

MINUTES

Blowing Rock Board of Commissioners

Tuesday, August 12, 2003

The Town of Blowing Rock Board of Commissioners and the Planning and Zoning held a joint work session at 6:00 p.m., one hour prior to the regular meeting at 7:00. Present were Mayor J.B. Lawrence, Commissioners Barbara Ball, Rita Wiseman, Keith Tester, Terry Lentz, and David Wray. Also attending were Town Manager Scott Hildebran, Town Attorney Allen Moseley, Town Engineer Marion Rothrock, and Assistant Town Clerk Sharon Greene. Members of the Planning and Zoning Board attending were Susie Greene, Cobb Milner, Jim West, Ron Oberle, Al Yount, Paul Peterson, Ron Mace, George Snyder, and Dennis Quinn. Other staff members present were Director of Public Works Johnny Lentz, Planning Director Kevin Rothrock, Building Inspector John Warren, Police Chief Owen Tolbert and Parks and Interim Recreation Director Jamie Schultz.

Call to Order

The work session between the Boards was called to order by Mayor Lawrence. Planning Director Kevin Rothrock gave a slide presentation showing different aspects of the Town Center District. This district would be the area along Main Street from Hwy 221 down to Chestnut Drive. Based on policies adopted in the Comprehensive Plan, development standards in the Town Center District will focus on maintaining open spaces and trees, preserving community character, and adopting minimum building setbacks. With the idea of establishing new regulations concerning the Town Center being complicated, the following options were discussed.

Option I "*Do Nothing*"

The Town could choose to do nothing and have no setbacks in the Town Center. The Town could continue to rely on the negotiation process currently available from conditional use permits. However, this method may not protect Blowing Rock forever. If a property owner is denied zero lot line development through the CUP process, if challenged, the Town Attorney and the Institute of Government both feel this process may not stand up to judicial review.

Option II "*Use Existing Building Footprint Rule*"

This option would allow buildings to be rebuilt only to their existing footprints. This would not address lots that are currently undeveloped. This would potentially limit the use of those properties.

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Option III "The 15/15 Rule"

The "15/15" rule is the existing draft ordinance that was presented to the Town last December. *Section 16-139(c) Town Center Overlay District. See text below:*

Lots developed in the Town Center District shall meet the following standards applicable to setbacks, open space, and green space.

- A. To apply a primary street setback in the Town Center District, use the lesser of:
 - 1. 5% of the average lot depth, or
 - 2. A 15-foot setback

In either 1 or 2 above, the building setback shall be measured from the back of the public sidewalk. The area between the building and the sidewalk shall be open space.

Along side streets in the Town Center District, a building setback of five (5) feet is required.

- A. Side lot and rear lot boundary setbacks will be a minimum of three (3) feet, unless the building can be built with a zero (0) setback or common wall. The Zoning Administrator shall determine if the subject property/building owner has secured sufficient property rights from the adjacent property owner in order to build with a zero (0) setback or common wall.
- B. To provide site design flexibility, a portion of a building may encroach into the required front yard open space (as defined in A above) for up to 50% of the lot width. However, no building shall encroach closer than five (5) feet from the edge of the sidewalk. If a building is designed to encroach into the required front yard open space, the open space area displaced by the building must be placed within the front 1/3 of the lot.
- C. Within the open space area, a minimum of 50% must be planted green space with an emphasis on large, two-story, anchor trees.
- D. For purposes of subsection (A) through (C), primary streets in the Town Center District shall be Main Street, Sunset Drive, and Hwy 221.

This option allows for some building setback with opportunity for green space. However, this option alone does not address the building mass and human scale factor that has been pointed out in previous discussions.

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Additional Considerations

A. "Separate Overlay Districts"

Main Street has developed in two distinctive patterns. Due to the substantially different lot sizes and the historical development patterns that have occurred along Main Street, there are significant differences on each side. The area along Town Center East between Maple Street and Storie Street, where lots are already developed, could be considered a separate district. The remaining portion of Central Business, which has developed much differently and has larger lots, could be considered a district. Splitting the existing Central Business into two zoning districts may be a viable option.

B. Staggered Building Height/Setback"

To keep buildings at a human scale in the downtown area, a staggered building height setback would be considered. Such an ordinance would allow smaller buildings to be built closer to the street, while larger buildings would have to be set back a prescribed distance. This option offers a setback, open space, and design options for the property owner, and buildings constructed on a human scale.

C. "Intensity Regulations (Floor Area Ratios)"

This option would limit the mass of the buildings by defining maximum floor area ratios and minimum open/green spaces. The purpose of a *floor area ratio* is to limit the visual mass of the structure and to limit the impact of the use resulting from the increased building size. The purpose of the *minimum open space* is to guarantee area set aside for open space, green space, trees, and landscaping.

