

Minutes
Regular Board Meeting
Aberdeen Town Board

August 13, 2012
Monday, 6:00 p.m.

Robert N. Page Municipal Building
Aberdeen, North Carolina

The Aberdeen Town Board met Monday, August 13, 2012 at 6:00 p.m. for the Regular Board Meeting. Members present were Mayor Pro-tem Robert A. Farrell and Commissioners Pat Ann McMurray, Alan Parker, and Walter Wright. Mayor Elizabeth B. Mofield and Commissioner Jim Thomas were not in attendance for the meeting. Staff members in attendance were Planning Director Kathy Liles, Community Development Planner Jae Kim, Town Manager Bill Zell, and Town Clerk Regina Rosy. Approximately 22 citizens were also in attendance for the meeting.

1. Call to Order

a. Pledge of Allegiance.

Mayor Pro-tem Farrell asked everyone to please stand for the Pledge of Allegiance.

2. Public Hearings

a. UDO Text Amendment #12-08 – New Definition and Requirements for Indoor Kennels.

Mayor Pro-tem Farrell opened the public hearing on UDO Text Amendment #12-08 – New Definition and Requirements for Indoor Kennels.

Planning Director Liles stated the request is for an amendment to the UDO to add a definition for indoor kennels. Planning Director Liles stated a few years ago the Board had revisited kennel language and added language that was suitable for both indoor and outdoor kennels, but did not specify indoor kennels specifically. Planning Director Liles stated this request is from both the applicant, and the Planning Board. An indoor kennel is a facility located on a tract of land that is a minimum of two acres in size and may include doggie daycares or similar facilities that keep animals only during the day.

Planning Director Liles entered the support material provided to the Board into the record. Planning Director Liles stated large kennels are those kennels that are a minimum of 50 acres in size, and indoor/outdoor. Small

kennels are a minimum of 10 acres in size but less than 50 acres in size, and indoor/outdoor.

Planning Director Liles stated the language is not inconsistent with existing plans.

Supplemental standards include:

- (1) It shall be located on a tract of land that is a minimum of two (2) acres in size;
- (2) All boarding facilities for animals shall be set back a minimum of fifty (50) feet from the property line. Ordinary building setback requirements shall apply to all other kennel facilities, including training areas;
- (3) No portion of an inside kennel shall be within 500 feet of an existing residential structure not owned by the owner of the kennel or 100 feet from any residentially zoned property;
- (4) All required State and Federal licenses, approvals or permits for site operation must be filed with the town before the kennel receives a certificate of occupancy;
- (5) In addition to the other buffering requirements imposed by this chapter, fencing shall be provided to separate boarding, training, and material storage areas of the kennel from adjoining uses;
- (6) The animals shall be housed in an enclosed building and only provided access to outdoor runs and/or exercise/training areas by handlers;
- (7) Outdoor runs shall be fully enclosed, with all sides being made of concrete block or similar construction not less than four (4) feet in height. Notwithstanding the foregoing, each outdoor run may have up to two gates or access doors. Outdoor runs shall be screened from public view;
- (8) All outside activities shall be supervised by a trained handler and/or staff member and only from the hours of 7 am to 9 pm;
- (9) No animals shall be outside overnight or out of the kennel building except for training events, walks or exercising;
- (10) All open exercise, training or similar areas shall be enclosed by a fence or wall no less than six (6) feet in height;
- (11) No more than fifteen (15) dogs shall be allowed out of the kennel at any given time except when training or competition events are being held;
- (12) The kennel operation shall be adequately buffered to ensure its compatibility with surrounding land uses and shall at a minimum comply with Article XIX – Screening Landscaping and Trees of the Aberdeen Unified Development Ordinance;
- (13) Animal wastes shall be removed from the facility daily and placed in the sewer/septic system or bagged and placed in an approved

dumpster which shall not be located any closer than fifty (50) feet from any property line or surface waters;

- (14) The facility shall be constructed, designed, and located on the site to minimize noise, odor, and other impacts on neighboring properties and shall at a minimum comply with § 152-172 of the Aberdeen Unified Development Ordinance just as if it were a 4.000 use classification and § 95 of the Aberdeen Code of Ordinances;
- (15) A sign clearly visible from the ground shall be posted at the main entrance of the facility and shall contain the names, addresses, and telephone numbers where persons responsible for the facility may be contacted at any hour of the day or night. The sign shall comply with Article XVII – Sign Regulations of the Aberdeen Unified Development Ordinance;
- (16) The facility shall not be permitted within a flood hazard area;
- (17) The facility shall conform to all State and County regulations prior to opening to the public.

