

## **Planning and Zoning Board**

### **Minutes**

**Thursday, December 15, 2011**

**5:30 p.m.**

The Blowing Rock Planning and Zoning Board met on Thursday, December 15, 2011 for their regular scheduled meeting. Chairman Jim West called the meeting to order at 5:30 p.m. Members present were David Laughter, Brenda Fairbetter, Ray Pickett, David Harwood, Lisa Stripling, and Debbie di Santi. Staff members present were Town Manager Scott Hildebran, Planning Director Kevin Rothrock, Police Chief Eric Brown, Parks and Recreation Director Jennifer Brown, Town Engineer Doug Chapman, Town Attorney Allen Moseley and Administrative Assistant Tammy Bentley. Member absent was Doug Pegram.

*Mr. Pickett made a motion to approve the minutes as presented. The motion was seconded by Ms. Stripling. All members were in favor of the motion.*

Chairman West asked for a motion to amend the agenda to move Weapons on Town Property to item #2 and to set the time period for public comments. *Mr. Harwood motioned to amend the agenda and set the public comment time to 4 minutes. Ms. Stripling seconded the motion. All members were in favor of the motion.*

### **Items of Business**

#### **CUP 2011-06 Subway**

Mr. Rothrock gave the staff report to the board. Mr. Chris Ebaugh of Stonetree Development, Inc. is requesting a conditional use permit to renovate the construction office of Ebco Builders at 8433 Valley Boulevard and convert the space to a Subway restaurant. The log structure on the site has been demolished. The subject property is zoned GB, General Business.

#### **Parking**

The parking requirement of 16 spaces will be met by adding three employee parking spaces on the rear of the building with access from Skyland Drive.

#### **Landscaping**

The southwest corner of the parking lot near the drainage structure and the street yard buffer behind the building will have less landscaping buffers than required by the ordinance. Staff recommends flexibility in these areas to accommodate parking angles.

#### **Architectural Plans**

The remaining building will be renovated with 3 windows with a shed roof awning on the west side, covered entry on the south side and board and batten siding on the gable ends of the building.

Chairman West asked if there were any questions from the staff.

Ms. di Santi asked if the rear drive will go around the building. Mr. Rothrock said no; that there is not enough room on the property for the drive to go around the building.

Mr. Harwood asked if a dumpster for cardboard would be required. Mr. Rothrock said that is based on volume and that Subway doesn't generate much cardboard waste. Based on the projected volume the town crews can pick up the cardboard from an easily accessible enclosure.

Mr. Rothrock said that the applicant will provide a covered collection area for cardboard and other recyclables.

Chairman West opened the floor for the applicant.

Mr. Michael Trew with Municipal Engineering, engineer for the applicant, said that the applicant wanted to keep the log structure but that was not possible due to the challenges with the NCDOT right-of-way and utility easement on the site. He also stated that he thought that the project is a good fit for the town, that the project would fill an empty spot on the by-pass, and that there seemed to be demand in town for a quick lunch place.

Mr. Harwood asked if there is a change in the angle of the entrance drive. Mr. Trew said that the plans are skewed and when the highway is widened the entrance drive will be at a 90° angle to the highway. This change will be shown on future plans.

Chairman opened the public comment for the conditional use permit.

There were no public comments. Chairman West closed the public comment period.

*Mr. Pickett motioned to approve the conditional use permit with flexibility in the landscaping buffers as recommended in the staff report. Ms. Fairbetter seconded. All members were in favor of the motion.*

### **Weapons on Town Property**

Mr. Rothrock gave the staff report and covered amended sections of the draft ordinance. This past year the NC General Assembly adopted amendments of various gun laws in North Carolina through Session Law 2011-268 House Bill 650 which is referred to as the "Castle Doctrine". The Castle Doctrine specifies that a person has a right to use force in self-defense, especially as it pertains to his/her home, vehicle or workplace. In addition, the amendments to these statutes further clarified the uniformity in application of the laws concerning the right to carry concealed handguns in North Carolina. This amended law became effective December 1, 2011.

