

PUBLIC HEARING and REGULAR BOARD MEETING of September 18, 2002, with Mayor Buck Trott and Commissioners H. N. James, Ron Sanders, Mike Cavender, Hank Ross, and Amy Patterson present.

Also present were Richard Betz, Lamar Nix, Larry Gantenbein, Eric Morris, Kim Lewicki, Linda Clark, Dennis Dewolf, Bill Rethorst, Charles Wolf, Mike Howard, Regina Paoletti, Dr. Waldo Floyd, and many others.

A. PUBLIC HEARING.

I. Call to Order.

The Mayor called the Public Hearing to order at 7:00 p.m., and stated that the purpose of the hearing was to receive comments on several proposed amendments of the Zoning Ordinance. The hearing had been duly advertized in The Highlander newspaper.

The Mayor asked the Town Administrator to briefly review the proposed amendments, and he did so. The Mayor then asked for comments from the public.

Zoning Board member Bill Rethorst asked about a proposal to amend Appendix A(3), increasing the width of a single handicap parking space from 13 feet to 16 feet. Larry Gantenbein explained that the formula for the number of spaces would not change, and that if more than one space was required the additional spaces could be 13 feet in width; the proposal merely placed the Town's Zoning Ordinance in conformance with the State Building Code.

Charles Wolf was present, and stated that he was an architect speaking on behalf of several residents of Highlands Townsite Apartments. He expressed a concern that the proposed amendment of Section 110(B)(2) would not permit the apartment buildings to be re-constructed if destroyed by fire. In the event of a fire, he understood that a variance would be required in order to rebuild from both the Town and from the Division of Water Quality (DWQ), and that it would be questionable if it would be approved. Without a variance only three of the 17 apartments could be re-constructed, a cause for concern for the insurance companies and also a potential loss of tax base. He asked the Board to consider an amendment that would permit non-conforming buildings to be re-constructed to the same square footage, but no larger.

Planning Board member Linda Clark was present and expressed some concern over a proposed amendment that would eliminate the parking requirement for apartments in the B-1 Business District; she reported that the Planning Board had voted against it because of the potential adverse affect on the parking situation downtown. She questioned the explanation that had accompanied the amendment, which said that parking studies had indicated that the change would not negatively impact B-1 parking; she felt that parking was still a problem, and many people did not come downtown as a result. The change would also mean that existing apartment-owners could park on Main Street, and that several new two-story buildings on Fourth Street could potentially add apartments. She asked why the Board was considering the change.

Mike Howard, resident of Highlands Townsite Apartments, reiterated Mr. Wolf's comments; he said that residents in the apartments simply wanted an assurance that they could rebuild.

Dennis Dewolf said he supported part of Linda Clark's comments; he felt that a study was needed, but on the other hand he felt that having apartments in an urban setting was a positive idea.

The Clerk noted for the record that the Planning Board had recommended adoption of all of the amendments, except for the proposal to eliminate the parking requirement for apartments in the B-1 District.

Larry Gantenbein clarified the explanatory note referring to parking studies; the studies had not said that there was no parking problem, only that there was available parking on side streets and the ends of Main Street even during peak demand.

There being no further comments from the public, the Mayor declared the public hearing closed at 7:15 p.m.

B. REGULAR BOARD MEETING.

I. Call to Order.

The Mayor called the Regular Board Meeting to order at 7:16 p.m.

II. Approval of Agenda.

Copies of the agenda had been distributed by mail. The Town Administrator requested that a Closed Session item be added in order to review an application for employment in the Street Department.

MOVED BY COMM. CAVENDER, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO APPROVE THE AGENDA AS AMENDED.

III. Approval of Minutes.

Copies of the minutes of the September 4 Regular Board Meeting had been distributed by mail.

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

IV. Reports.

1. The Mayor reported that the Town was saddened to learn of the accidental death of Steve Eller, who had coordinated many projects for the Town at the Southwestern Commission over the years and would be greatly missed.

2. Comm. Cavender reported that the Street Committee had measured the sidewalk in front of Paoletti's Restaurant, as discussed at the previous meeting, and determined that there would be six feet between the benches and the curb. He did not feel it would be unreasonable to permit them, but he recommended asking the Land Use Planning Committee to review the issue rather than changing the Ordinance now.

