

PUBLIC HEARING and REGULAR BOARD MEETING of August 6, 2008, convened at the Highlands Civic Center, 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, R. L. Forrester, Bill Coward, Kim Lewicki, Jim Lewicki, Melody Spurney, MaryAnn Sloan, Bill Nellis, Bob Wright, Alice Nelson, Eleanor Metzget, Katie Bruegger, Jack Calloway, Jack Peay, Tony Potts, David Rohrer, Pat Boyd, Zeke Sossomon, Christy Kelly, Mike Bryson, Wanda Drake, Ginger Slaughter, Alan Marsh, Dottie Gunther, John Schiffli, Kayla Burnell, Judy Michaud, Virginia Worley, Bill Rethorst, Bill Bathurst, Dick Lawrence, Dr. Kit Barker, Christy Kelly, Louis Michaud, Romney Bathurst, Shelly Denham, David Wilkes, Elaine Dunn, Jim Mullen, David Meshburger, Jerry Moore, Sharon Anderson, Alan Marsh, and many others.

A. PUBLIC HEARING - Amendment of Charter.

The Mayor called the Public Hearing to order at 6:00 p.m. and stated that this was the time and place for receiving comments on amending the Town Charter to provide for the Council-Manager form of government as allowed in G. S. 160A-101(9)(b).

Zoning Board Chairman Bill Rethorst asked if the Board had considered the cost involved with the change, and if so how much would it be. The Mayor replied that the Board had discussed it but had no cost estimate.

The Mayor closed the Public Hearing.

B. PUBLIC HEARING - Zoning Amendment.

The Mayor called the second Public Hearing to order at 6:08 p.m. and stated that the purpose was to received comments on two proposed amendments of the Zoning Ordinance: (1) Amend Article 100 Section 114, Outdoor Display of Merchandise, to allow outdoor display of merchandise by permit and meeting the amended requirements of Section 114, in B-1, B-2, B-3, B-4 and B-5 ETJ zoning districts; (2) Amend Article 300 Section 302 Parking Schedule to add "Shopping Centers" as a separate classification for required parking and establish the following requirements for parking at shopping centers: residential use - two (2) spaces per dwelling unit; outdoor seating for restaurants - one (1) space for every three seats; and for all other uses - one (1) space per two-hundred fifty (250) square feet of gross floor space; and (3) Amend Article 1000, Section 102 Individual Words or Terms to modify the definition of "Shopping Center" from "Two or more commercial establishments planned and constructed as a single unit, and sharing common sidewalks, driveway entrances, or parking areas" to "Four or more commercial establishments planned, constructed and managed as a single unit containing a minimum of five-thousand (5,000) gross square feet, and sharing common sidewalks, driveway entrances, or parking areas.

Bill Rethorst asked if there was a definition of "merchandise;" if not, it could be a problem for the Zoning Board.

The Town Administrator noted that one letter in support of the shopping center amendment had been received, from Mitchell Properties LLC, owners of Highlands Plaza.

The Mayor closed the second Public Hearing.

C. REGULAR BOARD MEETING.

I. Call to Order.

The Mayor called the Regular Board Meeting to order at 6:10 p.m.

II. Approval of Agenda.

Copies of the agenda had been distributed by mail.

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

III. Approval of Minutes.

Copies of the minutes of the July 16 Regular Board Meeting had been distributed by mail.

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

IV. Public Comment Period.

The Mayor stated that this was the public comment period required by law, and invited comments; many had signed up to speak on the issue of providing water and sewer to Shortoff Woods, an item of New Business later in the meeting.

Dottie Gunther, Executive Director of Chestnut Hill, was present with a petition signed by 31 residents. She objected to the location, traffic safety at the intersection of US-64 and Buck Creek Road, and possible police problems.

John Schiffli said he felt the Town should give up some of its land for affordable housing rather than placing it on this site; he expressed concerns over ownership, responsibility, and cost.

