

## **MINUTES**

### **Blowing Rock Board of Commissioners**

**March 8, 2005**

The Town of Blowing Rock Board of Commissioners met in regular session on Tuesday, March 8, 2005. The meeting began at 6:00 p.m. Members present were Mayor Pro-tem Terry Lentz, Commissioners Bobby Ball, Rita Wiseman, Keith Tester and David Wray. Absent was Mayor J.B. Lawrence. Town Manager Scott Hildebran and Deputy Town Clerk Sonya Long were also present. Sitting in for Town Attorney Allen Moseley was attorney, Jimmy Deal. Other staff members in attendance were Police Chief Owen Tolbert, Planning Director Kevin Rothrock, Planning Intern Tyler Jones, Building Inspector John Warren, Public Works Director Johnny Lentz, and Consulting Engineer Andy Lovingood of McGill Associates.

#### **Call to Order**

Mayor Pro-tem Lentz called the meeting to order and welcomed the assembled citizens. He advised that Mayor Lawrence was out of town and he would be presiding over the meeting.

#### **Approval of Minutes**

Commissioner Tester made a motion to approve the minutes as presented for the meeting held on Tuesday, February 8, 2005, seconded by Commissioner Wray. Unanimously approved.

### **PUBLIC HEARINGS**

#### **1. CUP #2004-09 – The Stonemaker**

Mayor Pro-tem Lentz called the public hearing to order. Sworn to speak regarding this conditional use permit were Wayne Green, Rick Mattar, Benji Thomas and Kevin Rothrock.

Mr. Rothrock introduced the staff report and stated that Jerry McSorley on behalf of Castleview Construction, had requested a conditional use permit to construct two four-bedroom duplexes on two vacant lots adjacent to the Ridgeway Inn on Highway 221. The applicant had requested a waiver to reduce the driveway width to 14 feet from the required 18 feet, and a reduction in the landscape buffer on Lot 1 from 16 feet to 8 feet, but with installing a denser opaque screening. Staff also recommended the existing street trees be removed and new street trees planted once the retaining wall was built. This would remove those trees from under the existing power lines.

Commissioner Wray stated that Lot 1 had recently been purchased and wanted to confirm that the new owner had been notified. Mr. Rothrock stated that all property owners had been notified according to owner information from Watauga County. Mr. Mattar, attorney representing the seller, explained that a storm water easement was in the process of being agreed upon by all property owners, and a new plat would be submitted once complete.

Mr. Deal pointed out that since the closing on Lot 1 took place on February 16, 2005, and the notices went out after that, the new owner would need to be notified before the public hearing could take place.

*Commissioner Wray made a motion to close the public hearing. Commissioner Ball seconded the motion and was unanimously approved.*

*Commissioner Wray made a motion to re-advertise the Public Hearing on this conditional use permit for the April meeting due to new owner of Lot 1 not being notified, seconded by Commissioner Ball. All were in favor of the motion.*

## **2. CUP#2005-02 – Brookside Inn**

Mayor Pro-tem Lentz called the public hearing to order. Sworn to speak regarding this conditional use permit were Wayne Green, Kevin Rothrock, Larry Greene, and Brett Schwebke.

Mayor Pro-tem Lentz opened the public hearing. Mr. Rothrock stated Mr. Larry Greene, architect representing Charming Inns of Blowing Rock, was requesting a conditional use permit for additions and exterior modifications to the Brookside Inn, located on Highway 321 By-pass. These changes would consist of a new deck added to the rear of the building, a new lobby porte-cochere, and changes to the exterior façade. Phase II would include storm water drainage improvements, dredging the pond, and a new gazebo during Phase III. The Planning Board recommended that the conditional use permit be approved as submitted during their meeting in February.

Mr. Rothrock also advised that he notified the applicant and the applicant agreed that a sidewalk would be required the length of the property, along Highway 321.

The Commissioners discussed the time line of each phase. Mr. Larry Greene stated Phase I would begin immediately, and that a definite time line for the other two phases had not been established. Mr. Schwebke, general contractor for this project, stated that according to the owner, Phase II would begin in November of this year, with all three phases completed by next season. This would depend on the approval process from the Army Corps of Engineers. Mr. Rothrock added that the applicant could be required to come back before the Town Council with each phase or could be given approval with this conditional use permit.

Commissioner Wray commented he would like to see some type of time line on Phases I and II. He was concerned that the Army Corps of Engineers could prolong the project. Commissioner Wiseman suggested deleting items 2 and 3, dealing with Phases 2 and 3 from the conditional use permit. While Commissioner Tester suggested a time limit once they receive approval from the Corps of Engineers.

