

REGULAR MEETING
TOWN OF WAYNESVILLE
BOARD OF ALDERMEN
TOWN HALL – 9 SOUTH MAIN STREET
FEBRUARY 8, 2011
TUESDAY – 7:00 P.M.

The Board of Aldermen of the Town of Waynesville held a regular meeting on Tuesday, February 8, 2011. Members present were Mayor Gavin Brown, Aldermen Gary Caldwell, Libba Feichter, J. Wells Greeley and LeRoy Roberson. Also present were Town Manager A. Lee Galloway, Assistant Town Manager Alison Melnikova, Town Clerk Phyllis McClure, Town Attorney Woodrow Griffin and Planning Director Paul Benson. Mayor Brown called the meeting to order at 7:00 p.m.

Approval of Minutes of January 11, 2011

Alderman Caldwell moved, seconded by Alderman Feichter to approve the minutes of the January 11, 2011 meeting as presented. The motion carried unanimously.

Public Hearing Consideration of Conditional District Rezoning Application Submitted by Ingles Markets

A few months ago, the Town Board approved a recommendation from the Planning Board for the creation of Conditional District Zoning. This allows a use within a zoning district that might otherwise not be allowed as a permitted use in that district, unless the Board is willing to grant Conditional District Zoning to that parcel. In doing so, the Board may set specific conditions under which it may allow the use, and the lot owner may negotiate with the Town Board in an effort to seek the Board's approval of the conditional zoning.

The first applicant for this Conditional District Zoning is Ingles Markets, and they have made their presentation to the Planning Board. The application included a list of Standards and Conditions.

A Staff Report, prepared by Planning Director Paul Benson presents Plan Review Comments for both the Grocery Store and the separate Convenience Store. In his comments, Mr. Benson addresses the Master Plan for the Ingles Property, noting specifically the parking, pedestrian facilities, landscaping and access. Mr. Benson also lists the recommendations coming from the Community Appearance Commission.

The proposed ordinance to amend the zoning map to create the Ingles Markets Conditional District addresses the specific requests of Ingles Markets and incorporates the changes which Town Staff has recommended based upon review by other Boards or Commissions of the town. Supporting documentation includes several maps and layouts of the areas of the grocery store and the convenience store/gas station.

The Planning Board, at their meeting on January 18, recommended approval of the proposed amendment.

Planning Director Paul Benson said Ingles Markets has requested a tailored zoning district to their project. They have supplied a site plan, landscape plan, environmental survey, right-of-way, list of standards and conditions that are proposing to restrict the uses allowed and modify some of the dimensional

requirements and parking locations maintaining the existing parking arrangement so the majority of the parking is in front of the building. The landscaping is clustered more than the town requires. Ingles is proposing to supply additional plantings and sidewalks. The proposed project is to rebuild the existing store, expand it and add a gasoline store. The Community Appearance Commission and staff have reviewed the request and revised their plan to remove the Crepe Myrtles and replace with an improved ratio of trees. Mr. Benson said the only issue at this point is that the Russ Avenue Corridor Plan calls for right-of-way on this property. Ingles also proposed some of the right-of-way on the part of the property between the HomeTrust Bank property and proposed gas station and to the adjacent Barber property line.

Mayor Brown asked about the development of the lot fronting Russ Avenue. Mr. Benson said NCDOT has limited access to that outparcel. If the Corridor Plan is implemented, Ingles will probably have an opportunity to connect to Russ Avenue. When that property is developed, the Town would not require a connection to Russ Avenue. All site improvements would be required to be met to that parcel.

Manager Galloway asked about the configuration of the road that would become Frazier Street. Mr. Benson said the Corridor Plan calls for the road to be more rounded. It is important that a connection is at this location across from the existing Frazier Street.

Attorney Griffin opened the public hearing. The following persons spoke:

Attorney Mike Egan, representing Ingles Markets, said he attended a Board Meeting in November 2010 when the ordinance was enacted to allow this type of zoning. He feels that it went well and Ingles has tried to address any concerns. On behalf of Ingles he said others in attendance included Randy Jamison, Sammie Coker, John Cox, Clay Mauney and Jeff Henderson. Mr. Egan said their plan is one tree short of meeting the 25% and they will plant another tree to meet that requirement. Ingles has been in Waynesville for a long time and located at this site for the past 24 years. Now, they would like to redevelop their store. The requested conditional zoning allows this type of redevelopment to occur. In addition to the architectural aspect and improving the environment of the Russ Avenue Corridor, they are adding over 90 new trees, 1,100 feet of new sidewalk and a building that is generally well articulated.

John Cox, Land Planning Associates, gave a brief overview of the project. Mr. Cox said the plan includes a 135,000 square foot heated store, currently there is 118,000 square feet. The former Goody's Store will be demolished and rebuilt, that portion will be opened and the other part will be demolished and rebuilt. A 24,000 square foot garden center is proposed. Sidewalks and landscaping will be done toward the end of the project. A 1,800 square foot store with gasoline pumps will be added. End caps in the parking lot will create a channel to keep people from cutting in and out of the parking lot which should improve safety. With the addition of end caps and islands, 214 parking spaces will be lost. The Planning Board requested a stamped concrete walkway with a slight elevation to the upper right at the gas station where the sidewalk crosses the main drive. The end caps will have a raised 6" curb and the stamped concrete will more than likely be a different color than the road.