Regina Paoletti was present and said that she felt six feet would be ample room for pedestrians on the sidewalk.

Mr. Cavender agreed, but pointed out that the benches were now prohibited by the Ordinance. He felt that the Town should approach the issue uniformly and fairly, rather than on a case by case basis.

He suggested that the Town could indicate to the Committee that it looked favorably on coming up with an overall idea for permitting such encroachments when there is six feet of clearance on the sidewalk.

Comm. James disagreed; he pointed out that most of the Town sidewalks were eight feet in width, and if the Committee was asked to approve such an idea, the potential could exist for three or four benches for every building. He felt that the Committee should study it, but not have the impression that the Town was suggesting what they should decide.

MOVED BY COMM. CAVENDER, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO REFER THIS ISSUE TO THE LAND USE PLANNING COMMITTEE. The Town Administrator reported that he understood S. B. Association Inc. had elected officers, and was now prepared to meet with the Utilities Committee to discuss connection to the Town sewer; he agreed to set up a meeting between the parties.

3. The Town Administrator reported that, as requested at the previous meeting, he had contacted Macon County Tax Supervisor Richard Lightner on September 6 and confirmed that ad valorem property tax values would not decrease should a property become part of a National Historic District.

He also reported that, now that DENR had released the speculative limits for the discharge, as reported at the previous meeting, W. K. Dickson Company had been able to begin actual design of the 1.5 MGD Wastewater Treatment Plant Expansion. He said that the Town had executed the contract for the next phase of design; the lump sum was \$45,000, part of the \$400,000 budgeted this year. He also said that Lamar Nix, Mike Houston, and Kurt Wright had had a very productive meeting at the Aqua Aerobics facility in Chicago last week, working out design and equipment details.

Town Engineer Lamar Nix was present and confirmed that the meeting at the Aqua Aerobics facility had gone very well. He said that the Basic of Design manual had already been prepared for the 1.5 MGD expansion, incorporating ideas that he and Mike Houston had suggested. The new plant would include two new, larger Sequential Batch units, and the existing units would be used as digesters. The design would maximize use of the existing equipment and keep costs down. He also said that the tertiary treatment had been very impressive, using cutting-edge "Aqua Disks" to filter the effluent with cloth filters; the process would enable the town to meet the new standards. The exchange of ideas would ultimately enable Aqua Aerobics to tie down the equipment needed and help W. K. Dickson come up with a firm cost.

Comm. Patterson asked if the 1.5 MGD capacity had been approved, and how likely it would be that it would change. The Town Administrator said that the speculative limits already approved by DENR had been based on that capacity; his understanding was that it had been approved, subject to review by all of the State agencies, and it was unlikely that it would change.

The Town Administrator also reported that the Town had received a memo from the N. C. Association of ABC Boards indicating that the Senate would be strongly opposing the proposal to fund the Alcohol Law Enforcement (A.L.E.) Division from ABC revenues; they had thanked the Town for the resolution adopted on August 7.

He also reported that the Town had received official notice of filing

of a petition to incorporate the Village of Cashiers; the notice was required by Statute for all municipalities located in Jackson County.

He also reported that, as discussed at the August 7 meeting, he and the Police Chief had met with the Town Attorney the previous day to work on clarifying and closing some possible "loopholes" in the Parking Ordinance. He distributed copies of the proposed re-draft, together with the current Ordinance, for the Board's review; Mr. Coward had suggested placing this item on the agenda of the October 2 meeting.

Finally, he had attached a copy of a letter from Jack Calloway dated September 6, concerning parking in the area behind Oak Square. The consensus of the Board was that the matter should be referred to the Land Use Planning Committee. The Town Administrator asked the Town Planner if the Committee would be addressing issues at that level of detail. The Planner said that he was not certain, but he agreed that if the Committee did not address the issue he would bring it back to the Board.

#### V. New Business.

1. The Board considered several proposed amendments to the Zoning Ordinance, subject of a public hearing immediately preceding this meeting. The Board considered the following amendment:

Add the following phrase to the end of the last sentence in Section 110(A): ". . .nor may the non-conforming use be expanded."

