, and the need to update the ordinance is to provide clear guidance to the citizens and developers of Moore County.

Ms. Ensminger mentioned there are a few areas that have been amended that are not related to 160D which are outlined within the agenda packet and were provided to the board at the last work session on September 15, 2022.

With no further questions from the board, Chairman Garrison opened the Public Hearing.

Chairman Garrison reiterated the board could not contest items related to NCGS 160D as it is law.

Chairman Garrison asked for clarification on the modifications to section listed under appeals and who appeals would be heard by.

Ms. Ensminger explained appeals would be heard by the Board of Adjustment and not heard before the Superior court as per Exhibit A.

Chairman Garrison also mentioned there appeared to be a discrepancy regarding time frame of preliminary plat approval.

Ms. Ensminger mentioned depending on the type of plat some may take longer than others to review.

Chairman Garrison asked for further clarification on the Subdivision Review Board and the final approval process for new subdivisions.

Ms. Ensminger explained the Board of County Commissioners approve major subdivisions and this section was updated to reflect that approval process. At one time the Subdivision Review Board did have this authority and the ordinance was not updated to reflect the process.

The following signed up to speak during the Public Hearing.

- Nick LaSalla-975 Cranes Creek Rd. Cameron; agrees with the updates as they pertain to the law, however, has concerns about the amendments not associated with the law and feels the general public has not had enough time to review these changes. Exhibit B provided for the record.

With no further discussion or public comment Chairman Garrison closed the Public Hearing.

Chairman Garrison inquired how the public would know what zoning jurisdiction they are located in.

Ms. Ensminger explained the ordinance only pertains to those properties located within the unincorporated areas of Moore County and the public can always contact our office to inquire about their zoning jurisdiction. Each municipality has their own ordinance, and most municipalities have an Extra Territorial Jurisdiction that falls under the municipality zoning guidelines.

Board member McKenzie inquired about the back history behind who is the final approval board for new subdivisions.

Ms. Ensminger explained the Board of County Commissioners, as elected officials made the decision several years back so staff would not be the one to receive pushback if there was any. Previously the Planning Board was part of this process as an advisory board only. The current process must go through a Quasi-Judicial process.

Ms. Ensminger also explained the staff recommend amendments are to provide more clarity to the developer and the requirements that are applicable.

Board member McCue feels the citizens of Moore County should have ample time to review the changes as presented.

Ms. Ensminger informed the board there will be a work session on Wednesday, October 12th, 2022, for the Board of County Commissioners that is open to the public.

With no further comments Chairman Garrison made a motion to adopt the attached Moore County Planning Board Land Use Plan Consistency Statement for approval and authorize the Chairman to execute the document as required by North Carolina General Statute 160D-604. The motion was seconded by Board Member Tucker McKenzie; the motion passed unanimously 9-0.

Chairman Garrison made a motion to recommend approval to the Moore County Board of Commissioners of the proposed text amendments to the Moore County Unified Development Ordinance; The motion was seconded by Board Member David McLean; the motion passed unanimously 9-0.

PLANNING DEPARTMENT REPORTS

Ms. Ensminger reminded the board of the upcoming Board of Commissioners work session and thanked the board for being flexible on the meeting time change.

BOARD COMMENT PERIOD

Chairman Garrison thanked the staff for all their work and thanked the public for attending the meeting.

ADJOURNMENT

With no further comments Vice Chair Bobby Hyman made a motion to adjourn the October 6, 2022, regular meeting. The motion was seconded by Board Member John McLaughlin; meeting adjourned at 9:06 p.m., the motion passed unanimously 9-0.

Respectfully submitted by,

Stephanie Cormack

CHAPTER 19. SUBDIVISIONS

SECTION 19.5. LIMITED SUBDIVISIONS

E. EXPIRATION OF PLAT APPROVAL

1. Approval of a ~~F~~family ~~S~~ubdivision plat is contingent upon the plat and associated documents being recorded within 60 days after the date the plat was signed by the Administrator.
- ~~E.2.~~ Failure to record the approved plat and all associated documents within the 60-day period shall render the plat null and void.