Option IV "Combination Approach"

Based on the comments previously received, a combination approach may be a viable solution. For example:

Separate the districts because they are distinct and unique—*Town Center East* and

Central Business

Town Center East could have:

5-foot minimum setback

35-foot maximum overall height

Central Business (remaining portion of the existing Central Business) could have:

Staggered building height/setback regulations

Intensity regulations (Max. floor area, minimum open/green space)

After a lengthy discussion, the Council and Planning Board felt additional deliberation was needed. At that time, the work session between the two boards ended and the regular meeting began at 7:15 p.m.

Approval of Minutes

A motion was made by Commissioner Wiseman to approve the minutes to meetings held on July 8, 2003 and July 10, 2003. Commissioner Ball seconded the motion and it was unanimously approved.

Public Hearings

1. Charter Cable – Franchise Renewal/Master Cable Ordinance (#2003-10 & 11)

Tony Barlage from Charter Communications was present for comments or questions concerning the franchise renewal and master cable ordinance. Council was concerned with the increase of rates and the length of the renewal. At this time the Public Hearing was closed. A motion was made by Commissioner Tester to accept the Renewal Franchise/Master Cable Ordinance, with a second from Commissioner Ball.

Commissioner Lentz felt the renewal should be changed from a 10-year contract to a 5-year contract. A revised motion was made by Commissioner Tester to accept the Renewal Franchise/Master Cable Ordinance, but to change the contract from ten (10) years to five (5) years and to make an address correction on the contract (from Blowing Rock to Boone). Commissioner Ball seconded this motion with unanimous approval by all members.

Franchise Renewal attached as Exhibit "A"

Master Cable Ordinance attached as Exhibit "B"

2. Lease Proposal- Blowing Rock Arts & History Museum

In April, plans were presented to Council for the future Arts & History Museum to be built on the town-owned Tiller/Lane property. At that time, BRAHM suggested, with agreement from Council, that a draft long-term lease should be prepared for consideration. In July, BRAHM presented a draft lease for Council's review. A public hearing was set for August 12th (tonight).

Mr. Wellborn Alexander, representing BRAHM, was on hand to negotiate with Council any changes deemed necessary to be made to the draft contract. The following items were discussed during this time:

1. Lease term was discussed, with a mutual decision to stay with the 50-year term of lease.

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2. In Section 5 of the Lease Agreement, a clarification was made that any mortgage placed on the property would continue to be subordinate to the terms and provisions of the Lease Agreement. Mr. Wellborn agreed to this change.

3. In Section 6, it was discussed that a provision be included that states, in the event the plans and specifications for the proposed building are not approved by a specific date, either party shall have the right to terminate the Lease Agreement. It was decided that this was not necessary, because the Lease states that construction has to begin within 5 years.
4. In Section 11 of the Lease Agreement, delete the phrase "Which shall not be unreasonably withheld." Mr. Wellborn agreed to omit that statement.
5. The Lease Agreement provides that in Section 20, once construction has commenced, the museum is to be completed within two years from commencement of construction. The Town's attorney felt this time frame should be shortened. It was decided that this would stay as drafted.

Commissioner Wray had a concern in Section 6 under paragraph B that stated "the lessor and/or The Blowing Rock Historical Society will determine if any portion of the Edgewood Cottage can be preserved, and if so, it will be preserved at the expense of the Lessor, or other third party, not the Lessee. In the event the Lessor and/or the Blowing Rock Historical Society determine(s) that the Edgewood Cottage cannot be preserved and maintained, the Lessor will be responsible for removing that, and any other structures on the property." He stated that the words *and/or The Blowing Rock Historical Society* be struck from the statement altogether. Both parties agreed to this change, also to change the word determine to determines.

Commissioner Tester stated his concern in Section 19 that in the event the town chooses not to build the parking structure, the museum *will* provide adequate parking. Commissioner Wray voiced his concern about paragraph two in Section 19. He felt that engineering fees should be added to the cost for which the Lessor would be responsible. Commissioner Wiseman clarified to everyone that the Lease Agreement was for only the 7,000 square feet the museum would be constructed upon, not the entire Tiller/Lane property.

After some input from surrounding property owners with concerns about the parking deck and the impact it might have on their neighborhood, a motion was made by Commissioner Ball to close the Public Hearing, seconded by Commissioner Wiseman. A motion was made by Commissioner Wray to accept the Lease Agreement with changes as made. Commissioner Ball seconded this motion.

Commissioner Wiseman asked which party would fill in the blank spaces under the Personal Injury Liability Insurance, page 5, Section 10, paragraph (B) of the Lease agreement. It was decided that attorneys for both parties would fill this out, to mirror other town policies. All members were in favor of the motion brought forth.

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Blowing Rock Arts & History Museum Lease Agreement is

Attached as Exhibit "C"

At this time the Mayor called for a short recess.

