**TOWN OF MOUNT GILEAD**

**PLANNING BOARD**

**MEETING MINUTES**

**110 West Allenton Street, Mount Gilead, North Carolina, 27306**

**August 29, 2024**

The Mount Gilead Planning Board met Thursday, August 29, 2024, at 5:30 p.m. at Mount Gilead Library, 119 West Allenton Street, Mount Gilead, North Carolina. Present were Devon Little, Mitchell Lucas, Jessica Ingram, Sam Everhart, Jim Sharpe, Lynn Smith, Angela Deaton, Town Manager Dylan Haman and Planning board Secretary Allena Ingram. Absent were Edwina Martin

Devon Little called the meeting to order at 5:37 p.m.

ITEM I. ADOPTION OF AGENDA

Jim Sharpe made a motion to adopt the agenda with a second from Lynn Smith. Motion carried unanimously.

ITEM II. APPROVAL OF MINUTES

Mitchell Lucas made a motion to approve the June 27, 2024, Meeting Minutes with a second from Sam Everhart. Motion carried unanimously.

ITEM III. PUBLIC COMMENT – No one present for public comments.

ITEM IV. OLD BUSINESS – No old business

ITEM V. NEW BUSINESS

1. Conditional Zoning For The Retreat at Lake Tillery

Dylan Haman started the topic saying that in June. North Carolina General Assembly passed the House Bill 909. Which allow us to annex three parcel of land on Lilly’s bridge road. This land is considerate new land to the town far as zoning is concern. The first thing we will need to do is update the comprehensive plan; our 20/40 comprehensive plan. Towns are require to have a land use plan. With this new land we would need to discuss what our overall comprehensive land use plan would be for it. Michael Harvey recommended we follow something similar to what we have for the code land use plan. The developer Lenard will submit an application for a conditional use permit and Dylan will refer to Michael on what that process actually is and that will be the process we follow. The county has already issue a conditional use permit for these three parcel of land. Dylan suggested that we should follow what the county has already done. The board may have some changes to make to meet the requirements of our ordinance, but in the interest of sustainably and to progress the deal we have already made with which was to provide waste water to them and annex their property.

Michael Harvey put together a primer for the Manager and the Board. Michael explained that the primer provides an explanation for the conditional zoning process. Conditional zoning is a zoning map amendment where the town will have an opportunity to approve effectively a new zoning designation. It’s a new zoning district where you’re also going to be approving a site specific development plan and propose land uses. When you rezone a property through a general use process, you are effectively allowing the 30, 40, 50, 60, 10 whichever number is uses a lot of that general use rezoning designation to be built in that parcel property. You don’t get to pick and choose what’s developed or comment on what’s allowed in that district. If you rezone something R-15; your residential base zoning district you don’t get to tell that applicant that you can only develop a single family residence, a duplex, or can’t develop a manufactured housing. You are rezoning into that zoning designation and whatever you have listed in your table permitted uses can legally go in that district subject to an applicant of property or getting a permit per your zoning ordinance.

Conditional zoning; if an applicant comes before you with a specific development proposal and they are voluntarily restricting their development to that proposal. They are limiting it to the development proposal. They are willfully surrendering all of their land use rights. Can you impose conditions? Yes, but they have to be linked to that project. Michael gave the Planning board an example of an intersection five miles down the road needs a traffic light. That has nothing to do with this development project and there’s nothing the development project is doing to impact this intersection. Development conditions have to be mutually agreed between you and the applicant and cannot impose a development criteria or a condition where it’s not mutually agreed to in writing with the applicant. The planning board can recommend conditions, but it is the town board and the applicant who’s going to be agreeing to conditions and riding.