F. APPEAL

~~Appeal of the Administrator's decision on a family subdivision application shall be made to the Board of Adjustment in accordance Section 14.1, Appeal of Administrative Decision.~~

~~Appeal of the Administrator's decision on a family subdivision application shall be made to the Superior Court of Moore County in accordance with NCGS Section 160D-1403.~~

~~F. Final action on a Family Subdivision plat by the Administrator may be appealed to the Board of Adjustment in accordance with Section 13.1.~~

SECTION 19.5. LIMITED SUBDIVISIONS⁵⁷

A. PURPOSE AND INTENT

The purpose for this limited subdivision review procedure is to allow certain land divisions to be reviewed via an abbreviated review procedure based on their small size and limited likelihood to create significant impacts on surrounding lands.

B. APPLICABILITY

The standards in this section shall apply to divisions of land meeting all the following criteria:

1. The proposed division of land is not exempted from the subdivision standards by NCGS Section 160D-802;
2. The proposed division will not result in more than three lots (including any residual or "parent" parcel);
3. The area of land subject to the division shall be comprised of at least five acres under common ownership;
4. No land included in a limited subdivision application shall have been the subject of an limited subdivision application approval within the preceding ten years; and
5. A proposed permanent means of ingress and egress to each lot is recorded prior to or concurrent with the limited subdivision plat.
6. Divisions of land that are not consistent with these criteria shall not be considered limited subdivisions, and shall be subject to the applicable review procedure and subdivision requirements of this Ordinance.
7. Limited subdivisions are not exempted from applicable zoning district dimensional requirements.

C. APPLICATION

Limited subdivision plats shall be prepared by a professional land surveyor or professional engineer licensed to practice in North Carolina.

D. REVIEW CRITERIA

A limited subdivision plat shall be approved by the Administrator if the application complies with the following:

1. The limited subdivision plat is on a sheet or sheets suitable for recording with the Moore County Register of Deeds;
2. The limited subdivision plat is prepared and sealed by a professional land surveyor or professional engineer;
3. The limited subdivision plat complies with all applicable standards in this Ordinance and NCGS Section 47-30;
4. The limited subdivision plat includes all required certifications;

⁵⁷ This is a new section that sets out the standards for an "expedited" subdivision. The term "expedited" from the statutes has more to do with the range of allowable requirements rather than the timing of the review process. Local governments may only require a plat from an expedited subdivision, and may not require open space, infrastructure construction, or dedication.

CHAPTER 19. SUBDIVISIONS

SECTION 19.6. MINOR SUBDIVISIONS

5. The applicant has secured all required State and federal permit approvals;
6. The lots in the subdivision have been approved by the Moore County Health Department;
7. All lots in the limited subdivision comply with the applicable dimensional requirements for the zoning district where located;
8. The lots are served by a NCDOT-maintained roadway or a right-of-way constructed to and maintained in accordance with County standards; and
9. No land included in a limited subdivision application shall have been the subject of an limited subdivision application approval within the preceding ten years.
10. Limited subdivisions of land located within a special flood hazard area shall comply with the applicable standards in Chapter 17.

E. RECORDATION

1. Once a limited subdivision is approved, a signed statement of the approval shall be entered on the face of the plat by the Administrator. The limited subdivision plat may not be recorded without this certification. Failure to record the limited subdivision plat shall render the limited subdivision plat null and void.
2. Land may not be conveyed until the limited subdivision is recorded.
3. A copy of the recorded plat shall be filed with the Administrator within five business days of recording or the limited subdivision plat shall be null and void.

F. EFFECT

1. Approval of the limited subdivision plat allows the sale or conveyance of lots within the subdivision.
2. Building permits may be issued following recordation of the limited subdivision plat.
3. Physical improvements to the land may not be commenced until after recordation of the limited subdivision plat.
4. Land subject to a limited subdivision approval shall not be further subdivided as an limited subdivision within ten years of the date of the prior limited subdivision approval.
5. Expiration
6. A limited subdivision plat shall be null and void unless it is recorded in the office of the Moore County Register of Deeds within 30 days of approval.

G. APPEAL

Appeal of the Administrator's decision on a limited subdivision application shall be made to the Board of Adjustment in accordance Section 14.1, Appeal of Administrative Decision.

A. Appeal of the Administrator's decision on a limited subdivision application shall be made to the Superior Court of Moore County in accordance with NCGS Section 160D-1403.