Bob Wright, member of the Affordable Housing Task Force, said that the location was a good one. He read a communication from County Tax Supervisor Richard Lightner saying that in his opinion property values in the area would not be decreased, which was consistent with what the Task Force had discovered from other communities. Traffic count data from the DOT indicated a 2% increase for traffic on US-64 and 10% on Buck Creek Road. Five-year crime data for the other complexes in Macon County indicated a very low crime rate, not different from the rest of the community; he pointed out that the complex would be occupied by hard-working families, not low-income families.

Kayla Burnell, a resident of Highlands on a fixed income, spoke in support; she thought the complex would be beneficial.

Judy Michaud expressed concern over the potential that providing Town water and sewer outside of Town could have on development in the area, especially high-density development. She could not understand how the Town could say yes to some and no to others. She was also concerned over the possibility of annexation, and questioned the opinion of the County Tax Supervisor.

Virginia Worley, retired schoolteacher, said that this problem had been discussed for years and this was the first concrete plan presented in a systematic way and thoroughly researched; she thought it was a great beginning.

Bill Bathurst expressed concern over the dangerous Buck Creek Road intersection, noise, and the potential for developments in the area. He also objected to the implication in a recent letter to the editor that opponents of the project were racists.

Dick Lawrence, member of the Task Force, said that nobody thought those who objected were racists.

Dr. Kit Barker said that she had recently been turned down for water service at her residence outside of Town on Cottage Row; if this project was approved, she would also want water service.

Christy Kelly, member of the Task Force and mother of four, said that they had worked very hard on the plan. She was concerned over the sustainability of the Town and the many children who would never have the opportunity to come back and live in the Town they grew up in if there was no affordable housing.

Louis Michaud pointed out that those who lived in the housing complex would likely not eat or shop in Highlands.

Romney Bathurst expressed concern over the traffic at Buck Creek Road, and thought that the D.O.T. would not address the problem.

Shelly Denham said she hoped everyone could create a model for justice and equity and embrace diversity.

David Wilkes expressed concern over the precedent in providing water and sewer outside of Town.

Elaine Dunn said she thought there was a need for affordable housing, but questioned why they could not provide their own water if they were for-profit. She noted that many areas in Town did not have water and sewer.

The Mayor declared a ten-minute recess.

The Mayor then re-convened both public hearings at 7:05 p.m. and asked for any additional comments, as well as any additional comments on Shortoff Woods or any other matter.

Jim Mullen spoke in favor of affordable housing, but against providing water and sewer to this site. He was also concerned that the area was outside the Town's ETJ and could be used for anything they wanted. He submitted a letter from Rick Siegel, owner of Four-and-a-Half Street Inn, objecting to the Town providing sewer to this site when his Inn did not have access.

Alice Nelson asked why this matter could not be put on the ballot for a referendum. The Mayor said the Board had not considered doing so.

David Meshburger asked the same question. Town Attorney Bill Coward said he would be glad to research whether it could be placed on the ballot if the Board asked him to do so.

Bill Rethorst expressed concern over the precedent that providing water and sewer outside Town might set.

Bill Bathurst asked if the Board had agreed to provide \$100,000 toward the project as he had read in the newspaper. The Mayor said the Board had not agreed to do so.

Jerry Moore, owner of Kilwins on Main Street and member of the Board of

Directors of the Highlands Chamber of Commerce, spoke on the zoning amendment regulating outdoor display of merchandise. He pointed out that the zoning regulations had not been enforced pending discussion of this amendment and he did not see any problem; neither did other merchants or customers. He also wondered why clothing had been singled out. He thought the Board was making something an issue that was not an issue.

Sharon Anderson of T. A. Anderson Goldsmith said she supported the amendment; she thought it was tacky to see merchandise out of doors on the sidewalk.

Comm. Marsh said he thought there was no need for a change.

David Wilkes urged the Board not to regulate the business community too much.