What separates conditional zoning from special use is that special use are land use that the Town Board determined or viable in certain district. Only if they go through

Quasi-Judicial procedure and improve with confident material evidence and sworn testimony it meets those requirements and can be developed in that district. You’re not going to be hearing competent material evidence and sworn testimony. Applicant are going to be providing you with a site plan and showing how this project is going to move forward and you’re going to be determining whether or not you believe that this rezoning request is consistent with your land use one. You’re going to be making recommendation just like any other zoning atlas amendment and conditions, but it has to follow the legislative hearing process. Once you made your recommendation it goes to your Town Board and they will schedule a legislative hearing, and that will be a public hearing. The Town Board will hold the legislative hearing and make a determination based on whether or not they are going to approve the rezoning, approve the site plan, and impose conditions as part of that process that complies with the comprehensive plan. The Planning board will have to take action to amend the land use plan.

The applicant is going to have to file a condition zoning request. They have to go through the Planning Board legislative review process and zoning atlas amendment and if they have something through the county it doesn’t transfer here. The applicant has to go through the Planning Board process, and has to be review by the board before the Town elected officials have a legislative hearing. The Planning Board has an obligation to zone this property consistent be annexed into the Town of Mt. Gilead, resisting zone analysis. That is why the board is going to be reacting to a zoning map amendment request from the applicant. The general statute gives you 60 days to rezone the property and within that time frame the board will be processing and reacting to the application. Jessica Ingram asked 60 days from the application or 60 days from the general? Michael responded 60 days from the general assembly action. The problem is the applicant is asking that the Planning Board as the community react to their application request and not that they rezone it based on their current land use policy. Dylan Haman asked Michael to clarify the general assembly action. This annexation is effective June 30th of 2025. Yes, 60 days from June 30, 2025 is when the annexation actually becomes effective.

Michael advise to the Planning Board to give staff directions to prepare a formal amendment package for them to start considering and not necessarily to take formal action on it at the next meeting, but to give them time to process and think about it. Mitchell Lucas made the motion to direct staff to do this with a second from Jim Sharpe. The motion was carried unanimously. Michael explained to the Board that they added land use designation of property doesn’t obligate them to anything. The board is still making an independent recommendation of the appropriate time and are basing a decision on an application, but will be acting on it as a formal request at some point in the near future. Mitchell Lucas asked the question was the application going to be for 1200 homes in whole or was it going to in segments such as 300, 600? Dylan answer that the application would be for the whole parcel land. Mitchell asked will they submitted an application for certain amount of homes and then submit another application for each amount. Michael responded no, there’s going to be a full application packet of whatever number of homes and in details for the town is going to be if it’s phase, and the discussion of what is the qualification for phasing.

Jim Sharpe asked the question in this proposed deal, who the state, county, town, setbacks the properties of sales? Mount Gilead does Michael answered. Dylan explained that once it becomes our jurisdiction it will be okay, but when it’s under the county jurisdiction it’s the count that sets this. Lynn Smith bought up the new construction methods and the high inflammable building materials and how it only takes 20 feet. Dylan say that the county has worked through and it does become our jurisdiction, but the county has worked through setbacks with Lenard in the conditional use permit that they have issued. What we have to do is take what the deal is and incorporate it into Mount Gilead zoning designation. Michael imputed that the boards zoning ordinance established that fax per districts and some of those setbacks can be depending on the district, and the development. There are minimum setback requirements established under North Carolina residential building code. Based on the building material choice this is an issue that is still being addressed with the building code council and the insurance commission.

Lynn Smith say if the insurance and code board say we can put the building 10 feet apart then the board has no further sense. Michael replied that they will meet our setback requirement and meet the state building code requirements in terms of minimum requirement building separation. Jessica Ingram asked what the code minimum requirement is. The requirement is a minimum of 10 foot building separation depending on the materials used. The local setbacks takes preeminence. The state has a minimum requirement, even fire code has one too. Some of it will depend on materials used, but a lot of this will come out when we see the application. Mitchell question was once the building starts up who will be in charged? Who will be enforcing all this stuff as far as keeping the road clean? Michael answer that Montgomery County is responsible for enforcement of the state building code. The town is responsible for the enforcement of zoning as well as any applicable conditions imposed as part of the conditional zoning process. If we are talking about tracking of dirt, mud and grading issues, that’s going to be covered under the project solar erosion sedimentation control permit and that will be addressed by the state because that’s who’s going to be holder of that permit. For construction debris, then that will be coordinated with Montgomery County inspections. There were no questions.

