

Memorandum

To: Morganton Planning & Zoning Commission Members
From: Jesse James, Senior Planner D&D Services
Date: March 31, 2021
Subject: P&Z meeting to be held April 8, 2021 5:15

The Morganton Planning & Zoning Commission will meet on **Thursday, April 8, at 5:15 pm** in the City Hall Council Chamber. Please contact Jackie Cain (828) 438-5260 to confirm your attendance

In response to the order issued by Governor Roy Cooper, and to help mitigate the spread of COVID-19, the Planning & Zoning Commission will hold a meeting April 8, 2021 with the following guidelines. The Council Chamber will be open to the public with limitations. Listed below are ways to participate while remaining in compliance with the Governor's orders.

If citizens wish to address the commission during the meeting they may:

1. Send an email to: jcain@ci.morganton.nc.us
2. Send a letter to: City of Morganton, Attn: Jackie Cain, P.O. Box 3448, Morganton, NC 28680
3. Hand deliver a letter to City Hall: 305 East Union Street by 9:00 a.m. on Wednesday April 7, 2021.
4. If a citizen would like to address the commission in person, they may attend the scheduled meeting. Limitation of fifty (50) individuals are allowed in the council chamber. Masks will be required. Please contact Jackie Cain (828) 438-5260 with any questions. Speakers during any public hearing shall be limited to three (3) minutes each. Citizens will be allowed into Council Chamber.

All comments (emails or letters) must be received by 9:00 a.m. on Thursday April 8, 2021.

Morganton Planning & Zoning Commission
Agenda: April 8, 2021
City Hall Conference Room 4
305 East Union Street (Suite A100)

I. OLD BUSINESS:

Item 1: Review and approval of the March 11, 2021 minutes

Item 2: Review of City Council action since last meeting.

No action

II. APPEARANCES

This Agenda time is reserved to provide citizens an opportunity to appear before the Planning Commission about issues other than those appearing on the agenda. Citizens may present their planning ideas, opinions or concerns for Commission consideration and discussion. Anyone wishing to speak should come to the podium, state their name, and address for the record.

III. NEW BUSINESS

Item 1: Consideration of a City of Morganton zoning ordinance text amendment for compliance with the state of North Carolina passage of Chapter 160D land use law into state general statutes.

Action required:

1. Motion to remove (A) on Section 3.2.2.3 Development Standards within section 3.2 Overlay Districts Section. This action is consistent with the approved land use plan as it is simply applying North Carolina statutory limits to the City of Morganton zoning ordinance.
2. Motion to make reference to special use permits for quasi-judicial decisions in the applicable sections 2.1.4.3 and 3.4.7 of the zoning ordinance. This action is consistent with the approved land use plan as it is simply aligning North Carolina Chapter 160D terminology with the City of Morganton zoning ordinance terminology.
3. Motion to convert the terminology of “conditions” to “limitations” when referencing special requirements for certain uses on the Permitted Use Table 3.1, and subsequent sections making reference to conditions. This action is consistent with the approved land use plan as it is a requirement of Chapter 160D and is only making clarity to planning terminology and does not change the actual zoning procedures within the zoning ordinance.

Item 2: Consideration of a zoning text amendment to increase the existing base residential density maximums within the Central Business District (CBD) from 4 dwelling units per acre to unlimited and in the High Intensity District (HID) from 4 dwelling units per acre to 6 dwelling units per acre.

Action required:

1. Motion to increase the base residential density within HID zoning from 4 dwelling units per acre, to 6 dwelling units per acre. This action is consistent with the Mission 2030 Land Use plan by encouraging the goals of higher residential density within the designated High Intensity Districts listed as Commercial Corridors and Planned Destination Commercial areas on the plan.
2. Motion to increase the base residential density within CBD zoning from 4 Dwelling units per acre, to unlimited dwelling units per acre. This action is consistent with the approved 2018 Downtown Masterplan by allowing for the diversity and expansion of housing listed in section 7.4.

