

TOWN OF UNIONVILLE  
MINUTES OF REGULAR PLANNING BOARD MEETING

The Planning Board of the Town of Unionville met on Monday, August 6, 2018, at Town Hall, 1102 Unionville Church Road, Monroe, NC. Vice-Chairman Craig Rushing, Board members Andy Fowler, Aaron Tarlton, Ken Trull, Jerry Adams, Jeff Broadaway and Alternate Scott Barbee were in attendance. Chairman Joe Medlin and Alternate Barry Baucom were absent.

Vice-Chairman opened the meeting at 7:30 p.m. At that time, everyone in attendance stood and recited the Pledge of Allegiance to the United States flag, after which Jeff Broadaway led the prayer of invocation.

Vice-Chairman Rushing called the meeting to order and welcomed all to the meeting. Upon motion duly made by Jeff Broadaway, seconded by Aaron Tarlton, the Board unanimously approved the minutes of the July 9, 2018, regular meeting.

There being no other business, upon a motion made by Aaron Tarlton and seconded by Jerry Adams, the Regular Planning Board Meeting was recessed at 7:34 p.m. for the Planning Board to enter into a Joint Work Session with Council.

At 7:36 p.m., Mayor Baucom called the Joint Work Session to order. He then called the Planning Board to join Council at the table. Mayor Baucom introduced Mr. Rick Flowe to begin his presentation. Mr. Flowe began by introducing himself. He is President and CEO of N-Focus and specializes in land development and related topics regarding subdivisions and infrastructure. Mr. Flowe stated that he commonly received the question from towns regarding subdivisions and septic systems. He continued by saying that when looking at the current language in town code, it was vague on how specifically the town should deal with septic systems. When considering septic systems, as they age it becomes a question of when, not if, they will need repair. He said that many do not realize how much property it takes to repair a soil issue in a lot. A lot of developers or homeowners will pick and choose if they go with one or two systems. Considerations of lot size, zoning, and soil quality often determine the type of system the builder will install. Currently, the one acre minimum is the biggest problem. If someone were to build a 4,000 square-foot house with several bathrooms, they would need a larger septic tank than the standard size. In a town, the Planning Board is in place for one main reason: be visionary and advise the governing board on that matter so the town's governing board can make sound decisions.

Mr. Flowe continued by saying that in subdivisions, if there is difficulty with perking or bad soil, whatever case may be, a developer will typically slice the land like pizza. If the minimum slice is one acre and the developer buys 75 acres, he is going to try to get 75 slices, or as close to it as he can. When considering waste water disposal systems, if the town's ordinance is silent on waste water, then the developer will come up with creative solutions. A popular solution has been to designate common lot for pumping, for example, which can be effective. The problems typically arise when someone or something changes in the equation. For example, if the house

is sold, and the new owners want to add on and cannot due to a septic field, or homeowners begin fighting over septic tank sites or easements. This presents a recipe for problems down the road, even if it is required to be put on plat, deed, it is still recipe for disaster. He stated that the objective now is to look at long term solutions that work. One of the things he has found is that the best solution is to look at it up front when looking at a plat for approval. There may be lots in the flood plain, which will create issues. He reiterated that it is best to abolish the problem at the beginning stages. For example, the town can require that plats disclose the drain field and the proposed drain field meets the requirements for the size of the proposed house that would be build. This drain field should be pre-approved prior to the town receiving the plats for review. The town would have the developer or builder have all of the decisions regarding the septic site made up front before recording the plat. He reiterated his point by saying that it is uncommon for homeowners to maintain septic systems until there is a problem. By then, there are typically other issues that come up.

Mr. Flowe went on to recommend that in regards to all new subdivisions, the town should require that the developer have the repair field identified at the beginning of the process. He distributed a handout that presented an option for how the ordinance might read if the revisions were put into place. Mr. Flowe offered to make any requested edits to help the town personalize the proposed revisions. These changes would be a text change in the town's Land Use Ordinance.

Mr. Flowe then went over each piece of the proposed changes. He stated that the "whereas" established the problem and offered a reasoning for the action. He explained that there are governing policies in North Carolina that require towns to say why they are doing something, rather than just making changes at will. He stated that Part 1 gives instructions to the person keeping ordinance. He clarified that the underlined text represented the changes proposed to section 238 of the Land Use Ordinance.

Mr. Flowe went on to give a potential scenario of how problems can arise when a shared lot is used for a septic system. He stated that ultimately the issue will come back to the Town, even if it technically is not something regulated by the Town. He told the group that the goal of the Planning Board is to make informed decisions in the best interest of the homeowners. The ultimate goal is to help people succeed and not set them up for failure.

Mr. Flowe continued to explain that Part 2 offers instructions for the land surveyor. The recommended changes adds text to Section 239, stating in paragraph A that plats must include on-site sewage disposal and an on-site repair field. He stated that with this amendment, the surveyor will then look at the perk tests and make sure the lots have been tested prior to submitting the plat. Their goal will be to put the repair field in one lot with the home. He stated that there are always lots that no one wants to purchase due to various issues, like slopes and failed perk tests. This would ensure that those lots weren't built on any way and makes sure that each lot is a quality, buildable lot.

