

PERSON COUNTY BOARD OF COMMISSIONERS
MEMBERS PRESENT

JANUARY 6, 2020
OTHERS PRESENT

B. Ray Jeffers
David B. Newell, Sr.
Gordon Powell
Jimmy B. Clayton
Kyle W. Puryear

Heidi York, County Manager
Brenda B. Reaves, Clerk to the Board
C. Ronald Aycock, County Attorney

The Board of Commissioners for the County of Person, North Carolina, met in regular session on Monday, January 6, 2020 at 7:00pm in the Commissioners' meeting room in the Person County Office Building.

Chairman Jeffers called the meeting to order and recognized Dr. M. David Chambers, Pastor at Antioch Baptist Church to offer an invocation. Chairman Jeffers asked Commissioner Puryear to lead the group in the Pledge of Allegiance.

DISCUSSION/ADJUSTMENT/APPROVAL OF AGENDA:

A **motion** was made by Commissioner Puryear and **carried 5-0** to approve the agenda.

PUBLIC HEARING:

PETITION RZ-02-19 REQUEST BY JUSTUS REALTY, LLC FOR A REZONING/MAP AMENDMENT FROM RESIDENTIAL TO RURAL CONSERVATION ON 10 ACRES TAX MAP & PARCEL 141-2 LOCATED ON 100 PERKINS DRIVE:

A **motion** was made by Commissioner Powell and **carried 5-0** to open the duly advertised public hearing for Petition RZ-02-19, a request by Justus Realty, LLC, for a Rezoning/Map Amendment from Residential to Rural Conservation on 10 acres Tax Map & Parcel 141-2 located on 100 Perkins Drive.

Planning Director, Lori Oakley introduced County Planner, Kayla DiCristina who would be presenting this case, RZ-02-19.

Ms. DiCristina stated all state statutes and planning and zoning ordinance requirements were met for this public hearing for RZ-02-19, a request by Justus Realty, LLC for a rezoning/map amendment from Residential (R) to Rural Conservation (RC) on 10 acres (Tax Map & Parcel 141-2) located at 100 Perkins Drive.

January 6, 2020

Ms. DiCristina said the subject property currently contains a vacant industrial building that is approximately 51,000 square feet and a parking lot and is zoned Residential (R). According to Article VII Section 70 of the Person County Planning Ordinance, the purpose of this district is to provide for single-family residential uses and compatible development.

Ms. DiCristina noted the condition and land use of the surrounding properties are:

- To the West – Woodlands zoned Residential (R).
- To the North – A series of single-family dwellings Zoned Residential (R).
- To the East – Woodlands zoned Rural Conservation (RC).
- To the South – A solar farm zoned Rural Conservation (RC).

Ms. DiCristina further noted that the Person County Land Use Plan identifies the proposed site as Suburban Residential. Suburban Residential is defined as:

Residential land uses including subdivisions and manufactured home parks at densities of 1-3 dwelling units per acre; commercial, office, industrial, public/institutional uses meeting locational criteria. Locational criteria for nonresidential uses within this land use category would include frontage and access to a major State highway or secondary road, proximity to similar uses and spatial separation from non-compatible uses such as existing residential development. Land uses within this category could develop with or without public sewer.

Appendix O of the Land Use Plan lists goals and objectives for the county including the following:

2.0 Goal - Provide a strong local planning environment that supports and enhances the economic growth potential of Person County.

2.1 Objective - Promote continued economic investment through retention and expansion of existing industrial concerns and the recruitment of new industries and commercial businesses.

2.2 Objective - Encourage well-planned commercial establishments to provide necessary goods and services to area employers and residents.

Ms. DiCristina stated the applicant was requesting a general rezoning from Residential (R) to Rural Conservation (RC) and the request was consistent with the Person County Land Use Plan and abuts RC zoning to the east and south.

According to Article VII Section 70 of the Person County Planning Ordinance, the purpose of the RC district shall be to provide for only limited land use controls in areas with limited nonagricultural development.

Planning staff recommended approval of the proposed general rezoning RZ-02-19 based on the Person County Land Use Plan and the Future Land Use Map contained within the Land Use Plan. This zoning is a general rezoning request, and therefore, no conditions can be placed on the approval and no site plans can be approved with the request.

Ms. DiCristina stated the Board of Commissioners are required to make a motion on the Reasonableness and Consistency statement.

Reasonableness and Consistency Statement: The request is consistent with the Person County Land Use Plan and future planning goals of the county, is reasonable, and in the public interest as it meets several objectives listed in the Person County Land Use Plan.

Ms. DiCristina said at the Planning Board's December 12, 2019 meeting, the Board voted unanimously (6-0) to recommend approval of RZ-02-19 and also included the following Statement of Reasonableness and Consistency: The request is consistent with the Person County Land Use Plan and future planning goals of the county, is reasonable, and in the public interest as it meets several objectives listed in the Person County Land Use Plan.

Speaking in favor of the request by Justus Realty, LLC for a Rezoning/Map Amendment from Residential to Rural Conservation on 10 acres Tax Map & Parcel 141-2 located on 100 Perkins Drive was the following:

Mr. David Rush of 2315 Woodhaven Drive, Durham signed up to be available for questions, if needed.

There were no individuals appearing before the Board to speak in opposition to request by Justus Realty, LLC for a Rezoning/Map Amendment from Residential to Rural Conservation on 10 acres Tax Map & Parcel 141-2 located on 100 Perkins Drive.

