

MINUTES

Town of Blowing Rock

Board of Commissioners

June 10, 2008

The Town of Blowing Rock Board of Commissioners met in regular session on Tuesday, June 10, 2008 at 7:00 p.m. The meeting took place at Town Hall, 1036 Main Street. Present were Mayor J.B. Lawrence, Commissioners Bobby Ball, Keith Tester, Phillip Pickett, Albert Yount, and Tommy Klutz. Others in attendance were Town Manager Scott Hildebran, Town Attorney Allen Moseley, Town Engineer Doug Chapman, Planning Director Kevin Rothrock, Public Works Director Johnny Lentz, Police Chief Eric Brown, Finance Director Nicole Norman, Parks & Recreation Director Jennifer Brown, Building Inspector Jesse Horner, EMS Director Kent Graham, Planning Intern Daniel Cobb, and Town Clerk Sharon Greene.

CALL TO ORDER

Mayor Lawrence called the meeting to order at 7:00 p.m. and welcomed those in attendance.

APPROVAL OF MINUTES

Commissioner Pickett made a motion to approve minutes for meetings held on May 13, 19, 20 and 27, 2008 as written, seconded by Commissioner Klutz. Unanimously approved.

PUBLIC HEARINGS

1. Ransom Street, LLC – Mixed Use (CUP 2008-03)

Sworn to speak during the following public hearing were Kevin Rothrock, Michael Trew, and Bill Dixon.

Planning Director Kevin Rothrock presented Council with a request from Ransom Street, LLC for a conditional use permit to construct a two story mixed-use building on a vacant parcel south of Days Inn on the corner of Ransom Street and Valley Blvd. The proposed 3,656 sq. ft building consists of a restaurant and retail/office space. The property is zoned GB, General Business and is located in the WS-IV-PA watershed.

The proposed site plan for the project was presented by Mr. Rothrock, which included zoning/land use, parking, storm water management, and landscaping. Architectural plans including the proposed design and exterior materials were shown to Council.

Mr. Rothrock reported that during the Planning Board meeting held on May 15, 2008, a recommendation to approve the conditional use permit with the following conditions was made:

1. no alcohol sales for on-site consumption
2. no drive-thru window permitted
3. no outside dining allowed
4. external lighting to cast downward

5. opaque screening installed from NW corner of parking lot to a distance half of Days Inn property line with pedestrian path provided
6. 48% SIA impervious area accepted

Commissioner Yount had questions regarding the no alcohol sales for on-site consumption condition. He felt further clarification was needed, since beer and wine retail was allowed, but on-site consumption was not. He asked if the wording in the CUP was the intent of the Planning Board. Mr. Rothrock stated the recommendation of the Planning Board was no on-site consumption allowed, however; sale of beer/wine for off-site use was allowed. Commissioner Ball also wanted to know why this stipulation was added to the CUP and if it would remain forever. Mr. Rothrock responded that neighbors in the area were concerned with noise. Town Manager Hildebran stated the CUP ran with the land and unless the business changed, the stipulation would remain. Commissioner Klutz commented on a similar situation where alcohol was sold at a business located in a residential neighborhood. He was confused as to why this condition was applied to this project. Commissioner Yount requested that Planning Board Chair Jim West speak to the issue.

Mr. West was sworn to speak by the Town Clerk.

Mr. West stated the Planning Board had responded to concerns from neighbors in the area and it was the understanding of the Planning Board that a potential applicant was an off-premise beer and wine shop. Members of the Board felt this would be the appropriate time to limit the on-site consumption. Future applicants would have to come before Council to change the condition.

Commissioner Klutz inquired if this was the first time a stipulation such as this had been set. Mr. West responded he did not remember any other instances. Mr. West stated the Planning Board felt this was a good recommendation and the applicant had not objected and had no intentions of having on-site consumption.

Commissioner Pickett inquired if the applicant had requested this condition. Mr. West stated the applicant had not requested the condition, but they were not opposed.

Commissioner Tester had questions regarding the proposed rain garden and if the volume had been calculated in the retention regulations. Mr. Rothrock asked the project engineer to answer questions regarding the rain garden. Mr. Michael Trew of Municipal Engineering acknowledged the calculations included the rain garden and the garden was more for filtering water than holding water.

Mr. Bill Dixon of Appalachian Architecture approached Council regarding the “no on-site alcohol consumption” condition previously discussed. Mr. Dixon advised his client had not offered this condition, but had accepted it due to concerns of the neighbors in the area. His client would like for this condition to be removed if possible. Mr. Dixon stated Subway of Blowing Rock was relocating to the proposed site and would be there for at least 10 years. He expressed the need for more flexibility if for example; an art gallery was located there and wanted to hold a wine tasting.