There being no further comments on the two public hearings, the Mayor closed them. There were no further public comments

#### V. Reports.

1. Town Attorney Bill Coward was present and reported that the Michael Wentz Bowery Road mediation had taken place earlier in the day but could not be settled; the hearing was on the calendar for October 13.

2. Each Board member had received a copy of the Town Engineer/ Public Services Administrator's report for the month. Lamar Nix was present and pointed out that the report included cost estimates for the following:

- Paving Wyanoak Road.....\$63,010
- Curb, gutter, and sidewalk Mountain Brook Center.....13,500
- Handrails at Pine, Fifth, Fourth, and elsewhere.....14,000

Comm. Ross made a motion to approve the projects, but Comm. Patterson expressed concern over sufficiency of funds for that line item in the budget for other projects, such as the tree planters in Main Street; he withdrew his motion. After some discussion, the Board agreed to approve the paving of Wyanoak Road but defer the other items until the next meeting.

MOVED BY COMM. ROSS, SECONDED BY COMM. ROGERS, AND UNANIMOUSLY CARRIED TO PROCEED WITH THE PAVING OF WYANOAK ROAD.

3. Each Board member had received a copy of the Police Chief's report for the month; Chief Bill Harrell had not been able to attend the meeting, but Capt. R. L. Forrester was present.

4. Each Board member had received a copy of the Recreation Director's written report for the month; Selwyn Chalker was out of Town.

5. Each Board member had received a copy of the Town Planner/ Zoning Administrator's written report for the month; Joe Cooley and Josh Ward were present. Mr. Cooley reported that one firm had been selected for the parking study and a cost would be negotiated and presented for approval on August 20.

6. Each Board member had received a copy of the Treasurer's Report for the month. It was reported that the field work had been completed for the audit the previous week; the audit to be presented in October would be a clean one and would indicate that the Town remained in good financial condition.

7. The Town Administrator reported that a cost estimate had been received from Sprinkle Surveying for \$5,000 to \$6,000 for researching, surveying, and staking Azalea Circle, as discussed at previous meetings. Comm. Patterson

noted for the record that the Town deemed this an important project because of the benefit of removing silt to improve water quality in Big Creek.

MOVED BY COMM. ROSS, SECONDED BY COMM. ROGERS, AND UNANIMOUSLY CARRIED TO PROCEED WITH THE SURVEYING.

The Town Administrator also reported that he and the Town Engineer had meet with J. P. Johns of McGill & Associates to discuss a Clean Water Management Trust Fund Innovative Stormwater Initiative grant; the deadline was October 15 and Mr. Johns thought the Town would have a good chance of obtaining funding for modification of the stormwater drainage system at Fifth and Pine Street, adjacent to Pine Street Park. A proposal had been submitted for \$7,500 to submit the CWMTF RFP.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO APPROVE THE GRANT APPLICATION.

The Town Administrator had also included in the agenda package two e-mails from Bill Wilder, including a copy of a recommended ad for the Town Manager position; the preferred date for submittal of resumes was September 5, and Mr. Wilder asked what changes, if any, needed to be made. He also said that he would like to meet with the Board on September 17 to review the status of the search and discuss the applicants, and that he would like to be in Highlands August 21 and 22 to obtain input from the Board, community representative focus group, Town Administrator, key Department Heads, and the Town Attorney to develop an employment profile. The Board agreed by consensus to take the communications under advisement and let the Town Administrator know by the end of the week if there should be any changes to the advertisement.

VI. Old Business. None.

VII. New Business.

1. The Board considered the proposed amendment of Section 114 of the Zoning Ordinance, Outdoor Display of Merchandise, subject of a public hearing immediately preceding the regular meeting. Comm. DeWolf said he had some concerns about the road and buffer requirements in paragraph (c)(1) and (2), but he had spoken to the Planning Director before the meeting and resolved them. Comm. Patterson expressed some concern over the same section, and after some discussion the Board agreed by consensus to change "an area within twenty-five (25) feet of the front or the side of the principal commercial structure" to "ten (10) feet." Comm. Dotson expressed some concern over the possibility of businesses displaying merchandise on roofs, and the Board agreed by consensus to add "and including the roof" at the end of (A)(2).