A **motion** was made by Vice Chairman Newell and **carried 5-0** to close the public hearing for a request by Justus Realty, LLC for a Rezoning/Map Amendment from Residential to Rural Conservation on 10 acres Tax Map & Parcel 141-2 located on 100 Perkins Drive.

CONSIDERATION TO GRANT OR DENY REQUEST BY JUSTUS REALTY, LLC FOR A REZONING/MAP AMENDMENT FROM RESIDENTIAL TO RURAL CONSERVATION ON 10 ACRES (TAX MAP & PARCEL 141-2) LOCATED ON 100 PERKINS DRIVE:

A **motion** was made by Commissioner Clayton and **carried 5-0** to approve the request by Justus Realty, LLC for a rezoning/map amendment from Residential (R) to Rural Conservation (RC) on 10 acres (Tax Map & Parcel 141-2) located on 100 Perkins Drive and also included the following Statement of Reasonableness and Consistency: The request is consistent with the Person County Land Use Plan and future planning goals of the county, is reasonable, and in the public interest as it meets several objectives listed in the Person County Land Use Plan.

PUBLIC HEARING:

PETITION TA-03-19 REQUEST BY PLANNING STAFF TO ENACT GENERAL REVISIONS TO THE COUNTY PLANNING ORDINANCE ARTICLES VII, X, XIII, XIV, AND APPENDIX B, INCLUDING RENUMBERING AND DEFINITIONS, TO PROVIDE CONSISTENCY WITH THE NC GENERAL STATUTES AND CLARITY FOR THOSE WHO UTILIZE THIS ORDINANCE:

A **motion** was made by Commissioner Puryear and **carried 5-0** to open the duly advertised public hearing for Petition TA-03-19, a request by Planning Staff to Enact General Revisions to the County Planning Ordinance Articles VII, X, XIII, XIV, and Appendix B, including renumbering and definitions, to provide consistency with the NC General Statutes and clarity for those who utilize this ordinance.

Planning Director, Lori Oakley introduced County Planner, Kayla DiCristina who would be presenting this case, TA-03-19.

Ms. DiCristina stated all state statutes and planning and zoning ordinance requirements were met for this public hearing, TA-03-19, for a request by Planning Staff to Enact General Revisions to the County Planning Ordinance Articles VII, X, XIII, XIV, and Appendix B, including renumbering and definitions, to provide consistency with the NC General Statutes and clarity for those who utilize this ordinance.

Ms. DiCristina presented the general revisions to the County Planning Ordinance as follows:

Proposed Staff Amendments to the Person County Planning Ordinance

Staff Modifications/Additions underlined in red (text removed if ~~italicized and crossed out~~)

Modify The Findings Of Fact To Provide Consistency With Special Use Permits.

ARTICLE VII

Section 73-Procedure for Conditional Use Permits Approved by the Board of Adjustment

73-1 A Conditional Use Permit may be issued by the Person County Zoning Administrator after approval by the Board of Adjustment. The application for a Conditional Use Permit shall accompany the application for a zoning permit and/or Certificate of Occupancy/Compliance. The Zoning Administrator shall require signs to be posted on the property according to Section 160-4. The application for the Conditional Use Permit shall be filed four (4) weeks prior to the date of review by the Board of Adjustment. In approving the permit, the Board of Adjustment shall find: (Amended 8-7-00; 11/17/2003; 1/X/2020)

~~(a) That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved.~~

~~(b) That the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with comprehensive plan.~~

(1) That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved;

(2) That the use meets all required conditions and specifications;

(3) That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity, and

(4) That the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with comprehensive plan.

Provide Clarification On When Stoops, Decks, And Steps May Encroach Into Setbacks.

ARTICLE VII

Section 75-Table of Dimensional Requirements

Notes:

6. ~~Unenclosed~~ Uncovered stoops, decks and steps may extend into any required yard area no more than one half the required yard depth or width for lots without central water and sewer and with central water except no encroachment will be allowed adjacent to US or NC Highways. (Added 8/4/2008; Amended 1/X/2020).

January 6, 2020

ARTICLE X

Section 101 - Continuation of Nonconforming Uses

101-2 Any structure existing at the time of adoption of this Ordinance which does not comply with setback or yard requirements, or which exceeds height requirements, may be continued in use but shall not be enlarged or extended unless such extensions or enlargement comply with all the provisions of this ordinance. No ~~enclosed~~ uncovered portion of a building may be ~~enclosed~~ covered if the setback or height requirements are not met. (Amended 6/3/2013; 1/X/2020)

APPENDIX B

Definitions (Amended 10/2/17; 1/X/2020)

Uncovered: Not covered by a roof or other covering.

Renumber Article XIII to Prevent Overlap with Article XII

Article XIII

Section ~~130-1~~ 135 - Zoning Enforcement Officer

~~130-1~~ 135-1 The Zoning Enforcement Officer who shall be appointed by the Person County Board of Commissioners is duly charged with the enforcement of the provisions of this ordinance. If the Zoning Enforcement Officer finds that any of the provisions of this ordinance are being violated, he shall notify in writing the person(s) responsible for such violations, indicating the nature of the violation and ordering the action(s) necessary to correct it. He shall also take any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.