The Town Planner said he felt the provision would be helpful; while the Ordinance has some good limitations on non-conforming uses, he said there were no restrictions on expanding them.

MOVED BY COMM. CAVENDER, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO ADOPT THE FOREGOING AMENDMENT

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The Board considered the following amendment:

Replace Section 110(B)(2) with the following: "Alterations, repairs, or rebuilds. Non-conforming buildings may be altered or repaired, but such buildings shall not be enlarged or expanded except in conformance with this Ordinance. Non-conforming buildings that are destroyed or condemned may not be rebuilt or repaired except in conformance with this Ordinance."

Considerable discussion ensued. Comm. James asked how it would affect Highlands Townsite Apartments. The Town Planner reviewed the proposal in some detail, explaining that neither the existing nor the proposed new amendment would affect that situation; the proposal would merely eliminate the ambiguity associated with the current 12-month period of time for repairs and would raise the restriction of 50% of the value to condemnation or destruction. Comm. Ross asked how it would affect the non-conforming inns in the B-1 District; the Town Planner explained that if they burned down, they could not be replaced, under both the current and the proposed amendment. Comm. Cavender suggested that the simplest solution might be to permit non-conforming buildings to be repaired if they did not exceed the square footage.

MOVED BY COMM. ROSS, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY CARRIED TO TABLE CONSIDERATION OF THE FOREGOING AMENDMENT.

By consensus, it was agreed that Town Staff should review the amendment.

Dr. Waldo Floyd, President of Highlands Townsite Apartment No. 1, commented that most of the residents of the apartments merely wanted to be able to re-build just as the building was in the event of a fire.

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The Board considered the following amendment:

Replace Section 204.9 with the following: "No uses within the B-1 Business District, including those special uses identified in Section 204.4, shall be subject to the off-street parking and loading requirements set forth in Article 300 of this Ordinance."

Comms. James and Patterson said that they disagreed with the proposed amendment, which would eliminate the parking requirement for apartments in the B-1 district.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. JAMES, AND CARRIED NOT TO ADOPT THE FOREGOING AMENDMENT. The motion carried, with Comms. Patterson, James, Cavender, and Sanders voting "aye," and Comm. Ross voting "nay."

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The Board considered the following amendment:

Replace the first sentence of Section 803.4 with the following: "The Commission shall request from the proper officials of any non-profit organization, public agency, or public body, including agencies of the State and its political subdivisions, the plans for its buildings, facilities, or projects to be located within the Town of Highlands."

The amendment added "non-profit organizations" to the list of projects reviewed by the Appearance Commission.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO ADOPT THE FOREGOING AMENDMENT.

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The Board considered the following amendment:

In Section 602.2(B), third sentence, change the words "promulgation of" to "issuing."

The amendment was a technical change recommended some time ago by the Town Attorney, and referred to issuance of a ruling.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO ADOPT THE FOREGOING AMENDMENT.

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The Board considered the following amendments:

Add to Section 1002, Definitions: "Wetlands: Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas."

Add the following new Section:

"Section 702.4 Zoning Certificates for structures located in wetlands.

In addition to the requirements of Sections 702.1(A) of this Ordinance, the following provisions shall apply to issuance of a Zoning Certificate for development on wetlands.

(A) Application for a Zoning Certificate in areas deemed by the Zoning Administrator to be wetlands, as defined by this Ordinance, shall include indication on the required site plan of any wetlands on the property and any areas to be disturbed.

(B) If the application proposes the disturbance of any areas identified as wetlands, the Zoning Administrator shall not issue a Zoning Certificate until the applicant has submitted an application to the U. S. Army Corps of Engineers and received the appropriate permit from that organization.

The provision, suggested by Comm. Ross several months ago, would mandate review by the Army Corps of Engineers on any lots deemed wetlands.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO ADOPT THE FOREGOING AMENDMENTS.

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The Board considered the following amendment.