Mr. Dixon then addressed a concern regarding paragraph eight in the CUP in reference to a pedestrian walkway from Days Inn to their proposed project. He feared the language in the CUP would require his client to install an ADA accessible walkway which would be very difficult. Commissioner Tester asked Mr. Rothrock if this was a requirement. Mr. Rothrock stated it had not been mentioned. Mr. Dixon advised with discrepancies in the N.C. Building Code he was concerned this would come up during the permit process and wanted further clarification. Commissioner Tester asked if staff and client would agree to a change in wording of the CUP stating the client is “encouraged” to provide pedestrian walkway. Mr. Dixon and Mr. Rothrock agreed to the change.

Mr. Trew asked Council for clarification regarding the Special Intensity Allocation which states 48% of impervious surfaces in the CUP. Mr. Trew stated after recalculations adding a pedestrian walkway would increase the imperviousness surfaces to approximately 49%.

The public hearing was closed after a motion from Commissioner Ball, seconded by Commissioner Pickett. Unanimously approved.

Commissioner Yount made a motion to approve CUP #2008-03 to include the following recommendations: in paragraph two, omit the line stating bark siding would be added; paragraph 8; change the word “shall” to “encouraged”, and in paragraph 12; change the Special Intensity Allocation from 48% to 49%. Commissioner Klutz requested the no on-site alcohol consumption clause be omitted. Commissioner Yount stated his motion would

remain as previously stated. Commissioner Yount's motion died for lack of a second. Commissioner Klutz then made a motion to approve CUP #2008-03 with the recommendations previously stated which included the no on-site alcohol consumption condition be removed, seconded by Commissioner Ball. Mr. Yount inquired why Commissioner Klutz wanted the no on-site alcohol consumption removed from the CUP. Commissioner Klutz felt the Town would be setting precedence with this stipulation and Ransom Street. LLC should have a choice just as other businesses did. Commissioner Yount responded the applicant had gone before the Planning Board to be heard and had agreed with their recommendation. In Commissioner Yount's opinion this condition should remain. Commissioner Pickett stated he understood the applicant would like this stipulation to be removed from the CUP. Mr. Dixon stated his client reluctantly accepted the stipulation. Commissioner Tester agreed with Commissioner Klutz's motion by stating he was sympathetic with the concerns of the neighbors but they were not very close to the project which was located in a commercial district. He also felt it was too restricting and would also restrict the other units in the complex. In favor of the motion were: Klutz, Ball, Tester & Pickett - Abstaining: Yount. Motion carried -5-0. **CUP #2008-03 - Exhibit A**

2. Code Amendment Historic Properties (Ordinance #2008-05)

With the annexation of the Gideon Ridge Area, the Gideon Ridge Inn, and The Blowing Rock visitor attraction will be considered nonconforming uses. According to Planning Director Rothrock the nonconforming regulations in the Land Use Ordinance prohibit expansion. In recognizing the historic significance of the Gideon Ridge Inn, The Blowing Rock, and the Green Park Inn, the Planning Board and zoning subcommittee recommended Ordinance Amendment No. 2008-05 to provide flexibility with regard to expansion of these properties. Without the amendment, they would not have an opportunity for expansion. The ordinance amendment provides that up to 50% of the existing gross floor area could be expanded if all other requirements of the Land Use Ordinance were met. The expansion would only be allowable through a conditional use permit and must be for the current use only.

Mr. Rothrock advised setbacks and other standards that apply to each property would be based on the underlying zoning district for that property.

Commissioner Yount inquired if this had been before the Planning Board. Mr. Rothrock stated it had and they were in favor of the amendment.

Mr. John Lacy of 370 Gideon Ridge Lane opposed the proposed amendment. Mr. Lacy felt if the Gideon Ridge Inn expanded by 50% it would present a hardship in the single-family neighborhood. Mr. Lacy stated the 15-foot wide road would not handle an increase in traffic and the lighting along the area was inadequate which presented significant safety issues. He also realized they would have to conform to the town code should an expansion be done, but he did not think it would be environmentally wise. According to Mr. Lacy, during the Planning Board meeting, the original recommendation was for a 20% increase, but was increased to up to a 50% increase. He felt further studies of the area were needed.

Commissioner Tester responded to Mr. Lacy's concerns, stating this amendment to the ordinance was not authorizing the expansion of the Gideon Ridge Inn as they would have to comply with the CUP process and come before Council. A public hearing would be held before any expansion was done and there was no guarantee an expansion would be approved.

