

PUBLIC HEARING and REGULAR BOARD MEETING of November 2, 2005, with Mayor Buck Trott and Commissioners Amy Patterson, Hank Ross, H. N. James, Dennis DeWolf, and Alan Marsh present.

Also present were Richard Betz, Lamar Nix, Larry Gantenbein, Selwyn Chalker, Bill Harrell, Kim Lewicki, Adam Thompson, Brian Starnes, Charles Simmerson, Tom Turrentine, Carol Werder, Steve & Beth Hamm, Bob Wright, Bronce Pesterfield, Rick & Helene Siegel, Don Mullen, Chuck Cooper, Steve Pierson, Ann Comer, and others.

A. Public Hearing.

The Mayor called the Public Hearing to order at 7:00 p.m. and stated that the purpose was to receive comments on two items:

1. Riverwalk Subdivision - road variance. The Town Planner explained that the subdivider had requested a variance from the Town curve radius standard. The radius would meet State standards, however, and the Planning Board had recommended approval. There were no comments from the public.

2. Amendment of Section 709 of the Zoning Ordinance. The Town Administrator said that the proposed amendment would add the phrase "by the property owners" to the following: "In no instance shall action be initiated for a Zoning Amendment affecting the same parcel of property, or any part thereof, more often than once every twelve (12) months." He also recommended that the phrase "except as permitted herein" be added to take into consideration future Conditional Use Zoning. Rick Siegel was present and said that he favored the amendment; as conditions changed, the Town Board should have the right to re-visit re-zoning petitions. Beth Hamm was present and said that she was not opposed provided only the Town Board could re-visit such petitions; she was not sure the amendment said that.

There being no further comments from the public, the Mayor declared the Public Hearing closed at 7:03 p.m.

B. Regular Board Meeting.

I. Call to Order.

The Mayor called the Regular Board Meeting to order at 7:03 p.m.

II. Approval of Agenda.

Copies of the agenda had been distributed by mail. The Town Administrator said he had neglected to place consideration of the final plat for Hardscrabble Ridge Subdivision on the agenda under New Business. He also reported that Comm. Patterson had requested a closed session to discuss personnel matters. The Board also agreed to delete Item No. 2 under Old Business, Non-Conforming Buildings, because the Planning Board had tabled this matter at its previous meeting. Comm. Marsh requested that a proposal from McGill Associates to seek funding for a Stormwater Master Plan be discussed under New Business.

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

III. Approval of Minutes.

Copies of the minutes of the October 19 Regular Board Meeting had been distributed by mail.

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

IV. Public Comment Period.

The Mayor stated that this was the time for public comments as required by law.

Rick Siegel said that he felt the ability to hear the Town Board in the meeting room should be improved. Comm. DeWolf remembered that the Board had tried different arrangements in the room, but he felt it was critical that the Board members see each other eyeball to eyeball. The Town Administrator reported that, as part of the renovations underway in the Town Hall building, he was receiving proposals for a sound system for the room. Rick Siegel also said that at the previous Planning Board meeting two members had refused to address a matter simply because they did not like it; he thought the Town Board should discuss this matter with the Planning Board.

V. Reports.

1. The Mayor thanked all who had participated in the Trick or Treat celebration earlier in the week.

2. Each Board member had received a copy of the Town Engineer/ Public Service Administrator's report for the month; Lamar Nix was present to review the report.

3. Each Board member had received a copy of the Police Chief's written report for the month; Bill Harrell was present to review the report.

4. Each Board member had received a copy of the Recreation Director's written report for the month; Selwyn Chalker was present to review the report. He also distributed copies of a proposal from Pierre Construction Group to replace the roof on the Highlands Civic Center for \$242,900. Comm. DeWolf said that he had not had time to review the proposal in detail but would like to comment on it at the next meeting.

