



**Town of Cornelius
Land Development Code Advisory Board**

**Agenda
September 25, 2017
5:30 PM**

Call To Order

Determination of Quorum

Approval of Minutes

1. July 24, 2017

Review And Recommendation On Agenda Items

1. Small Cell Wireless

Old Business

1. Code Wrap Up Recommendation

New Business

1. Change of Meeting Day

Next Meeting

Adjournment

REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: September 25, 2017

To: Land Development Advisory Board

From: Summer Smigelski, Planning Admin.

Action Requested:

Approval of Minutes

Manager's Recommendation:

Approval

ATTACHMENTS:

Name:	Description:	Type:
 07242017_Minutes_LDCAB-Draft.docx	July 24, 2017 Minutes	Backup Material

Minutes

TOWN OF CORNELIUS LDCAB

July 24, 2017

5:30 PM

Members Present

Dave Gilroy
Michael Miltich
Laura Pegram
Keith Eicher
Bob Bruton
Cheryl Crawford, Chair
Chaz Churchwell
Joe Dean

Members Absent

Norris Woody, Vice Chair
David Dunn
John Hettwer

Staff Present

Wayne Herron, Planning Director
Becky Partin, Comm. Specialist
Summer Smigelski, Admin.

VISITORS

See Sign In Sheet.

DETERMINATION OF QUORUM

Chairman Crawford called the meeting to order at 5:34 PM and determined a quorum was present.

APPROVAL OF MINUTES

The Board unanimously approved the March 14, 2017 minutes.

Motion made by Commissioner Miltich. Seconded by Mr. Eicher. All in favor, motion approved.

In Favor: Chairwoman Crawford, Mr. Dean, Mr. Eicher,
Commissioner Gilroy, Commissioner Miltich, Ms. Pegram,
Mr. Bruton, Mr. Churchwell

Opposed: None

TA 05-17 Automobile Sales District Overlay Amendment

The applicant, Archer Real Estate Holdings, LLC, requests an amendment to the Automobile Sales District Overlay to:

- Allow automobile rental as a permitted use by right within the overlay district; and
- Remove the minimum three (3) acre requirement as specified in 5.2.5 (a).
- The auto overlay district was an area identified that the Town could consider allowing these previously prohibited auto related uses under certain conditions.
- Why consider adding auto rental?
- Could be considered more of a standard commercial/retail use that citizens utilize that makes it different from auto sales.
- There is a specific tax benefit that comes directly to the Town for each car that is rented.
- The negative discussed previously is that it is still auto intensive parking on a site that is not in keeping with the more synergy related businesses that may be desired for Cornelius.
- Why use by right vs CZ?
- Are we still addressing appearance issues, as was the goal of the overlay?
- Can we add mandates for paved parking, meet landscape requirements, parking only on approved surfaces, requiring conformity for non-conforming signs?
- Architecture?

- Why use by right vs CZ?
- Are we still addressing appearance issues, as was the goal of the overlay?
- Can we add mandates for paved parking, meet landscape requirements, parking only on approved surfaces, requiring conformity for non-conforming signs?
- Architecture?

The applicant, Archer Real Estate Holdings, LLC, requests an amendment to the Automobile Sales District Overlay to:

- Allow automobile rental as a permitted use by right within the overlay district; and
- Remove the minimum three (3) acre requirement as specified in 5.2.5 (a).

After discussion, the following was agreed upon:

- The three-acre minimum would remain in the code.
- All vehicles must be parked on an approved improved surface.
- Unpaved lots should have a minimum of four inches (4") of ABC stone or similar material to prevent standing water and mud.
- Site must adhere to Type 'B' landscape requirements as specified in Chapter 9.
- All non-conforming signage must be brought into compliance.
- Any proposed automobile rental use occupying existing buildings must be reviewed by the Architectural Review Board to discuss potential architectural improvements.
- All vehicles must be parked on an approved improved surface, and may not be located on grass or in a buffer or landscaped area.

Motion made by Commissioner Miltich. Seconded by Mr. Eicher. All in favor, motion approved.