Sammie Coker said the design maintains the same design concept as the current Ingles. More glazing is proposed throughout the store to allow more natural light and help maximize the views of the surrounding mountains. The same color scheme is proposed with brick veneer and ash gray will replace the teal color. There will be a seasonal garden center. The interior has a produce area in the main entry, an extended dining area, a chef's kitchen next to the dining, and meats and dairy area. To the left front of the building is an extended wine area for more selection, a walk in beer cooler and drive up pharmacy.

Alderman Roberson expressed some concern about the safety of the pharmacy drive up with the stacking of cars and pedestrian traffic. John Cox said not much pedestrian traffic is expected in that area and there will be room to stack five cars.

Clay Mauney, Landscape Architect with Land Design Associates in Asheville, said the landscaping plan adds 90 trees. One strategic feature is the power line which limits the type of trees and size so that smaller trees have been provided. The plan includes Red Buds with early spring flowering and manageable height as well as other types which will add interest throughout the year including Red Maples with glorious fall color, Honey Locust with lacy foliage and Elms to add variety. The lower section is for parking lot screening with shade trees along the parameter and a row of evergreen shrubs. Some trees, including Red Buds and Oaks have been added below the gasoline station area. Alderman Feichter asked about the possibility of Red Buds splitting. Mr. Mauney said there wasn't much concern about this since the Red Buds will have one stem rather than multiple trunks which reduces the chances of splitting. He added that Red Buds usually reach a height of 12 – 15 feet. Mayor Brown asked about the heat in a parking lot and if that would cause a problem with the ability of the trees to live. Mr. Mauney said the trees would live; they would not want to invest this much into the landscaping without making sure it would survive.

John Burgin, Trustee for the Arby's property, said he attended the Planning Board Meeting with a proposal for connecting a road from the back of the Arby's property to the unnamed street connecting to the Ingles property from Howell Mill Road. Mr. Burgin said they have done some engineering work since that time to show the road, but have not had time to submit the plans to the Ingles Corporation. This proposal was made in order to eliminate some of the congestion on Russ Avenue and help his tenant, Arby's. Mr. Burgin said he is willing to do the work and construct the road if Ingles will grant him an easement. In talking with Fred Baker, if an easement is granted and others wanted to connect in the future, they could seek an easement and add on as well.

Mayor Brown said he would like to see an easement from the others now. Mr. Burgin said he would not have a problem in giving a 10' easement, but can only work within the constraints of his property.

Pat Burgin, John Burgin's brother, said one of the reasons they have proposed this connecting road is the elevation of land behind the Arby's property is less than the elevation of the property behind the Pizza Hut and it was felt that this would be a better location for a road.

Ingles representatives said they did not want to commit to granting easements to the other properties at this time but would consider easements in the future.

Philan Medford expressed two concerns. The first is public transit, adding that the plan lacks a shelter and she would like to see this added. The second concern was that, although Ingles has exceeded the number of small trees, the Red Buds proposed along the internal sidewalk do not allow room for pedestrians to walk between the trees. The growth habit of the Red Bud would not be able to correct the problem. She would prefer that Ingles would honor Waynesville's designation of "Tree City". She understands that Ingles is concerned with people seeing their store and people can see about three foot shrubs, but not 30 feet trees. Ms. Medford said she would like to see Ingles address public transit and provide trees for shade and walkability for pedestrians.

Mike Egan said Ingles is willing to provide a location for public transit. Mr. Egan added that Ingles is willing to grant an easement to the Burgins to connect to the road that the Burgins are willing to build.

No one else spoke; Attorney Griffin closed the public hearing.

Alderman Feichter said she appreciates that Ingles has been willing to make this much investment in the parking lot, but has some concerns about the Red Buds. Paul Benson said Red Buds are a native tree so there is not so much concern about them. The Crepe Myrtles were removed from the plan because of some concerns. Philan Medford said she spoke with Waynesville's Horticulturalist and he had some concerns about trimming the Red Buds without damaging them. Mr. Mauney said the specification for the Red Bud would be for single trunks, not multiple trunks. He added that they are cognizant about trees that are selected and would not specify anything that would create a hazard to any Ingles customers. Mr. Mauney added that the islands are 18 – 19 feet in length with 5 – 6 feet of parking space. The tree would be spaced in the middle of the island and the trees do not spread, but will grow in height. Mr. Mauney added that there is a lot of thought that goes into tree selection and there will be a regular maintenance program for the landscaping.

Mayor Brown asked about the possible public transit site. Mr. Egan said Ingles would be willing to commit to this, but would need to find a suitable location. Alderman Feichter said it is important that this be well thought out and placed in a safe location.