Item 3: Consideration of a zoning text amendment to modify the conditions for development of multi-family dwellings including; building lengths/widths, requirement of internal sidewalks, added street access requirement, and individualized utility meters.

Action required:

1. Motion to approve the conditions for development of multi-family dwellings including; building lengths/widths, requirement of internal sidewalks, added street access requirement, and individualized utility meters. This action is consistent with the approved City of Morganton Mission 2030 Land Use Plan as it meets the intent of the plan by allowing a diverse housing mix while also providing for public safety and building design standards.

Item 4: Consideration of an amendment to the zoning ordinance to allow for staff initiation of zoning text amendments.

Action required:

1. Motion for approval of a zoning ordinance text amendment to allow for staff initiation of zoning text amendments. This amendment is consistent with the approved land use plan and only simplifies the process in amending the zoning ordinance.

OTHER ITEMS OF DISCUSSION

IV. ADJOURN

**Next Scheduled P&Z Meeting: Thursday May 13, 2021 at 5:15 PM
City Hall Council Chamber**

Minutes
Morganton Planning & Zoning
March 11, 2021

Members Present:

Bill Lennon, Vice-Chairman
Rick Lingerfelt
Waits Gordon
Don Smith
Pete Wallace
Kevin Kee
Eric Engstrom

Members Absent:

Hank Dickens, Chairman
Judy Francis

Also present from the City staff were Phillip Lookadoo, Director Development Design Services; Jesse James, Senior Planner; Louis Vinay, City Attorney; and Jackie Cain, Administrative Manager.

I. OLD BUSINESS:

Item 1: Review and approval of minutes.

Mr. Lennon stated a minutes from the January 14, 2021 were provided for review. Minutes were approved as submitted.

Item 2: Review of City Council action since last meeting

Mr. Lennon stated Mr. Lookadoo would review action taken by city council.

Mr. Lookadoo stated City Council met in February and reviewed an appeal for an application submitted by Bryan Beam for Maylenia LLC. to rezone the property listed as 410 E Hogan Street. The property is currently zoned High Intensity District (HID) and the application is to re-zone to Exclusive Industrial District (EID). Planning Commission tabled this item at their January meeting. Bryan Beam petitioned for an appeal to city council. City council met at their February meeting and approved the rezoning request for 410 Hogan Street.

II. APPEARANCES:

Mr. Lennon stated this time is set-aside for individuals to come before the planning board to express any planning related concerns to the planning board.

Mr. Jerry Norvell, 201 Riverside Drive, requested to speak to the board regarding economic development. He stated he owned property which was being looked at for development of affordable housing. He stated Mills Construction Company were challenged with the design performance standards. He stated Tammy Stern and Bobby Funk were present to address their challenges.

Tammy Stern and Bobby Funk, Mills Construction Company 608 Washington Street Raleigh NC, requested to speak to commission regarding design performance standards for affordable housing development. Ms. Stern stated Mills Construction had worked with Burke Development Inc to understand the Morganton Market and find land. She stated in 2019 a report concluded that more than 2,700 new single and multi-family housing units were needed over the next four years, especially in the moderate income areas to sustain the county's workforce.

She provided map of an available site located at Independence Blvd/Carbon City Road in Morganton, NC. She stated this location was zoned HID with RD-O (River District Overlay). She stated Morganton's base density zoning would allow 4 Units/Acre. She stated it would require performance points for density bonus.

Ms. Stern discussed a little about Mills Construction and their development. She stated in order to both minimize exposure, and predict and commit to rent levels, we use a standard kit of parts for developments, for which we have a good understanding of costs. Affordability of rent also depends density.

She stated the designs are well-thought out, attractive, energy efficient, design for minimal noise transfer between units, incorporate amenities, but are limited on flexibility/design. Ms. Stern provided a photo of building design. She pointed out that our ordinance allows 150 foot maximum length and that feels restrictive. She stated they compared different developer's designs from Asheville, Marion and Charlotte and they were also 150 feet to 200 feet.