Expedited Review. The Administrator shall render decision within 5 working days after receipt of the completed plat for the division of a tract or parcel of land in single ownership if all of the following criteria are met:

The tract or parcel to be divided is not exempted under Section 18.3 (A.2.);

No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division;

The entire area of the tract or parcel to be divided is greater than 5 acres;

After division, no more than three lots result from the division; and

All resultant lots comply with all of the following: Any zoning lot dimension size requirements, the use of the lots is in conformity with the applicable zoning requirements, and there is a permanent means of ingress and egress is recorded for each lot.

SECTION 19.6. MINOR SUBDIVISIONS

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SECTION 19.7. MAJOR SUBDIVISIONS - PRELIMINARY PLAT SUBMITTAL AND REVIEW

~~conformance of the proposed subdivision with the various development standards set forth by county and state agencies, including but not limited to those listed in Section 18.6(F).~~

~~F.A. Expedited Review. The Administrator shall render decision within 5 working days after receipt of the completed plat for the division of a tract or parcel of land in single ownership if all of the following criteria are met:~~

~~1. The tract or parcel to be divided is not exempted under Section 18.2 (A.2.)~~

~~2.1. No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division;~~

~~3.1. The entire area of the tract or parcel to be divided is greater than 5 acres;~~

~~4.1. After division, no more than three lots result from the division; and~~

~~5.1. All resultant lots comply with all of the following: Any zoning lot dimension size requirements, the use of the lots is in conformity with the applicable zoning requirements, and there is a permanent means of ingress and egress is recorded for each lot.~~

D. ACCESS REQUIREMENTS

1. A maximum of 4four lots (existing and/or new) can gain access through an existing, expanded, or new access easement.

2. Any parcel as shown on the Moore County Tax Map dated December 31, 2015 shall have no more than one (existing or future) access easement; and

3. Lots considered in a for minor subdivision status on served by a new access easement must complete the Private Road Maintenance Agreement, which shall to be recorded at the same time as the minor subdivision plat. Before the plat is approved, the Administrator shall consult with other departments and agencies, if applicable, to ensure conformance of the proposed subdivision with the various development standards set forth by eCounty and sState agencies, including but not limited to those listed in Section 18.6(F).

E. ACTION BY THE ADMINISTRATOR

1. The Administrator shall render decision on a minor subdivision application within 14 working days after receipt of the completed plat and additional documents.

G.2. If no decision is rendered by the Administrator within the required 14 day period, the applicant may refer the plat to the Subdivision Review Board for review. If the subdivision is disapproved, the Administrator shall promptly furnish the applicant with a written statement of the reasons for disapproval.

F. EXPIRATION OF PLAT APPROVAL

1. Approval of a Mminor Ssubdivision plat is contingent upon the plat being recorded within 60 days after the date the plat is signed by the Administrator.

H.2. Failure to record the approved plat and all associated documents within the 60-day period shall render the plat null and void.

G. APPEAL

Appeal of the Administrator's decision on a minor subdivision application shall be made to the Board of Adjustment in accordance Section 14.1, Appeal of Administrative Decision.

1. Appeal of the Administrator's decision on a minor subdivision application shall be made to the Superior Court of Moore County in accordance with NCCGS Section 160D-1403.

I. Final action on a Minor Subdivision plat by the Administrator may be appealed to the Board of Adjustment in accordance with Section 13.1.

18.6SECTION 19.7. MAJOR SUBDIVISIONS - PRELIMINARY PLAT SUBMITTAL AND REVIEW



MOORE FAMILY FARMS
Moore County, North Carolina
moorefamilysfarms.org

3 October 2022

SUBJECT: Review of the Proposed Unified Development Ordinance (UDO) Update.

1. Moore Family Farms, as a citizen advocacy group focused on land use in Moore County, has major concerns with the proposed update to the County's UDO as presented to the Planning Board on September 15th, 2022. The Diagnosis Memorandum, provided to the Planning Department on January 27th of 2022 (by CODEWRIGHT Planners), states the purpose of the review is "...to update Moore County's Unified Development Ordinance (UDO) for consistency with recent changes to the North Carolina General Statutes...". There are in fact, significant changes of substance unrelated to a simple update with the statutes. This fact demands a more robust effort for citizen review and input to ensure the document adheres to the Land Use Plan and is in the best interests of the County. Recommend this update only include mandatory 160D changes.

