
M E M O R A N D U M

Rutherford County Regional Planning Commission

DATE: November 17, 2014
TO: Rutherford County Public Works Committee and Board of Commissioners
FROM: Rutherford County Regional Planning Commission
RE: Rutherford County Regional Planning Commission Activity Report

The Rutherford County Regional Planning Commission acted on the following request at its November 10, 2014 meeting:

- A. Various amendments to Section 1405 and 1406 of the Zoning Ordinance pertaining to Rules and Procedures for the Board of Zoning Appeals and Administrative Appeals (14-5004), Planning Staff applicant. **Motion to Recommend APPROVAL (10 for, 0 against).**

The following item was deferred until the December 8, 2014 Planning Commission meeting:

South Haven Development (14-A013)
Location: Ocala Road
Commissioner: Trey Gooch
Size of Site: Approximately 262 acres
Tax Map: 94, Parcels: 1.01 and 34.00
77, Parcels: 62.00, 64.00 and 64.01 (portion)
76, Parcel: 39.03 and 39.02 (portion)
Existing Zoning: Residential Medium-Density (RM)
Proposed Zoning: Planned Unit Development (PUD)

In addition, the following site plan was approved at the meeting:

Heatcraft, Inc. Site Plan (14-3022) Alternative Landscape Plan Only	Site Details: Applicant: Location:	20,000 square feet of warehouse space on 13.6 acres zoned Light Industrial (LI) Robert Stroop 315 Murfreesboro Street
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Doug Demosi, AICP
Planning Director

