

SPECIAL BOARD MEETING of October 25, 2006, with Mayor Pro Tem Amy Patterson and Commissioners H. N. James, Alan Marsh, Hank Ross, and Dennis DeWolf present; Mayor Don Mullen was out of Town.

Also present were Richard Betz, Larry Gantenbein, Griffin Bell, Clem Patton, Ginger Slaughter, Sonjia Stewart, Kim and Jim Lewicki, Eric Nesmith, Lindsey Wisdom, Mike Bryson, Pat Taylor, Lee Hodges, and others.

I. Call to Order.

Mayor Pro Tem Patterson called the Special Board Meeting to order at 7:00 p.m.

II. Business.

The Mayor Pro Tem stated that the purpose of this Special Meeting was to consider the proposed amendments of the Zoning Ordinance and Map, creating a new Section 213, B-5 ETJ Mixed Use District, and Section 214, R-4 ETJ Residential District. Public hearings on the amendments had been held on October 4. She said that she appreciated all the hard work the Planning Board had done on this, and said her philosophy was that zoning should be more protective than restrictive, protecting what we have, not necessarily changing it to remake Highlands. Comm. Ross agreed. The Board then considered in some detail the amendments

1. Amendment of Zoning Ordinance - Section 214, R-4 ETJ Residential District. The Board discussed encroachments in setbacks, parking of equipment, home occupations, home-based businesses, "grand-fathering," and other issues.

MOVED BY COMM. ROSS SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO ADOPT THE AMENDMENT AS PROPOSED.

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Section 214. R-4 ETJ Residential District.

214.1. General description.

The R-4 ETJ Residential District is a low to medium density residential district for single-family dwellings, with customary accessory outbuildings, including home occupations, together with such other related uses which are of a residential character or contribute to the residential character of the district.

214.2. General Regulations.

The general regulations set forth in Article 100 of this Ordinance apply to the R-4 ETJ Residential District.

214.3. Permitted uses.

Within the R-4 ETJ Residential District, no structure or land shall be used, and no structure shall be hereafter erected, relocated, reconstructed, or structurally altered, unless otherwise provided in this Ordinance, except for one or more of the following purposes:

(A) Single-family dwellings, including the following:

(1) Modular homes, as defined by this Ordinance.

(2) Manufactured homes, as defined by this Ordinance, provided they have been constructed after July 1, 1996,

and all of the following conditions are met:

- (a) The unit is occupied by persons owning the land on which the unit is located.
- (b) The tongue, axles, removable towing apparatus, and transporting lights are removed after final placement on the site.
- (c) A continuous, permanent masonry curtain wall or foundation, unpierced except for ventilation and covered access, is installed under the unit.
- (d) The finished width of the base unit is not less than twenty-four (24) feet.
- (e) The pitch of the roof has a minimum vertical rise of one foot for each four feet of horizontal rise (1:4) and the roof is finished with shingles.
- (f) The exterior siding consists predominantly of horizontal or vertical vinyl, aluminum, wood, or hardboard siding

(3) Any customary accessory outbuildings appurtenant to single-family dwellings, including private garages and non-commercial buildings such as greenhouses and workshops. In addition, not more than one camping trailer, motor home, or similar recreational vehicle may be parked by any property owner on his own property, provided that it is not occupied, not connected to any water, sewerage, or power supply, and is parked within applicable setback lines. This provision shall not apply to trailer parks, whether or not the property is being used for a conforming or for a permissible non-conforming use.

(4) Customary incidental home occupations, as defined by this Ordinance, provided the only external evidence of the occupation is a sign complying with Section 405.2(A)(2).

(B) Non-commercial parks and playgrounds.

214.4 Uses permitted by Special Use Permit.

The following uses may be permitted in the R-4 ETJ Residential District after review, approval, and the issuance of a Special Use Permit in accordance with Article 500:

- (A) Private schools.
- (B) Bed and breakfast homes, see Section 504.
- (C) Churches and other places of public worship.

214.5 Minimum residential lot size and width.

(A) Minimum lot size for parcels situated in whole or in part in a Highlands Watershed Overlay District shall meet or exceed the minimum parcel size permitted by the applicable Watershed Overlay District.

(C) Minimum lot size for parcels not situated in a Highlands Watershed Overlay District is 22,000 square feet per single family dwelling.

(D) Minimum lot width at building line is 70 feet.