MOVED BY COMM. ROSS, SECONDED BY COMM. DOTSON, AND CARRIED TO ADOPT THE FOLLOWING AMENDMENT OF THE ZONING ORDINANCE. Comms. Ross, Dotson, DeWolf, and Rogers voted "aye;" Comm. Patterson voted "nay."

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*Delete the current Section 114 in its entirety and replace with the following:  
Section 114. Outdoor Display of Merchandise.*

*Intent and Purpose*

*The purpose of this section is to enhance the economic vitality of established commercial areas by permitting the display of merchandise in outdoor areas under uniform standards. These standards address aesthetics, safety and other matters of public concern, and thereby promote the general welfare of the Town. Outdoor displays of merchandise shall be designed, operated and*

maintained in a neat and orderly manner so to be compatible in appearance with the existing scale and character of the Town of Highlands. This section shall not apply to retail plant nurseries.

(A) Definitions.

- (1) "Outdoor display" shall mean the placing or placement of merchandise in the Outdoor Area adjacent to a commercial establishment, for the purpose of the sale of such goods to the public in the ordinary course of business.
- (2) "Outdoor Area" - Any area outside the limits of the building, as defined by Article 1000 of this Code, and including the roof.

(B) Regulations within B-1 and B-2 zoning districts:

- (1) Outdoor displays, as defined herein, shall be allowed only upon compliance with the provisions of this section.
- (2) Outdoor displays shall be allowed only as an accessory use to operating retail businesses, and only pursuant to a valid outdoor display permit.
- (3) Outdoor displays shall be permitted only on the private property of the permit holder in areas immediately adjacent and contiguous to the front or side facades of the associated commercial building.
- (4) No clothing or other wearing apparel may be displayed outdoors.
- (5) No merchandise with wind movable parts may be displayed outdoors.
- (6) No signage associated with an outdoor display may be displayed outdoors.
- (7) No material classified as "highly flammable" under County, State, Federal, or other Town ordinances may be displayed outdoors. Firewood and propane cylinders shall not be considered "highly flammable" for purposes of this ordinance.
- (8) No material classified as a Hazardous Household Product as per the North Carolina Cooperative Extension Service, Publication Number HE-368-1 dated March 1996, or the most current publication of said document, may be displayed outdoors.
- (9) Outdoor displays shall meet all applicable fire, health, building and handicapped access requirements and regulations. Entrances and/or exits to all buildings shall be maintained free and clear of merchandise or other items, including but not limited to items hung on doors or at entryways.
- (10) The full width or a minimum of five (5) feet, whichever is smaller, of a private sidewalk which is open to the public, shall be kept clear of outdoor displays.
- (11) Outdoor display permits shall be issued by the Zoning Administrator. The permit shall be issued to the commercial business and is not transferable.
- (12) The application for a permit for outdoor display shall be on a form promulgated by the Zoning Administrator. The following information, and any other information requested by the Zoning Administrator, shall be supplied by the applicant at the discretion of the Zoning Administrator:
  - (a) The name, address and phone number of the commercial establishment.
  - (b) The name, address and phone number of the business owner.
  - (c) A recent survey of the subject property, showing the proposed area for the outdoor display and the location of existing public and private sidewalks and walkways.
  - (d) A description of the general nature of the items to be displayed.
  - (e) A recent photograph from all adjacent streets of the subject property and the adjoining properties with the same street frontage.

(C) Additional Regulations within B-3, B-4 and B-5 ETJ zoning districts:

The following regulations shall apply in the B-3, B-4 and B-5 ETJ zoning districts in addition to those required under Section 114(B) above.

- (1) Outdoor displays shall be limited to an area within twenty-five (25) feet of the front or the side of the principal commercial structure.