Planning Director Liles stated the Planning Board reviewed this proposed revision, and recommends this item for approval with one dissenting vote.

Mayor Pro-tem Farrell asked about the septic system, and if there is one on the property. Planning Director Liles stated there is not a septic system at this time on the property. Planning Director Liles stated every facility of this nature would have a septic system, or connection to sewer. Planning Director Liles stated Elizabeth Garner could give more information about this issue.

Elizabeth Garner, with the NC Department of Agriculture, stated with any commercial animal establishment, all waste has to be disposed of in a proper septic tank for animal waste, or suitable drainage has to be provided with a holding tank. Mayor Pro-tem Farrell asked if Moore County has that rule in the unincorporated area of Moore County. Mrs. Garner stated in Moore County, animal waste does have to be separated and pumped into a separate system. Mrs. Garner stated the condition recommended by the Planning Board would be superseded by the State regulations, which would have a stricter regulation and require a septic style system for indoor waste. Planning Director Liles suggested amending the condition to state - remove waste from facility daily and place in septic system. Mayor Pro-tem Farrell stated he is concerned about the “or” included in the condition about the waste. Planning Director Liles suggested the condition state the facility must comply with State regulations regarding animal waste. Mrs. Garner stated animal waste has to be separated from human waste. Commissioner McMurray requested Planning Staff to review the language and to make sure

the State and the County will fit this particular situation, since different kennels in Moore County have complied with the State regulations, and eliminate the language for “bagging the waste.” Planning Director Liles asked if there is a violation of this type of issue, where would the call go. Mrs. Garner stated the person making the call would probably call both her and the Town of Aberdeen. Planning Director Liles stated there is not enough of a language change for this item to go back to the Planning Board, therefore this item will come back to the Board at the next Work Session.

Mayor Pro-tem Farrell asked if kennels are inspected by an agency. Mrs. Garner stated all kennels, pet shops, rescues, etc. are inspected by USDA. Mrs. Garner stated inspections are complaint driven, but her agency also does consultations. Mayor Pro-tem Farrell asked if inspections are unannounced. Mrs. Garner stated yes, they are unannounced.

With no further discussion, Mayor Pro-tem Farrell closed the public hearing on UDO Text Amendment #12-08 – New Definition and Requirements for Indoor Kennels.

- b. Conditional Use Permit #12-05 submitted by Jim McSwain to allow for an Indoor Kennel Facility on property identified as Lot 12, Aqua Shed Court, Sandy Mine Commerce Park.

Mayor Pro-tem Farrell opened the public hearing on Conditional Use Permit #12-05 submitted by Jim McSwain to allow for an Indoor Kennel Facility on property identified as Lot 12, Aqua Shed Court, Sandy Mine Commerce Park.

Town Clerk Regina Rosy swore in Shane Sanders, Planning Director Liles, Elizabeth Garner, and Jim McSwain.

Planning Director Liles entered all testimony given into the record.

Planning Director Liles stated the location is at Sandy Mine Park, is a commercial/light industry subdivision located at the southwest corner of Highway 5 and Sand Pit Road. Planning Director Liles stated Jim McSwain requests a Conditional Use Permit to construct and operate an Indoor Kennel in the Sandy Mine Commerce Park, Aqua Shed Court. The commerce park is located in a mixed use setting including HC and Residential Zoning Districts. Planning Director Liles stated Lot 12 is an interior lot and surrounded on all sides by C-I zoned properties. Future plans for a Doggie Day Care and Indoor Training Area are also shown on the plans.

The proposed use includes a 8,000 square foot pet lodge to include boarding units and office area. Future plans for a doggie daycare and indoor training area are also shown on the plans.

Planning Director Liles stated if the text amendment moves forward, the only way it can be considered for a vote, is if the text amendment discussed earlier is approved. Kennels are regulated through the Animal Welfare Section of the Department of Agriculture.

