

PUBLIC HEARING and REGULAR BOARD MEETING of October 18, 2006, with Mayor Don Mullen and Commissioners Alan Marsh, Amy Patterson, H. N. James, Hank Ross, and Dennis DeWolf present.

Also present were Richard Betz, Larry Gantenbein, Sonjia Stewart, Ginger Slaughter, Clem Patton, Lee Hodges, Adam Thompson, Larry Rogers, and others.

#### A. SPECIAL ORDER.

The Mayor called the meeting to order at 6:00 p.m. As requested at the previous meeting, Town Planner Larry Gantenbein was present to review the text of the proposed R-4 and B-5 zoning amendments, subject of the October 4 public hearing. Mr. Gantenbein outlined the work of the Planning Board in developing the amendments, which began as combinations of the existing residential and commercial districts. The Board then discussed the amendments at some length, including the issues of incidental apartments, permitted uses, habitable stories, parking of equipment, storage yards, landscape screening, setbacks in B-5, and signs. During the discussion, it came to light that there was a discrepancy between the copies that had been provided to the Board and the final draft recommendation of the Planning Board as relates to Section 213.6, setbacks in B-5; the final draft should have referred to a 20-foot setback from the right-of-way of the road, not 25 feet from the wear surface of the road, and also included buffer requirements. Lee Hodges asked about density. The Mayor called a brief recess at 6:50 p.m.

#### B. PUBLIC HEARING.

The Mayor called the Public Hearing to order at 7:00 p.m. Those present in addition to the foregoing included Bryan Starnes, Hillrie Quin, Erika Taylor, Mozelle Edwards, Beth Crisp, Mario Gomes, George Mathis, Kim and Jim Lewicki, Griffin Bell, Zack Walker, Bob Harrell, David Wilkes, Chuck Cooper, Wanda Cooper, Dale Sticka, Brian McClellan, Jim Barton, George Schmitt, Bronce Pesterfield, George Sanders, Larry Austin, and Bill Coward. The purpose of the hearing was to receive comments on a proposed request for R-3 Conditional Use zoning by Bill Nellis; the hearing had been duly advertized, notice provided to abutting property owners, and posted on the property. The Mayor asked for comments.

David Wilkes, representing Trillium Place, spoke in opposition to the project, expressing a concern over additional stormwater.

Hillrie Quin recommended that the proposed park be deeded to the Town, be clearly delineated, and include a maintenance provision; he also recommended that the Hospital property contain a conservation easement to the Highlands Land Trust, and said that Mr. Nellis had agreed before the meeting to these provisions.

Bob Harrell spoke in opposition to the project; he owned a lot on Harris lake and thought it would be detrimental to his property value and increase traffic.

Chuck Cooper said he thought it was a great project but would prefer single-family rather than multi-family development; he felt parking might be an issue.

Beth Crisp, owner of the property, said that her family had not objected when Lakeside Restaurant, Jack Mayer's Office, and the Cooper house had been constructed. She pointed out that Mr. Nellis was protecting many trees and she did not see how nine single-family residences would provide any green space.

Wanda Cooper said that their property was already devoid of trees when they purchased it and they were not responsible for the subdivision that removed the trees.

Dale Sticka said that it was good that Mr. Nellis had a proven track record; he felt the project blended into the area and created green space and trails.

There being no further comments, the Mayor adjourned the hearing at 7:11 p.m.

### C. REGULAR BOARD MEETING.

#### I. Call to Order.

The Mayor called the Regular Board Meeting to order at 7:12 p.m.

#### II. Approval of Agenda.

Copies of the agenda had been distributed by mail. The Town Administrator requested that the Board add a Closed Session pursuant to G. S. §143-318.11(A)(6) to consider a personnel matter and pursuant to G. S. §143-318.11(A)(3) to discuss the ETJ lawsuit and Riverwalk litigation with the Town Attorney.

MOVED BY COMM. MARSH, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO APPROVE THE AGENDA AS AMENDED.

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The Mayor said that Mr. Nellis had requested consideration of his petition for conditional use zoning earlier in the meeting because he had another appointment. Mr. Nellis displayed a plan showing further delineation of setbacks but no other changes. He said that all of the stormwater from downspouts would be directed to bio-retention ponds, and all roadways would be designed to a 25-year storm with overflow to the bio-retention ponds.