Mike Hughes, P.E.
County Engineer

MEMORANDUM

To: Rutherford County Board of Commissioners

From: Doug Demosi, Planning Director

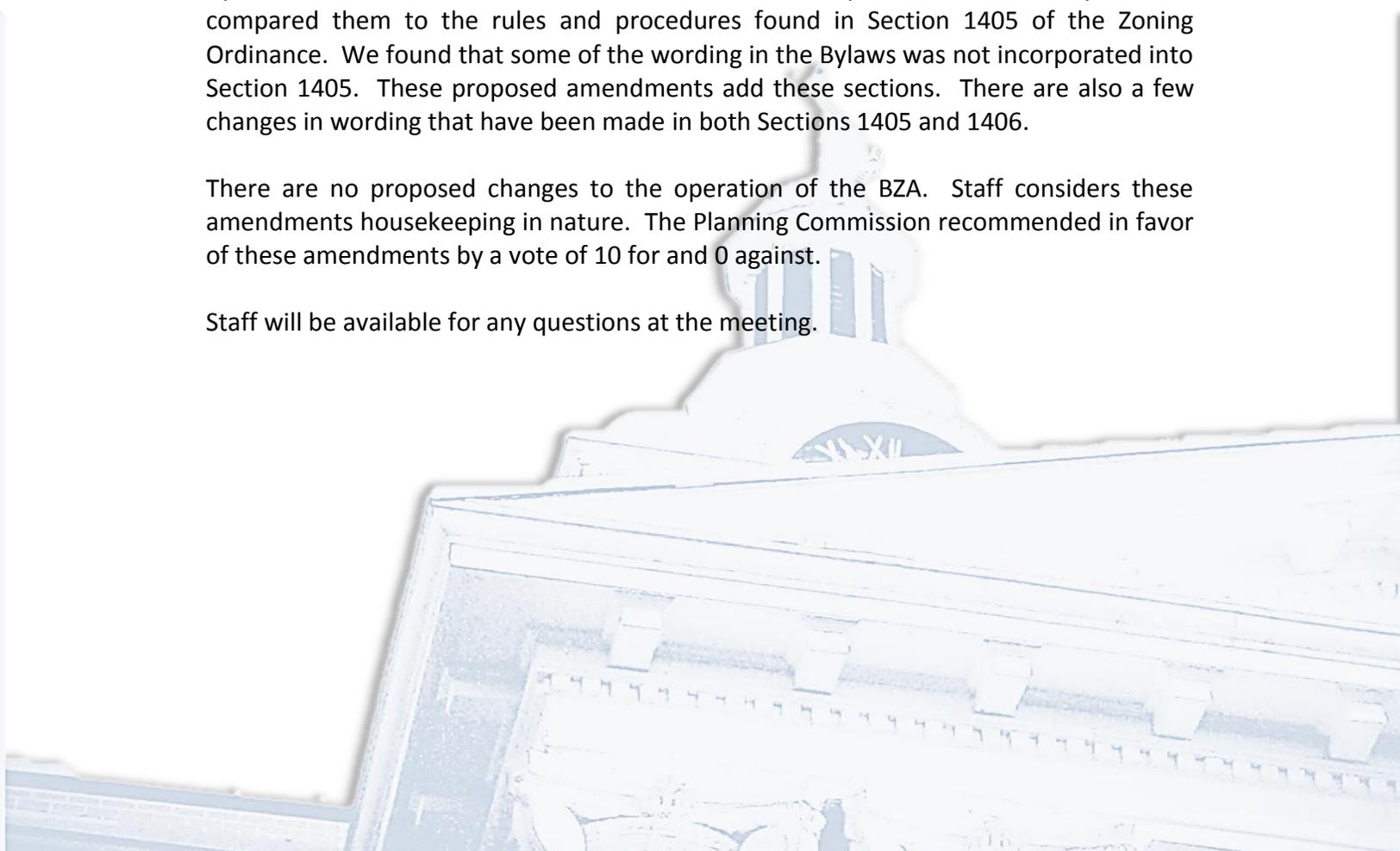
Date: November 17, 2014

Subject: Various amendments to Section 1405 and 1406 of the Zoning Ordinance pertaining to Rules and Procedures for the Board of Zoning Appeals and Administrative Appeals (14-5004), Planning Staff applicant

When the Zoning Ordinance was adopted in November of 2012 (Effective date January 1, 2013), most of the rules and procedures found in the Board of Zoning Appeals (BZA) Bylaws were codified in the new Ordinance. Staff recently reviewed the BZA bylaws and compared them to the rules and procedures found in Section 1405 of the Zoning Ordinance. We found that some of the wording in the Bylaws was not incorporated into Section 1405. These proposed amendments add these sections. There are also a few changes in wording that have been made in both Sections 1405 and 1406.

There are no proposed changes to the operation of the BZA. Staff considers these amendments housekeeping in nature. The Planning Commission recommended in favor of these amendments by a vote of 10 for and 0 against.

Staff will be available for any questions at the meeting.



(New text is **bolded and underlined**. Omitted text is ~~struck through~~)

1405 The Board of Zoning Appeals

A. Creation of Board of Zoning Appeals

The Board of Zoning Appeals as created on October 20, 1972 shall continue in effect as appointed.

B. **Membership**, Vacancies and Removal

Members of the Board of Zoning Appeals must be citizens of Rutherford County. Vacancies of said Board shall be filled for the unexpired term of those members whose position has become vacant by appointment of the Board of Commissioners, consistent with Tennessee Code Annotated (TCA) 13-7-106. A member may be removed from such Board for continued absences or just cause by action of Board of Commissioners after proper hearing consistent with TCA 13-7-106.

C. Advisory Opinions

The Rutherford County Planning Department and/or the Planning Director may submit an advisory opinion to the Board of Zoning Appeals on any matter which may come before said Board. Such opinion shall be made a part of the official record of the Board.

D. Powers of the Board of Zoning Appeals

The Board is hereby vested with the powers to:

1. Hear and decide appeals where it is alleged in writing by the appellant that there is error in any order, requirement, permit, decision, or refusal made by the Director of Building Codes or other administrative official in carrying out or enforcement of any provision of this ordinance;
2. Hear and act upon applications for variances in accordance with TCA § 13-7-109) and Section 1407 of this chapter to alleviate hardships by virtue of the inability of the landowner to comply strictly with the provisions of this ordinance by reasons of exceptional narrowness, shallowness or shape of a specific piece of property at the time of enactment of the zoning regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation would result in peculiar and exceptional practical difficulties to or undue hardship upon the owner of such property;
3. Hear and act upon applications for special exceptions in the manner and subject to the standards set out in Section 1408 of this chapter or for interpretations of the official zoning map;
4. Hear and decide all special questions or other matters referred to it on which it is required to act under this ordinance.