*Commissioner Wiseman made a motion to close the public hearing. Commissioner Wray seconded the motion and was unanimously approved.*

*Commissioner Tester made a motion to approve the conditional use permit as presented with the exception of adding to item four (4) that the applicant be required to initiate approval from the Army Corps of Engineers and complete Phases II and III in one year from NCDENR approval, and include the condition of the required sidewalk into the final conditional use permit. Motion was seconded by Commissioner Ball. All were in favor of the motion. (CUP No. 2005-02 Attached as Exhibit A)*

### 3. Allowable Building Heights/Setback, Standards in the Central Business District

#### (Ordinance #2005 – 01)

Mayor Pro-tem Lentz opened the public hearing up for discussion on the draft ordinance for allowable building heights in the Central Business District.

Mr. Rothrock explained to the Commissioners that with this ordinance there would not be an overlay district as originally proposed. Other clarifications and amendments have been proposed in this new draft as suggested by the zoning subcommittee. Some of the key issues with this ordinance would be: all streets in the Central Business District would have a 15-foot setback so the setback/height standard can be equally applied; 35-foot maximum building height reduced to 30-feet; no building wall may exceed 40-feet in height; no building may exceed 25% above the average height of existing adjacent buildings; heights for buildings built farther than 50-feet from the back of the sidewalk shall be measured from the finished grade; maximum eave heights established; minimum roof pitch increased to 6:12; appropriate roofing materials have been clarified; and flat roofs are allowed where the majority of existing surrounding building roofs are flat.

Commissioner Wray suggested if the intent of the 25% rule for the building height is to provide continuity, the words "proposed buildings" should be included in that section of the ordinance. The Commissioner's also discussed the wording for wall heights. They were concerned that it not be read differently than the intent of the ordinance.

Mr. Toni DiSanti, representing Mr. and Mrs. Cartwright, stated his clients shared the same concern as some of the Commissioners regarding wall heights. But the main concern was over the 25% building height restriction. Mr. DiSanti stated that type of requirement could be handled in the conditional use permit process with each applicant and that overall his clients were satisfied with the proposed ordinance.

Commissioner Tester had the following changes to the draft ordinance:

- Underline "side street" in (1), Section 16-184.02 – Setbacks and include (3), (5) and (6) as they are now in the code
  - Section 16-184.02 – Setbacks, (4) second sentence, add "feet" after the "5"
- Section 16-184.02 – Building Height, after the 25% in the next to the last sentence, add "greater than"
  - Section 16-184.02 – Building Height, change (4) to (3) and add "and maximum eave height" after "building height" in the first sentence of (4)
  - In the Building Height Table, in the setback column, add "or greater" after 65

*With no more comments or discussion, Commissioner Wiseman made a motion to close the public hearing, seconded by Commissioner Ball. All were in favor of the motion.*

Commissioner Tester made a motion to approve the draft ordinance with the following changes:

1. Section 1, include items (2), (5) and (6) as they are now in the Town Code.
2. Section 2, G(2), add "greater than" after a) 25% in the next to the last sentence.
3. Section 2, change item (4) to (3) and reword item (4) to include "eve height" after "building height".
4. Section 2, Building Height Table, add "greater than or equal to" before the 65.

*This motion was seconded by Commissioner Ball. Commissioner Wray recommended adding "proposed buildings" in the building height section. Commissioner Ball did not except the change to the motion.*

*Commissioner Wiseman seconded the motion as presented by Commissioner Ball. All were in favor of the motion. (Ordinance No. 2005-01 Attached as Exhibit B)*

#### **4. Conditional Use Permits in Central Business District**

**(Ordinance #2005 - 02)**

Mayor Pro-tem Lentz opened the public hearing up for discussion to consider requiring a conditional use permit for the construction, relocation or alteration of any structure in the Central Business District.

Mr. Rothrock reported to the Commissioners that the Planning Board was asked to discuss the possibility of regulating all buildings in the Central Business District, including single-family houses.

Not only would the commercial design standards apply to the single-family development, but a conditional use permit would be required. At this time, single-family houses are allowed in the Central Business District and only require a zoning permit for development or alteration to structures. A single-family homeowner could paint their house florescent orange, purple, or whatever color they want without any approval of the Town.

At the February 17, 2005 meeting, the Planning Board made a recommendation to amend the Land Use Code to require a conditional use permit for all development, redevelopment, repair, expansion, alteration, and relocation of any structure in the Central Business District, including single-family homes.

