

**MINUTES
VILLAGE OF LAKE PARK
PLANNING BOARD
3801 LAKE PARK ROAD, LAKE PARK, NC
MARCH 20, 2018**

Planning Board Members Present: Jonathan McDaniel, Bjarne Hansen, John Laurents and Harrison Walser.

Village Attorney: Ken Swain

Zoning Administrator: Cheri Clark

Call to Order: Jonathan McDaniel called the March 20, 2018 meeting to order.

Pledge of Allegiance: Jonathan McDaniel led the Pledge of Allegiance.

Public Comments: Andriy Omelyash – 5501 Frederick Street – has lived in Lake Park for six years on a corner lot. Mr. Omelyash discussed his desire to install a privacy fence in the backyard. Mr. Omelyash was informed that there are various possible applications of the Village UDO to such a request and he should contact the Village staff to discuss what steps he should follow for that activity on his property. It was also suggested to Mr. Omelyash that should he have specific questions regarding the process and how it would work, he should consider consulting with his own legal counsel. Mr. Omelyash discussed various options with the Board including making a request for a text amendment and requesting that the Planning Board consider reviewing the text in Article 9

Approval of Minutes: Bjarne Hansen made the motion to approve the February 20, 2018 Planning Board minutes as presented. Harrison Walser seconded the motion. Vote – Unanimous.

Changes to the Agenda: Remove 6. Board Positions & 7. Vice Chairman Selection and Oath of Office. Bjarne Hansen made the motion to adopt the agenda as amended. Harrison Walser seconded the motion. Vote – Unanimous.

UDO Article 8 – Use Regulations: Benchmark consultant Dr. Robyn Stuber discussed the proposed changes to Article 8 Use Regulations chart per Planning Board (PB) feedback. The North American Industry Classification System (NAICS) has been added to all of the uses. The following clarifications are proposed:

8.1.3 When a specific use type cannot be readily classified into a use category, or if it appears to fit into 2 or more use categories, the Ordinance Administrator is authorized to determine the most similar use category based upon similar functional, product and/or physical characteristics; potential noise, odor, light, traffic, and safety concerns may also be used for determination.

722410 – Bars and Nightclubs – Special Use Permit required in both the General Business and Industrial zones.

Under Commercial Use Group – Add – Agricultural Uses – NAICS code 11 – Farms – are not permitted in Lake Park.

812910 – Kennel – Permitted in Industrial Zone - # of dogs deleted, add Kennel to the definitions.

All other proposed clarifications to the Use Regulations were approved.

UDO Article 9 – Dr. Stuber also provided a draft of a new section 9.9.3 detailing rules and procedures for small wireless facilities, as per NC Session Law 2017-159, HB 310. The following suggested regulation terms were provided by Dr. Stuber.

Small Wireless Facilities (per NC Session Law 2017-159, HB 310)

It is not the purpose or intent of this section to prohibit or have the effect of prohibiting wireless communications services; unreasonably discriminate among providers of functionally equivalent wireless communication services; regulate the placement, construction or modification of wireless communications facilities on the basis of the environmental effects of radio frequency emissions where it is demonstrated that the small wireless facility does or will comply with applicable FCC regulations; or prohibit or effectively prohibit collocations or modification that the Village must approve under state or federal law. The provisions of this Section 9.9.3 are in addition to, and do not replace, any obligations an applicant may have under any franchises, licenses, encroachments, or other permits issued by the Village.

The standards established herein shall apply only to qualifying small wireless facilities. Nothing in this ordinance shall be interpreted to excuse compliance with, or to be in lieu of, any other requirement of state or local law, except as specifically provided herein. Without limitation, the provisions of this ordinance do not permit placement of small wireless facilities on privately-owned utility poles or wireless support structures, or on private property, without the consent of the property owner or any person who has an interest in the property.

Collocation of Small Wireless Facilities

Collocation of small wireless facilities on land used as single-family residential property or vacation land that is zoned for single-family development, and any small wireless facility that extends more than 10 feet above the utility pole, city utility pole, or wireless support structure on which it is collocated, are subject to XXXX/not permitted.

Collocations of qualifying small wireless facilities in Village right-of-way or outside of Village right-of-way on land that is in a non-residential zoning

district or land that is used for non-single-family residential property, are subject to the following requirements:

Applicants must complete an application as specified in form and content by the Village.

Each new small wireless facility shall not extend more than 10 feet above the utility pole, city utility pole, or wireless support structure on which it is collocated.

In order to protect public safety:

- (a) Small wireless facilities shall cause no signal or frequency interference with public safety facilities or traffic control devices and shall not physically interfere with other attachments that may be located on the existing pole or structure.
- (b) A structural engineering report prepared by an engineer licensed by the State of North Carolina, certifying that the host structure is structurally and mechanically capable of supporting the proposed additional antenna or configuration of antennae and other equipment, extensions, and appurtenances associated with the installation.
- (c) A traffic and pedestrian management plan must be submitted for any installation that requires work in the public right-of-way
- (d) No portion of a small wireless facility may be placed in the public right-of-way in a manner that obstructs pedestrians or vehicular or bicycle access, obstructs sight lines or visibility for traffic, traffic signage, or signals, interferes with access by persons with disabilities or involves the placement of pole-mounted equipment whose lowest point is lower than eight (8) feet above ground level.
- (e) An abandoned small wireless facility shall be removed within 180 days of abandonment.

Objective Design Standards

No advertising signs or logos are permitted on small wireless facilities.

Small wireless facilities shall be blended with natural surroundings as much as possible.

Small wireless facilities shall be stealth facilities. Antenna and accessory equipment must be concealed.

Ground equipment shall be screened in accordance with Section 9.2.

Small wireless facilities located in designated historic districts or on property designated as a landmark shall be required to obtain a Certificate of Appropriateness as required.

The placement of new utility poles is prohibited by the Village's underground requirements in Section 9.9.2.

Generators may not be used as a primary electrical power source. Testing and maintenance shall only take place on weekdays between 8:30 am and 4:30 pm.

A copy of the applicant's FCC license must accompany its application. If the

applicant is not an FCC licensee, the applicant must demonstrate that it has binding commitments from one or more FCC licensees to utilize the wireless telecommunication facility and must submit a copy of each such wireless service provider's FCC license.

Attorney Ken Swain will prepare Statements of Consistency and Reasonableness for the Planning Board to review at the April Meeting.

Council Liaison: Cheri Clark shared Council approved the appointments of Rob Bowlin and John Laurents.

Board Comments: The Planning Board discussed Mr. Omelyash's request to review Article 9 – Development Standards and by consensus decided that at this time that they did not think a review was necessary.

Setting Agenda for Next Month's Meeting: Add – 6. Board Positions & 7. Vice Chairman Selection and Oath of Office.

Adjourn: Bjarne Hansen made the motion to adjourn. John Laurents seconded the motion. Vote – Unanimous.

Respectfully Submitted,



Cheri Clark
Village Administrator