Planning Director Liles stated the state requirements are that indoor facilities be adequately heated, cooled, and ventilated to provide for the health and comfort of the animals. Surface materials and drainage are also regulated, as are sanitation, feeding, minimum space requirements and maintenance of the facility. All facilities are inspected a minimum of once yearly, and if problems are noted will receive more frequent inspections.

Planning Director Liles stated the exterior walls of the pet lodge will be constructed of concrete masonry units that utilize a specialized interior insulation that provides additional sound buffer and r-value. This type of construction eliminates the need for framed walls and interior insulation. Masonry block walls facilitate cleanliness of the kennel units.

Planning Director Liles stated each kennel unit opens to an outdoor run through a guillotine door that can only be operated by handlers. Concrete walls are proposed between each run. The proposed text amendment allowing the Indoor Kennels requires that the runs be enclosed on all sides but allow for up to two gates or doors to access the runs. This proposal will comply with that standard.

Planning Director Liles stated the applicant would be looking at installation of a septic system. Planning Director Liles stated they do meet all setback requirements. A planting plan would be required as a part of any site review of the plan. Staff encourages the use of existing vegetation where possible. Planning Board unanimously recommends for approval, with the following conditions:

- (1) Conditional Use Permits run with the land and as such this conditional use permit applies to the entirety of the property reflected in LRK# 20000407. An amendment to the Conditional Use Permit is needed to remove property from the Conditional Use Permit or to make changes to the Conditional Use Permit. If an activity is a use by right, it is not subject to the Conditional Use Permit.

- (2) The proposed use is authorized through this permit, subject to approval of text amendment UDO #12-08, but all construction detail must be approved by Planning, Public Works, and Fire Departments before a Zoning Compliance Permit is issued.
- (3) Approval of the Conditional Use Permit is contingent on approval of the site plan by staff.
- (4) Any and all required permits from other regulatory agencies must be in place as a condition of this approval.
- (5) Final site plan must include a detailed landscaping plan to address landscaping and screening requirements.
- (6) Applicant must satisfy requirements of Article XI, Sections 152-160 Water Supply Watershed Overlay District Regulations.

Mayor Pro-tem Farrell asked if the entire property will be fenced or just portions. Planning Director Liles stated she would prefer for the applicant to answer questions at this time. Jim McSwain stated any of the animals on the property will be fenced. Mr. McSwain stated the animals would have to go through 2 fences to get out, or into the property. Mr. McSwain stated the majority of households have pets, and he feels there is a strong need in the area.

Commissioner McMurray stated her lab went to doggie daycare, and she feels it is a great thing for pets. Mr. McSwain stated there are two separate wings, one for females, and one for males. Mayor Pro-tem Farrell asked if a veterinarian will be onsite. Mr. McSwain stated there will be a vet tech that will be on call – but there are no planned veterinarian services. Mr. McSwain stated there will not be any aggressive dogs allowed in the facility.

Commissioner Wright asked about the proximity to residentially zoned properties, and if any trees would be required. Planning Director Liles stated it would be screened, Type A.

Shane Sanders, SNS Engineering, stated the screening is actually supposed to be Type C. Planning Director Liles stated Mr. Sanders is correct, and it is Type C, since Lot 12 is an interior lot and surrounded on all sides by C-I zoned properties.

With no further discussion, Mayor Pro-tem Farrell closed the public hearing on Conditional Use Permit #12-05 submitted by Jim McSwain to allow

for an Indoor Kennel Facility on property identified as Lot 12, Aqua Shed Court, Sandy Mine Commerce Park.

- c. Conditional Use Permit #12-04 submitted by Emmett Raynor for a Convenience Store with Fuel Sales to be Located on US Highway 1 South on property owned by Joseph Ussery.

Mayor Pro-tem Farrell opened the public hearing on Conditional Use Permit #12-04 submitted by Emmett Raynor for a Convenience Store with Fuel Sales to be Located on US Highway 1 South on property owned by Joseph Ussery.

Town Clerk Regina Rosy swore in Joe Ussery, Planning Director Liles, and Emmett Raynor. Planning Director Liles stated this piece of property has a long history. Planning Director Liles stated the request is to allow for a convenience store that would have fuel sales on property owned by Joseph Ussery. The majority of the property is proposed for a parcel identified as LRK #57202 and a new boundary for the project will incorporate a small section of LRK #56601, which is roughly the area of the old Public Works facility. Planning Director Liles stated the proposal use includes a 30' by 60' convenience store building and a concrete surfaced fuel pump island with canopy.