She discussed the performance standards and the density. She stated they would have to earn a lot of performance points in order to increase the density. She requested density be increased in HID, extend maximum length beyond 150 feet and add performance points for affordable build criteria. Also green building performance points. For achieving energy star certification, onsite recycle collection or proximity to transit.

Mrs. Abby Gentry, Main Street Manager, stated she wanted to address base density in the Central Business District. She stated the base density of 4 units per acre is allowed in CBD which is relatively small. She stated the lot size availability in the downtown area is small and suitable to multi-family build. She stated developers feel there is a challenge with the base density size. Mrs. Gentry requested for commission/staff to research this request and return with an amendment to the ordinance to consider higher density in CBD (Central Business District).

Mr. Wallace asked if she had any comparisons.

Mrs. Gentry stated she had reached out to Mr. Lookadoo for any comparisons that Benchmark would have for similar base densities.

Mr. Lookadoo stated we would need to branch out for more information. He stated since our ordinance is a unique type of hybrid code between performance points & form base zoning. Mr. Lookadoo stated we would have this information when we return.

Mr. Norvell stated we do have a restrictive ordinance as this same project was being done in Valdese. He stated making changes would help developers get projects started.

Mr. Bobby Funk, Develop Coordinator Mills Construction, stated his desire to begin development in Morganton. He stated he was excited about the needs of Morganton and being able to provide housing to meet the needs.

Mr. Engstrom stated as a commercial real estate developer he wanted to refer development to Morganton. He stated it was difficult to do so with restrictions of our ordinance for developers to make a project work.

III. NEW BUSINESS:

Item 1: Consideration for a resolution to initiate Zoning Ordinance Text Amendments related to the North Carolina Legislation passing of Chapter 160D Land Use Law.

Action required: Motion for the Planning and Zoning Commission to initiate staff preparation of City of Morganton Zoning Ordinance text amendments to comply with North Carolina Chapter 160D Legislation.

Mr. Lennon asked Mr. James to review.

Mr. James stated:

Chapter 160D Overview: *Chapter 160d of the North Carolina General Statutes is the first major recodification and modernization of the city and county development regulations since 1905. The endeavor was initiated by the Zoning and Land Use Section of the N.C. Bar Association in 2013 and emanated from the sections rewrite of the city and county board of adjustment statute earlier that year. To conform to this new statutory framework, every city and county development regulation in the state will need to be updated by July 1st, 2021.*

Subjects within Chapter 160D related to Morganton Zoning Text Amendments; Terminology around conditional zoning, special use permits, etc, limitations for manufactured homes, and plan consistency statements.

Action required: Motion for the Planning and Zoning Commission to initiate staff preparation of City of Morganton Zoning Ordinance text amendments to comply with North Carolina Chapter 160D Legislation.

Mr. Lennon asked if there were any questions.

Mr. Smith made a motion for staff to proceed with text amendments to comply with North Carolina Chapter 160(d) legislation seconded by Mr. Lingerfelt and passed unanimously (7-0).

Item II: Other Zoning Text Amendments to Consider

Mr. James explained there were items in the zoning ordinance that needed corrected. He stated a list of items were provided and he discussed each individually. He discussed one regarding initiation future text amendments a little closer. Mr. James explained in order for an amendment to be considered it would need to be brought before commission to consider for staff to continue with presentation to commission. The time for this turn around was a loss of a months' time. He stated if staff was able to initiate discussion then it would expedite the process.

- Administration and Procedural clarifications
- Typos to correct
- Limitations regarding multi-family housing ~ Mr. James discussed the request which was presented earlier by Mills Construction and Mrs. Gentry. He stated density needed to be modified.

- Density and Dimensional Standards, particularly as to multi-family, and within CBD
- New Performance Density Categories and elaborating/defining other section for clarity
- ** Allowing Development and Design Services Staff to initiate future text amendments**
- Possibility of a New Overlay within current CBD Zone to allow for flexibility in building design and use limitations
- Conforming some sections of the Zoning Ordinance to other portions of City Code of Ordinances.