After some discussion, Mr. Rothrock pointed out that a zoning permit and a fee would be required even for someone just painting their house. Mr. Hildebran stated the fee for a conditional use permit for this type of request permit could be less than what commercial properties would be charged if Council so desired.

Mr. and Mrs. Jim Steele were present to speak to this issue. Mrs. Steele suggested the applicant go before the Planning Board only. By going through two Boards and having to provide plans, drawings, and a fee, would be a tremendous burden on the applicant and could take up to 90 days just to go through the process. Commissioner Ball agreed and said this would encourage single families not to live in the Central Business District. Mr. Hildebran pointed out with recent changes on some single family homes, property values would drop due to the changes made and some type of standard needed to be set.

Most people in the audience agreed that they wanted to be protected but the process and the fee were of concern. Wayne Greene stated the criteria needed to be set first and then the ordinance be brought back before the Commissioners.

*Commissioner Wray made a motion to close the public hearing, seconded by Commissioner Wiseman. All were in favor of the motion.*

*Commissioner Wray then made a motion to send this draft ordinance back to the Planning Board to better define the fee schedule and look at the ordinance from a residential aspect. Commissioner Ball seconded the motion.*

Commissioner Tester added that the Planning Board needed to look at the intent, and to maintain the consistency.

*All members were in favor of the motion.*

## **5. Restrict Maximum Street/Road Grades to 15%**

### **(Ordinance #2005-03)**

Mayor Pro-tem Lentz opened the public hearing up for discussion to consider an amendment to restrict street grades to a maximum of 15%.

Mr. Rothrock reported the Planning Board was asked to look at the current ordinance pertaining to maximum grade for streets and roads. The ordinance currently requires that new streets comply with the NCDOT standards for road design. That standard allows streets up to 18% grade. The Planning Board recommended that street and roads within the Town's planning and zoning jurisdiction be limited to a maximum grade of 15%. Staff also recommended limiting driveways connecting to Town streets to a maximum grade of 18%, and if the driveway exceeds 15%, an off-street temporary parking area should be provided for periods of inclement weather. This provision would apply only to new house projects or existing houses requiring a new driveway.

Commissioner Tester commented on what the potential impact would be with this ordinance in the Extra Territorial Jurisdiction and in the city limits. Mr. Rothrock stated that a comprehensive study had not been done but Watauga County has a maximum of 15%.

Discussion took place regarding repair to existing driveways and why this ordinance would apply. Mr. Hildebran explained this would take care of the problem of cars parked in the roadways instead of their driveways. Mr. Deal pointed out that this ordinance would only apply to new driveways, not those that existed before this ordinance. Wayne Greene asked that the ordinance be very clear on where the 15% would be calculated from. He also recommended that the second draft ordinance dealing with retaining walls be tabled.

*Commissioner Wiseman made a motion to close the public hearing, seconded by Commissioner Wray. All were in favor of the motion.*

Commissioner Wiseman made a motion to only adopt the change of the maximum grade of streets and private roads to 15% as submitted and not consider the ordinance concerning driveways. This motion was seconded by Commissioner Wray. Commissioner Wray asked that in Section 16-215, the last sentence should read 15% not 14%. Commissioner Wiseman agreed. All were in favor of the motion.  
*(Ordinance No. 2005-03 Attached as Exhibit C)*

## **6. Amend and Clarify Retaining Wall Standards**

### **(Ordinance #2005-04)**

Mayor Pro-tem Lentz opened the public hearing up for discussion to consider an amendment to require professional engineering for retaining walls greater than five (5) feet.

Mr. Rothrock recommended that retaining walls exceeding five (5) feet in height be designed, monitored, and certified by a North Carolina licensed professional engineer, commercial or residential. The North Carolina Building Code does not regulate walls built for single family residences, although staff has required engineered design on such walls.

Also, additional clarification is needed in *Section 16-171 Perimeter Fences and Walls*. Subsections (B)(1) and (2) define the accepted maximum heights of fences and walls in various locations on a property. Staff feels that as currently written, no retaining wall could exceed six (6) feet in height anywhere on a property, except as authorized by a conditional use permit. There have been many instances where single-family lots could not be

developed by applying the standards literally as written. Staff has interpreted subsection (B)(2) to mean that a wall could not exceed six feet in height within the setback since fences could be built up to six feet in height right along the property line. Outside the setback area, building walls could far exceed six feet in height. Likewise, staff has interpreted this subsection to allow property owners to construct walls outside of the setback area up to 12 and 15 feet in height.

Mayor pro-tem Lentz stated the ordinance should make sure that someone is responsible for the design and inspection of the finished wall. Mr. Rothrock stated it was in the ordinance under Section 16-171 (B) (2).

