

REGULAR BOARD MEETING of April 16, 2008, with Mayor Don Mullen and Comms. Amy Patterson, Hank Ross, Dennis DeWolf, Larry Rogers, and John Dotson present.

Also present were Richard Betz, Lamar Nix, Joe Cooley, Josh Ward, Alan Marsh, Marlene Alvarez, Nancy Hart, Debbie Grossman, Kim Lewicki, Jim Lewicki, Melody Spurney, Allan Schultz, Thomas Craig, Rick Siegel, Patricia Bolinger, Jerry Moore, Hillrie Quin, Carter & Nancy Bruns, and others.

A. PUBLIC HEARING.

The Mayor called the public hearing to order and stated that the purpose was to hear comments from the public on a proposed amendment to the Zoning Ordinance permitting use of adjacent street and dual use parking for restaurants, and exempting the B-5 district from the outdoor display of merchandise prohibition. The Town Administrator noted that two letters had been received in opposition to the proposal, from Allan Schultz and L. A. Lard. The Mayor then asked for comments from the public.

Rick Siegel spoke in favor of the parking proposal; he hoped the Board would make some accommodations for restaurants so that the season could be expanded.

Thomas Craig, member of the Planning Board, spoke in favor of the proposal.

Debbie Grossman, restaurant owner and resident, spoke in favor of the proposal; she thought the Town needed to support businesses and work together with them long-term if it wanted to grow.

Patricia Bolinger, resident, spoke in favor; she thought it was OK to walk to restaurants and noted that there was plenty of parking in Town.

Jerry Moore spoke in favor of the proposal on behalf of the Highlands Chamber of Commerce; it seemed reasonable to use public parking areas and encourage walking.

Allan Schultz said he felt the issue was who is providing the parking; the last estimate for re-surfacing Wright Square's parking was \$40,000, paid for by the owners of that property. He thought that changing the rules for one restaurant provided an unfair advantage.

Marlene Alvarez, owner of On the Verandah, pointed out that she had spent \$100,000 on her parking lot, but she nevertheless felt that, in order for the Town to grow in a sustainable fashion, the rules could and should change for restaurants in walking distance to public parking.

Debbie Grossman also felt that the times were changing, and some of the existing rules were antiquated; she felt that all businesses should work together and support one another.

On the issue of the B-5 exemption for outdoor display of merchandise, Jerry Moore felt that the Board should tread carefully; he was in favor of outdoor display of merchandise on private property, but felt it was unfair to treat B-5 in a different way from other districts. He wondered what the major concern was.

B. REGULAR BOARD MEETING.

I. Call to Order.

The Mayor called the Regular Board Meeting to order at 7:00 p.m.

II. Approval of Agenda.

Copies of the agenda had been distributed by mail.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. ROGERS, AND UNANIMOUSLY CARRIED TO APPROVE THE AGENDA AS DISTRIBUTED.

III. Approval of Minutes.

Copies of the minutes of the April 1 Special Board Meeting had been distributed by mail.

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

Copies of the minutes of the April 2 Regular Board Meeting had been distributed by mail.

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

IV. Reports.

1. Comm. Dotson said that he and Comm. Rogers had attended the County Commissioners meeting and there seemed to be some interest in helping to find funds for the Hudson Library expansion.
2. The Town Administrator reported that the Fire Department had been inspected by the State Fire Marshall, and had retained its rating of nine inside Town and five outside. He also distributed copies of a memo from the Planning Director concerning a parking study; the estimated cost was \$25,000 to \$40,000. Comm. Ross said that he was more interested in traffic circulation as relates to parking. The Board agreed for Mr. Cooley to get more information by the next meeting. The Town Administrator also said that Sen. Snow had reported that the additional funds had been approved by the Board of Transportation for the paving of Hickory Hill Road, Cullasaja Drive, and Chowan Drive. Right-of-way had not been conveyed by three property owners along Wyanoak Drive, however; therefore that project, approved in 2006 contingent on acquisition of right-of-way, could not proceed. Comm. Rogers asked that the Town Attorney provide his opinion on whether or not the Town could pave this private road without conveyance of right-of-way. The Town Administrator also reported that the County Fire Marshall was requiring a County permit for the Fourth of July fireworks display; the Statute permitted the County to delegate this authority to municipalities, and he understood the Chamber of Commerce would be requesting the County to do that at the May meeting. Finally, he said that the Recreation Director had reported that the exercise equipment should arrive next week.