E. Election of Officers

The Board shall elect from its members its own chairman and vice-chairman, who shall serve for a two year term and may upon election serve succeeding terms.

The Board shall elect a secretary who may be a member or such other person from county staff as the Board and Mayor shall approve. It shall be the duty of the secretary to keep all records, conduct official correspondence, and supervise the clerical work of the Board. The Mayor may provide such other assistance as is necessary.

F. Conflict of Interest

Board members shall abide by The Code of Ethics for Rutherford County as adopted by the Rutherford County Board of Commissioners.

G. Meetings of the Board

Meetings shall be held at the call of the chairman and at such other times as the Board may determine. **The chairman may participate in all discussions and shall vote as a member of the board.** The chairman, or in his/her absence the vice-chairman, may administer oaths and compel the attendance of witnesses. **In the absence of the chairman and vice-chairman, and a quorum is present for a regular or special meeting, then a chairman pro-tem for such meeting shall be elected from those present by those members present.** All meetings shall be open to the public and proper public notice of such meetings shall be given.

H. Rules and Proceedings of the Board

The Board shall adhere to the following rules and may adopt additional rules for the conduct of its meetings:

1. The presence of three (3) members of the Board shall constitute a quorum. The concurring vote of at least three (3) members shall be necessary to deny or grant any application before the Board;
2. No action shall be taken by the Board on any application until after a public hearing and notice thereof. Said notice of public hearing shall be a legal notice published in a newspaper of general circulation before the date set for a public hearing and written notice to the applicant prior to the meeting at which the action is to be heard. No application shall be considered and heard by the Board unless such application shall have been filed within the schedule as established by Planning Department. Late submittals must be made to the Planning Department, and the Planning Director will determine if the submittal can be placed on the agenda and still meet public notice requirements;
3. The Board may call upon any other office or agency of the county government for information in the performance of its duties, and it shall be

the duty of such other agencies to render such information to the Board as may be reasonably required;

4. Any officer, agency, or department of the county or other aggrieved party may appeal any decision of the Board to a court of competent jurisdiction as provided for by state law;
5. **All matters voted on by the board shall be put in the form of a motion by one of the board members and seconded by another board member. A motion may be amended in accordance with Robert's Rules of Order. The chairman shall conduct the voting by asking for a either a roll call vote or voice vote, as deemed appropriate by the chairman.**
6. In any decision made by the Board on a variance, the Board shall:
 - a. Indicate the specific section of this ordinance under which the variance is being considered, and shall state its findings beyond such generalities as "in the interest of public health, safety and general welfare";
 - b. In applications pertaining to hardship, specifically identify the hardship warranting such action by the Board;
7. Any decision made by the Board on a special exception permit shall indicate the specific section of this ordinance under which the permit is being considered and shall state its findings beyond such generalities as "in the interest of public health, safety and general welfare" and shall state clearly the specific conditions imposed in granting such permit;
8. Applications will be assigned for hearing in the order in which they appear on the calendar thereof, except that applications may be advanced for hearing by order of the Board, good and sufficient cause being shown;
9. At the public hearing of the application before the Board, the applicant shall appear in his/her own behalf or be represented by counsel or agent. The applicant's side shall be heard first and those in attendance shall then be given opportunity to comment.
10. Re-hearings may be granted by a majority vote of the Board when it is alleged that there was error or mistake in the original facts or upon introduction of new information not available at the original hearing submitted within thirty (30) days of the original decision. A vote of the Board shall not be reversed on the same set of facts. If the request for a rehearing is granted, the case shall be put on the calendar for a rehearing. In all cases, the request for a rehearing shall be in writing, reciting the reasons for the request and shall be duly verified and accompanied by the necessary data and diagrams. The person requesting the rehearing shall be notified to appear before the Board on a date to be set by the Board.