Section ~~131-1~~ 136 - Zoning Permit

(Amended 11-18-91, 3/17/97)

~~131-1~~ 136-1 Unless otherwise stated in this ordinance, no building, structure (a sign is considered a structure) or any part thereof designed or intended to be used for other than farm or agricultural purposes, shall be erected or altered until Zoning permit has been issued by the Zoning Administrator or authorized representative. (Amended 3/17/97)

~~131-2~~ 136-2 Each application for a Zoning Permit shall be accompanied by a plat, drawn to scale, showing accurate dimensions of the lot to be built upon, accurate dimensions of the building to be erected, its location on the lot, and such other information as may be necessary to provide for the enforcement of this ordinance. An accurate record of such applications and plats, together with a record of the action taken thereon shall be kept in the office of the Person

January 6, 2020

County Planning Department. The Zoning Enforcement Officer may waive any of these application requirements.

~~131-3-136-3~~ 136-3 Zoning Permit Application Issuance. Any zoning permit shall become invalid unless the work authorized by it shall have been commenced within six (6) months of the date of issue, or if the work authorized by it is suspended or abandoned for a period of one (1) year. The zoning permit shall become invalid if the work authorized by it is not completed within one (1) year of the date of issuance of the zoning permit. Application may be made to the Zoning Administrator for a new zoning permit to replace any permit which becomes invalid under this section. In the event a new permit is denied by the Zoning Administrator, an appeal may be made to the Board of Adjustment.

~~131-4-136-4~~ 136-4 At the applicant's discretion, he or she may also submit a site specific development plan and make application to the Planning Board for a vested right status for the proposed use or development project. Vested right status may be applied for jointly with the zoning permit application or may be requested a later date.

~~131-4.1-136-4.1~~ 136-4.1 Vested right status shall guarantee the right to develop according to the provisions of the granted zoning permit and approved site specific development plan for a period up to and including two (2) years from the date of approval. Any guaranteed right to develop period greater than two (2) years and up to a maximum of five (5) years shall be at the discretion of the Planning Board.

~~131-4.2-136-4.2~~ 136-4.2 Vested right status for the proposed use or development project shall be granted only after a public hearing is conducted by the Planning Board. Notification and advertisement of the public hearing shall occur in the same manner as is designated for a zoning change in this ordinance.

~~131-4.3-136-4.3~~ 136-4.3 Approval of a site specific development plan and the granting of vested right status shall not occur under circumstances where a variance from the provisions of this ordinance is necessary except in cases where such variance has been previously applied for and granted.

~~131-4.4-136-4.4~~ 136-4.4 The vested right granted under the approval of a site specific development plan is not a personal right, but shall attach to and run with the applicable property. All development, whether by the original applicant and/or landowner and/or their successors, shall occur as originally designated and approved on the site specific development plan unless modifications are submitted to and approved by the Planning Board.

~~131-4.5-136-4.5~~ 136-4.5 The establishment of a vested right under an approved site specific development plan shall not preclude the application of ordinances or regulations that are general in nature, are applicable to all property in the county subject to land use regulation, and have no effect on the allowable type or intensity of use for the subject property. Otherwise applicable new or amended regulations shall become effective for the subject property upon the expiration or termination of the vested right.

~~131-4.6~~ 136-4.6 The establishment of a vested right under an approved site specific development plan shall preclude the expiration of a building permit and such building permit shall remain valid until the expiration or termination of the vested right to develop period.

A vested right established by an approved site specific development plan shall terminate:

- a. at the end of the applicable vesting period in respect to buildings and uses for which no valid building permit application has been filed; or
- b. with the written consent of the applicant and/or landowner; or
- c. upon findings by the Planning Board after a public hearing in which reasonable notice and advertisement are given, that natural or manmade hazards at or near the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as originally approved in the site specific development plan; or
- d. upon payment to the affected applicant and/or landowner of compensation for all costs, expenses, and other losses incurred by the same including all fees paid in consideration of financing, and all architectural, planning, marketing, legal and other consultant's fees incurred after approval by the Planning Board. Compensation shall not include any diminution in the value of the subject property; or
- e. upon findings by the Planning Board, after a public hearing in which reasonable notice and advertisement are given, that the landowner, his successors, or any representatives intentionally supplied inaccurate information or made material misrepresentations which alter the original approval of the Zoning Enforcement Officer of the site specific development plan; or
- f. upon changes in state or federal law or regulation that preclude the proposed use or development project as originally approved in the site specific development plan. The owner and/or applicant shall have the opportunity in this instance to submit appropriate applicable modifications to the original site specific development plan for the Planning Board's approval in order to allow the vested rights status for the use or development project to remain valid.

~~131-4.7~~ 136-4.7 Nothing in this ordinance shall require the Planning Board to grant a vested right to develop in conjunction with the approval of a zoning permit. Nothing shall preclude subsequent reviews and approvals of site specific development plans by the Board to ensure compliance with the terms and conditions of the original approval, provided such reviews and approvals are not inconsistent with the original approval. Nothing in this ordinance shall prohibit the Planning Board from the revocation of the original approval or from other remedies from failure to comply with the applicable terms and conditions of all approvals or of this ordinance.

January 6, 2020

Section ~~132~~ 137 - Permit of Occupancy/Compliance

~~132-1~~ 137-1 No land shall be used or occupied, except for farm purposes, and no building or structure erected or altered shall be used or changed in use for other than farm purposes until a Permit of Occupancy/Compliance has been issued by the Zoning Enforcement Officer stating that the building and/or the proposed use complies with the provisions of this ordinance. A permit of the same shall be required for the purpose of changing any existing use as well as for maintaining, reviewing, changing or extending any nonconforming use. The aforementioned

Permit shall be applied for coincidentally with the application for a Zoning Permit and shall be issued within ten (10) working days after notification to the Zoning Enforcement Officer of completion of the erection or alterations of such building or part in conformity with the provisions of this ordinance. A record of all such certificates shall be kept on file in the office of the Zoning Enforcement Officer(s), and copies shall be furnished, upon request, to any person having a proprietary or tenancy interest in the building or land.