V. Old Business.

1. The Board again discussed a letter from McGavran Engineering and a memo from the Town Administrator. He said that the McGavran "audit" had cost \$22,670, and only 700 additional poles had been inventoried, approximately 25% of the total. GIS/IT Technician Matt Shuler had already done 700 before McGavran had interfered with the process and was prepared to complete the inventory. He said that in his opinion the Town had wasted the \$45,000 it had spent in all on McGavran Engineering, and he considered the contract terminated. Comms. Dotson and Patterson asked if McGavran was obligated to complete its contract, and the Town Administrator agreed to ask the Town Attorney this question.

VI. New Business.

1. The Board again discussed at length the parking proposals for restaurants. Comm. Ross felt that the parking regulations needed revision, but that the proposal seemed overly complicated; he thought the Town should consider changing the seat per space ratio to 4:1. Comm. DeWolf favored the proposal because it reduced the amount of impervious areas, but he agreed that the 4:1 ratio ought to be studied. Comm. Dotson also felt that 4:1 made more sense, and he was concerned over several restaurants "owning" public parking.

MOVED BY COMM. DOTSON, SECONDED BY COMM. ROSS, TO TABLE THE CURRENT PROPOSAL, AND ASK THE PLANNING DIRECTOR TO LOOK INTO CHANGING THE SEAT PER SPACE RATIO, WITH EVERYTHING ELSE ON HOLD IN THE MEANTIME. The motion failed, with Comms. Dotson and Ross voting "aye," and Comms. Patterson, Rogers, and Dewolf voting "nay."

Nancy Bruns, owner of Wild Thyme, said that if the Board delayed, they would be forced to close their businesses because the season was right around the corner.

MOVED BY COMM. ROGERS, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO ADOPT THE PROPOSED AMENDMENTS AS A STOP-GAP MEASURE, WITH THE POSSIBILITY THAT IT MIGHT BE CHANGED AFTER A PARKING STUDY. The motion carried, with Comms. Rogers, DeWolf, and Patterson voting "aye," and Comms. Dotson and Ross voting "nay." The amendment is as follows:

* * *

Section 305. Use of Public On-Street Parking by Restaurants

Section 305.1 Purpose.

The Town of Highlands finds that the use of public on-street parking and dual-use parking by restaurants in the B-2 and B-3 zoning districts is an efficient method of meeting the unique parking needs of the Town's restaurants. The Town of Highlands further finds that the regulation of such parking as set forth in this Section will promote the public, health, safety and welfare of all of the people of the Town of Highlands.

Section 305.2 Definitions.

The following definitions shall apply only to the provisions of Section 305 of this Ordinance:

(A) "Public Parking Space". Any parking space, not governed by hourly parking restrictions, which is located on a public street and duly marked by the Town of Highlands for public parking, located within 300 feet from the restaurant's main entrance, as measured by the shortest walking distance along existing sidewalks and designated crosswalks.

(B) "Dual-use Parking Space". Any parking space that is shared by a restaurant and one or more other existing use(s), which is located no more than 500 feet from the restaurant's main entrance, as measured by the shortest walking distance along existing sidewalks and designated crosswalks, and which is not separated from the restaurant by NC 106 or US 64, unless a marked and signalized crosswalk is provided for safe pedestrian access.

Section 305.3 General Regulations.

(A) Public Parking Spaces and Dual-Use Parking Spaces may be used to increase the number of seats allowed for restaurants only in the B-2 and B-3 zoning districts, and only upon full compliance with the provisions of Section 305

of the Zoning Ordinance of the Town of Highlands.