1. Subdivision Standard

This is coming up partially as a result of the new development. Our subdivision standards is going to include things like taking a parcel of property and wanting to divide it into multiple parcels or recombine a parcel into a larger parcel. It also includes standards for road improvements that need to be done based on how many parcels you’re trying to divide a lot into. Dylan explained how Michael Harvey has developed recommendation for standards and drafted it for the Planning Board members and wanted them to get comfortable with it and have some written standards on the books.

This is an attempt to give you some base standards. It’s meant to control and establish these base standards. Michael wanted the Planning Board to give him some feedback on public and private roads. Most communities only allow for four lots to be created on a private road, meeting a very specific development requirement. Everything else has to be a public road, built to public road standard because it’s either going to be accepted by the town for maintenance. They are going to be the ones who is financial responsibility for it or it will be turned over to the department of transportation for maintenance, which means it has to meet DOT standard. Jessica Ingram asked if DOT has a minimum of a mile. Michael answered that DOT has a minimum requirement in terms of both length and density number of houses on it. You have to meet the density requirement as well. The Department of Transportation at least under the current policy does not take over or will not accept maintenance of a road built to their standard unless there is a minimum of seven unit density on that roadway.

Michael asked the following questions to the Planning Board. What types of roads are you seeing in Mt. Gilead? What is your vision when a developer comes into your community in terms of types of roads? What is acceptable to you all as the Planning Board as it relates to the types of roads that you wish to see? What’s reasonable? Remember that the fire code comes into this; if you have more than three to four homes on a roadway and that roadway extends more than 150 to 300 feet you have to meet the state fire code with respect to being able to allow fire apparatus access, and that includes the turn around. If you get to 30 lots you have to start addressing multiple access points and other access management standards to address fire access. Mitchell asked about dirt roads and Michael clarify to not allow dirt road and recommended gravel at a minimum. At the next Planning Board meeting Michael will be giving the members some options. One of his concerns were school buses won’t go down private roads, and the potential access issues for emergency vehicles. They will only go down public.

The approval of subdivisions there are basically three types of subdivisions. There’s going to be exempt which is defined under state law, meaning they don’t meet the definition of subdivision, and that staff is just a testing to that on a plot-that is a ten acre lots. They can recombine lots, as long as they are not increasing the number. They can create right of way under the exemption criteria that’s not creating a lot. Under state law, you can create what’s called an expedited subdivision that only goes to the final plot. That’s anything over five acres, create a max of three lots. As long as those lots meet local dimensional standards, lot area, and lot width you can’t tell or staff can’t tell the applicant what that road and that access looks like. There’s a minor subdivision which is up to five lots and a majors is anything over five lots. Majors would have to go through what’s called the concept plan, where they have to show how they’re going to lay this out, you all, as the Planning board would look at the concept plan and give staff feedback so we can take it through the process. Everything at a major has to be a public road.

Developers are required and obligated to build the road before the town accepts it. Town doesn’t build the road once you offer it, so everything has to be installed before the town would accept any maintenance responsibility and the same goes for DOT. Sam Everhart asked Michael the question if we decide we are going to be responsibility for this road does that mean that Mt. Gilead had to provide somebody out there inspecting to make sure that these roads are being built to those stages? Michael disclose that the way it’s written in the ordinance is that the engineer for the project has to certify it was built to the applicable standard. Jessica Ingram would be interested in knowing about the fire hydrate and what their distance would be because it would be a little bit more of a compact community.

The Planning board would like for Michael to bring in some examples of what the road could look like so they can give him more of a direct guidance and finalize the amendment package for presentation for future meeting at the next Planning Board meeting. There were no other questions.

ITEM VI. ADJOURNMENT

With no further business Lynn Smith made a motion to adjourn the meeting with a second from Mitchell Lucas. Motion was carried unanimously. Meeting adjourned at 6:30 p.m.

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Mitchell Lucas, Vice-Chairman Allena Ingram, Planning Board Secretary