In Favor: Chairwoman Crawford, Mr. Dean, Mr. Eicher,
Commissioner Gilroy, Commissioner Miltich, Ms. Pegram,
Mr. Bruton, Mr. Churchwell

Opposed: None

TA 06-17 Election Signs

Modify Election Signs in Chapter 10 to comply with NC GS 136-32:

- Signs may be placed beginning on the 30th day before the beginning date of "one-stop" early voting;
- Signs are to be removed on the 10th day after the primary or election day.

Motion made by Commissioner Miltich to modify election signs to comply with NC General Statutes. Seconded by Mr. Eicher. All in favor, motion approved.

In Favor: Chairwoman Crawford, Mr. Dean, Mr. Eicher,
Commissioner Gilroy, Commissioner Miltich, Ms. Pegram,
Mr. Bruton, Mr. Churchwell

Opposed: None

TA 07-17 Subdivision Definition Clarification for Public Streets by NCDOT/Town

- Subdivision definition clarification for public streets by NCDOT and/or the Town.
- The public acquisition by purchase of strips of land for the widening or opening of streets; for clarity, this exception is intended to include all public acquisition by purchase (negotiated or eminent domain) of land for existing or new public streets initiated by a public entity such as NCDOT or the Town and is distinguished from a street right of way

dedication by a non-governmental entity (at no cost to the public entity) in connection with sale, lease or building development;

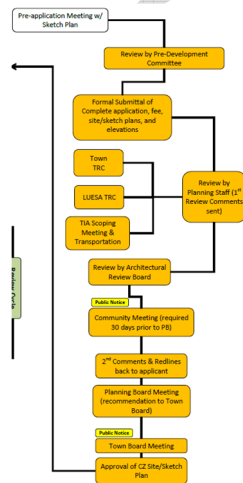
Motion made by Commissioner Miltich to except. Seconded by Ms. Pegram. All in favor, motion approved.

In Favor: Chairwoman Crawford, Mr. Dean, Mr. Eicher, Commissioner Gilroy, Commissioner Miltich, Ms. Pegram, Mr. Bruton, Mr. Churchwell

Opposed: None

Public Input for Conditional Zoning

- Staff has received citizen inquiries to study and re-evaluate the public input provided for within conditional zoning cases.
- Staff is also seeking input on the final decision schedule. Does there need to be a gap between the public hearing and the final decision.
- Currently, all meetings are open to the public and the public is welcome to attend and the meetings involved are as follows:
 - 1) Pre Development Review Committee (PDRC)
 - 2) Community Meeting (developer led)
 - 3) Architectural Review Board (ARB)
 - 4) Planning Board
 - 5) Town Board (Town sponsored and statutory required public hearing)
- Currently there is a 30 day waiting period between the community meeting and Planning Board.
- A public hearing could be added to the process between the community meeting and the Planning Board.
- Adds no additional time to process and would create no additional advertising costs
- No decisions at this new public hearing #1. Only input from public and Town Board. Planning Board Members could also be invited to listen to comments.
- Any comments could then be utilized by Planning Board and Town Board in decision making process.



- Should the final decision be made the same night as the public hearing?

- If changes are made to conditions or to any portion of a text amendment, Town Attorney is advising the decision should not be made the same night as the public hearing. The public hearing should be closed and the final decision on the conditions or text should be on the next agenda to allow for thought and review.
- If no changes to conditions or text?

Motion made by Commissioner Miltich to add a second public hearing. Seconded by Mr. Bruton. All in favor, motion approved.

In Favor: Chairwoman Crawford, Mr. Dean, Mr. Eicher, Commissioner Gilroy, Commissioner Miltich, Ms. Pegram, Mr. Bruton, Mr. Churchwell

Opposed: None

Buffer and Landscape for Perimeter of Parking Areas

Staff noted that additional research was necessary to address concerns that the currently adopted Type "B" buffer needed to be reworded.

Motion made by Commissioner Miltich to table until next meeting. Seconded by Mr. Bruton. All in favor, motion approved.