5. Each Board member had received a copy of the Town Planner/ Zoning Administrator's report for the month; Larry Gantenbein was present to review the report. He said that several items were on the agenda under New Business, including the Village Shoppes subdivision on the Werder property, which the Planning Board had elected to take under advisement for 30 days; the Board had also reiterated for the third time its recommendation that the property be re-zoned R-3. As reported earlier, the Planning Board had also taken under advisement the non-conforming building amendment. The Planning Board had also begun inviting developers to present plans for informal review prior to submission of preliminary plats.

6. Each Board member had received a copy of the Treasurer's Report for the month.

MOVED BY COMM. DEWOLF, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO ACCEPT THE TREASURER'S REPORT.

7. The Town Administrator reported that the Mayor had written to the D.O.T. District Engineer requesting Small Construction Funds to complete the paving of Bowery Road next year. The D.O.T. had also replied to the request to study the adequacy of the culvert under Horse Cove Road at Trillium Place. He reminded the Board of the joint meeting with the County Commissioners scheduled for 4:30 p.m. November 7 at the Civic Center.

The Town Administrator also reported that Fred Clark had requested permission to install a pressure sewer line on private property to the gravity sewer along NC-106 to serve his lot on Cobb Road as well as residences owned by Howell Ferguson and Benjamin Jenkins; Mr. Clark would then proceed with obtaining a cost estimate from an engineer. Sewer policy provided for owners to install sections of the Master Sewer Plan, but in this case there were no immediate plans for a sewer line along Cobb Road, but Mr. Clark had indicated he would be willing to connect to one if it were installed in the future.

Bronce Pesterfield was present and pointed out that a private line would have to be permitted by the State. Comm. James said he had no objection if it was limited to these three users. Comm. Ross was concerned that the request was contrary to what the Board had been discussing in recent weeks and to Town policy. Comm. DeWolf asked if this was a priority area, and the Town Engineer said that it was since it adjoined Lake Sequoyah. Comm. Patterson felt the request had some merit; the area was marshy and there were probably existing septic tank problems, so it was a benefit to both the Town and the property owners. She said that she did not want to be blinded by policy and miss a good opportunity.

MOVED BY COMM. DEWOLF, SECONDED BY COMM. PATTERSON, AND CARRIED TO PERMIT THE THREE INDIVIDUALS TO CONSTRUCT AN ENGINEERED PRIVATE PRESSURE SEWER SYSTEM ON PRIVATE PROPERTY TO THE SEWER ALONG NC-106.

Comms. DeWolf, Patterson, James, and Marsh voted "aye;" Comm. Ross voted "nay."

VI. Old Business.

1. The Board discussed permits issued at previous meetings for use of Town right-of-way for construction activities by Old Edwards Inn on Church Street, which had expired on this date.

The Town Administrator said that George Mathis had called earlier in the day and explained that neither he nor Mario Gomes could be present; however, he had told him the crane would be moved and the street cleared up for the weekend. He understood that scaffolding for the stone work on the north side of the street would need to remain in place, but that the right-of-way on the south side would only need occasional permits which could be issued by him for up to three days. Bob Wright and Carol Werder both said that there was a problem with two-hour parking on the street, and the Mayor asked the Police Chief to be diligent in enforcing it. Don Mullen asked the Town Planner to look at the silt fences on the hill where the excavation was taking place.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO EXTEND THE PERMIT ON THE NORTH SIDE OF THE STREET UNTIL DECEMBER 7.

VII. New Business.

1. Brian Starnes was present from Martin Starnes & Associates to present the Town's FY 04-05 audit. He distributed and reviewed copies of a synopsis of the audit, and said that it had gone very well this year. The fund balance was healthy and the Town was in great financial shape, but he cautioned that there was a significant deficiency in Water/Sewer Fund revenues; he felt the Board needed to look at the rate structure next year. The Treasurer said that the audit had gone very smoothly this year and he credited the office staff for its excellent work.

2. It had been reported earlier in the meeting that the Village Shoppes subdivision plat had been tabled by the Planning Board for 30 days. Each Board member had received a copy of a letter from Marvin Ray and Ron French, owners of The Elephant's Foot, opposed to commercial use of this property even if it meant multi-family.