As the meeting resumed, Mayor Lawrence asked that Jamie Schultz be recognized as the interim Recreation Director, replacing Kim Oberle who left August 7, 2003.

3. Town Center District Ordinance (Ord. #2003-12)

A Public Hearing was opened concerning the Town Center District to receive public input on the possibility of establishing building setbacks in the Town Center.

Various members of the audience voiced their opinions concerning the Town Center District. Ginny Stevens stated this particular matter should not be rushed into, that time should be taken to work out all the details.

Bill Dixon, Architect, stated that time was of essence, projects are waiting to begin and cannot be submitted due to the moratorium.

Commissioner Wiseman made a motion to close the public hearing at 8:20 p.m., seconded by Commissioner Lentz. All members were in favor.

Numerous audience members voiced their opinions and gave Council their ideas of what they think is best for the downtown area. The consensus was that guidelines were needed to preserve the Town Center District, but this could not be done overnight, it would require more time.

Commissioner Tester stated that he felt everyone had their own vision of what downtown should be, but there should be some agreement as to what changes should take place if any, then incorporate these changes into the ordinance.

After an extended discussion period, a motion was made by Commissioner Lentz to send the recommendations (listed below) that were discussed tonight, to the Planning Board for review. This item would then be tabled until next meeting after the Planning Board had a chance to meet. At that time, Council would decide whether to extend the moratorium. Commissioner Wray seconded the motion, with unanimous approval of all members.

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The recommendations were as follows:

1. Two districts (East & West)
2. Allow to build back to existing footprints
3. Undeveloped lots may use a "15/15 rule"
4. 40-foot maximum building height with 2-story maximum
5. Preserve trees and green space
6. 75% of required open space shall be planted green space
7. Preserve existing retaining walls
8. Staggered height and setback regulation
9. Allow flexibility for buildings to move forward, but limit to a minimum setback of 8 feet

10. More than 3-foot side setback, maybe 5 feet
11. On lots larger than one (1) acre, require larger side and rear setbacks, maybe 15 feet
12. Display of merchandise to be prohibited in green space
13. Preservation of existing grades
14. Specify tree planting and green space requirements

4. Planning Board Membership (Ord. 2003-13)

A Public Hearing was opened to discuss reducing the size of the Planning Board from 11 members (10 residents and 1 extraterritorial member) to 9 members (8 residents and 1 extraterritorial member). After hearing from Planning Board member Jim West supporting the idea, Commissioner Wiseman made a motion to close the public hearing, seconded by Commissioner Ball. A motion was made by Commissioner Wray to approve Ordinance #2003-13 as presented, seconded by Commissioner Lentz. All members were in favor.

Planning Board Membership (Ordinance #2003-13)

Attached as Exhibit "D"

NEW BUSINESS:

1. Art in the Park – 2004 Dates

A request was made for Council to approve the dates set forth below for year 2004 Art in the Park. A motion was made to approve **May 15, June 12, July 17, August 14, September 11, and October 2, 2004** as the dates for the upcoming year by Commissioner Wiseman. Commissioner Ball seconded this motion, with unanimous approval of all members.

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2. Surplus Property – Resolution (Res. #2003-05)

A resolution request was made for Council to consider declaring a 1986 Ford tractor as surplus property and accept sealed bids on this property. Commissioner Wiseman made a motion to accept this resolution as presented, with a second from Commissioner Ball. All members were in favor.

Resolution 2003-05 Attached as Exhibit "E"

3. Personnel Policy Amendment (Appendix C (Res. #2003-06)

Personnel Policy Amendment – Appendix C (Res. #2003-06) was brought before Council to enact a small pox vaccination policy for police, firefighter, and rescue personnel that complies with N.C. House Bill 273. A motion to amend the policy as presented was made by Commissioner Wiseman, seconded by Commissioner Ball. All members were in favor.

Personnel Policy Amendment (Appendix C (Res. #2003-06))

Attached as Exhibit "F"

Departmental Reports

Commissioner Wiseman inquired about the noise on town property located on Valley Boulevard. Public Works Director Johnny Lentz advised that this property is the location for brush picked up by the town for local residents. Periodically it has to be chipped into mulch, which would cause noise during these times.

Town Manager Hildebran updated Council on the sidewalk that was scheduled on North Main near Chetola entrance.

Council requested an update from Planning Director Rothrock on the short-term rental violation in Laurel Park. Mr. Rothrock stated what was being done in this situation. Council asked about the violation fines that could be imposed. Also Town Attorney Allen Moseley was directed to send a letter to the owners in violation.

Council spoke with Chief Tolbert concerning the noise complaints received during the previous month, which according to Chief Tolbert, had decreased from the month before.

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There being no further topics for discussion, the meeting was adjourned at 10:10 p.m.

J.B. Lawrence, Mayor

Sharon H. Greene, Assistant Town Clerk