*With no further discussion, Commissioner Wiseman made a motion to close the public hearing, seconded by Commissioner Ball. All were in favor of the motion.*

Commissioner Tester made a motion to approve the ordinance as presented, but to include in the "WHEREAS" and "THEREFORES" that include Section 16-171 of the Land Use Ordinance, add "Subsection A and B" after the section number. The motion was seconded by Commissioner Ball. All were in favor of the motion.

***(Ordinance No. 2005-04 Attached as Exhibit D)***

Mayor pro-tem called for a 10 minute break.

## **OLD BUSINESS**

### **1. CUP#2004-08 – Hiron Court Subdivision**

Mr. Rothrock reported that the Town Commissioners tabled this conditional use permit at their December 2004 meeting. The items that needed to be submitted or adequately addressed were:

convey the storm water from the detention system to a public right-of-way or natural drainage, determine how the Town code was written and what the intent of minimum lot widths and how it affects Lot 3 of the subdivision, and to provide a clarification from NCDENR on the possibility of extending water taps to all four lots in the subdivision.

Commissioner Tester confirmed that the Town engineers, McGill Associates, had reviewed the plans. Andy Lovingood with McGill stated they had looked over the plans but had not seen the final details of the storm water but that everything looked in order.

*With no further discussion, Commissioner Tester made a motion to approve the conditional use permit as submitted, seconded by Commissioner Ball. All were in favor of the motion. (CUP No. 2004-08 Attached as Exhibit D)*

### **2. USDA Emergency Services Building Letter of Conditions**

#### **Resolution #2005-05**

Mr. Hildebran stated the Commissioners had received a copy of the resolution accepting a Letter of Conditions, approving a budget and all forms to obtain a loan from the USDA-Rural Development for the Emergency Services Building. Mr. Hildebran introduced Ms. Sandy Lawrence, Area Specialist with the USDA.

Ms. Lawrence stated she would answer questions regarding the forms identifying the terms of the loan. She pointed out that the Town would have two years to begin construction but could be extended if needed.

With no further questions, Commissioner Tester made a motion to accept the Letter of Conditions as presented. Motion was seconded by Commissioner Ball. All were in favor of the motion. (*Resolution No. 2005-05 Attached as Exhibit F*)

### **3. Visitor Center Lease**

#### **Resolution #2005-06**

Resolution approving the lease agreement with the Blowing Rock Tourism Development Authority for 7738 Valley Boulevard as use as the Blowing Rock Visitor Center was next on the agenda. Mr. Hildebran stated that the proposed lease term is for 15 years, with an optional 15-year renewal period, and covers the period from March 1, 2005 through February 28, 2020. The proposed monthly rental payment is \$4,600 a month, and covers the debt service on the building.

The lease allows the TDA, at their expense, to remodel, redecorate, improve, etc. the facility, upon consent of the Town. And, the Town shall receive all improvements upon termination of the lease. In addition, the TDA is responsible for all operational costs of the facility, except for water and sewer. The lease allows the TDA to sublet space to any non-profit tourism-related entity upon consent of the Town.

The TDA is currently renovating the interior of the building, and expects to sublet a portion of the building to the Blowing Rock Chamber of Commerce.

Commissioner Wiseman made a motion for the Town of Blowing Rock to proceed with entering into the lease with the Tourism Development Authority. The motion was seconded by Commissioner Wray. All were in favor of the motion. (*Lease Agreement Attached as Exhibit G*)

## **NEW BUSINESS**

### **1. Bids on Green Hill Road / Circle Sewer Project**

Mr. Hildebran reported the Town had received bids on March 3, 2005 for the Green Hill sewer installation project. He explained the bids, the amounts, and what had been allocated. He pointed out how the cost of the project was more than anticipated and would like to negotiate with the low bidder. McGill felt like they could reduce the project to concur with the amount budgeted by negotiating with the lowest bidder.

Mr. Hildebran stated that the homeowners on Green Hill Road and Green Hill Circle had been notified about the project last year and would be sent a second letter explaining when the Town would begin and complete the project.

*Commissioner Wiseman made a motion to authorize the Town Engineer and Town Manager to negotiate with low bidder Max Prestwood to the lowest price. Commissioner Ball seconded the motion. All were in favor of the motion.*

## **ADJOURNMENT**

There being no further business to discuss Mayor Pro-tem Lentz adjourned the meeting at 8:35 p.m.

**Mayor** \_\_\_\_\_

**J.B. Lawrence**

**Attest:** \_\_\_\_\_

**Sonya Long, Deputy Town Clerk**