Planning Director Liles showed a graphic of the area being proposed for the convenience store location. Planning Director Liles stated this property would have some physical constraints because of the proposed location and proximity to wetlands. Planning Director Liles stated the property itself is not in the floodplain.

Planning Director Liles stated the property is zoned Highway Commercial, and surrounded by Highway Commercial. Planning Director Liles asked for staff materials to be entered into the public record.

Planning Director Liles stated development detail that might be pertinent includes: split faced masonry units, hipped metal roof, canopy height for the fuel dispensing area of 15 feet, parking - 5 spaces required, 7 provided. One handicapped van accessible parking space proposed, and the lighting plan has not been provided. Ingress/egress: existing curb cuts. Separate driveway to second parcel (NCDOT), and Public Works has determined there is adequate capacity for water and sewer.

Planning Director Liles stated there has been concern about site proximity and the proposed bridge realignment.

Planning Director Liles stated there is no existing vegetation that can satisfy the requirement. They are planning to plant a strip along the front. At this time asphalt paving is proposed to reach the site's perimeter with the exception of a portion of the highway frontage that has been reserved for landscaping.

Planning Director Liles stated regarding consistency with long range plans, the 2030 Land Development Plan requires that all development proposals be reviewed for connectivity to and consistency with adopted bicycle/pedestrian plans and transportation improvements in the plan. The applicant did not address bicycle plan objectives. Sidewalks are not indicated on the submitted plans.

Planning Director Liles stated the Planning Board determined the application is complete and findings are satisfied subject to conditions, and they unanimously recommended approval subject to conditions. The recommended conditions are:

- (1) Conditional Use Permits run with the land and as such this conditional use permit applies to the entirety of the properties reflected in LRK #57202 and 56601. An amendment to the Conditional Use Permit is needed to remove property from the conditional use permit or to make changes to the conditional use permit. If an activity is a use by right, it is not subject to the conditional use permit.
- (2) The proposed use is authorized through this permit, but all construction detail must be approved by Planning, Public Works, and Fire Departments before a Zoning Compliance Permit is issued.
- (3) Approval of the Conditional Use Permit is contingent on approval of the site plan by staff that satisfies all UDO requirements.
- (4) Any and all required permits from other regulatory agencies must be in place as a condition of this approval.
- (5) A final site plan must be submitted and indicate detailed landscaping, fuel storage tank locations and sidewalks.
- (6) Landscaping and screening requirements are waived along property boundaries that are shared with the Frank Shamburger heirs property as depicted on the Preliminary Map. Landscaping and screening requirements in all other areas of the site must satisfy the requirements of the UDO.

- (7) Plot plan shall be prepared in accordance with Article XVI, Floodways, Floodplains, Drainage and Erosion of the Town of Aberdeen UDO.

Mayor Pro-tem Farrell asked if the whole area will be asphalt, and he wondered what would happen with the runoff. Planning Director Liles stated the final site plan will have to be looked at and runoff will have to be addressed. Emmett Raynor stated all of the drainage will go towards the curb on US Highway 1, and that gives the opportunity to manage any spills before the spills would go into Aberdeen Creek. Mayor Pro-tem Farrell pointed out the elevation is lower towards the highway, and therefore that is where the water will drain towards. Mayor Pro-tem Farrell asked if the property would be on water and sewer. Planning Director Liles stated yes. Mr. Raynor stated one of the conditions will be to provide for a sidewalk, and Planning Director Liles stated it will be a requirement for a sidewalk.

With no further discussion, Mayor Pro-tem closed the public hearing on Conditional Use Permit #12-04 submitted by Emmett Raynor for a Convenience Store with Fuel Sales to be Located on US Highway 1 South on property owned by Joseph Ussery.

- d. Intent to Submit Community Development Block Grant 2012 Applications.

Mayor Pro-tem opened the public hearing on Intent to Submit Community Development Block Grant 2012 Applications.

Community Development Planner Kim stated this is the first public hearing of 2 that will be required for 2012 CDBG grant applications.