Action required: Motion for the Planning and Zoning Commission to initiate staff preparation of City of Morganton Zoning Ordinance text amendments regarding issues stated above.

Mr. Lennon asked staff if they had questions for staff.

Mr. Wallace discussed if we could not approve staff initiation tonight.

Mr. James stated advertisement would be required for changes.

Mr. Engstrom made a motion for staff to initiate staff preparation of City of Morganton Zoning Ordinance text amendments regarding issues seconded by Mr. Wallace and passed unanimously (7-0).

OTHER ITEMS OF DISCUSSION

ADJOURN

Next Scheduled P&Z Meeting: **Thursday April 8, 2021 at 5:15 PM**
City Hall Council Chamber

**CITY OF MORGANTON
PLANNING COMMISSION
AGENDA SUMMARY**

DATE: April 8th 2021

SUBJECT:

Consideration of a City of Morganton zoning ordinance text amendment for compliance with the state of North Carolina passage of Chapter 160D land use law into state general statutes.

SUMMARY:

Chapter 160d of the North Carolina General Statutes is the first major recodification and modernization of the city and county development regulations since 1905. The endeavor was initiated by the Zoning and Land Use Section of the N.C. Bar Association in 2013 and emanated from the sections rewrite of the city and county board of adjustment statute earlier that year. To conform to this new statutory framework, every city and county development regulation in the state will need to be updated by July 1st, 2021.

Updates Needed:

1. -160 D- Must not exclude manufactured homes based on the age of the home. (G.S. 160d-910)
- Zoning Ordinance- The manufactured home shall be constructed after July 13, 1994, and shall meet or exceed the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction.
2. 160 D- Must align ordinance terminology with 160D terminology for special use permits.
- Zoning Ordinance-
-Does not mention special use permits in section 2.1.4.3 Powers and Duties, for the Board of Adjustments.
-Section 3.4.7 (H) Telecommunication Towers- The procedure for approval of this land use is by special use permit.
3. 160D- One of the main objectives of this legislation is clearing up the differences between conditional zoning, special use permits, conditional use permit, conditional use district, and special use district. Conditional use permits, conditional use districts, and special use districts are no longer legal under 160D, which is not an issue in the City of Morganton zoning ordinance, but the word conditions, listed in several places should be changed for clarity. **Suggestion:** Use the terminology “limitations” to reference requirements needed outside of the common requirements for all uses listed on the Permitted Use Table 3.1, and all other references to “Conditions” for the requirements subsequent to this table referencing these limitations.

NECESSARY COMMISION ACTION:

1. Motion to remove (A) on Section 3.2.2.3 Development Standards within section 3.2 Overlay Districts Section. This action is consistent with the approved land use plan as it is simply applying North Carolina statutory limits to the City of Morganton zoning ordinance.
2. Motion to make reference to special use permits for quasi-judicial decisions in the applicable sections 2.1.4.3 and 3.4.7 of the zoning ordinance. This action is consistent with the approved land use plan as it is simply aligning North Carolina Chapter 160D terminology with the City of Morganton zoning ordinance terminology.
3. Motion to convert the terminology of “conditions” to “limitations” when referencing special requirements for certain uses on the Permitted Use Table 3.1, and subsequent sections making reference to conditions. This action is consistent with the approved land use plan as it is a requirement of Chapter 160D and is only making clarity to planning terminology and does not change the actual zoning procedures within the zoning ordinance.

**CITY OF MORGANTON
PLANNING COMMISSION
AGENDA SUMMARY**

DATE: April 8th 2021

SUBJECT:

Consideration of a zoning text amendment to increase the existing base residential density maximums within the Central Business District (CBD) from 4 dwelling units per acre to unlimited and in the High Intensity District (HID) from 4 dwelling units per acre to 6 dwelling units per acre.

SUMMARY:

Current Ordinance- HID Base Residential Density= 4 DUA (Dwelling Units per acre).

Definition of HID; “The High Intensity District is established to accommodate **high density residential** and wide variety of civic, institutional, retail, service, and office uses along major arterials within the City and to ensure these uses are attractive, functional, and do not have a harmful effect on adjacent neighborhoods or other commercial areas of the City.”