In Appendix A(3), Handicapped Spaces, replace "13'-0" wide" with "16'-0" wide;" re-draw Figure 1 to reflect change in handicapped parking space from thirteen (13) feet to sixteen (16) feet.

The amendment would bring the Zoning Ordinance handicap parking space requirement into conformance with the State Building Code.

MOVED BY COMM. CAVENDER, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO APPROVE THE FOREGOING AMENDMENT.

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The Board considered the following amendment.

Add the following to Section 702.3(A): "No temporary structures are allowed within six (6) feet of the wear surface of a road."

The requirement, as originally drafted, included the words, "or within the right-of-way, whichever is less" at the end of the sentence. Comm. Patterson suggested deleting those words.

MOVED BY COMM. JAMES, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO ADOPT THE FOREGOING AMENDMENT AS MODIFIED.

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The Board considered the following amendment.

Replace Section 211.7(A) with the following: "Within the WS-III-BW Watershed Overlay District, a minimum one hundred (100) foot vegetative buffer for development activities that exceed the low-density standards as established in this Ordinance is required along all perennial waters indicated on the most recent version of the U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps, otherwise a minimum thirty (30) foot vegetative buffer is required. Desirable artificial streambank or shoreline stabilization is

permitted."

The Board discussed the proposal at some length. The Town Planner reminded the Board that the proposed amendment had been drafted by the Division of Water Quality, and the Town had been requested to adopt it as soon as possible. Comm. Patterson expressed some concern over the limitation of the definition of "perennial waters;" she pointed out that there were several streams in Town which were not identified on the U.S.G.S. maps which were nevertheless perennial. The Town Administrator said that this issue had been discussed when the Watershed amendments had originally been adopted, and he understood the Town could identify additional streams on the Zoning Map if there was evidence that they were perennial. Comm. Ross asked if the 100-foot buffer would apply irrespective of property lines, and he was told that it would. Comm. James said that he was not certain what was meant by "low-density standards," and whether or not the DWQ agreed with the Town as to when they were "exceeded;" he said that the recent Regions Bank application had been a case in point. The Town Administrator said that his understanding was that the Ordinance had been adopted, and approved by DWQ, pursuant to the low-density standards, and therefore the 100-foot buffer would not apply; he also commented that letters from the Division of Water Quality had in his opinion evaded this question. Comm. James suggested that the Board take the proposed amendment under advisement, and that the Mayor write a letter to the Division of Water Quality asking it to clarify whether or not the Town is subject to "low-density standards."

MOVED BY COMM. JAMES, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY CARRIED TO TAKE THE FOREGOING AMENDMENT UNDER ADVISEMENT, AND TO ASK THE MAYOR TO WRITE TO THE DIVISION OF WATER QUALITY ASKING FOR CLARIFICATION.

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Bill Rethorst suggested--in reference to the discussion on alterations, repairs, and rebuilds--that the Board re-consider permitting rebuilds within the footprint of a building; such a rebuild could conceivably cover an entire lot, as in the case of Highlands Inn, and mean less green area. Comm. James said he would not be in favor of permitting rebuilds where the building encroached on a Town right-of-way, as was the case with several buildings.

2. MOVED BY COMM. JAMES, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO GO INTO CLOSED SESSION PURSUANT TO G. S. §143-318.11(A)(6) TO REVIEW AN APPLICATION FOR EMPLOYMENT IN THE STREET DEPARTMENT. All present left the room except the Clerk and the Public Services Administrator.

The Board reviewed an application for employment from William Carlos Green.

MOVED BY COMM. JAMES, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO GO INTO OPEN SESSION. The doors were opened but no members of the public were present.

3. MOVED BY COMM. JAMES, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO EMPLOY WILLIAM CARLOS GREEN FULL-TIME AS AN EQUIPMENT OPERATOR I IN THE STREET DEPARTMENT, AT A BEGINNING SALARY OF 9-1 (\$19,970).

The Public Services Administrator also reported that Randy Thrift had resigned from the Sanitation Department, and he would be advertizing for the position.

VI. The Board agreed to adjourn by common consent.

There being no further business to come before the Board, the meeting was declared adjourned by the Mayor at 8:30 p.m.

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Richard Betz, Town Clerk