Commissioner Tester asked for someone to address the issue of the increase from 20% to 50%. Planning Board Chairperson Jim West approached and explained the Planning Board had discussed this issue and felt if this property or other properties in the area were sold and subdivided into lots a 2,000 sq. ft. home could be built on each lot which is small in comparison to other properties in town. Mr. West advised there was potential for improvement during the CUP process of some of Mr. Lacy's concerns regarding lighting, roadways, etc. He also stated the Planning Board was trying to help historic properties maintain their viability. He felt through the CUP process and the wisdom of the Planning Board and Council the 50% increase would work.

Commissioner Tester stated the purpose of the designation was to preserve the historic character of these properties and would an expansion be historical? Mr. West stated as long as the character and purpose were maintained and the historic guidelines were met, it would be consistent. Mr. Tester also inquired if certain allocations for expansion had to be met in the historic guidelines so not to lose their historic designation. Mr. West advised there were.

Commissioner Ball felt a 50% expansion on the Gideon Ridge would have a big affect on the neighborhood. She also had questions regarding the increase to 50% from 20%. Mr. West stated under the current code no expansion was allowed and following discussion it was decided a 50% expansion would be allowed.

Commissioner Klutz had questions regarding spot zoning, which he was in favor of instead of non-conforming use.

After further discussion, Mr. Cobb Milner, Jr. owner of the Gideon Ridge Inn approached Council and stated that currently he had no active plans for expansion of the Gideon Ridge Inn, but the flexibility to expand was needed to survive. Mr. Milner stated this was not the time to argue over traffic, lighting, etc. which should be done during the CUP process. Council had always tried to listen and respond to concerns of adjoining property owners. Mr. Milner advised his family had owned the Gideon Ridge Inn since 1984 at which time zoning was not in place in Caldwell County. He also advised their occupancy had stabilized but costs were rising quicker than their ability to raise revenue and the property was subject to R-20 zoning in Caldwell County which had a provision for expansion. Mr. Milner felt being annexed into the Town without this ordinance meant a step backwards for the Gideon Ridge Inn. Mr. Milner explained the Inn consisted of approximately 8,000 square feet and set on a three and one-half acre tract. A 50% expansion would add 4,000 square feet which would be five more quest rooms. He felt this would not be burdensome to the community, but could be discussed during the CUP process.

Mr. Lacy felt an expansion of the restaurant would have a large affect regarding traffic to the area. Mr. Milner responded they did not intend to expand the restaurant.

Commissioner Tester stated the ordinance was general in nature and did not specifically name any businesses, and was there potential for other properties in the future. Mr. Rothrock stated there was that potential. Mr. Tester suggested that sentence (b) under Section I (2) be changed to the following:

Any expansion of the existing structure shall not cumulatively exceed 50 percent of the gross floor area of the structure as of the effective date of historic designation.

Commissioner Klutz inquired of Mr. Lacy, if he would have problems with being held to a certain percentage of expansion to his home. Mr. Lacy responded an addition to his home would not have a great impact on the neighborhood.

Following further discussion, a motion to close the public hearing was made by Commissioner Pickett, seconded by Commissioner Ball. Unanimously approved.

A motion to approve Ordinance #2008-05 with the addition to sentence (b) Section I (2) to read "as of the effective date of historic designation as defined in paragraph one of the ordinance" was made by Commissioner Tester. Mr. Tester also commented that he was sensitive to Mr. Lacy's concerns, however; this ordinance covered many properties and it would not be in the best interest of everyone to make a restriction that applied to all these properties. Mr. Tester agreed with the Planning Board's decision of allowing an expansion up to 50%. The motion received a second from Commissioner Pickett. Unanimously approved. **Ordinance #2008-05 Exhibit B**

3. Tiller Lane Property- Alcohol Exemption (Ordinance #2008-06)

Planning Director Rothrock presented Council with a draft ordinance allowing possession and consumption of alcohol at the Edgewood Cottage and the future BRAHM building. The current Town Code prohibits the possession and use of alcohol on public streets and Town property. The draft ordinance provides exemptions to the current Town Code to allow consumption of alcohol in Edgewood Cottage and Blowing Rock Art and History Museum during special events. According to the draft ordinance, alcohol would be permitted within buildings, grounds, and patio areas, but would prohibit alcohol in the parking facility and adjacent public sidewalks.

According to Mr. Rothrock, two events are planned for the month of June to introduce the public to the refurbished Edgewood Cottage. During these events, the Historical Society wished to serve alcohol and had obtained the proper State ABC permits.