Mr. Flowe asked the group if they had any questions for him. Mayor Baucom encouraged the Planning Board to speak up during this discussion.

Planning Board member Ken Trull stated that he knew Mr. Flowe had reviewed a past subdivision that was approved by the Town, but also began the conversation regarding easements. Mr. Flowe concurred that he had seen that particular subdivision and stated that those types of proposals would no longer be permissible with the proposed revisions. There were many opportunities for problems with pipe going across other people's property. Planning Board member Craig Rushing stated that some of the pipe went down the street. He asked Mr. Flowe who would be responsible if one of those pipes burst under the road or if it were damaged during construction. Mr. Flowe stated that the homeowner would be responsible for those repairs. He stated that the state does not operate a utility and the only state maintained pipes are storm water pipes. The state would classify the pipe as an unauthorized encroachment. He stated that the state will generally not touch the lines other than to move it out of their way. Duke Energy strategically places their lines about one foot out of the right of way to avoid issues with the state. He said that eventually there will be a problem; it may be part of the 40-year design cycle, but there will be future problems.

Mayor Baucom then asked Attorney Ken Helms & Planning Board member Craig Rushing how the shared easement was working at Old Gate. Craig clarified that Mayor Baucom was referencing the commons area in the Old Gate community. Craig stated that the system appeared to be effectively working at the moment. Planning Board Alternate Scott Barbee stated that the Vineyard has a similar system with a shared lot for easements. Scott was in agreement with the proposed changes, but asked that a definition of "repair area" to be added for the general public. Mr. Flowe stated that they could easily add that definition, recommending that they use the county's definition. Mayor Baucom asked how this would affect what was done at Old Gate. Mr. Flowe stated that if the septic was not in the same lot as the home, a system like Old Gate has would no longer be an option. He confirmed that those systems function well, but problems arise due to the control of the property. When foreclosures, probates, and so on occur and no one remembers the original agreements, then problems happen. He said that a shared septic lot can certainly work, but problems typically arise not over whether it works, but because someone dug up a line, lines get broken, and repairs have to be made. Mr. Flowe asked Craig if there are financial ties to the shared lot and asked who would pay the property taxes for that shared lot. Craig stated that the property taxes are paid by the owners using the field. Attorney Ken Helms stated that there are several areas that have their interior lots pumping their repair areas to the common area. He stated that it would be reported on the plat with the designated lot with its repair areas. Mr. Flowe stated that the biggest issues arise with people not being aware of the easements. He continued that it would make sense to say that it was recorded on the plat, but several times, it is overlooked by people. He said it can quickly escalate into time bombs for neighbors and a political mess. He stated that many people do not closely study a plat to read the note about the easement. He said if the Town was comfortable with continuing with allowing the easements, then the language would need to be tightened up so that problems will not fall back on the Town. There are many jurisdictions that could be involved such as municipalities, counties, and states. Those multiple jurisdictions can present

miscommunication. He stated that the intent in this is not to exercise another jurisdiction's authority; however, the idea is to focus on the basics by no longer allowing a homeowner's septic lines through another homeowner's property. This text amendment would avoid the problem on any future subdivisions.

Attorney Ken Helms asked Mr. Flowe to explain the purpose of the statement "or controlled by". He stated that he felt that it could be argued that someone with property that has an easement would be controlling that piece of property. Mr. Flowe stated that the statement was referencing land leases, which typically only show up in non-residential scenarios. He stated that the phrase could be removed. Attorney Helms clarified that the septic system would have to be within the four corners of the homeowner's lot. He stated that he was trying to avoid an argument that someone's easement would fit into the category of "or controlled by". Attorney Helms and Mr. Flowe agreed that "owned or leased" may be the best way to word that particular statement.

Mr. Flowe told the group that there would not need to be any action taken at this meeting. The next step would be a public hearing. This proposed change would stop the problem of having off-site septic systems and those issues surrounding ownership, control, maintenance, and neighbors. He stated that he has put this ordinance in other towns and recommends this proposal in his unified development ordinance. Planning Board member Aaron Tarlton asked Mr. Flowe what other towns of Unionville's size typically do in these situations. Mr. Flowe stated that many towns are going towards this type of ordinance because of the problems that were previously discussed. He stated that these issues spiked after the economic crash due to many property deeds going to the financial institutions and the new owners bought it in a fire sale, while someone else still owns the lot with the repair field, especially in the cases of low pressure or gravity systems. Land Use Administrator Gaddy confirmed that the commons area taxes for Olde Gate were billed to the Homeowners Association. Planning Board member Craig Rushing stated that homeowners there understand that if there is a problem, then it is their responsibility to fix the issue. Mr. Flowe stated that the system may work like a charm for a long time. He stated that the first plat that was brought to his attention had a lot of issues to be concerned about, with lines going across other people's property and pipes in the right of way. He stated that all land is not created equally and the Town needed to give homeowners a solution that will work best for them.