2. Since both the UDO and Land Use Plan (LUP) are up for a major revision, we recommend establishing a Citizen Steering Committee to review the documents simultaneously to ensure consistency and clarity across both documents. Codewright Planners is no doubt a reputable entity and they provided a good review of the statutory requirements for the UDO; however, they are a Durham Based company. The company president is on the Durham City Board of Adjustments, was a Planner in Cary, interned with Guilford County (Greensboro), and specializes in Urban Planning. This type of bias toward Urban development cannot be the final word on our land use documents. Moore County Land Use documents and our planning and development processes require a citizen-based review to ensure that the preservation and protection of the county's ambiance and heritage are at the forefront of any updates. Our UDO must promote the Town and Country vision of the LUP. The success of the Steering Committee in producing the 2013 Land Use Plan should be our guide in considering any updates to the UDO outside of 160D requirements. Additionally, the LUP demands a more citizen involvement in these updates. Goal #4 codifies the importance of citizen participation in the process and **one Public Hearing to review what an outside expert determines is best for the County is not sufficient.**

a. Goal 4. Provide Information and **Seek Citizen Participation**

b. Recommendation 4.1: Promote efforts to **involve and inform citizens** throughout various planning and permitting processes

c. Action 4.1.1: Continue to support and implement easy to understand guidelines to incorporate throughout governmental departments.

d. Action 4.1.2: Utilize various forms of media to help **communicate and encourage participation** in planning efforts.



e. Action 4.1.3: **Continue the Land Use Steering Committee's involvement** in providing information to citizens and receiving input from citizens as the Land Use Plan is implemented.

f. The Planning Department and contractor have been reviewing the UDO since January. The Citizens of the county have seen it since mid-September and never once asked to be part of the review.

3. The table of Contents is significantly more informative, and Chapter 1 is expanded to include many North Carolina General Statute (NCGS) references and sets the tone for the reason the UDO exists – ensure development in conformity with the LUP.

4. Section 1.4. Purpose (and any others with references to the LUP). Recommend using the same language throughout the UDO. Example. In the Purpose paragraph the UDO uses the term “generally consistent” but the 5 Findings of a Quasi-judicial review uses the term “general conformity”

5. Section 1.5 A. Jurisdiction. Confusing. Recommend rewriting. “The standards in this Ordinance shall govern all development and use of land lying within the unincorporated portions of Moore County. Land within the planning and development jurisdiction of a municipality within Moore County, may, by resolution, formally request the County to enforce this Ordinance within its jurisdiction.”

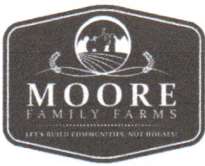
6. Section 1.5.B. Exemptions of Bona Fide Farms.

a. NCGS 160D-903 defines a Bona Fide Farm as on which: Files a Schedule F, Has a Forest Management Plan, is under PUV, or has State Sales Tax Exemption status. The subsections in 1.5 are confusing and unnecessary.

b. Agritourism is included in the NCGS as a valid agricultural activity for bona fide farm status

c. Section B4 is not accurate. The NCGS reference applies to bona fide farms in Municipal ETJs only.

7. Section 1.6.B. Consistency with LUP. This section is problematic. NCGS 160D-501 states “As a condition of adopting and applying zoning regulations under this Chapter, a local government shall adopt and reasonably maintain a comprehensive plan or land-use plan. A comprehensive plan sets forth goals, policies, and programs intended to guide the present and future physical, social, and economic development of the jurisdiction. A comprehensive or land-use plan is intended to guide coordinated, efficient, and orderly development within the planning and development regulation jurisdiction based on an analysis of present and future needs.” To state in 1.6.A and C that consistency is required, then contradict it in this section causes confusion. The UDO either is consistent with the LUP or it is not.