Adequate insurance for these events were discussed. Each event would require appropriate liability insurance to include a \$1 million general liability policy, a \$1 million liquor liability, and a hold harmless agreement with the municipality.

Commissioner Tester questioned if this was State law. Town Manager Hildebran stated it was not a State law, but it was a condition of the Town's insurance carrier.

Commissioner Tester encouraged that language be added to the ordinance clarifying this condition as well as to hold the Town harmless.

Commissioner Klutz voiced his dissatisfaction with the statement that read "Alcohol will be permitted within the buildings, grounds, and patio areas, but will be prohibited in the parking facility and adjacent sidewalks." It was his feeling since the parking facility had yet to be approved it should not be included in this statement. Mayor Lawrence advised these would be some type of parking there whether it's the parking facility or a surface lot.

A motion to close the public hearing was made by Commissioner Pickett, seconded by Commissioner Ball. Unanimously approved. A motion for approval of Ordinance #2008-06 was made by Commissioner Yount to include Commissioner Tester's suggestion that proper wording be added to the ordinance stating Edgewood Cottage and BRAHM must conform to the Town's insurance policy and the Town be held harmless. This motion was seconded by Commissioner Pickett. Unanimously approved. **Ordinance #2008-08 Exhibit C**

4. FY 2008-2009 Budget (Ordinance #2008-07)

During the regular meeting held on May 13, 2008 the FY Recommended 2008-2009 Budget was presented to Council for review and discussion. After several special meetings and with minor changes made, the FY 2008-2009 Annual Budget Ordinance #2008-07 was presented by Town Manager Hildebran for Council approval.

A brief synopsis was given by Mr. Hildebran explaining property tax rate would remain at \$.028 per \$100 of the value and the FY 2008-09 Budget contained a water/sewer adjustment of \$0.25 per 1,000 gallons of usage above the minimum 5,000 gallons and a \$5.00 per month charge for each customer to cover the expense related to the planning emergency eater interconnection with the Town of Boone and Appalachian State University. Due to a proposed increase in commercial landfill tipping fees from \$45 per ton to \$49 per ton by Watauga County, the proposed budget also included an increase in commercial solid waste fees to recover these costs. All other fees and charges would remain unchanged.

Mayor Lawrence commended Mr. Hildebran and Town Staff for their hard work on the budget. Mr. Hildebran also thanked the Town Staff for their participation in preparing the budget.

Commissioner Yount stated the budget contained the debt service for the American Legion Parking Facility and several months prior, he did not have the luxury of voting on this project. He explained the reason for voting for the FY 2008-2009 Budget was to comply with "majority rules". Commissioner Klutz requested the minutes reflect that he was in agreement with Commissioner Yount. He stated even though he voted in favor of the parking facility, he felt it was a mistake.

Commissioner Yount conveyed the budget was prepared from projected income, and with economy changes, he asked that Mr. Hildebran alert Council immediately if he saw any income disruption, because spending could be controlled.

Hearing no public comments, a motion to close the public hearing was made by Commissioner Ball, seconded by Commissioner Tester. Unanimously approved. Commissioner Ball continued with a motion to approve FY 2008-2009 Budget Ordinance #2008-07 as presented, seconded by Commissioner Tester. Unanimously approved.
Ordinance #2008-07 Exhibit D

OLD BUSINESS

1. Drought Update

Mr. Hildebran recommended Stage I Voluntary Conservation efforts remain in effect even though the area had received some precipitation recently. He advised that rain barrels were available to those interested in purchasing them at Town Hall. A 60-gallon barrel could be purchased for \$78.00 and an 80-gallon barrel for \$89.00.

NEW BUSINESS

1. Engineering Services Agreement- Water Interconnection Project.

Mr. Hildebran presented an Engineer Services Agreement with McGill Associates for design and construction support services for the water interconnection to Boone for Council's consideration. According to Mr. Hildebran, the agreement was prepared in consultation with the USDA – Rural Development Office in accordance with the requirements of the Appalachian Regional Commission and the N.C. Rural Center grants and the N.C. Public Water Supply Loan.

The services would include Engineering Feasibility Services, Technical Services (engineering design, bid and award) and Construction/Inspection Services. The lump sum cost of the professional services, included in the \$4,000,000 project is as follows:

\$ 45,700 – Engineering & Environmental Reports

\$186,500 – Design, Bidding and Award

\$140,800 – Construction/Inspection

\$373,000 – Total

Mr. Hildebran advised the Town of Blowing Rock was the primary party in this agreement and would be overseeing the project. Mayor Lawrence questioned if the Town needed approval from the U.S. Parkway. Mr. Hildebran responded easements would be needed from the Parkway and Town representatives had met with the Parkway Superintendent.

