

**Planning Board Meeting Minutes  
February 8, 2010**

The Siler City Planning Board met on Monday, February 8, 2010 at 7:00 p.m. Ethel Coble called the meeting to order and gave the invocation. Ms. Coble asked for a motion to approve the minutes of November 9, 2009. *Motion made by Harold Hart, Richard Caviness seconded, followed by unanimous consent.*

**Members Present**

Ethel Coble, Chair  
Harold Hart, Vice Chair  
Richard Caviness  
Mickey Pore  
Dan McMasters  
Vicky Tobar  
JP Joyner  
Patty Poe, Alternate  
Dacia Hayes, Alternate

**Members Absent**

**Staff Present**

Jack Meadows, Planning Director  
Joel J. Brower, Town Manager  
William C. Morgan, Town Attorney  
Dee Lee Thompkins, Administrative Support Specialist

**BUSINESS SESSION**

**Agenda Item IV**

**UDO Text Amendments**

Town Attorney William Morgan explained that Mr. Meadows, Mr. Brower and himself have been developing a list of proposed amendments to the UDO for the Board to consider. He stated that they were bringing the items to the board prior to initiating the formal public hearing process so that the Board can offer guidance to them as to what items they want to move forward on. Mr. Morgan suggested that the board may want to add to, subtract from or change this list of items. He explained that these proposed amendments are due to recent requests from Board members, obvious errors and omissions, including grammatical errors or typos, amendments to the North Carolina General Statutes affecting municipalities and our experience in administering the UDO. Mr. Morgan said the thought was that we could run a number of these changes through, utilizing only one public hearing process, particularly since many are minor.

Mr. Morgan explained that the amending ordinance the ordinance document that identifies the various amendments being made to various sections of the UDO is arranged into "Sections" i.e., Section 1, Section 2, and so forth. He stated that the new language is underlined and deleted current text is stricken through. He said that he will briefly discuss each Section of the amending ordinance, by describing why the amendment therein is needed and/or being recommended by Staff.

Mr. Morgan stated that Section 1. Section 50 of the UDO contains a list of reasons the Board may deny a conditional use permit (or the Board of Adjustment may deny a special use permit) even if a proposal meets all of the requirements of the UDO. I believe that numbers three and four were inadvertently omitted when the UDO was adopted. Most ordinances provide for denial of projects that are not "in harmony with the area in which it is to be located" or not "in conformity with the land-use plan, thoroughfare plan, or other plan officially adopted by the town board." Also, Section 55(a) (which deals with reasonable conditions the Board may place on permits), is supposed to correspond to Section 50 and while it contains reference to "harmony" and "officially adopted plans" as numbers three and four respectively, Section 50 is conspicuously missing these two items. Thus, we recommend amending Section 50 to add these two additional ways that the Board can, where appropriate, deny projects that are not in harmony with the neighborhood in which they are proposed or inconsistent with officially-adopted long-range plans.

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Section 2. Section 58 needs to be amended to clarify that where a developer has, within the first two years of the life of a permit, spent at least 10% of the overall cost of the project, the permit does not expire. Prior to the lawsuit involving Harvey Harman, the language of the Section 58 suggested that only cost associated with actual ground-altering, construction and so forth counted toward meeting this 10% rule; however, the Judge disagreed and the Town thus lost that case. Therefore, we are suggesting that Section 58 be amended to make clear that all costs(including engineering, surveying, planning, etc. count towards the 10% rule.

Section 3. Section 104 of the UDO sets forth penalties for violations of the ordinance. The gist of the amendment is to provide for stiffer penalties and less time to correct a violation where an offender has, within the previous twelve month period, been cited for a violation of the same ordinance provision. Similar amendments are being recommended for the Town Code. These amendments are in response to the frustrations voiced by the Commissioners regarding continuing code violations, the appearance of the Town, etc. It will also make dealing with repeat offenders a little easier on Town Staff.

Section 4. The Town's Watershed Protection Ordinance, when adopted, was not made a part of the UDO. This section simply provides for a new UDO Section that identifies the Watershed Protection Ordinance and directs the reader to the Appendices where the full text of the Ordinance is set forth.

Section 5. Section 5 is similar to Section 4. The Town previously codified three UDO sections dealing with mobile home parks into Article XX "Amendments" apparently choosing to place all UDO amendments in the "Amendments" article; however, Article XX was not intended to be where amendments were placed but rather to outline the procedure to follow for amending the UDO. Thus, we proposed moving these three provisions to Article XI "Supplemental Use Regulations" were rules that only apply to specific uses are codified. Also, the Town has a detailed Mobile Home Park Ordinance which, like the Watershed Protection Ordinance, existed as a free-standing document when in fact it should more appropriately be placed in the UDO since it is a land use ordinance. Thus, this section directs the reader to the appropriate Appendix where he or she can review the entire Mobile Home Park ordinance.