214.6 Setbacks.

No building within the R-4 ETJ Residential District may be erected within twenty-five (25) feet of the right-of-way line of any public or private road, nor within ten (10) feet of the property line of an adjoining ownership; if no right-of-way line is defined among the public records of Macon County, North Carolina, no building may be erected within fifty-five (55) feet of the road centerline of a North Carolina or U. S. primary route, nor within forty (40) feet of the road centerline of any other public or private road.

For the purpose of this Section, the setback distance shall be measured horizontally from the right-of-way line, road centerline, or adjoining property line to the nearest projection of the building, including any eave, dormer, deck, or other part attached thereto and any portion of the building located below grade. However, doors, windows, marquees, canopies or fixed awnings, and movable metal or canvas awnings shall be permitted to encroach on the setback area.

214.7 Structure height.

No structure located within the R-4 ETJ Residential District shall have more than three habitable stories, exclusive of basement, nor shall the height of the structure exceed thirty-five feet. For the purpose of this provision, the height of the structure shall be the vertical distance from the established grade elevation at the center of the front of the structure to the highest point of the roof or parapet of the structure.

214.8 Sign regulations.

The sign regulations set forth in Article 400 shall apply to the R-4 ETJ Residential District.

214.9 Off-street parking and loading.

The minimum requirements for off-street parking and loading are set forth in Article 300 of this ordinance. These requirements shall apply to all new buildings and uses and to additions to existing buildings and uses in the R-4 ETJ Residential District.

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2. Amendment of Zoning Ordinance - Section 213, B-5 ETJ Mixed Use District. The Board discussed setbacks, buffers, signs, landscape buffers for storage areas, and review of landscape plans for buffers by the Appearance Commission. The consensus was that the words "and adjoining property" should be inserted in Section 213.3(E)(4) after "public road" so that storage yards also be screened from adjoining property. The consensus was that the words "the Zoning Board on recommendation of" be inserted in the second paragraph of Section 213.6 to make clear that the Appearance Commission only makes recommendations on the buffer. The consensus was also that "B-5" be inserted in the appropriate places in Sections 405.2(C) and (E) - so that free-standing and shopping center signs be treated the same in B-5 as in B-3.

MOVED BY COMM. MARSH, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO ADOPT THE AMENDMENT WITH THE CHANGES NOTED ABOVE.

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Section 213. B-5 ETJ MIXED USE DISTRICT.

213.1. General Description.

The purpose of the B-5 ETJ Mixed Use District is to manage development along the primary highways into Highlands to protect and enhance the natural beauty of these corridors. This zoning district permits mixed retail, commercial and residential uses such as small shopping centers, offices and incidental apartments. Motels, restaurants, service stations, and uses such as multifamily dwellings, storage warehouses and heavy machinery storage are permitted as Special Uses.

213.2. General regulations.

The general regulations set forth in Article 100 of this Ordinance apply to the ETJ Mixed Use District.

213.3. Uses not requiring a Special Use Permit.

Within the ETJ Mixed Use District, no structure or land shall be used, and no structure shall be hereafter erected, relocated, reconstructed, or structurally altered, unless otherwise provided in this Ordinance, except for one or more of the following purposes:

(A) Single-family dwellings, including the following:

(1) Modular homes, as defined by this Ordinance.

(2) Any customary accessory outbuildings appurtenant to single-family dwellings, including private garages and non-commercial buildings such as greenhouses and workshops. In addition, not more than one camping trailer, motor home, or similar recreational vehicle may be parked by any property owner on his own property, provided that it is not occupied, not connected to any water or sewerage, and is parked within applicable setback lines. This provision shall not apply to trailer parks, whether or not the property is being used for a conforming or for a permissible non-conforming use.

(3) Apartments located within, and incidental to, a building used primarily for commercial uses. More than one apartment may be located within a building of mixed occupancy, in conformance with the residential density as defined by Section 213.5(A); however, despite Section 502.1 of this Ordinance, the building shall not be considered "multi-family."

(B) Non-commercial parks and playgrounds.

(C) Government buildings of any kind.

(D) Commercial uses:

(1) Retail or wholesale businesses without drive-through windows including auction houses, art galleries, bakeries, clothing stores, delicatessens, drug stores, flower shops, garden supply centers, and hardware stores. Pet shops, veterinary clinics, kennels, or animal shelters shall be permitted provided they have no outdoor facilities for animals.