~~132-2~~ 137-2 No gas, electric, or water company or municipal departments shall provide utility services or install a meter at a construction site unless a Zoning Permit has been issued for a building or use at that location. No gas, electric, or water company or municipal department shall provide utility service or install a meter in any building or premise or part thereof hereafter, created, erected, changed, converted, altered or enlarged, wholly or part in its use or structure unless a Certificate of Compliance shall have been issued thereof.

Section ~~133~~ 138 - Right of Appeal

~~133-1~~ 138-1 If the Zoning and/or Occupancy/Compliance Certificates are denied, the applicant may appeal the action of the Zoning Enforcement Officer to the Board of Adjustment.

Revise The Quorum Needed For The Board Of Adjustment To Approve Variances and Other Quasi-Judicial Matters And For The Board Of Adjustment To Reverse Any Order, Requirement, Decision, Or Determination Of An Administration Officer Charged With The Enforcement Of Any Provision Of This Ordinance.

ARTICLE XIV

Section 142 - Powers and Duties of the Board of Adjustment

142-1(g) ~~The Board of Adjustment, by a vote of four fifths of its members, may approve conditional use permits, vested rights status, variances and interpretations of the ordinance.~~ (Amended 11/18/91)

The Board of Adjustment, by a vote of four-fifths of its members, may approve variances. The Board of Adjustment, by a majority vote of its members, may approve any other quasi-judicial matter, including

conditional use permits, vested rights status in conjunction with a conditional use permit, and interpretations of the ordinance (Amended 11/18/91; 1/X/2020).

Section 143 - Board of Adjustment Procedures

- 143-4 The Board of Adjustment, by a ~~vote of four-fifths~~ majority vote of its members, may reverse any order, requirement, decision, or determination of an administration officer charged with the enforcement of any provision of this ordinance (Amended 1/X/2020).

Vice Chairman Newell questioned Section 136-4.1 and read the section as follows: Vested right status shall guarantee the right to develop according to the provisions of the granted zoning permit and approved site specific development plan for a period up to and including two (2) years from the date of approval. Any guaranteed right to develop period greater than two (2) years and up to a maximum of five (5) years shall be at the discretion of the Planning Board. Both the Planning staff as well as the County Attorney stated they would like time to review the statute more thoroughly. Ms. DiCristina stated there were no modifications proposed for this section, only the highlighted renumbering.

Ms. DiCristina stated the proposed amendments to the Planning Ordinance intend to provide consistency with state statutes and clarity for those who utilize this ordinance.

Ms. DiCristina explained the amendments requested to Article VII modify the findings of fact required for conditional use permits. The proposed findings of fact for conditional use permits are identical to those that are used to grant special use permits per the Person County Planning Ordinance. The proposed findings of fact for conditional use permits will provide clarity and consistency with the special use permit findings and ensure that adequate evidence is presented for conditional use permits.

Ms. DiCristina noted the amendments to Articles VII, X, and Appendix B amend and add language to clarify when stoops, decks, and steps may encroach into required setbacks as well as the amendments requested to Article XIII ensure consistency by renumbering existing sections to correct current discrepancies.

Ms. DiCristina said the amendments requested to Article XIV modify voting requirements for the Board of Adjustment in regards to variances, other quasi-judicial matters, and to reverse any order, requirement, decision, or determination of an administration officer charged with the enforcement of any provision of the Planning Ordinance to align with current legislation.

Planning Staff recommended approval of TA-03-19. Staff is requesting minor amendments to Article VII, X, XIII, XIV, and Appendix B, including renumbering and

definitions. This will provide consistency with the North Carolina General Statutes and clarity for those who utilize this ordinance.

The text amendment request is consistent with the Person County Land Use Plan and future planning goals of the county, is reasonable, and in the public interest as it meets several objectives listed in the Person County Land Use Plan.

Ms. DiCristina noted the Planning Board, at its December 12, 2019 meeting, voted 6-0 to approve the requested text amendment TA-03-19 as proposed and also included the following Statement of Reasonableness and Consistency: The request is consistent with the Person County Land Use Plan and future planning goals of the county, is reasonable, and in the public interest as it meets several objectives listed in the Person County Land Use Plan.

There were no individuals appearing before the Board to speak in favor of or in opposition to the request by Planning Staff to Enact General Revisions to the County Planning Ordinance Articles VII, X, XIII, XIV, and Appendix B, including renumbering and definitions, to provide consistency with the NC General Statutes and clarity for those who utilize this ordinance.

A **motion** was made by Vice Chairman Newell and **carried 5-0** to close the public hearing for Request by Planning Staff to Enact General Revisions to the County Planning Ordinance Articles VII, X, XIII, XIV, and Appendix B, including renumbering and definitions, to provide consistency with the NC General Statutes and clarity for those who utilize this ordinance.