As a result, towns and cities are required to clearly specify where legally permitted concealed handguns are prohibited such as municipal buildings and appurtenant facilities and "recreational facilities". By statute, "recreational facilities" can include only the following: a playground, an athletic field, a swimming pool, and an athletic facility.

Chairman West asked if there were any questions for the staff.

Mr. Harwood asked if the sidewalk on the south side of Memorial Park is included in the area where concealed guns would be prohibited. Mr. Rothrock said he did not think the sidewalks are

included. Chairman West asked if this would be true for all sidewalks. Mr. Rothrock said that no sidewalks are included.

Ms. di Santi asked Mr. Moseley what the state law prohibiting concealed weapons in Broyhill Park, on the Glen Burney Trail, and in Annie Cannon Memorial Garden which link Memorial Park, Robbins Pool, and Davant Field. Mr. Moseley said there isn't one. Mr. Rothrock referred to Section 21 of the Castle Doctrine for clarification.

Jennifer Brown, Director of Parks and Recreation for the Town of Blowing Rock said that the decision to limit concealed weapons in Memorial Park, Davant Athletic Field, and at Grover C. Robbins Memorial Pool was to ensure the safety of children.

Chairman West opened the public comment period.

Mr. Wayne Green of Vilas said that the Town should not limit the areas where concealed weapons could be carried simply because the Town could limit those areas. He also said that concealed weapon permit holders were very law abiding citizens and that the Town could lose their business due to a lack of trust in concealed weapon permit holders. He also urged the Town not to deprive young mothers the ability to defend their children.

Mr. Bill Krupicka of Linville urged the Town to not prohibit concealed weapons in any area. He also said that concealed weapons carriers in North Carolina are sane, sober, law abiding citizens and that crime is lower in areas that allow concealed weapons because criminals avoid armed citizens; there is more crime in "unarmed" parks.

Greg Bovino, who grew up in Blowing Rock, spoke in favor of allowing concealed weapons in all town parks and to be careful of allowing the government to take away our liberty and freedom. He also listed several examples of gun-free zones, Washington DC, Chicago, Los Angeles and New York where crime and mayhem are rampant, and said that not being armed makes a victim of all of us. Mr. Bovino addressed Chairman West and asked if he could ask the Board members a question. Chairman West responded that he could ask the Board members a question, but that they did not have to answer. Mr. Bovino asked the Board their views on the Second Amendment of the US Constitution.

Mr. Dennis Hull of 1304 Blackberry Road, Lenoir, NC said that he and his wife retired here in 1997. He became a concealed carrier 30 years ago in Mississippi and that both he and his wife obtained concealed carry permits here. They eat and shop in town and enjoy Memorial Park, but would no longer be able to if concealed weapons are prohibited. He said that criminals would pay no heed to signs indicating that concealed weapons are prohibited and not to be overly restrictive.

David Rogers with BlowingRockNews.com asked Mr. Hull what it is to carry a concealed weapon and how are the concealed weapons carried by the permit holders. Mr. Hull responded that you won't know when someone carries a concealed weapon. There are many ways to conceal weapons—we have no idea how many people in Blowing Rock are armed. He showed his "wallet" holster.

Kathy Hull, Mr. Hull's wife, said that the process of obtaining a concealed carry permit includes a mental health evaluation, an FBI background check, and being fingerprinted.

Mr. Wayne Green said that an applicant must first take an 8 hour course, know when they can shoot, know their liabilities and obligations as concealed carry permit holders, spend time on a

shooting range to prove their ability to shoot, and submit an application to the FBI to have the background check done. He said that concealed carry permit holders are more thoroughly invested than law enforcement. The process is expensive, requires considerable effort, and is not easy to get.

Jennifer Brown, Director of Parks and Recreation, said that her husband is in law enforcement, that she is in the process of getting her concealed carry permit, and she fully understands the concept of all this is happening and her liberties.