(2) Retail service businesses including banks and similar financial institutions, barber shops, beauty shops, funeral homes, laundry and dry cleaning establishments, museums, repair shops, and small woodworking, cabinet or similar shops having motor-driven tools not exceeding five horsepower.

(3) Professional offices or studios including those of accountants, architects, artists, attorneys, contractors, dentists, engineers, insurance agents, land surveyors, musicians, photographers, physicians, real estate brokers, and surveyors.

(4) Each business shall have a minimum of 800 square feet of floor space if located in a newly constructed building or in an existing building in which the number of business occupants is increased as a result of remodeling. Each professional office or studio shall have a minimum of 400 square feet of floor space if located in a newly constructed building or in an existing building in which the number business occupants is increased as a result of remodeling. The maximum foundation footprint for all new commercial construction in the ETJ Mixed Use District shall not exceed 15,000 square feet per building.

(E) Outdoor storage yards containing materials for sale such as building or construction supply centers, lumber

yards, and hardware stores, provided the following conditions are met:

- (1) No salvaged, discarded, junk, or other similar material awaiting salvage, recycling, or disposal shall be placed in an outdoor storage yard;
- (2) No material shall be placed in an outdoor storage yard which could be moved by the elements out of the storage yard;
- (3) No paper, rags, cloth, or other fibers may be stored in an outdoor storage yard; and,
- (4) All such storage yards which adjoin or are visible from a public road and adjoining property shall be screened from view by appropriate fencing or an opaque, ten-foot wide landscaping buffer comprised of existing native plants and trees, augmented as necessary in accordance with Appendix D of this Ordinance. For uses permitted by Special Use Permit, buffer landscaping plans shall be approved by the Zoning Board of Adjustment. For permitted uses, buffer landscaping plans shall be approved by the Zoning Administrator.

213.4 Uses requiring a Special Use Permit.

The following uses may be permitted in the ETJ Mixed Use District after review, approval, and the issuance of a Special Use Permit in accordance with Article 500. The maximum foundation footprint for all new commercial construction in the ETJ Mixed Use District shall not exceed 15,000 square feet per building.

- (A) All new commercial construction, additions to existing commercial property, and remodeling of existing commercial buildings which would result in an increase in the number of business occupants in the buildings.
- (B) Arts and crafts fairs and other similar transient retail businesses.
- (C) Places of entertainment, including indoor theaters, dance halls, skating rinks, and bowling alleys.
- (D) Hotels and motels.
- (E) Restaurants, as defined by this Ordinance.
- (F) Automotive and heavy machinery service centers or stations.
- (G) Service or fuel stations with or without convenience stores.
- (H) Private schools.
- (I) Day care centers, as defined by this Ordinance.
- (J) Private social clubs.
- (K) Bed and breakfast homes, see Section 504.
- (L) Storage facilities.
- (M) Flammable liquid storage facilities.
- (N) Churches and other places of public worship.
- (O) Multi-family dwellings, including apartments, condominiums, cooperatives, and any other legally recognized form of ownership for similar dwellings.

(P) Supermarkets.

213.5 Minimum residential lot size and width.

(A) 6,000 square feet per family for incidental apartments permitted by Section 213.3(A)(3).

(B) 11,000 square feet per family for multifamily dwellings in accordance with Section 502.6.

(C) 22,000 square feet per family for all other single family dwellings.

(D) Minimum lot width at building line is 60 feet.**

**Except that the minimum lot width shall not apply to incidental apartments permitted by 213.3(A)(3) and multifamily dwellings permitted by 213.4(O).

213.6 Setbacks.

No building within the ETJ Mixed Use District may be erected within twenty (20) feet of the right-of-way line of any public or private road, nor within ten (10) feet of the property line of an adjoining ownership; if no right-of-way line is defined among the public records of Macon County, North Carolina, no building may be erected within fifty (50) feet of the road centerline of a North Carolina or U.S. primary route, nor within forty (40) feet of the road centerline of any other public or private road. However, no setback shall be required from dead end service drives or alleyways serving commercial businesses for loading, unloading, and employee parking within the ETJ Mixed Use District.