Land Use Administrator Gaddy stated that currently the Town requires that plats show the on-site disposal system and off-site repair fields. Mr. Flowe stated that the current language has now allowed the developers to slip out of bounds with the repair fields. Ms. Gaddy then inquired about any language in the ordinance if a homeowner with an off-site repair field came back to the Town for a future permit for something like an accessory structure. Mr. Flowe stated that the Lot of Record is the Lot of Record and the permit can be issued as long as a building is not built on a drain field. He stated that Ms. Gaddy would need to look for setbacks when they requested the permit. Mr. Flowe asked Ms. Gaddy if she requested a copy of the septic permit when people applied for permits. Ms. Gaddy stated that the Town does not require that step. Mr. Flowe stated that the Town could request the septic permit to ensure that the homeowner is not building in the drain field. He went on to state that this request would not have to be included in

the Land Use Ordinance. The Town would be asking for a septic permit to ensure that the structure is being put in the proper place.

Planning Board member Jeff Broadaway stated that this conversation addresses many concerns that were raised by the Planning Board. There was a joint meeting held with Planning Board members Jeff Broadaway, Andy Fowler, Councilman Edd Little, Mayor Randy Baucom, and Rick Flowe. In the meeting, Rick told the group that the subdivision presented was a classic example of what a Town would not want to approve. Jeff stated that in the discussion held that night, Mr. Flowe reiterated all of the concerns that the Planning Board discussed. This proposed text amendment addresses all of the Planning Board's concerns. Planning Board member Ken Trull stated that the development that sparked the conversation met all of the Town's requirements, but seemed like a bad idea.

Mr. Flowe stated that he knew he would move Part 4 down to Part 5, and add the definition of a repair field to make it consistent with the environmental health department. He stated that plats will come to Ms. Gaddy for review and she will make sure that the plats show all of necessary information. The property owner will set approximations of where the proposed house will go, and environmental health will lay out where drain field and repair field will go. At that point, the surveyor will add that information to the plat. Mr. Flowe stated that while rural lots seem bigger, that they squeezing everything into that lot. Oftentimes, repair fields will take up more room than homeowners realize. Mr. Flowe stated that he will make the recommended changes and email the amended file to Ms. Gaddy. After tonight, the Town should advertise and conduct a public hearing on the proposed amendment to the Land Use Ordinance. He told Ms. Gaddy that Nadine can assist with the language of an ordinance amending an ordinance. Ms. Gaddy asked if Council would need to have the public hearing at their next meeting. Mr. Flowe stated that Planning Board will make a recommendation, then the governing board will set a public hearing, then go through normal process and procedure to vote on the recommendation. He stated that this change would affect all new subdivisions – minor, major, residential, non-residential. Mr. Flowe then offered to return at any point to assist the Town. He stated that after this work session, the Town should be able to run with that, but he would be happy to return again if need be. He asked when the next Planning Board meeting would be scheduled. Ms. Gaddy stated that it was planned for Monday, September 10. She said that Council could set a public hearing on the 17<sup>th</sup> if the Planning Board chose to make a recommendation. Mr. Flowe reminded the group that the public hearing has to be advertised twice and the Town should take time to get it right.

Ms. Gaddy asked Mr. Flowe to clarify the statement of "ordinance amending the Land Use Ordinance". She stated that the Town typically makes text amendments. Mr. Flowe stated that the two statements were synonymous. The change could be coded like a text amendment in the past. He stated that a resolution would be risky, and recommended that the Town make the ordinance amendment. That way the Town would be covered well if there were ever any questions in the future. The wording is strategic that it was tight enough, but also allowed some wiggle room and a small degree of calculated risk for administrative flexibility.

Councilman Edd Little asked Mr. Flowe for his thoughts on considering RA-50 rather than RA-40 for minimum lot sizes. Mr. Flowe stated that considering septic densities, he felt that the town should consider the RA-60 range. He said an additional consideration for lot size is the fact that there are many wells in the area. With a 100-foot-wide cone of influence around wells to keep septic out, that leaves the homeowner with limited options for well and septic placement. He stated that raising the minimum lot size could set people up for success and force them into making informed decisions from the beginning. He told the group that the Town ultimately controls the real estate market for the area. The market becomes devalued when there is an oversupply. Raising the minimum lot size would throttle that supply and tighten up the market, ultimately raising property values. The Town has to think long-term and consider the big picture. It is the Town's job to make informed decisions.

Mr. Flowe then thanked the group. He told them that this area is in the crosshairs of people looking for a rural environment, and with one acre lots, there is a risk of having more people than were planned, especially considering septic densities. He told the group that if there were no further comments, then Council would adjourn followed by the Planning Board.

There being no other questions, Mayor Baucom adjourned the Council at 8:45 p.m. At that point, the meeting was turned over to Planning Board Vice Chairman Craig Rushing.

There being no other business, Craig Rushing adjourned the Planning Board meeting at 8:46 p.m.

Respectfully submitted,

Melody Braswell  
Deputy Clerk