(B) Restaurants shall be limited to the use of a combined total of twelve (12) parking spaces, in any combination, of Public Parking Spaces and Dual-Use Parking Spaces, for the purposes set forth in this Section 305.

(C) A maximum of three (3) additional seats will be allowed for each Public Parking Space and each Dual-Use Parking Space.

(D) Public Parking Spaces shall continue to be available for unrestricted use by the public unrelated to restaurant purposes and no restaurant shall be allowed to limit or attempt to limit the use of any Public Parking Space to its customers, employees, visitors, or vendors.

(E) This Section shall not be construed to increase the maximum number of seats allowed for any restaurant under applicable building and fire safety codes.

(F) Before any restaurant is allowed additional seats under this Section, it shall first submit an application in a format specified by the Planning and Development Department and receive written approval of such application by the Zoning Administrator.

(G) Along with the applications required pursuant to this Section, each restaurant shall submit an application for an amended special use permit under Section 501. No application under this Section shall be granted unless and until the restaurant applies for and obtains an amended special use permit.

Section 305.4 Public Parking Spaces Allowed for Restaurants Under Certain Conditions.

Upon approval of the application required under this Section, restaurants shall be allowed to increase seating as set forth in this Section.

(A) An application for the use of Public Parking Spaces for the purposes of this Section shall contain at least the following information:

(1) A survey or site plan drawn to a scale of not less than 1:30, and showing or containing the following information:

(a) the floorplan of the restaurant, showing existing and proposed seating areas (both indoor and outdoor);

(b) a notation of the existing square feet of the interior area of the restaurant;

(c) adjacent street names;

(d) existing parking (both public and private);

(e) location of Public Parking Spaces requested to be utilized;

(f) identification of land uses of adjacent properties;

(g) the Macon County property identification number of the restaurant parcel;

(h) the street address of the restaurant;

(2) A statement of the number of employees on the restaurant's largest shift.

(3) Any other related information requested by the Zoning Administrator shall be supplied by the applicant as part of the application.

(B) If the restaurant is located in a shopping center or unified development, the following additional information shall be provided with the Public Parking Spaces application and shown on the site plan:

- (1) the location of all common parking areas;
- (2) the total number of common parking spaces;
- (3) the location of all parking spaces in the common parking area that are allocated to the restaurant;
- (4) the number of parking spaces in the common parking area that are allocated to the restaurant;
- (5) the area, in square feet, of all other uses in the shopping center;
- (6) the parking requirements of all other uses in the shopping center.

(C) The Town reserves the right to move, eliminate and alter, in its sole discretion, any Public Parking Spaces, regardless of the existence of any pending or approved applications under this Section. If any Public Parking Space previously designated under this Section becomes unavailable to a restaurant, the allowable seating in the restaurant shall be reduced at the ratio of three (3) seats for every one (1) Public Parking Space lost. No vested rights shall be acquired by any restaurant under this Section.

Section 305.5 Dual-Use Parking Spaces for Restaurants.

Upon approval of the application required under this Section, restaurants shall be allowed to increase seating as set forth in this Section.

(A) An application for the use of Dual-Use Parking Spaces shall contain the following:

(1) A parking study prepared by the applicant, at the applicant's expense, which shall contain the following information:

(a) A site plan, to scale, showing the location of the following:

(b) all parking spaces on the property owned by the restaurant;

(c) all parking spaces to be designated as Dual-Use Parking Spaces;

(d) the schedule when the Dual-Use Parking Spaces will be used; and

(e) all Public Parking Spaces, as defined herein, whether or not such Public Parking Spaces are the subject of an application under this Section.

(2) A statement, with supporting information, showing that the sharing of the Dual-Use Parking Spaces will not result in conflicting or overlapping usage of the parking facilities.

(3) A lease, for a term of at least 10 years, between the owner of the real property where the restaurant is located and the owner of the property where the proposed Dual-Use Parking Space is located, allowing for parking under the provisions of this Section, and providing for termination upon changes in schedules of use (by lessor or lessee) such that there is substantial conflicting or overlapping usage; and

(4) Any other related information deemed necessary by the Planning Director.