11. The Board of Zoning Appeals shall keep official minutes of the proceedings showing all motions, votes and testimony as well as all official actions.
12. **When a parliamentary matter arises that is not covered by these by-laws, Robert's Rules of Order shall apply.**
13. **Deferral of the Public Hearing before the Board of Zoning Appeals. It is the policy of Board of Zoning Appeals that any requests to defer their consideration of an appeal/special exception/variance application be submitted to the Planning Director in writing prior to the scheduled public hearing. If a deferral request is granted, then notices of such deferral (if time permits) and of the next public hearing date will be mailed to those who received the original notice of the Public Hearing. Applicants requesting a deferral will be charged the cost of preparing and mailing new notices of public hearing. Applicant-initiated deferrals may not defer an application for a period exceeding three (3) months from the original Board of Zoning Appeals public hearing date of said application. Any application not considered before the three (3) month deferral timeframe will be required to submit a new application, along with any required fees, and will be subject to the regulations in effect at that time."**

I. Fee

Any application for a hearing before the Board shall be accompanied by a nonrefundable fee in an amount established by the Board of Commissioners to partially defray the cost of processing.

1406 Administrative Appeals

In exercising its powers, the Board of Zoning Appeals may hear administrative appeals

A. Application for Appeals, Notice of Hearing

1. Within five (5) days after the date of a written notice, requirement, decision, or determination by the Director of Building Codes or other administrative official responsible for carrying out or enforcement of any provision of this ordinance, an aggrieved person or entity shall file a notice of appeal.
2. A written application for an appeal shall be filed with the planning department by the property owner or his/her designated Attorney-in-Fact on forms provided by the Planning and Engineering Department, and the application shall contain information and exhibits as may be essential for determining whether the provisions of this ordinance are being observed.
3. No more than 60 days after the filing of the application, a hearing shall be held on the application, unless otherwise withdrawn or postponed by

written request by the applicant. Notice of hearing shall be in accordance with Subsection 1405 H.2.

4. No more than 90 days after the application is first considered by the Board, a final decision shall be made on the application. This provision may be waived by written request by the applicant or if the applicant does not object to an extension proposed by the Board.

B. Stay of Proceedings

An appeal shall stay all proceedings in furtherance of the action for which an appeal is made, unless the Director of Building Codes certifies to the Board, after such notice of appeal shall have been filed, that by reason of facts stated in the certificate such stay would cause imminent peril to life or property. In such instance the proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by a court of competent jurisdiction on application, on notice to the Director of Building Codes, and on due cause shown.

C. Final Decision

The final disposition of any appeal to the Board of Zoning Appeals shall be in the form of **an Order of Action resolution**, which shall affirm, modify or reverse the decision of the Director of Building Codes or other administrative official responsible for carrying out or enforcement of any provision of this ordinance.



PUBLIC WORKS REPORT

- I. Call to Order: 4:30 PM
- II. Pledge of Allegiance
- III. Roll Call & Determine Quorum
- IV. Approval of October 8, 2014 Meeting Minutes
Motion to Approve as Presented
Motion Carried (Unanimous Voice)
October 8, 2014 Minutes were Approved
- V. New Business

A. **William Kennedy Jr. – BZA 2014-063**

Location: 102 Mannon Court, Map No.:135B, Group A, Parcel: 34, Request for special exception approval for the establishment of a group child care home upon a property located in the RM, Medium Density Residential zoning district.

Motion to Deny based on disruption to neighborhood

Motion Failed for lack of Second

Motion to Approve w/Addt'l Conditions

- **No street parking by residents or clients**
- **Owners must continually reside on site**
- **Approved for 2 (two) years**

Motion Carried – 4 For, 1 Against

Request was Approved

- VI. Adjournment