Comm. DeWolf said that he understood Mr. Wilkes's concern, but was not sure the landowner should be held responsible for other stormwater if he was taking care of his own. He thought the project was well-designed and sensitive, preserving green space and not imposing on the lake frontage, and he also pointed out that it was adjacent to commercial property and thus served as a buffer between R-2 and commercial. Comm. Marsh pointed out that the Planning Board had consistently voted against the project.

Beth Hamm was present and said that she had gone to the wrong meeting location and thus missed the public hearing; the Mayor permitted her to speak, and she said she opposed the project because it would set a precedent of high-density over single-family, as the Werder property re-zoning had done.

MOVED BY COMM. DEWOLF, SECONDED BY COMM. ROSS, AND CARRIED TO APPROVE THE R-3 CONDITIONAL USE ZONING, CONTINGENT ON THE ADDITIONAL ASSURANCES CONCERNING THE PUBLIC PARK AND CONSERVATION EASEMENT DISCUSSED EARLIER IN THE MEETING BY HILLRIE QUIN. The motion carried, with Comms. DeWolf, Ross, and James voting "aye," and Comms. Marsh and Patterson voting "nay."

#### III. Approval of Minutes.

Copies of the minutes of the October 4 Public Hearing and Regular Board Meeting had been distributed by mail.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO APPROVE THE MINUTES AS DISTRIBUTED.

#### IV. Reports.

1. The Mayor reported that he had discussed the recent Forest Service cutbacks with Congressman Taylor's office; they had requested a letter from the Board opposing significant cutbacks in services. Comm. Marsh felt it was only fair to discuss it with the Forest Service before writing a letter; he thought that the office in Franklin might be sufficient.

The Mayor also reported that Town officials had met with engineers who were going to provide updated cost estimates for hydraulic dredging of silt in Big Creek. The USDA consultant would be meeting with the Board soon.

He also reported that the Public Works Committee had agreed to meet with Ted McGavran at 8:30 a.m. on November 7 to discuss clearances on utility poles. He also reminded the Board that a Special Meeting had been scheduled for 7:00 p.m. on November 8 to meet with Peter Alberice concerning Town Hall plans.

He also said that he and the Town Administrator had just returned from the NCLM Conference in Greensboro where he had heard a discussion on recycling, which he thought the Town should explore; he said 357 municipalities in North Carolina recycled waste, and he had asked one of the speakers to come and address the Board.

He also said that all of the letters to Hickory Hill Road residents, encouraging cooperation with the D.O.T. attempt to secure right-of-way, had been mailed.

2. Comm. Ross said that he would like to discuss parking on Church Street again, as discussed at the previous meeting; he said he had misunderstood comments made at that meeting by area merchant Bob Kieltyka. After some discussion the Board agreed to place this on the agenda of the November 1 meeting.

3. The Town Administrator had distributed copies of a letter from Highlands Fire & Rescue expressing concerns over the 10- to 14-story condominium project proposed for US-64 outside the Town limits. He also said the Police planned on closing Main Street at 5:00 p.m. on Halloween for the annual celebration.

## V. Old Business.

1. The Town Administrator recommended, in light of the discrepancy in the texts of the R-4 and B-5 amendments, that the Board defer action until he had had the opportunity to provide corrected copies to the Board, and also to determine if the public hearing would need to be held again. Comm. Patterson felt that a Special Meeting should be held to discuss the amendments to the Ordinance and the Map in greater detail, and the Board agreed by consensus to schedule such a meeting for 7:00 p.m. on October 25.

## VI. New Business.

1. Brian McClellan was present on behalf of Rotary Club of Highlands with a proposal to assume management of the Conference Center. Rotary would agree to schedule events and arrange for repair and upkeep of the building, with major repairs to be done by the Town; it would also upgrade the kitchen by the addition of a commercial oven and stove. The Town would continue to pay for the utilities, and Rotary would be given authority to set rental rates, splitting proceeds 50/50. He said Rotary also wanted permission to operate a bingo game with cash prizes and to continue to permit alcohol on site. The term of the lease was negotiable, but they requested a favorable arrangement, which he said would benefit both the Town and the Rotary.

The Town had also received a request from William A. Bugg Jr. on behalf of the Anglican Church for lease of the facility, and Mr. McClellan said he was willing to work with them. Comm. James felt that such an arrangement should be made by Rotary, not by the Town.