Right-of-way setbacks from a North Carolina or U.S. primary route shall be maintained as green buffers comprised of existing native plants and trees, augmented as necessary in accordance with Appendix D of this Ordinance. Use of the right-of-way setback buffer area shall be limited to roadway access to the property from the North Carolina or U.S. primary route. For uses permitted by Special Use Permit, buffer landscaping plans shall be approved by Zoning Board on recommendation of the Appearance Commission. For permitted uses, buffer landscaping plans shall be approved by the Zoning Administrator.

For the purpose of this Section, the setback distance shall be measured horizontally from the edge of the right-of-way line, road centerline or adjoining property line to the nearest projection of the building, including any eave, dormer, deck, or other part attached thereto and any portion of the building located below grade. However, doors, windows, marquees, canopies or fixed awnings, and movable metal or canvas awnings shall be permitted to encroach on the setback area.

213.7 Structure height.

No structure within the ETJ Mixed Use District shall have more than two habitable stories, exclusive of basement, nor shall the height of the structure exceed thirty-five feet. For the purpose of this provision, the height of the structure shall be the vertical distance from the established grade elevation at the center of the front of the structure to the highest point of the roof or parapet of the structure.

213.8 Sign regulations.

The sign regulations set forth in Article 400 shall apply to the ETJ Mixed Use District.

213.9 Off-street parking and loading.

The minimum requirements for off-street parking and loading are set forth in Article 300 of this ordinance. These requirements shall apply to all new buildings and uses and to additions to existing buildings and uses in the ETJ Mixed Use District.

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Sign Regulations: Insert "B-5" in Sections 405.2(C) and (E).

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3. Amendment of Zoning Map, Northern ETJ Corridor. The Board reviewed the map in some detail. Comm. Marsh reported that the owner of a lot off US-64 across from the entrance to the Hospital, which the Planning Board had recommended for R-4 zoning - David Bock, Woodland Ridge LLC - had told him he would prefer that his property be zoned R-1, since he intended to subdivide it into single-family lots. At Comm. Marsh's suggestion, the Board also considered four lots off US-64, accessed by Rolling Acres Drive, which the Planning Board had recommended for R-4 zoning - owned by Patrick Rembert Jr. Trustee, Gerald L. Bilbro Jr., William V. Zeller Trustee, and Lee W. Milford Jr. - and by consensus felt they should be zoned R-1. The Board therefore agreed to remove these five properties from consideration at this time, and provide public notice at a later date for R-1 zoning.

MOVED BY COMM. ROSS SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO ADOPT THE AMENDMENT OF THE ZONING MAP AS PROPOSED, WITH THE EXCEPTION OF THE FIVE PARCELS NOTED ABOVE.

4. Amendment of Zoning Map, NC-106 Corridor. The Board reviewed the map in some detail. A letter had been received from Barry and Paul Jones, requesting that a portion of a parcel on NC-106 which the Planning Board had recommended for R-4 zoning, be zoned commercial. The Board agreed to remove this parcel from consideration at this time, and provide public notice at a later date for R-1 zoning.

MOVED BY COMM. ROSS SECONDED BY COMM. JAMES, AND CARRIED TO ADOPT THE AMENDMENT AS OF THE ZONING MAP AS PROPOSED, WITH THE EXCEPTION OF THE ONE PARCEL NOTED ABOVE. Comms. Ross, James, DeWolf, and Patterson voted "aye," and Comm. Marsh voted "nay."

Comm. Ross said he appreciated the Planning Board's efforts, and he also thanked the ETJ Liaison Committee and the Citizens Against ETJ for their input.

5. The Board then discussed the remaining portion of the ETJ which had not yet been zoned. Griffin Bell was present and said that the Planning Board had completed its work on the rest of the ETJ - designating the remaining areas R-1 or B-4 - with the exception of Clear Creek and Horse Cove, which they had agreed to consider at a later date; he urged the Board to move forward with a public hearing. Comm. James felt it was premature, and the Board discussed a possible hearing date.

MOVED BY COMM. MARSH, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO SET A PUBLIC HEARING FOR THE REMAINING ETJ AREA, WITH THE EXCEPTION OF HORSE COVE AND CLEAR CREEK, FOR 7:00 P.M. ON JANUARY 17, 2007.

III. MOVED BY COMM. DEWOLF, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO ADJOURN.

There being no further business to come before the Board, the meeting was declared adjourned by the Mayor Pro Tem at 9:00 p.m.

Richard Betz, Town Clerk