CONSIDERATION TO GRANT OR DENY REQUEST BY PLANNING STAFF TO ENACT GENERAL REVISIONS TO THE COUNTY PLANNING ORDINANCE ARTICLES VII, X, XIII, XIV, AND APPENDIX B, INCLUDING RENUMBERING AND DEFINITIONS, TO PROVIDE CONSISTENCY WITH THE NC GENERAL STATUTES AND CLARITY FOR THOSE WHO UTILIZE THIS ORDINANCE:

A **motion** was made by Commissioner Powell and **carried 5-0** to approve the requested text amendments, as presented in TA-03-19, to enact General Revisions to the County Planning Ordinance Articles VII, X, XIII, XIV, and Appendix B, including renumbering and definitions to provide consistency with the NC General Statutes and clarity for those who utilize this ordinance, and also included the following Statement of Reasonableness and Consistency: The request is consistent with the Person County Land Use Plan and future planning goals of the county, is reasonable, and in the public interest as it meets several objectives listed in the Person County Land Use Plan.

PUBLIC HEARING:

PETITION TA-04-19 REQUEST BY PLANNING STAFF TO AMEND ARTICLE 2, DEFINITIONS AND ARTICLE 6 LEGAL STATUS PROVISIONS OF THE FLOOD DAMAGE PREVENTION ORDINANCE OF PERSON COUNTY IN ORDER TO REVISE TWO INCORRECT DATES:

A **motion** was made by Commissioner Puryear and **carried 5-0** to open the duly advertised public hearing for Petition TA-04-19, a request by Planning Staff to amend Article 2, Definitions and Article 6 Legal Status Provisions of the Flood Damage Prevention Ordinance of Person County in order to revise two incorrect dates.

Lori Oakley, Planning Director stated all state statutes and planning and zoning ordinance requirements were met for this public hearing for TA-04-19 for a request by the Person County Planning Department staff to amend Article 2 *Definitions* and Article 6 *Legal Status Provisions* of the Flood Damage Prevention Ordinance of Person County in order to revise two incorrect dates.

Ms. Oakley stated that during the revision to the Flood Damage Prevention Ordinance of Person County a few months ago, Ms. Oakley said there were two typos concerning the adoption date of the ordinance that were not discovered until after the Ordinance was amended and adopted. This revision will correct those minor errors.

Planning Staff recommended approval of TA-04-19 in order to revise two incorrect dates.

Ms. Oakley stated the Planning Board, at its December 12, 2019 meeting, voted 6-0 to approve the requested text amendment, TA-04-19 as proposed. and also included the following Statement of Reasonableness and Consistency: this text amendment request is consistent with the Comprehensive Plan and future planning goals of Person County. It is reasonable and in the public interest as it will provide clear and concise regulations in the Flood Damage Prevention Ordinance and ensure Person County remains compliant with federal guidelines and enable at-risk properties to participate in the National Flood Insurance Program.

Ms. Oakley presented the corrections to the Board as follows:

REQUESTED FLOOD DAMAGE PREVENTION ORDINANCE CHANGES

ARTICLE 2. DEFINITIONS.

Existing building and existing structure” means any building and/or structure for which the “start of construction” commenced before ~~September 14,~~ February 19, 1990, the initial effective date of the floodplain management regulations adopted by the community.

ARTICLE 6. LEGAL STATUS PROVISIONS.

SECTION A. EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION ORDINANCE.

This ordinance in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted February 19, 1990 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of Person County enacted on February ~~18~~ 19, 1990, as amended, which are not reenacted herein are repealed.

Ms. Oakley request the Board to vote to approve, approve with modifications or deny the requested text amendment. The Board also needs to address the Statement of Reasonableness and Consistency required by the NC General Statutes.

There were no individuals appearing before the Board to speak in favor of or in opposition to the request by Planning Staff to amend Article 2, Definitions and Article 6 Legal Status Provisions of the Flood Damage Prevention Ordinance of Person County in order to revise two incorrect dates.

A **motion** was made by Vice Chairman Newell and **carried 5-0** to close the public hearing for a request by Planning Staff to amend Article 2, Definitions and Article 6 Legal Status Provisions of the Flood Damage Prevention Ordinance of Person County in order to revise two incorrect dates.

CONSIDERATION TO GRANT OR DENY A REQUEST BY PLANNING STAFF TO AMEND ARTICLE 2, DEFINITIONS AND ARTICLE 6 LEGAL STATUS PROVISIONS OF THE FLOOD DAMAGE PREVENTION ORDINANCE OF PERSON COUNTY IN ORDER TO REVISE TWO INCORRECT DATES:

A **motion** was made by Commissioner Powell and **carried 5-0** to approve the request by Planning Staff to Amend Article 2, as presented in TA-04-19, Article 2 Definitions and Article 6 Legal Status Provisions of the Flood Damage Prevention Ordinance of Person County to correct two dates with the following Statement of Reasonableness and Consistency: this text amendment request is consistent with the Comprehensive Plan and future planning goals of Person County. It is reasonable and in the public interest as it will provide clear and concise regulations in the Flood Damage Prevention Ordinance and ensure Person County remains compliant with federal guidelines and enable at-risk properties to participate in the National Flood Insurance Program.

Vice Chairman Newell asked if the changes made paired up with the City's ordinance. Ms. Oakley responded that the City UDO was only two years old compared to the County's 20 year old ordinance therefore they would not match however, the County ordinance met state and FEMA requirements.

INFORMAL COMMENTS:

There were no comments from the public.