Comm DeWolf said he was thrilled with the idea, and Comm. Patterson said it fulfilled her concept of a building that would be open to the community. After some discussion, the Board agreed for the Town Attorney to work on a draft

lease agreement as outlined by Mr. McClellan.

2. Bryan Starnes was present on behalf of Martin Starnes & Associates to present the FY 05-06 audit. He said that the audit had just been approved by the Local Government Commission, and that there were no problems with management other than routine issues of internal controls. Fund balances were again healthy, and both revenues and expenditures were up this year. He said the Town was in great financial shape, with healthy General and utility funds and no debt.

3. Each Board member had received a memo from the Town Engineer, together with a punch list of items to be corrected in Crunkleton Ridge Subdivision before final approval.

**MOVED BY COMM. ROSS, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO APPROVE THE FINAL SUBDIVISION PLAT FOR CRUNKLETON RIDGE SUBDIVISION CONTINGENT ON APPROVAL BY THE TOWN ENGINEER OF ALL PUNCHLIST ITEMS.**

4. The Board considered a subdivision plat for Eleanor Burke for property on Satulah Mountain, dividing it into a 6.08-acre conservation easement and a 2.10-acre remaining parcel containing her residence.

**MOVED BY COMM. PATTERSON, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO APPROVE THE FINAL SUBDIVISION PLAT FOR ELEANOR BURKE.**

5. OEI Development Company was present with a request for R-2 Conditional Use Zoning for a 4.22-acre parcel across from the Town Ball Park on US-64. Bronce Pesterfield presented the plans, which consisted of 17 single-family residential units, less than 24% built-upon, and a 12-foot one-way loop driveway; the plans also called for a 30-foot right-of-way and a 15-foot setback to preserve vegetation and a water feature in the center of the property. He said that OEI had talked to all 12 residents of the adjoining Pinecrest Subdivision and the project had their support.

Larry Austin was present and claimed that the drawing was incorrect in that it failed to show his ownership of a driveway, which would also reduce the size of the property by almost an acre; he said he would like to see the application denied or delayed. Mrs. Austin also expressed concern over the danger of traffic on US-64.

Georgia Sanders was present with a petition signed by all 12 residents of Pinecrest Subdivision, five lots of which would adjoin the project; she said that she and her neighbors would rather see residential development on the property than commercial development.

Comm. James said he did not see any advantage to the Town in the re-zoning. Comm. Patterson agreed; she pointed out that the density was double what was permitted in B-4 and R-2, two per acre, and she thought that the only reason for the request was to make more money for the developer. Comm. Ross was not certain why the density had to be four per acre. Mr. Pesterfield asked the Board why the multi-family development on the Werder/ Abernathy property across the highway had been approved; Comm. Ross said that that was a different case. Zack Walker asked for permission to speak, and said he favored the residential development of the property.

**MOVED BY COMM. MARSH, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO DENY THE PETITION.**

6. **MOVED BY COMM. PATTERSON, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO GO INTO CLOSED SESSION PURSUANT TO G. S. §143-318.11(A)(6) TO CONSIDER A PERSONNEL MATTER AND PURSUANT TO G. S. §143-318.11(A)(3) TO DISCUSS THE ETJ LAWSUIT WITH THE COUNTY AND RIVERWALK LITIGATION WITH THE TOWN ATTORNEY.** All present left the room except the Clerk and the Town Attorney.

A. The Town Administrator said that the Police chief had requested permission to use Police Auxiliary Officer Teresa Ensley for coverage of special events, despite the provision in the Personnel Manual concerning limitation of employment of relatives, since her husband was a Police Officer; he said he approved the request provided it was for

special events only.

B. The Board consulted with the Town Attorney on the ETJ lawsuit with the County.

C. The Town Attorney briefed the Board on litigation involving Riverwalk Subdivision.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO GO INTO OPEN SESSION.

7. MOVED BY COMM. ROSS, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO PERMIT POLICE AUXILIARY OFFICER TERESA ENSLEY TO WORK DURING SPECIAL EVENTS.

VII. THE BOARD AGREED BY CONSENSUS TO ADJOURN.

There being no further business to come before the Board, the meeting was declared adjourned by the Mayor at 8:50 p.m.

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Richard Betz, Town Clerk