The current difference between HID and the next level down in zoning density is 2 DUA in the MID (Medium Intensity District). To assist with increasing density in the HID district, the City would benefit from increasing the base density to 6 dwelling units per acre based upon the definition of HID, as well as the minimal difference between HID and MID districts.

The Mission 2030 Land Use Plan recommends High Density residential development within the commercial corridors in the City. This is consistent with the permissible uses in the HID zoning.

Potential Negative Effects: Decreases the amount of performance points needed to grant more density in HID. This could potentially allow for a less desirable residential development by negating the requirement for additional standard options (Table 4.60) to increase density.

Current Ordinance-Central Business District (CBD) Base Residential Density= 4 DUA

Definition of Central Business District; The Central Business District is established to protect and promote the continued vitality of downtown Morganton. It is the intent of this district to provide a concentration of activities in a pedestrian-oriented setting. These activities include retail trade, office, and professional service uses as well as **high density residential**.

By definition alone, 4 DUA is not high density residential, and furthermore, section 4.8.7 (Building Design Standards: Central Business District) requires that ALL buildings in the CBD zoning districts must comply with standards within that section regarding building design. This means that Building Design Sections in Table 4.6 Performance Standards Options (see handout) is meaningless with CBD and also, many of the points are given to CBD regardless of the development due to the nature of CBD development.

Another important fact about the CBD is average lot sizes are naturally small due to the historic grid nature of the district, as well as the natural density of the development within. This results in

difficulty retaining enough points in some situations to even convert existing historic CBD buildings to condos/residential units (see handouts).

The approved 2018 Downtown Masterplan references a deficit of 1,029 downtown housing units. Staff believes that lifting the maximum base density of 4 DUA to unlimited DUA (within the dimensional requirements of 35-foot height residential and 65 foot for mixed use) would help to encourage more downtown residential growth but also keep intact the existing downtown building design standards.

NECESSARY COMMISION ACTION:

Motion to increase the base residential density within HID zoning from 4 dwelling units per acre, to 6 dwelling units per acre. This action is consistent with the Mission 2030 Land Use plan by encouraging the goals of higher residential density within the designated High Intensity Districts listed as Commercial Corridors and Planned Destination Commercial areas on the plan.

Motion to increase the base residential density within CBD zoning from 4 Dwelling units per acre, to unlimited dwelling units per acre. This action is consistent with the approved 2018 Downtown Masterplan by allowing for the diversity and expansion of housing listed in section 7.4.

**CITY OF MORGANTON
PLANNING COMMISSION
AGENDA SUMMARY**

DATE: April 8th 2021

SUBJECT:

Consideration of a zoning text amendment to modify the conditions for development of multi-family dwellings including; building lengths/widths, requirement of internal sidewalks, added street access requirement, and individualized utility meters.

SUMMARY:

A) Current Ordinance: Section 3.4.2 Additional Conditions for Certain Uses, G Multi-Family Dwellings- Does not give flexibility concerning the 150-foot width.

1. No multi-family dwellings or series of attached dwellings, multi-family building or other such arrangements shall exceed a length of 150 feet when measured along the longest axis of the building or series of attached units.

Proposal: Allow for wider/longer buildings by replacing 3.4.2 (G)(1) with the following:

1. Within the LID and MID zoning districts, no multi-family dwellings or series of attached dwellings, multi-family building or other such arrangements shall exceed a length of 150 feet when measured along the longest axis of the building or series of attached units. Within all other zoning districts where such uses are allowed, no such structures shall exceed a length of 175 feet when measured along the longest axis of the building or series of attached units; except, however, if the structure meets the multi-family residential performance standards for wall materials as set out in Section 4.8.5.1(A), and for façade articulation as set out in Section 4.8.5.1(D), then such structure may be constructed up to a length of 250 feet.

Explanation: Gives more flexibility with the design of buildings while keeping intact the Ordinance's goal of not allowing long, flat, plain, building facades.