Chairman West closed the public comment period.

Mr. Harwood asked the Staff what was prompting this now.

Mr. Rothrock said the law was changed effective December 1, 2011 and that he wanted to act as quickly as possible to follow the state statute and how our parks are used. He said that it makes perfect sense to allow concealed weapons on the Glen Burney Trail and he wanted to be sure that we aren't denying the right to carry concealed weapons where it is not prohibited.

Mr. Hildebran said that in 1995 or 1996 the state allowed local governments to disallow concealed weapons on town property. This changed on December 1, 2011 and that the Town is asking only to exclude three places.

Mr. Harwood asked if this is due to the Town having to comply with state statute or not.

Mr. Rothrock answered yes.

Mr. Harwood asked whether we have any flexibility.

Mr. Rothrock said that concealed weapons could be allowed on all town property, but staff feels these properties should be exempt.

Blowing Rock Police Chief Eric Brown stated that the police do not pat people down looking for concealed weapons, but they would enforce as needed.

Chairman West asked if there were any questions or comments from the Board.

Mr. Pickett asked what other small municipalities like Blowing Rock have done.

Mr. Rothrock said he did not know, but he thinks many small towns are the same and are choosing where to limit weapons.

Mr. Harwood said he would like to see the language in the proposed ordinance changed to read that sidewalks are excluded; that the boundary is the edge of the sidewalk and does not include the sidewalk as an area where concealed weapons would be excluded.

Ms. Stripling asked if there have been any recent safety issues raised.

Chief Brown said he was not aware if any.

Mr. Hildebran said that for the last 16 years that concealed weapons were not allowed anywhere on town property, but now they are allowed in Town parks.

Chairman West said according to the NC Sheriff's Association that many communities have a "no harm/no foul" type attitude toward concealed weapons and asked Chief Brown if that was his attitude as well.

Chief Brown said that when he has found a concealed weapon on someone who does not have a concealed carry permit he has arrested that person.

Ms. di Santi asked that Mr. Harwood's sidewalk language change be clarified.

Chairman West said that third line Section C (1) of the draft ordinance states that the sidewalk is included in the area where concealed weapons would be prohibited. Mr. Harwood confirmed that his suggestion is to exclude all sidewalks from prohibited areas.

Mr. Rothrock added that the language should indicate that the excluded areas begin by the rock planter above Main Street and on the park side of the sidewalk between the Martin House and Memorial Park.

Chairman West asked if the picnic area behind town hall should be included.

Mr. Rothrock said it should be amended to include the picnic area.

Ms. Stripling asked for confirmation that Town buildings are covered by another section.

Mr. Rothrock confirmed that Town buildings are covered in Section (A).

*Mr. Harwood motioned to recommend the Draft Ordinance to the Town Council with the sidewalk clarification and the additional language, further clarifying the Memorial Park area and adding the picnic shelter behind town hall, as recommended by Mr. Rothrock. Ms. di Santi seconded the motion. **The motion passed with 6 ayes and 1 nay (Chairman West).***

Chairman West suggested everyone take a 5 minute break.

### **Land Use Code Reformatting**

Mr. Rothrock gave the staff report on the reformatting of the Land Use Codes.

Chairman asked sub-committee members Mr. Pickett and Ms. di Santi if the changes are consistent with their recommendations. They both answered yes.

Chairman recommended the acceptance of the reformatting and to wait before referring it to the Town Council until the Board can see the entire package including appendices.

*Ms. di Pickett motioned to approve the reformatting of the Land Use Code. Ms. di Santi seconded the motion. **All members were in favor of the motion.***

### **Other Business**

Chairman West asked if there was any other business.

*With no further business Ms. Stripling made a motion to adjourn, seconded by Ms. Fairbetter. All members were in favor of the motion.*

**Adjourn**

With no further business the Planning Board adjourned at 7:05 PM.

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Chairman West

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Tammy Bentley, Administrative Assistant