DISCUSSION/ADJUSTMENT/APPROVAL OF CONSENT AGENDA:

A **motion** was made by Vice Chairman Newell and **carried 5-0** to approve the Consent Agenda with the following items:

- A. Budget Amendment # 12,
- B. Proclamation In Support of National Radon Action Month in Person County,
- C. Resolution Supporting 100th Anniversary of the 19th Amendment,
- D. Fiscal Year 2020 ROAP allocations for PATS, Senior Center and Person Industries, and
- E. Certificate of Clerk re: Approval of Tax-Exempt Loan new fire truck for Triple Springs Volunteer Fire Department from Roxboro Savings Bank

UNFINISHED BUSINESS:

FIRE MARSHAL POSITION:

County Manager, Heidi York stated at the Board's December 2, 2019 meeting, there was agreement from the Board to reinstate a full-time Fire Marshal position as requested by the Volunteer Fire Chiefs. Staff was directed to include the supervision of the Fire Inspector's work under the Fire Marshal position and bring back associated costs for implementing this position. As previously presented, the County currently contracts with the City of Roxboro for fire investigation services. Ms. York recommended that this contract remain in place at this time, with the understanding that the new Fire Marshal position will participate as an investigator in partnership with the City Fire team.

Ms. York said the job description and salary have been reviewed and updated, along with some analysis of start-up costs associated with the position. This position would be classified as a Grade 68 exempt from overtime with an annual starting salary of \$47,075. For the current Fiscal Year, if the position were filled on February 1, 2020 the salary and benefits costs would be \$28,262. The start-up costs associated with this position including a vehicle, supplies, equipment, etc. are estimated at \$69,500 for a total needed from contingency of \$97,762. Currently the Contingency Fund has \$131,000 available. A full fiscal year's cost for salary and benefits is \$67,828 for the Fire Marshal position. Adding the Fire Inspector salary and benefits (\$64,000), along with all other annual operating costs, the FY21 total operating budget would be about \$185,116.

Chairman Jeffers asked staff for the unallocated funds in the Fire Tax Fund. Interim Assistant County Manager, Laura Jensen reported there was \$30,000 of unallocated funding in the Fire Tax Fund as well as \$96,348 that was allocated to the Woodsdale Volunteer Fire Department (WVFD). EMS Director, Doug Young added approximately \$25,000 of the \$96,348 has been spent for WVFD day to day operations at this time. Ms. York stated her recommended funding source for the Fire Marshal position was Contingency until such time the WVFD transition took place.

A **motion** was made by Chairman Jeffers and **carried 5-0** to allocate \$30,000 from the Fire Tax Fund and supplement the remainder to fund the Fire Marshal position from the Contingency Fund.

Vice Chairman Newell asked if the Fire Marshal job description included enforcement authority to which Ms. York stated the Fire Marshal would supervise the Fire Inspector position and by state statute authority to enforce local and state fire ordinance and codes.

NEW BUSINESS:

TELAMON CORP SUBMISSION OF FISCAL YEAR 2020-2021 COMMUNITY SERVICES BLOCK GRANT APPLICATION:

Ms. Jessica Schneider, Workforce Development Specialist for the Community Services Block Grant (CSBG) Project PRIDE (Personal Responsibility in Daily Endeavors) presented to the Board the Fiscal Year 2020-2021 CSBG application for consideration.

Telamon Corporation is a designation Community Action Agency for Caswell, Person and Rockingham counties and has received an allocation for Fiscal Year 2020/2021 broken out into the following amounts per county: Caswell County \$52,814; Person County \$75,456; and Rockingham County \$187,651, totaling \$315,921 for the three-county service area.

State of North Carolina Administrative code requires that the CSBG application be presented for review and comment to each county Board of Commissioners within 30 days of submission. The application narrative is due February 14, 2020.

Ms. Schneider stated the board packet included the proposed outcomes for service area counties. Local funding will not be required to match the grant dollars allocated to these counties. Please note that this application is in the review state. Each county's Board of Commission completed submission documentation will be added to final proposal.

Fiscal Year 2020-2021 will be our fourth full year of operation and we thank you for your continued support.

Chairman Jeffers stated that he served as the elected official on the CSGG board and recommended approval of the grant application

A **motion** was made by Chairman Jeffers and **carried 5-0** to approve Telamon Corp submission of Fiscal Year 2020-2021 Community Services Block Grant Application, as presented.

January 6, 2020

AUTHORIZATION TO EXECUTE A 20-YEAR INDEFEASIBLE RIGHT TO USE AGREEMENT FOR TWO STRANDS OF SURPLUS DARK FIBER WITH RIVERSTREET, INC:

IT Director, Chris Puryear stated at the Board's September 23, 2019 meeting, the Person County Commissioners adopted a Resolution Declaring Two Strands of Fiber Surplus Property and authorized a published Notice of Intent to enter into a Lease Agreement per NCGS 160A-272 (a1).

Mr. Puryear noted the original grant agreement with Person County (executed on March 30th, 2017) provides NC Wireless access to two strands of fiber at no charge until the grant agreement expires (March 30, 2021) and as per previous discussions with the Board of Commissioners, Riverstreet will pay a one-time lease fee of \$750 per strand mile for the lease along with an annual fee of \$175 per linear mile for maintenance of the fiber. Mr. Puryear further noted that Riverstreet will pay the County \$1,686.90 (includes lease fee and maintenance) per month for 84 months beginning 4/1/2021 through 3/30/2028. After 3/30/2028, Riverstreet will pay \$9,100 annually for maintenance of the dark fiber. Mr. Puryear stated this 84-month term extends the original maintenance period for two years and nets the County \$18,200 more in revenue for accepting monthly payments.

Mr. Puryear requested the Board to authorize execution of the Indefeasible Right to Use Agreement for Two Strands of Surplus Dark Fiber with Riverstreet Inc.

Commissioner Puryear asked the County Attorney if he had reviewed and approved the 20-year Indefeasible Right to Use Agreement to which he responded affirmatively.