3. The Board then reviewed three related items for Riverwalk Subdivision, which the Planning Board had reviewed at two regular meetings and two special meetings and recommended approval.

a. Petition for Annexation. A petition for annexation had been received from Gordon MacDonald and Frank Scudder for 4.84 acres adjoining the corporate limits, south of the Cullasaja River, part of the proposed subdivision plat submitted herewith. Comm. Ross stated that the local newspaper had reported that he was working on this project; however, he had signed no contract and had not worked on it at all.

MOVED BY COMM. DEWOLF, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO SET A PUBLIC HEARING ON THE PETITION FOR ANNEXATION FOR 7:00 P.M. ON DECEMBER 7.

b. Preliminary Subdivision Plat. The Board reviewed in some detail the plat, as well as a list of eleven items recommended by the Planning Board which the Town Planner reported the developer had agreed to include in the restrictive covenants for the subdivision, which would be approved by the Board and recorded with the final plat:

"1. 70 homes be allowed to be constructed in River Walk Subdivision.

2. The Town Board is requested to write a letter to the North Carolina Department of Transportation stating the safety concerns of the entrances to River Walk Subdivision to be located on U.S. Highway 64 East and on Cullasaja Drive. A deceleration lane was recommended to be placed at the entrance on U.S. Highway 64 East.

3. All construction traffic for single family construction as well as any infrastructure construction to be entering River Walk Subdivision will use the entrance on U.S. Highway 64 East and not the entrance on Cullasaja Drive

4. All lots in River Walk Subdivision located along the Cullasaja River are to have a 50-foot set-back from the river where feasible with 30 feet of that being natural vegetation. The Developer stated that it was not feasible to have a 50-foot set-back on four (4) lots (Lots H, I, J & K) because the terrain is too steep. These four lots are to have a 30-foot set-back.

5. The requested variance on the radius of the curves within River Walk Subdivision be granted to avoid the cutting of large trees.

6. A maximum square-footage be placed on the homes to be built on the lots along the Cullasaja River to prevent over building. Developer stated that the restrictive covenants state that the estate home footprints shall not exceed 2600 sf and the cluster home footprints shall not exceed 2400 sf with strict restrictions on siding, roof, windows, etc. and that all plans have to be approved by an Architectural Review Committee.

7. The Developer agreed to hire an environmental consultant to study the property being developed including any marshland, lakes, streams, and other natural patterns affecting the site.

8. No docks are to be constructed by any property owners of River Walk Subdivision. A canoe storage area will be available for any property owner to use.

9. The Cullasaja River located along River Walk Subdivision will always remain open for public use.

10. Recommended building a properly planned and approved greenway trail through the common areas of River Walk Subdivision that would parallel U.S. Highway 64 East as determined by the Town Board at some future date.

11. Recommended that the existing restrictive covenants of River Walk Subdivision be reviewed."

Tom Turrentine was present and discussed the subdivision in some detail. He said D.O.T. officials had already reviewed the entrance on US-64 and said that a turning lane would not be required. He also discussed the green space, which would be a perpetual easement,

and the first-class architectural design. The Mayor said he was concerned that another Bowery Road situation might be created because of Cullasaja Drive; he also said that the D.O.T. was reviewing the possibility of paving that road. Comm. Ross said that he had problems with the entrance on Cullasaja Drive; he wondered how he would be able to prevent it from being used. Mr. Turrentine said that the entrance would be closed with a chain or gate. Comm. DeWolf said he appreciated all that the Planning Board had done, but he was concerned over the change in the rural character of the Cullasaja Drive area. He was also concerned over the idea of a gated community, which he felt worked against the village character of Highlands and the fabric of the community. Mr. Turrentine said that this was the first gated community he had ever developed, but he would be marketing the property to people who wanted to lock and secure their houses when they left. He pointed out that the alternative to the clustered development with green space would be terrible, consisting of development of the original quarter-acre lots in the older subdivision. Comm. Patterson said that, unless the Board said that nothing could be developed on this property, this was probably the best that could happen in terms of green space and clustering; she felt that the Planning Board had worked through the problems very well, and it was the best thing for the community as a whole.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO APPROVE THE PRELIMINARY PLAT.