In Favor: Chairwoman Crawford, Mr. Dean, Mr. Eicher, Commissioner Gilroy, Commissioner Miltich, Ms. Pegram, Mr. Bruton, Mr. Churchwell

Opposed: None

Temporary Uses clarification

6.2.40 Temporary Uses (RP, VC, TC, HC)

- Christmas Tree Sales, Produce Stands, and similar temporary retail sales are permitted as temporary uses.
- Truck trailers and flat beds are not permitted except for short-term delivery services.
- Temporary uses utilizing a tent or similar canopy shall secure approval from the Mecklenburg County Fire Marshall's office prior to zoning approval.
- Temporary uses shall be permitted for a maximum of forty-five (45) days. An extension may be granted for an additional seven (7) days upon application to the Planning Department.
- Produce Stands may be permitted for a maximum of six (6) months but may be re-permitted upon submission of a new application.
- Temporary uses shall present proof of property owner approval prior to the issuance of a permit.

Code and Project Update

- Land Development Code
 - LDCAB completed review and recommendation in March 2017

- Planning Board started review in early 2016. Took a break and picked up again in November 2016. Planning Board should finalize their recommendation in the July/August time frame.
 - Town Board should receive a final recommendation in September.
 - Staff will recommend a three-month public review time frame before final public hearings and potential adoption in late 2017 or early 2018.
- Arts District
 - Historic Preservation Commission made presentation to Town Board on June 5th regarding historic structure inventory to be considered as Arts District plans are developed.
 - Architectural Review Board is waiting on Arts Center architect to be brought on board before creating a set of Arts District architectural guidelines
 - Henson/Foley has been retained to assist in updating the Downtown Block Master Plan. Staff will be working with the Planning Board to put a draft concept together to present to Town Board.
 - A public meeting with the draft concept plan should take place August/September time frame.
 - Following public meeting staff should have adequate information to begin work on the Arts District Overlay text amendment with LDCAB.

Election of Chair & Vice Chair

Commissioner Miltich made a motion to recommend reappointing Chair Crawford and Vice Chair Woody. Seconded by Mr. Bruton. All in favor, motion approved.

In Favor: Chairwoman Crawford, Mr. Dean, Mr. Eicher, Commissioner Gilroy, Commissioner Miltich, Ms. Pegram, Mr. Bruton, Mr. Churchwell

Opposed: None

Next Meeting

Meetings will be quarterly

Adjournment

Mr. Bruton made a motion to adjourn the meeting at 6:40 PM. Commissioner Miltich seconded. All in favor and motion approved.

In Favor: Chairwoman Crawford, Vice-Chair Woody, Mr. Dunn, Commissioner Gilroy, Commissioner Miltich, Ms. Pegram, Mr. Herron, Mr. Brolin, Mr. Bruton, Mr. Hettwer,

Opposed: None

REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: September 25, 2017

To: Land Development Code Advisory Board Members

From: Wayne Herron, AICP

Director of Planning

Action Requested:

The Land Development Code currently requires all small cell wireless antenna systems to obtain CZ zoning approval.



The State legislature, due to lobbying from the wireless industry, has now mandated that local governments must permit small cell wireless within the any public right-of-way, utilizing a standard right-of-way permit, as long as the poles are less than 50 feet in height. The Town may still dictate the appearance of the poles and may also dictate above ground versus underground wires, depending on what is provided in the area currently.

The attached amendment will bring Cornelius in line with State requirements for small cell wireless within the public right-of-way.

Manager's Recommendation:

Review and provide direction.

ATTACHMENTS:

Name:	Description:	Type:
 Ch 2 - Antenna Systems-proposed.pdf	Antenna Systems Definition - LDC Ch 2	Backup Material
 94.54 Code of Ord-proposed.pdf	Code of Ordinances - 94.54 E	Backup Material

Land Development Code

Chapter 2 – Definitions

Antenna Systems

A network of spatially separated antenna nodes or similar technology connected to a common source via a transport medium that provides or enhances wireless service within a geographic area or structure(s). ~~Antenna or similar technology elevations are generally at or below 30 feet high and node installations are compact.~~ This definition does not include cell towers, or other essential services as defined within this chapter ~~or similar transmission devices~~. Antenna systems may be within public or private street right of way or on private property and may be owned by public and/or private entities. ~~Nothing in this definition shall limit its applicability to future antenna or transmission technology that performs functionally in the same or similar manner.~~