A **motion** was made by Commissioner Puryear and **carried 5-0** to approve execution of the Indefeasible Right to Use Agreement for Two Strands of Surplus Dark Fiber with Riverstreet Inc., as presented.

By reference, the 20-year Indefeasible Right to Use Agreement for Two Strands of Surplus Dark Fiber, is incorporated into the minutes by reference and shall be filed in the Office of the Clerk to the Board.

**RESOLUTION AMENDING THE PERSON COUNTY AIRPORT COMMISSION
FOR A CHANGE IN MEMBERSHIP:**

Chairman Jeffers presented a Resolution Amending the Person County Airport Commission for a Change in Membership. He noted a verbal recommendation from the Airport Commission Chairman, Henry Newell on behalf of the members of the Airport Commission to reduce the voting membership of the Airport Commission from six (6) members to five (5) members.

To provide some background, Chairman Jeffers said a resolution adopting such membership was adopted in August 2010 and the Board of Commissioners, in January 2011 took action to add an additional citizen-at-large seat. The resolution before the Board rescinds that action for the additional citizen-at-large seat and ratifies and reenacts the 2010 resolution.

Chairman Jeffers requested Board consideration to adopt a Resolution Amending the Person County Airport Commission for a Change in Membership.

A **motion** was made by Commissioner Clayton and **carried 5-0** to adopt a Resolution Amending the Person County Airport for a Change in Membership to rescind action for the additional citizen-at-large seat and ratify and reenact the 2010 resolution, as presented.

**A RESOLUTION AMENDING THE
PERSON COUNTY AIRPORT COMMISSION
FOR A CHANGE IN MEMBERSHIP**

Whereas, the Person County Board of Commissioners established the Person County Airport Commission; and

Whereas, the latest revision of a Resolution Amending the Person County Airport Commission was adopted and effectuated on August 16, 2010; and

Whereas, the Board of County Commissioners changed the membership by action at its January 4, 2011 meeting to add an additional citizen at-large seat taking the voting membership from five (5) to six (6) members; and

Whereas, the Board of Commissioners at its meeting on January 6, 2020 desires to rescind the additional citizen-at-large seat that was added on January 4, 2011 to thereby confirm and reenact the Resolution adopted on August 16, 2010 including the provision to provide for a commission of five (5) members.


Now Therefore Be It Resolved that the Person County Board of Commissioners hereby ratifies and reenacts the 2010 Resolution in its entirety.

Adopted, this, the 6th day of January 2020.




B. Ray Jeffers, Chairman
Person County Board of Commissioners

Attest:


Brenda B. Reaves, NCMCC, MMC
Clerk of Board

January 6, 2020

2020 COMMISSIONER COMMITTEE ASSIGNMENTS:

Chairman Jeffers presented the 2020 Commissioner Committee Assignments noting he asked Commissioner Puryear to take on the Home & Community Care Block Grant Advisory Committee. Commissioner Powell noted there was a change on the Economic Development Commission to which Chairman Jeffers stated he was exercising his right as Chairman to sit on the EDC. Commissioner Puryear asked the County Attorney about the EDC officers noting Commissioner Powell has previously served as the EDC's Chairman. County Attorney, Ron Aycock stated the EDC elects its own officers and until such time of a new Chairman being elected by its members, the existing EDC Vice Chairman would serve as the EDC's presiding officer.

A **motion** was made by Chairman Jeffers and **carried 5-0** to approve the 2020 Commissioner Committee Assignments, as presented.

2020 COMMITTEE ASSIGNMENTS

Chairman B. Ray Jeffers

Board of Equalization and Review alternate
Community Services Block Grant Advisory Council
Economic Development Commission
Extension Advisory Committee
Environmental Issues Advisory Committee
Fire Chief's Association
NACo Board of Directors
NC Leadership Forum
Person County Partnership for Children
Recreation Advisory Board
Social Services Board

Vice Chairman David Newell, Sr.

Animal Control Advisory Committee
Board of Equalization and Review
Health Board
Library Board
Person Area Transportation System Board
Person County Senior Center Advisory Council

Commissioner Gordon Powell

Airport Commission
Cardinal Innovations Board of Directors
City/County Comprehensive Land Use Plan Steering Committee
Juvenile Crime Prevention Council
Region K Workforce Development Board
Research Triangle Regional Partnership

Commissioner Jimmy B. Clayton

COG Board
Kerr Tar RPO – TAC
NACo Environmental Committee
NCACC Environmental Committee
Mental Health Community Advisory Board
Upper Neuse River Basin Association

Commissioner Kyle W. Puryear

Board of Equalization and Review
E-911 Committee
Home & Community Care Block Grant Adv. Committee
Local Emergency Planning Committee

January 6, 2020

APPOINTMENTS TO BOARDS AND COMMITTEES:

Clerk to the Board, Brenda Reaves requested Board nomination, as deemed appropriate, of interested citizen applications submitted for consideration for appointment.

The Person County Board of Commissioners solicited volunteers to fill positions on the following boards, commissions, authorities, and committees through advertisement in the *Courier-Times* edition dated November 13, 2019 and on the county website with notice to submit applications by the deadline on December 10, 2019.

Adult Care Home Community Advisory Committee

1-Year Initial Term; 3-Year Reappointment: 1 position available – No applications.