(B) In the event of a termination, for any reason, of the lease required for herein, the approval of the restaurant's application shall be suspended, and the restaurant shall be required to show, within 30 days, that it has, under this Section or otherwise, parking spaces sufficient for the number of seats under the generally applicable parking regulations. This showing can be made by the restaurant's reduction in the number of seats. Failure of the restaurant to make such showing shall result in a revocation of the restaurant's zoning certificate.

(C) All Dual-Use Parking Spaces will be clearly marked with appropriate signage to indicate the times that parking is allowed for the restaurant.

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Section 304.B: Add to Section 304(B): "except as permitted under Section 305 of this Ordinance."

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Joe Cooley pointed out that exempting businesses in the B-5 district from the outdoor display of merchandise provisions could allow unlimited display in those areas.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO TABLE THE PROPOSED AMENDMENT UNTIL THE PLANNING BOARD HAD REVIEWED IT.

2. Hillrie Quin was present representing the Greenways Committee; he requested \$561 for the printing of brochures and up to \$1500 for construction of a section of Rhododendron Trail on Big Bearpen. Funds had been budgeted in FY 07-08.

MOVED BY COMM. ROSS, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO APPROVE THE REQUEST.

3. Doug Landwehr was present to request that the Town adopt an ordinance designating Highlands a bird sanctuary. He said that such an ordinance would make it unlawful for anyone to kill or harm any wild birds unless officially designated as pests; the ordinance would be delivered to the D.O.T. and signs would be erected at the Town limits. He said that habitat in Highlands is crucial to the survival of many songbirds, and that the plateau had received a designation as an important bird area. He also said that a birding trail, which had been shown to promote ecotourism amounting to \$2.4 million in North Carolina last year, included five sites in and around Highlands.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO ASK THE TOWN ATTORNEY TO DRAFT SUCH AN ORDINANCE FOR THE MAY 7 MEETING.

4. The Mayor said that the Board had been discussing a personnel and salary study conducted by the MAPS group in 2006 for some time; an Organizational Review Committee had been appointed consisting of Comms. Ross and Patterson. Comm. Ross then reported that the Board had consulted with Becky Veazey, president of the MAPS group, concerning changing the form of government to a Manager Council form. Ms. Veazey had said that such a decision should be based on the number of services a municipality provided, the number of employees (generally more than 25), and the growth in the community. He felt that the Town was besieged with growth and was unable to make good decisions. Ms. Veazey recommended going to a Manager Council form of government. Comm. Rogers said that the change would not affect any jobs; everything would remain the same except for job titles, and the organizational structure would remain the same. The Town Administrator asked if this would be a new position; Comm. Rogers felt that the structure might change some, but not the people - nobody would lose his job. Comm. Patterson said that Board members were not professional managers; she felt the Town deserved a trained professional. Comm. Dotson said he thought the change would also give department heads some tools to work with. The Mayor pointed out that the change was a big step and would involve amendment of the charter; the Town could not revert to the old form of government for a period of two years. Ms. Veazey had recommended that an administrator could handle things until the charter was changed.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. DOTSON, AND UNANIMOUSLY CARRIED TO ASK THE TOWN ATTORNEY TO INITIATE THE PROCESS OF AMENDING THE CHARTER.

5. The Board authorized the Town Engineer to advertize for paving bids.

6. Marlene Alvarez requested, on behalf of the Chamber of Commerce, permission to use Pine Street park for the Culinary event on November 13 through 16, and permission to close Pine Street from 3:00 to 12:00 p.m. on the 13th. Comm. Ross asked if the tent could be erected in the street instead of on the park, and she offered to look into that possibility.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO APPROVE THE EVENT.

7. Comm. Ross scheduled a meeting of the Public Works Committee for Wednesday, April 30, at 8:00 a.m. to discuss public works projects for the upcoming budget.

VII. MOVED BY COMM. PATTERSON, SECONDED BY COMM. ROGERS, AND UNANIMOUSLY CARRIED TO ADJOURN.

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

Richard Betz, Town Clerk