Exclusions apply to this definition per North Carolina General Statutes, if an antenna system is located in a public right-of-way. A wireless provider may place, maintain, modify, operate, or replace associated utility poles, town utility poles, conduit, cable, or related appurtenances and facilities along, across, upon, and under any town right-of-way. The placement, maintenance, modification, operation, or replacement of utility poles and town utility poles associated with the collocation of small wireless facilities, along, across, upon, or under any town right-of-way shall be subject only to review or approval under subsection (d) of G.S. 160A-400.54 if the wireless provider meets all the following requirements:

1. Each new utility pole and each modified or replacement utility pole or town utility pole installed in the right-of-way shall not exceed 50 feet above ground level.
2. Each new small wireless facility in the right-of-way shall not extend more than 10 feet above the utility pole, town utility pole, or wireless support structure on which it is collocated.
3. Undergrounding requirements per Town of Cornelius Code of Ordinances Title IX, Section 94.54 (E).

Permitted wireless support structures shall be constructed within 24 months. Abandoned wireless support structures shall be removed within 180 days after last signal transmitted.

Nothing in this definition shall limit its applicability to future antenna or transmission technology that performs functionally in the same or similar manner.

CODE OF ORDINANCES

TITLE IX: GENERAL REGULATIONS

CHAPTER 94: STREETS AND SIDEWALKS

94.54 UTILITY FACILITY INSTALLATION, MAINTENANCE, REPAIR, AND REMOVAL.

- (A)(1) The Town Manager, or designee, is authorized to adopt, amend, and repeal standards and provisions governing the installation, maintenance, repair, and removal of utility facilities in, on, under, and over the public rights-of-way. The standards and provisions shall, among other things, specify those types of activities that:
- (a) Require a utility work permit;
 - (b) Do not require a utility work permit but must be done in accordance with the standards set forth in the standards and provisions; and
 - (c) Are exempt.
- (2) The standards and provisions shall also address emergency situations and activities.
- (B) It shall be unlawful to install, maintain, repair, or remove any utility facility in the public right-of-way in violation of the standards and provisions adopted pursuant to division (A) of this section.
- (C) It shall be unlawful to install, maintain, repair, or remove any utility facility in the public right-of-way without a utility work permit if the standards and provisions adopted pursuant to division (A) of this section require a utility work permit for such activities.
- (D) Any owner of utility facilities located in the public right-of-way shall maintain a map of such facilities and shall provide a copy of the map to the town.
- (E) Any wireless support structure shall be installed similarly with surrounding utilities. If area utilities are above ground, wireless support structures shall be installed on existing utility poles or on decorative poles, in accordance with applicable zoning regulations including aesthetics, landscaping, land-use based location priorities, structural design, setbacks, and fall zones.

(Ord. 2008-00391, passed 7-7-08) Penalty, see § 10.99

REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: September 25, 2017

To: Land Development Code Advisory Board

From: Wayne Herron, AICP

Director of Planning

Action Requested:

Staff will revisit a couple of Chapters that still have lingering issues that have not been resolved.

First, staff will present additional options for consideration with regard to street yard landscape buffers. While we thought the use of the low walls and landscape would be a good fit, we have found scenarios where a change in elevation makes the wall insignificant. Staff has researched a number of our aspirational cities from the CMP and found some common themes that we will discuss and present for consideration.

Second, we will do one last pass on Chapter 5 to make sure everyone is good with district, tables and charts for uses, setbacks, densities, etc.

Last, we will review a summary memo that staff will present to the Town Board that summarizes our work over the last 3.5 years regarding the Code and what is included for final consideration and adoption. I hope to have the memo available by mid week so you may review prior to Monday's meeting.

Manager's Recommendation:

Review and make recommendations regarding final Code edits.

ATTACHMENTS:

Name:	Description:	Type:
No Attachments Available		

REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: September 25, 2017

To: LDCAB
From: Wayne Herron, AICP
Director of Planning

Action Requested:

Staff has been asked to place a discussion item on the agenda to consider moving the meeting time from the 2nd Tuesday to the 4th Monday. Many members have noted that Mondays work much better with their schedules.

Manager's Recommendation:

Discuss and consider change of meeting day.

ATTACHMENTS:

Name:	Description:	Type:
No Attachments Available		