Section 6. This section removes any ambiguity when determining building setback compliance in that it clarifies that 1 steps; 2 open porches/handicap ramp without roofs, that project no more than eight feet into any setback - under no circumstances can these exceptions be closer than five to any property line; and, 3 eaves, gutters and other minor architectural features projecting no more than twenty-four inches from the main portion of the structure, are not considered part of the building to which they are attached for purposes of determining setback compliance.

Section 7. This section amends UDO section 171 to make it consistent with the NC State Building Code, which requires a five foot rear setback for accessory buildings. Our UDO only requires a four foot rear setback for accessory buildings which is inconsistent with the State Building Code.

Section 8. This section amends UDO section 199 "Street Width, Sidewalk, and Drainage Requirements in Subdivisions." Town staff believes that sidewalks should be required on all new subdivision streets with the exception of those classified as a minor street. Staff has learned through the subdivision review process that a right-of-way of at least sixty feet is necessary to accommodate streets with grass shoulders and swales as an alternative to curb and gutter. To be consistent with NCDOT standards, the pavement width on both minor and local streets with curb and gutter will now be twenty six feet in width. Finally, to be consistent with the Federal ADA standards the width of new sidewalks will now be five feet.

Section 9. This section is intended to clean up Section 279, the Town's Parking Requirement Table. This table is designed to track the uses identified in the Permissible Use Table found in Article X of the UDO. Ideally, each use identified in the Permissible Use Table should have a corresponding line item in the Parking Requirement Table; however, for whatever intentional or inadvertent reasons, Section 279 is missing a fair amount of information. Also, there are obvious formatting problems and typos. Jack has gone through the table, using experience, common sense and Michael Brough's book "A Unified Development Ordinance" published by the American Bar Association on which Siler City's UDO is largely based. The proposed Parking Requirement Table fills in missing information and corrects the formatting and typographical errors.

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Section 10. This section does two things. First, it amends Section 311 of the UDO to provide that the Planning Director may make non-substantive amendments to the UDO, such as correcting obvious errors and typos without having to go through the public hearing process. Second, it brings Section 311 in line with State law as to when the Board of Commissioners may amend the UDO text and/or rezone property. State law has long held that a municipality may rezone property when, in the Board's opinion, to do so will promote the general health, safety and welfare of the citizens of Siler City. Siler City has a rather odd provision that states:

In order to maintain sound, stable and desirable development within the planning jurisdiction of Siler City, it is intended that this ordinance not be amended except: (1) To correct manifest error in the ordinance or zoning map; or, (2) Because of changed or changing conditions in a particular neighborhood or community as a whole; or, (3) To promote and forward the purposes of the adopted Siler City Land Use Plan. It is the further intent of this ordinance that if amended it will promote the general health, safety and welfare of the citizens of Siler City.

Thus, it appears that if one of the three enumerated items cannot be shown, then the ordinance may not be amended nor may property be rezoned; however, a proposed rezoning might be perfectly appropriate yet not the result of an error on the zoning map, the result of changing conditions or linked to the Land Use Plan. I have been a little concerned for some time now that this provision could possibly be used against the Town in a challenge to a rezoning. Fortunately, that has not happened. But to be on the safe side, and to make it clear that the only thing required is that an amendment or rezoning promote the general health, safety and welfare of the citizens - a rather easy showing in most cases, we are recommending the amendment contained in Section 10.

Section 11. Section 11 amends Section 312 of the UDO "Amendment Initiation". The current language provides that amendments to the UDO may be initiated by the Board of Commissioners, the Planning Board, the Planning Director, the Board of Adjustment, the Town Manager or a property owner or his agent; however, by law, any person may request an ordinance amendment or rezoning. It is surprising to some folks that any person can request anyone else's property be rezoned. We are proposing a simple amendment to Section 312 by adding "any other person" to the enumerated list of persons who may request an amendment.

Sections 12 - 14. These three sections bring Siler City's ordinance amendment procedures into line with the North Carolina statutory requirements for ordinance amendments, which were recently changed by the General Assembly. We have always followed the State's requirements, but our UDO was somewhat out-of-date and thus, to be consistent with State law and not cause confusion, we need to update our written requirements so that they are consistent with State law. Also, State law was changed during the 2009 Session. These amendments will bring Article XX completely up-to-date with the General Statutes.

Section 12 amends Section 316 of the UDO reflecting recent statutory notice requirements when someone other than the owner of a piece of property applies for rezoning. Section 13 adds language requiring the Board to adopt a Land Development Plan consistency statement. Again, we have been following this State-mandated requirement but the UDO has not been amended to track the statutory language. Section 14 adds language from the statute controlling the filing of "protest petitions" like the petitions we received in the ISP Minerals case which resulted in the need for a four-fifths majority vote of the Board in order to approve the rezoning component of ISP's application.

Section 15. This section removes Section 325 from the UDO and establishes it as a free-standing document. Section 325 is the Town's Fee Schedule for various permit applications. As this schedule is somewhat frequently amended, establishing it as a separate document removes any requirement that amendments to it go through a public hearing process due to it being codified in the UDO since technically, any amendment to the UDO is subject to the public hearing requirement.