B) Section 3.4.2 Additional Conditions for Certain Uses, G Multi-Family- there is not a requirement to add internal sidewalks within a multi-family development, unless performance density points are chosen.

Proposal: Require sidewalks for any multi-family development, by adding new sub-section 3.4.2 (G)(8) to read:

Sidewalks shall be required for internal pedestrian traffic within a multi-family development. The internal sidewalk shall connect to the public sidewalk system on the public street by which the site gains access. If there is no sidewalk present, a sidewalk shall be required on the street frontage. A minimum four (4) foot planting strip shall be located between the sidewalk and the street (back of curb) for the internal sidewalk system. The planting strip shall be planted with grass. Sidewalks shall be installed in accordance with the requirements of the City of Morganton Engineering Standards and Specifications. Sidewalks required on

the public street frontage shall have a minimum six (6) foot planting strip shall be located between the sidewalk and the street (back of curb). The planting strip shall be planted with grass. Sidewalks shall be installed in accordance with the requirements of the City of Morganton Engineering Standards and Specifications.

C) Section 3.4.2 Additional Conditions for Certain Uses, G Multi-Family (6) All streets or access ways providing ingress and egress from the development to an existing public street system shall comply with the current standards being required by the infrastructure regulations of the Subdivision Ordinance.

Proposal: Add a sentence that specifies the type of street access allowed on multi-family development over 10 units:

Any multifamily development proposed with over 10 dwelling units shall have direct access on a collector street, or minor/major arterial street, shown on the Morganton Thoroughfare Classification Map.

Explanation: Large housing developments should not be permitted on local streets that do not meet current City of Morganton Engineering Specifications due to high traffic volume.

D) Section 3.4.2 Additional Conditions for Certain Uses, G Multi-Family (5)- Each unit shall be individually metered for all utilities.

Proposal- Allow Master Metering.

Amend the first sentence of Sub-Section 3.4.2(G)(5) to read:

Each unit shall be individually metered for all utilities, except to the extent master metering is allowed and chosen. In cases where master metering is the preferred method, approval must be granted by the City Engineer.

Explanation: In some cases, individual metering is not viable, so this gives flexibility on a case by case basis.

NECESSARY COMMISSION ACTION:

Motion to approve the conditions for development of multi-family dwellings including; building lengths/widths, requirement of internal sidewalks, added street access requirement, and individualized utility meters. This action is consistent with the approved City of Morganton Mission 2030 Land Use Plan as it meets the intent of the plan by allowing and encouraging a diverse housing mix while also providing for public safety and building design standards.

**CITY OF MORGANTON
PLANNING COMMISSION
AGENDA SUMMARY**

DATE: April 8, 2021

SUBJECT: Consideration of an amendment to the zoning ordinance to allow for staff initiation of zoning text amendments.

SUMMARY:

Ordinance: 2.2.9 Zoning Text Amendment Step 2 (A) Applications to change, supplement or amend the Zoning Ordinance may be initiated by the City Council, the Planning & Zoning Commission, or anyone who owns property or resides in the area of jurisdiction of this Ordinance or the agent of such person.

Proposal: Add a sentence to the end of step 2 A) to read: “The City’s Development and Design Department may also initiate such process by presentation to the Planning and Zoning Commission.

Explanation: By planning staff not being granted the ability to bring forth amendment proposals to the Planning and Zoning Commission, an extra step is created in getting issues more expediently resolved within the zoning ordinance. Typically, if staff realizes an issue with the ordinance, a motion must be made by the commission for staff to then have the ability to draft an ordinance for the next meeting agenda. If the commission approves the proposed amendment, it then moves to City Council for consideration. The current process takes a minimum of three months to complete. By staff initiating the proposed amendments, this time could be cut to two months or less.

NECESSARY COMMISSION ACTION:

Motion for approval of a zoning ordinance text amendment to allow for City staff initiation of zoning text amendments. This amendment is consistent with the approved land use plan and only simplifies the process in amending the zoning ordinance.