Airport Commission

3-Year Term:

1 citizen at-large positions:

1) John Dustin Wall requested reappointment

1 position for a licensed pilot that flies at least monthly, holds current FAA pilot and flight medical certificates (light sports pilot and student FAA licenses do not qualify)

1) Steven Watkins requested reappointment

A **motion** was made by Commissioner Powell and **carried 5-0** to reappoint John Dustin Wall (at-large) and Steven Watkins (pilot), each for a 3-year term to the Airport Commission.

Board of Adjustment

3-Year Term:

1 position for a citizen at-large

1) Patricia (PJ) Gentry requested reappointment

1 position for an unexpired term to 6/30/2020

1) Joey Thomas Whitt requested appointment

1 position for an alternate – No applications.

A **motion** was made by Commissioner Puryear and **carried 5-0** to reappoint Patricia (PJ) Gentry for a 3-year term and appoint Joey Thomas Whitt to fulfill an unexpired term to 6/30/2020 on the Board of Adjustment.

Environmental Issues Advisory Committee

3-Year Term: 1 position for a citizen residing in each of the following townships:

Bushy Fork and Holloway, and 1 position for Mt. Tirzah with an unexpired term to 6/30/20

– No applications.

Industrial Facilities and Pollution Control Financing Authority

6-Year Term:

5 positions available

1 position for an unexpired term to 6/30/25

- 1) Joey Thomas Whitt requested appointment

Ms. Reaves told the group that Mr. Joey Thomas Whitt could not be considered for both the Board of Adjustment and the Industrial Facilities and Pollution Control Financing Authority because both exercise independent decision-making power rather than being merely advisory capacity. In order not to violate the dual office holding law, the Board of Commissioners elected to appoint Mr. Whitt to the Board of Adjustment.

Juvenile Crime Prevention Council

1-Year Initial Term: 2-Year Reappointment

1 position available for a citizen under the age of 18 serving on the State Youth Council:

1 position available for a citizen under the age of 18:

3 positions for citizens at-large (1 for an unexpired term to 6/30/21):

Unexpired term for the Health Director or designee: No applications for the above seats.

1 designated seat for:

- | | | |
|-----------------------------|----|---|
| The Sheriff: | 1) | Sgt. Cheryl Hughes requested reappointment, |
| Chief Court Counselor: | 1) | David Carter requested reappointment, |
| Social Services Director: | 1) | Tony C. Lee requested appointment, |
| Chief District Court Judge: | 1) | No applications. |
| Parks & Recreation : | 1) | John Hill requested reappointment |

A **motion** was made by Commissioner Puryear and **carried 5-0** to reappoint Sgt. Cheryl Hughes (Sheriff's designee), David Carter (Chief Court Counselor), John Hill (Parks & Recreation), and appoint Tony Lee (Social Services Director designee) to the Juvenile Crime Prevention Council, each for a 2-year term.

Kerr Tar Regional Council of Government Board

2 citizen-at-large alternate positions representing the private sector business or the retired community for an unspecified term. No applications.

Nursing Home Advisory Committee

1-Year Initial Term: 3-Year Reappointment; 3 positions available – No applications.

Transportation Advisory Board

3-Year Term;

1 position for a citizen at-large - No applications.

1 position for an unexpired term to 12/31/2021 representing the Health Department:

- 1) LeighAnn Creson requested appointment

A **motion** was made by Commissioner Clayton and **carried 5-0** to appoint LeighAnn Creson to the Transportation Advisory Board to fulfill an unexpired term to 12/31/2021 as the Health Dept. representative.

Tourism Development Authority

3-Year Term:

1 position available for a citizen at-large:

- 1) Norwood Walker requested reappointment,
- 2) Linda Poindexter Long requested appointment

1 position for a representative of a hotel/motel/B&B/lodging

- 1) Dr. Claudia Berryhill requested reappointment

A **motion** was made by Commissioner Clayton and **carried 5-0** to reappoint Dr. Claudia Berryhill (hotel/motel/B&B/lodging representative) and to appoint Linda Poindexter Long (citizen at-large), each for a 3-year term.

Workforce Development Board

1-Year Initial Term; 2-Year Reappointment

1 position available for a member or an officer of organized labor,

1 position available for a business representative

No applications for the above seats.

CHAIRMAN'S REPORT:

Chairman Jeffers reported on the following:

- A) A complaint for a public nuisance related to light pollution; he asked the County Attorney if there were any regulations in the county ordinances for such to which he said there are no regulations on the local level however, the residents might look into state law related to trespassing noting the county would not have authority for enforcement.
- B) Asked staff to review rules around cell phones allowed inside the Courthouse noting he had received several inquiries.

MANAGER'S REPORT:

County Manager, Heidi York reported the following:

- a) Economic Development Commission would be holding a special-called meeting on January 7, 2020 starting at 12:00noon.
- b) The results from the YMCA Study would be shared with the Board at its upcoming retreat scheduled for February 3, 2020.

COMMISSIONER REPORT/COMMENTS:

Commissioner Powell had no report.

Commissioner Clayton gave his fellow commissioners an invitation to join the Upper Neuse River Basin Association for a Regulatory Forum on February 12, 2020 at the Falls Lake State Recreation Area's Rolling View Community Building starting at 12:30pm.

Commissioner Puryear had no report.

Vice Chairman Newell commented on the City of Roxboro's desire to preserve the integrity of the water supply near the state permitted quarry proposed in Caswell County.

ADJOURNMENT:

A **motion** was made by Vice Chairman Newell and **carried 5-0** to adjourn the meeting at 7:52pm.

Brenda B. Reaves
Clerk to the Board

B. Ray Jeffers
Chairman