Mr. Hildebran also conveyed the original price of the project had been lowered somewhat by the USDA. A motion to approve the agreement as presented was made by Commissioner Yount, seconded by Commissioner Ball. Unanimously approved.
Engineering Services Agreement-Water Interconnection Project Exhibit E

2. Surplus – Tiller-Lane House (Resolution #2008-08)

Pursuant to N.C.G.S. 160A-270(c), Town Council is authorized to sell personal property by electronic auction upon adoption of a resolution authorizing an appropriate town official to dispose of personal property belonging to the town.

Mr. Hildebran presented Resolution #2008-08 to Council for their approval for removal of a structure located at 115 Chestnut Street. Mr. Hildebran conveyed the property needed to be removed from the lot to comply with the Town's lease agreement with the Blowing Rock Art & History Museum. The proposed resolution declared the property as surplus and authorized the Town Manager or his designee to sell the property via electronic auction on www.GovDeals.com.

According to Mr. Hildebran, the bidding would open on June 23, 2008 at 8:00 a.m. and remain open for the next 30 days. The successful bidder would have 90 days to remove the structure from the property upon notice of bid acceptance.

A motion to accept Resolution #2008-08 was made by Commissioner Ball, seconded by Commissioner Pickett. Unanimously approved. **Resolution #2008-08 Exhibit F**

3. **Budget Amendment (Ordinance #2008-08)**

Town Manager Hildebran presented a budget amendment for fiscal year 2007-2008 for Council's consideration.

The Water/Sewer Fund amendment is to recognize revenue received or to be received for the sale of Water Conservation Equipment as well as to create an expense line in which to pay for the conservation equipment (rain barrels).

With no further discussion, a motion for approval of Ordinance #2008-08 was made by Commissioner Tester, seconded by Commissioner Ball, Unanimously approved. **Ordinance #2008-08 Exhibit G**

SPEAKERS FROM THE FLOOR

None

DEPARTMENTAL REPORTS

At this time Mayor Lawrence called upon Emergency Services Director Kent Graham to speak regarding "No Dogs in Town Parks". Mr. Graham spoke of a recent incident at Davant Field involving his 4-year old daughter. Mr. Graham advised while playing at Davant Field, his small daughter narrowly escaped serious injury when a dog tried to attack her. Mr. Graham stated several people were there and averted the attention of the dog before it bit his daughter. He asked that Council revisit the "No Dogs in Town Parks" rule. He felt the town needed a clear procedure to follow when an instance such as this happened.

Commissioner Pickett agreed with Mr. Graham. He felt something should be put in effect that was strong enough to stop this type thing from happening.

Audience member Danielle Tester suggested that dogs not only be on leashes, but to have mussels too. Commissioner Tester advised a professional was reviewing the Town Code at the present time and this area should be looked at further.

Several members of Council felt once a firm procedure was enacted, consistent enforcement should be applied. It was the consensus that McGill Associates staff review the park and recreation ordinances and bring back a recommended course of action.

Another issue of discussion Mr. Hildebran advised was representatives from Chetola Severn Partners wished to meet with Council in the near future to discuss the large project proposed along North Main Street. Town Attorney Moseley inquired if Council had received a recent update regarding the project. Council responded they had not received an update. Mr. Moseley stated that he and other town staff had worked with Chetola Severn representatives to work out several issues of concern with this project and he felt a meeting was needed to further discuss these concerns before another public hearing could be held.

Commissioner Ball made a motion to recess the meeting until Monday, June 16, 2008 at 2:00 p.m. at which time they would meet with Chetola Severn Partners. The motion received a second from Commissioner Tester. Unanimously approved.

ADJOURNMENT

With no further business to discuss, the meeting was recessed at 9:00 p.m. until June 16, 2008 at 2:00 p.m.

MAYOR _____

J.B. Lawrence

ATTEST: _____

Sharon Greene, Town Clerk

Attachments (June 10, 2008)

CUP #2008-03 Ransom Street, LLC Exhibit A

Ordinance #2008-05 Historic Properties Code Amendment Exhibit B

Ordinance #2008-06 Tiller-Lane Property- Alcohol Exemption Exhibit C

Ordinance #2008-07 FY 2008-2009 Budget Exhibit D

Engineering Services Agreement-Water Interconnection Project Exhibit E

Resolution #2008-08 Tiller-Lane House Surplus Property Exhibit F

Ordinance #2008-08 Budget Amendment Exhibit G