(2) Outdoor displays shall not be allowed within twenty-five (25) feet of the edge of pavement of any Town, State or Federal roadway, or within ten (10) feet of the back edge of a public sidewalk, if applicable.

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2. The Board considered the proposed amendment of the Zoning Ordinance concerning parking requirements in shopping centers and modification of the definition of shopping center, subject of a public hearing immediately preceding the regular meeting. Comm. Ross expressed general concern over the parking requirement for residential apartments, which he thought tended to discourage workforce housing. The Planning Director said that question would be addressed by the parking study.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. DOTSON, AND UNANIMOUSLY CARRIED TO ADOPT THE FOLLOWING AMENDMENT OF THE ZONING ORDINANCE.

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(2) Amend Article 300 Section 302 Parking Schedule to add "Shopping Centers"

Amend Article 300, Section 302. Parking Schedule to add the following:

Shopping Centers

Required Parking

Residential	Two (2) spaces per dwelling units
Outdoor seating for	One (1) space for every three seats restaurants
All other permitted uses of	One (1) space per 250 square feet gross floor space

Amend Article 1000, Section 1002. Individual words or terms, "Shopping Centers", to read as follows:

Shopping Center: Four or more commercial establishments planned, constructed and managed as a single unit containing a minimum of five-thousand (5,000) gross square feet, and sharing common sidewalks, driveway entrances, or parking areas.

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3. The Affordable Housing Task Force had asked at the previous meeting for a commitment from the Town to provide water and sewer to the site it had found off Buck Creek Road in order to proceed with the Shortoff Woods project. The Mayor said that he had appointed the Affordable Housing Task Force two years ago, and under the leadership of MaryAnn Sloan, it had completed a survey establishing the need for housing. The Task Force had then researched and visited several other affordable housing complexes in the Southeast, and had worked with Kristy Carter from the North Carolina Division of Community Assistance in preparing a Highlands Housing Market Analysis. He said that he had been personally very exuberant in his support of the project in the newspaper. He felt strongly that the project needed to be done, and he had received many letters in support. He then read a letter of support from Frances Oakley, President of the Board of Directors, and Pat Hedden, Programs Director, of the Highlands Community Child Development Center. The Town Administrator reported that a letter of support had also been received from Jim Meiring.

Comm. Ross said that the Task Force had done a tremendous job, and he hoped they would continue to look for property, because in his opinion this was not the best location; it was too far out of Town, and he felt it should be within Town and walking distance of the commercial areas. He was also concerned about setting a precedent in the future.

Comm. Rogers said the project would be serving an area and people who had not paid for water and sewer like those inside of Town; he felt that it should stay in Town serving Town taxpayers.

Comm. Patterson said there was no question about the need; the Town had discussed it for years. She wondered if the site was the best, but there was no other site available. She had also been concerned historically with increased density. But she felt that the Town needed to give a little to get something that was needed in the community. Because it was for a specific reason, she did not feel it set a precedent.

Comm. Dotson also felt it was important, but he noted that other entities like OEI and the country clubs had provided their own housing. He was not in favor of it at this site, and felt that sewer should be provided to citizens of Town first.

Comm. DeWolf said nearly all agreed on the need, and he agreed with Comm. Patterson; the Task Force had been unable to find another piece of property. While the needs of providing sewer to people in Town needed to be met, he felt this project needed to be kept alive.

MOVED BY COMM. ROGERS, SECONDED BY COMM. DOTSON, AND CARRIED TO DENY THE REQUEST FOR WATER AND SEWER TO THE SHORTOFF WOODS PROJECT. Comms. Rogers, Dotson, and Ross voted "aye," and Comms. Patterson and Dewolf voted "nay."

VIII. The Board agreed by consensus to adjourn.

There being no further business to come before the Board, the meeting was declared by the Mayor to be adjourned at 8:40 p.m.

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Richard Betz, Town Clerk