Planner Kim stated the three applications of interest to the Town are Infrastructure, SBEA, and NC Catalyst. The purpose of the infrastructure program is to improve the quality of life in a residential area (target project area) or local government's jurisdiction (area-wide jurisdictional project).

Activities allowed for the infrastructure program include installation of new public water or sewer lines, replacement of public water or sewer lines, improvements to water or sewer treatment plants with special problems, and priority is given to drought related activities.

Planner Kim stated Public Works Director Rickie Monroe indicated interest with sewer work to be done in the Berkeley Community. Planner Kim stated the preliminary application window opens Friday August 31, 2012 until September 14, 2012.

Planner Kim stated the second grant opportunity is the 2012 SBEA program. The purpose of the SBEA Grant Program is to provide funding for local governments to jumpstart growth of existing small businesses, and develop a plan for creating an entrepreneurial environment in the community.

Planner Kim stated objectives of the SBEA Grant Program are to create new jobs or retain existing jobs, and create and nurture an entrepreneurial environment within the community. Planner Kim stated the program funding for 2012 is \$2.7 million, and individual grant amounts are between \$150,000 and \$250,000, with 10-15 awards being given each year. Planner Kim stated the project timeframe is 30 months, and businesses must create 1 job per \$25,000 awarded by the grant. New jobs must be permanent, full-time jobs working at least 1,600 hours per year (70% of jobs must be filled by LMI persons). Activities for the SBEA Grant Program include infrastructure improvements, purchase of land, construction of a building or other improvements, renovation of an existing building, leasing space in or purchasing an existing building, purchasing capital equipment, and providing job training that can be linked to specific jobs at a specific firm. Ineligible activities include revolving loan funds, microenterprise grant or loans, incubator projects, debt restructuring, and job training that can't be linked to a specific job at a specific firm.

Planner Kim stated the evaluation criteria are as follows: distressed community designation (bonus points for Tier 1 counties), appropriateness and feasibility of business activities, local commitment and community partnerships, timely and effective public participation, and grant administration capacity and past performance.

Planning Director Liles stated during the 2011 cycle, pretty much all of the SBEA grants submitted were approved. Planner Kim stated the deadline for the SBEA grant applications is Wednesday, October 17, 2012 at 5:00 p.m.

Planner Kim stated the third grant opportunity is the NC Catalyst Grant program. The purpose of the NC Catalyst Grant Program is to provide grants to local governments to develop viable communities by providing decent housing, suitable living environment, and expanding economic opportunities. Planner Kim stated this grant is principally for persons of low and moderate income. Six livability principles are to provide more transportation choices, promote equitable, affordable housing, enhance economic competitiveness, support existing communities, coordinate and leverage investment, and value communities and neighborhoods. Planner Kim stated \$5 million is the amount of money funded for this program, the maximum grant award to one

business is \$500,000, and there is no minimum grant. 30 months are given to complete the project for the funds applied for.

Eligible activities for the NC Catalyst Grant program are housing activities including rehabilitation, acquisition, demolition, clearance, relocation, replacement housing, and emergency repairs. The program categories are housing activities, community revitalization, special project public facilities, and public services. Housing activities include rehab, substantial rehab, temporary relocation and rehab, temporary relocation, clearance and reconstruction, acquisition, permanent relocation, and clearance, and emergency repairs to residential units. Community revitalization activities include activities that revitalize an area, through improvements, preservation, or development in a residential area. Includes activities allowed under housing and also infrastructure improvements that support existing housing in the designated area. All housing activities must be 100% low to moderate income. Special project public facilities include senior centers, homeless shelters, transitional housing, shelters for domestic violence victims, neighborhood recreational centers, neighborhood parks, and greenways. Public services funds may be used to provide public services provided it is a new service or increase in service. The deadline for the NC Catalyst Grant Program is Wednesday, October 31, 2012 at 5:00 p.m. Commissioner McMurray asked if the tier level affects this type of grant. Planner Kim stated he will find out the answer.

Planner Kim stated per grant cycle, the Town cannot request more than \$1.25 million for all grants combined, therefore the Town may have to make a decision on which grants take precedence.

Mayor Pro-tem Farrell stated the Town received \$225,000 for the SBEA Grant in 2011.