8. Section 1.6.D. Automatic Amendments. The Board of Commissioners (BOC) should not approve a rezoning action inconsistent with the LUP unless for a specific reason as outlined in the decision-making rubric of the LUP on page 81. While the NCGS allows for automatic amendment to a plan, there must be a well-defined and deliberative process to track and control this within the County's rezoning process. Otherwise, the LUP will 'die a death of a thousand cuts.' Another way to approach this is to allow for exceptions vice a complete amendment of the LUP. Neither the LUP nor UDO can foresee every contingency so a policy which allows for deliberative exceptions without amending the LUP may be a better course. If, after a certain number of exceptions are granted, then the BOC takes up a proposal to amend the LUP.
9. Section 2.2.C. Board of Commissioners. A minimum of 3 weeks should be required. If the maximum is 25 days, 21 is reasonable to alert affected property owners. The process to get to the point of holding a public hearing likely starts months before. While parties in favor of the actions have months to prepare, 10 days is wholly inadequate for affected property owners to prepare a counter argument. This 21-day requirement should apply to all public hearings for zoning decisions within the UDO.
10. Section 2.3.B. Planning Board. Why doesn't the Planning Board review and provide recommendations on everything the BOC has authority to approve? See Section 2.2.A. The Planning Board is the first line of Citizen review to ensure effective decision-making.
11. Section 2.5. Subdivision Review Board. The Subdivision Review Board should be required to provide a great deal more rigor when analyzing a Preliminary Plat of a Major Subdivision of land. Sufficient rigor would include, providing an analysis of alternatives, risks associated with plat approval, recommendation of additional considerations or restrictions to ensure the health, welfare, and safety of affected adjacent landowners, and some type of feedback mechanism as to how many 'minor' changes were required after approval. A written report of their findings should be included in the staff memorandum to the Planning Board and BOC.
12. Section 2.6.B.3. Administrator. Add Subdivision Review Board.
13. Section 2.6.C.8. Administrator. Authority to approve Major SD Final Plats should rest with the BOC, unless, there is a significant overhaul of the quality and scrutiny of the Preliminary Plat.
14. Section 3.4.A. Legacy Districts. Where will these legacy districts be defined in the new UDO?
15. Section 3.5 – 3.15. District Definitions. For ease of reading. Recommend making this one section "Conventional Zoning Districts Defined"



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16. Section 3.5. Rural Agriculture. Recommend expounding on this district with language from the LUP: A district intended to protect the County's rural heritage and ambiance; preserve farm and forestland, and encourage regional agriculture as a source of healthy local fruits, vegetables, and other food crops to ensure local food stability and the health of the residents. Accommodate rural commercial activities to promote agri-business, agritourism, and cottage industries. where the use, of vegetative buffers, larger lots, and the compatibility of adjacent land uses are considered to provide suitable locations for rural commerce and other rural activities. The district is also intended to enable residential development of appropriate densities in conformity with the Land Use Plan and in harmony with the surrounding area, the suitability of land, and availability of public services to ensure a healthful environment.

17. Sections 3.6, 3.7 & 3.9. Zoning Districts. Recommend expanding on the description of these districts to include defining the lot sizes and why those sizes are appropriate, i.e. ability to accommodate septic.

18. Section 4.2. Site Plans. Why the removal of required signs for a pending zoning decision?

19. Section 19.8.A. Major Subdivisions. A. Specify conformity with the Land Use Plan and the Working Lands Protection Plan.

20. Section 19.8.D. Major Subdivisions-Street Design. Require a traffic safety study and a minimum distance (2 miles) for that study. Require inclusion of growth plans for nearby municipalities and any proposed major subdivisions on shared roads.

21. Section 19.9.A. Conservation Subdivisions. Must be measured by conservation of buildable land (not open space or project area) as laid out in the NC Conservation Subdivision Handbook. A developer cannot count land which cannot be built upon such as wetlands in the minimum required open space

22. Section 19.9.D. Bonuses. The County should not be incentivizing increasing the density of Major Subdivisions in any of the unincorporated areas. Leave that to municipalities.

23. Section 19.16. Plat Requirements. A detailed Preliminary Plat is critical to ensure adequate decision-making by the BOC. The land for a major subdivision is approved for clearing and grading upon approval of the Preliminary Plat. Once the land is changed it cannot be undone so it is imperative to have as much detail as possible. The Planning Staff's recommendation of eliminating requirements in the new UDO is unacceptable. Site Plans in Chapter 4 require these items and we are planning to eliminate them for Major Subdivisions.

a. The owner of the real property is the only suitable name on the plat.

b. All proposed buildings must be shown to properly estimate the amount of impervious surfaces. This is critical for assessing impacts to water quality and runoff.



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c. A projection of the new topography of the site is also critical to understanding possible impacts to runoff on adjacent properties.

24. Section 20.2 Definitions. Recommend the following be included.

- a. Buildable Area
- b. General Conformity
- c. Development
- d. Harmony
- e. Infill
- f. Mixed Uses v Mixed Use