Section 16. This section re-codifies Section 326 of the UDO as Section 146. This is another example of an amendment being placed in Article XX which deals with the amendment process rather than being a place to codify any amendments to the ordinance.

Section 17. This section simply amends Appendix C, to reflect that the sidewalk width requirement is five rather than four feet, keeping it consistent with the sidewalk width requirement contained in Section 199 of the UDO - see Section 8 of the amending ordinance discussed above.

Section 18. This section is in response to a topic we discussed during the recent workshop meeting. I have incorporated language similar to that found in Greensboro and High Point, regarding the percentage 40% of a front or side yard in the case of a corner lot which can be used as parking and driveway areas. Also, in response to citizens' concerns, I have included language limiting the parking of large commercial/industrial/construction vehicles to backyard areas that are properly screened. In preparing this amendment, I reviewed a number of other ordinances dealing with the issue of parking heavy vehicles and equipment in residentially-zoned areas and believe that the amendment proposed will deal with most of the issues that practice creates.

With these 18 amendments, we believe the UDO will be improved, cleaned up, and up-to-date with the corresponding State statutes. If you have any questions, then please do not hesitate to contact me.

#### **Agenda Item V**

##### **Town Code Amendments**

Mr. Morgan reported that the 2009 session was an active one for laws affecting municipalities. He explained that his memo reviews several suggested amendments to the Town Code based on newly enacted laws. The amendments suggested herein do not require a public hearing; however, all of the UDO amendments will require a public hearing. Mr. Morgan then reviewed with the member the amendments.

##### Abandoned, Nuisance and Junked Motor Vehicles (Session Law 2009-97)

G.S. 160A-303 provides the authority to municipalities to regulate abandoned, nuisance and junked vehicles. Much of the wording of Siler City's Article VII ("Abandoned, Nuisance and Junked Motor Vehicles") is derived directly from the corresponding statute. The General Assembly amended the definition of "junked motor vehicle." Prior to the amendment, a junked motor vehicle was one that "does not display a current license plate lawfully, upon that vehicle and that: (1) Is partially dismantled or wrecked, or (2) Cannot be self-propelled or moved in the manner in which it originally was intended to move, or (3) Is more than five (5) years old and appears to be worth less than one hundred dollars (\$100.00). The General Assembly has passed local legislation for several municipalities over the past several years raising \$100 to \$500, in that almost any vehicle is worth \$100 for parts and/or scrap. Last year, the General Assembly gave all North Carolina municipalities the authority to change to \$500. This amendment would accomplish this change for Siler City.

##### Minimum Housing (Senate Bill 661)

This act will require slight revisions to the Minimum Housing Ordinance, Chapter 8, Article IV, Section 8-90(b) requiring that where a property owner is ordered to repair or improve a dwelling *and* ordered to vacate and close the dwelling while repairs are being made, then the order must specify the reasons why the house must remain vacant until repaired, using a list of factors provided in the new language (e.g., elderly or handicapped persons residing in the dwelling, minors residing in the dwelling, the nature of the necessary repairs, etc.)

##### Notice of Weed Ordinance Violations (SL 2009-19 and SL 2009-287)

SL 2009-97 (weeds) and SL 2009-287 (other nuisances) grant statewide authority to all municipalities what had previously been granted to a fair number of cities via local acts, concerning weeds and noxious growth and other nuisance abatement. The gist of the statute is that if a person is a "chronic violator" of any overgrown vegetation ordinance, or public nuisance ordinance, the city need give that person only a single, annual notice of its intention to self-enforce the ordinance should a lot owned by that person become overgrown. Thereafter, the city may cut the weeds, clean up property, etc., as necessary, and the costs become a lien on the property and can be collected along with city taxes (The collection method permitted by G.S. 160A-193). A chronic violator is a person who owns property that, in the preceding calendar year,

Was the subject of city action at least three times. Note that it does not have to be the same property but any property owned by the violator. The single annual notice must be served by registered or certified mail. This will require a Town Code Amendment.

**Discussion**

Mr. Meadows, Mr. Brower, Mr. Morgan, board members and Richard Fox discussed the suggested amendments. After discussion of the amendments the board did not make any changes to the amendments. The amendments to the UDO will require a public hearing before the Town Board and Planning Board. The amendments to the Town Code will not require a public hearing.

**Agenda Item VI**

**Planning Activity Update**

Mr. Meadows reviewed the planning activity update with the members.

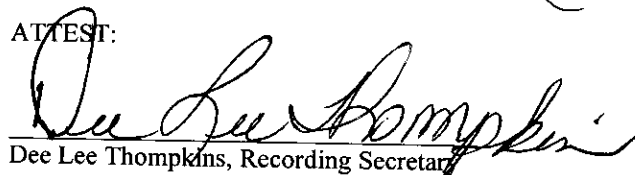
**Agenda Item VII**

**New Business**

With no further business, *motion was made by JP Joyner, Mickey Pore seconded, followed by unanimous consent for adjournment at 8:30 p.m.*

  
Ethel Coble, Chair

ATTEST:

  
Dee Lee Thompkins, Recording Secretary