Town Planner Larry Gantenbein commented that this was a good example of conservation-based development, and also gave some indication of how Conditional Use Zoning would work.

c. Variance. The variance had been the subject of a public hearing immediately preceding the Regular Board Meeting, duly advertised.

MOVED BY COMM. ROSS, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO APPROVE THE ROAD CURVE RADIUS VARIANCE.

Anna Comer, an adjoining property, was present and said that while she did not want this subdivision it was the best the Town could get. She also commented that she was opposed to the Village Shoppes subdivision discussed earlier, which nobody wanted and which would destroy a large green area along the highway; she encouraged the Board to preserve this area by not permitting commercial property to be developed here. Comm. DeWolf asked when the Conditional Use Zoning would be in place; the Town Planner said it was currently being reviewed by the Institute of Government and he hoped to have it by December.

4. A proposed amendment of Section 709 of the Zoning Ordinance had been the subject of a public hearing immediately preceding the Regular Board Meeting, duly advertised.

Add "by the property owners, except as herein permitted" to the following: "In no instance shall action be initiated for a Zoning Amendment affecting the same parcel of property, or any part thereof, more often than once every twelve (12) months."

MOVED BY COMM. JAMES, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO ADOPT THE FOREGOING AMENDMENT EFFECTIVE IMMEDIATELY.

The Planning Board had also recommended a proposed amendment of Section 302, Parking Schedule, exempting Main Street churches.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO SET A PUBLIC HEARING FOR 7:00 P.M. ON DECEMBER 7 TO RECEIVE COMMENTS ON THIS PROPOSED AMENDMENT.

5. Each Board member received a copy of information provided by Chuck Cooper, owner of WHLC. Mr. Cooper said that the lease for the WHLC antenna expired in 2009, but the rent was subject to review every two years. He requested that the Board consider another

ten-year lease, with incremental increases tied to something like the Social Security increase rather than negotiated increases every two years. He also suggested that new antennas on the Big Bearpen Tower be required to provide interference protection to existing antennas. He pointed out that the Town would make a profit of \$470,000 over the life of the antenna, and he urged the Board not to increase the rent of one antenna and not others. He asked the Board to review the information and discuss at a later time.

6. Comm. James said that the Board had been discussing the Town Hall building for some time, and he felt a decision should be made whether to stay on the existing site or move to another one; he thought an architect should be retained to study this matter. The Mayor agreed, and pointed out that the temporary renovations underway were only a temporary solution. Comm. Ross remembered that funds had been budgeted in last year's budget for an architectural study which had never been done, although a draft Request for Proposal had been prepared. After some discussion, the Board agreed to review an RFP at the December 7 meeting.

7. The Town Planner reported that six additional lots had been added to the Hardscrabble Ridge final subdivision plat. All improvements had been installed already, the Town Engineer had reviewed the plat, and the Planning Board had recommended approval of the amended plat.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO APPROVE THE AMENDED FINAL SUBDIVISION PLAT FOR HARDSCRABBLE RIDGE.

8. Each Board member had received a letter from McGill Associates proposing to apply for a grant from the Clean Water Management Trust Fund in order to prepare a Stormwater Master Plan. The cost of such a plan would be \$50,000, but the fee for applying for grant funds which would reimburse the Town for that cost would be \$5,500; the application deadline was December 1.

MOVED BY COMM. ROSS, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO ENGAGE MCGILL ASSOCIATES FOR A FEE OF \$5,500 TO PREPARE THE GRANT APPLICATION.

9. 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 DISCUSS A PERSONNEL MATTER. All present left the room; the Mayor reported to the Clerk what occurred in Closed Session later in order to order to complete the minutes.

The Board discussed a personnel matter.

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

VIII. 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 9:50 p.m.

Richard Betz, Town Clerk