Kenneth and Sherill Collins, owners of UPro on South Street, opened their business in Aberdeen in 2008, and became aware of this grant based on reading about it on the Town website. Ms. Collins stated this grant really seems to meet the needs of her business, and she would like for UPro to be considered as an applicant for the SBEA grant. Mayor Pro-tem Farrell stated he is glad she moved to Aberdeen, and opened a business in Aberdeen, and wants to expand that business. Commissioner McMurray stated she has heard great things about UPro.

Planner Kim stated several Broadway Community residents are in attendance tonight for consideration of their community for a grant.

With no further discussion, Mayor Pro-tem Farrell closed the public hearing on Intent to Submit Community Development Block Grant 2012 Applications.

3. Setting of the Agenda

A motion was made by Commissioner McMurray, seconded by Commissioner Parker, to approve setting of agenda as presented. Motion unanimously carried.

4. Approval of the Consent Agenda

All items listed below are considered routine or have been discussed at length in previous meetings and will be enacted by one motion. No separate discussion will be held except on request by a member of the Board of Commissioners.

- a. Minutes of Regular Board Meeting on June 11, 2012, Special Called Meeting on June 18, 2012, Special Called Meeting on July 5, 2012, Closed Session on July 5, 2012, and Work Session on August 2, 2012.

A motion was made by Commissioner Wright, seconded by Commissioner Parker, to approve the consent agenda as presented. Motion unanimously carried.

5. Informal Discussion and Public Comment

- a. Control of Feral Cat Colonies.

Ian and Elizabeth Dunbar, 113 Bonnie Brook Court, stated there is a caregiver feeding colonies of feral cats three times a day near their residence. Mr. Dunbar stated he has contacted Animal Control multiple times, and 2 years later, there is still no resolution. Mr. Dunbar stated Animal Control can not trap the cats, because the cats are too well fed. Mr. Dunbar stated he is asking for the Town to either tighten the Town ordinance, or help get Moore County to enforce this issue. Mr. Dunbar stated Animal Control is supposed to trap and remove the animals, but the caregivers are releasing the cats from the traps before Animal Control can get there. Mr. Dunbar stated the neighbors have been petitioned, and all but 3 agree this is a nuisance.

Mr. Dunbar stated the address of the caregiver is 110 Bonnie Brook Court. Commissioner McMurray asked for Planning Staff to research what other communities do about situations such as this.

Mark Webium, 114 Bonnie Brook Court, stated perhaps an ordinance to now allow feral cat colonies within the city limits would help with this situation.

Murray Williamson, developer for Bonnie Brook, stated his intent was to build a community that was nice and would benefit all of the residents. Mr. Williamson stated restrictive covenants on the Bonnie Brook Community are recorded at Moore County and the covenant states there can be no nuisance to neighbors. Mr. Williamson stated he reminded the caregiver of the covenants – and the resident did not care about the covenants.

Mr. Dunbar stated the Police Department told them this is a civil matter. He is here asking for assistance from the Town in whatever capacity possible.

b. Ron Utley, 1302 Devonshire Trail, stated he is here tonight as a concerned citizen and complainer. He would like a letter of apology, and he believes the children should all receive letters of apology too regarding the treatment he and others have received from Police Officer Farley Germaine. Manager Zell stated Police Chief Mike Connor is working on a report, and Mr. Utley will be provided a copy of the report.

c. Ron Utley stated the Midway Area is not getting the patrols they need. He pointed out several vehicles that are abandoned. He was told the ordinance was bad. He doesn't understand why there is an ordinance, if it is not enforced. Planning Director Liles stated she would like a list of the vehicles that are abandoned, and she will see what she can do.

6. Financial Report

None

7. Old Business

None

8. New Business

a. Sewer Contract with County of Moore.

Manager Zell stated this is the sewer contract for renewal, and it has been worked on since 2007. Manager Zell stated this is the same contract that the Town of Southern Pines signed too. A motion was made by

Commissioner Wright, seconded by Commissioner Parker, to approve the Sewer Contract with County of Moore. Motion unanimously carried.

9. Other Business

None

10. Adjournment

A motion was made by Commissioner, Wright, seconded by Parker, to adjourn the meeting. Motion unanimously carried.

Regina M. Rosy, Town Clerk

Minutes were completed in
Draft form on August 13, 2012

Robert A. Farrell, Mayor Pro-tem

Minutes were approved
on September 10, 2012