Mr. Egan said he felt that the concerns of the town have been addressed by adding the condition about the public transportation facility and adding one additional large maturing tree. Mr. Egan said Ingles wants this development to be done properly, and they want it to be done in Waynesville. Mr. Egan added that Ingles is willing to grant an easement to the Burgin family.

Alderman Caldwell moved, seconded by Alderman Feichter, to approve the conditional zoning request, with the additional condition of meeting the ratio of trees in the landscaping and the addition of public transportation at a location to be determined by Ingles Markets. The motion carried unanimously. (Ord. No. 2-11)

Public Hearing Consideration of Zoning Text Amendment to Section 154.119(B)(8)(c)1 to Permit Outdoor Storage in Main Street Neighborhood District Request Submitted by Katie Henderson

At the November 15, 2010 meeting of the Planning Board, a request was heard for an amendment to the Main Street Neighborhood District which would allow outdoor storage in that district.

It was noted in the background included in the minutes that in some commercial districts, outdoor storage is allowed provided it is totally enclosed by screening. Most districts do not allow outdoor storage and that is the case with the Main Street Neighborhood District. The request is to allow outdoor storage outside of an enclosed structure as long as screening is used. The request is from Katie Henderson, the property (formerly owned by O. T. V. Barker) is located at 191 Richland Street. On this property, several metal storage containers have been placed in violation of the Town ordinances. These containers cannot be used for outdoor storage as they are not considered structures. So even with the change requested, the metal containers that have been illegally placed on the property would not be able to comply.

After hearing the request, the Planning Board voted unanimously to turn down the applicant's request to recommend amendments that would permit outdoor storage in the Main Street Neighborhood District. Ms. Henderson was advised that she has the right to appeal the decision to the Mayor and Aldermen and has chosen to do so.

Planning Director Paul Benson said this request is the result of some code enforcement action on the property located on Richland Street. The applicant has placed shipping containers on their property. Outdoor storage is not allowed in the Main Street Neighborhood District. The property owners then applied for a zoning text amendment and the Planning Board did not recommend approval.

Attorney Griffin opened the public hearing. The following persons spoke:

Katie Henderson said she is part owner of this property which has been in her family for 70 years. She feels that buffering will hide the containers and be attractive from the road. The family has torn down three houses and a large warehouse from the property. The Planning Board felt that the storage containers would distract from desirability of residential use. She said most of this property is located in a flood zone with railroad tracks running in front of the property that rattle the windows and doors. There is foot traffic on the railroad tracks to the soup kitchen every day. Ms. Henderson said the neighbors have containers on Goodyear Street and others in the area have outdoor storage and she asked for the Board to give her the same consideration by allowing the containers to be buffered. She said she has heard that the town has plans to run a sewer line through the property and feels that this is a good opportunity for the town to work with the property owners. Ms. Henderson said the containers are weather proof, rodent proof and used all over the World and all over this town. If she is allowed to use buffering it would satisfy anyone's worries. She plans to do this tastefully and satisfactorily, by adding landscaping and making them attractive. Ms. Henderson said the units were brought in about one year ago because she thought the area was zoned as an industrial area and feels that it is more industrial than residential.

Dick Young, a resident in the area, said if this amendment is adopted it will not only affect this property, it will affect the entire district.

Denny King said he has known Ms. Henderson for a short time. In talking to her about this she had a commercial building that was condemned by the town. She hired a building engineer at \$600 per hour to give her a plan at bringing the building up to standards. When she tried to get a building permit she was turned down. Her next step was to have the building torn down at a cost of \$50,000. She bought the storage containers to place some of the items in and wanted to build a building over the storage containers. When she put the storage containers on the property she thought it was zoned commercial and it was felt that the town changed it from commercial to residential. He knows Ms. Henderson has spent quite a bit of money cleaning the property up. If possible maybe something could be done with the barrier or a building over the containers so it wouldn't put too much of a hardship on Ms. Henderson.

Kenneth Henson said it is time that Ms. Henderson is allowed to do this. She has offered to fix the building, but that wasn't good enough. One time Mr. Brown or Mr. Galloway told her that she could sell her things and leave. Mr. Henson said you can't pick and choose everything that you want – if someone is afraid of dead people they might be afraid to walk past Wells Funeral Home, but you can't ask them to tear it down. He asked the Board to think about what they are doing and don't need to try to decide for everyone to pick and take. He asked the Board to take a look at who paid the taxes on the property. Mr. Henson said Betty Henderson feels that she has been picked on and this is because some people don't like her. Mayor Brown asked Mr. Henson to leave personalities out since he has known Betty Henderson for a long time and likes her. Mayor Brown advised Mr. Henson that a rezoning is not what the Board has been asked to consider tonight. A zoning text amendment has been requested and this is what the public hearing is being held for. Mr. Henson said the town has hammered on Ms. Henderson about that lot for years.

Attorney Griffin said there is one issue before the Board tonight. The purpose of this hearing is to consider whether to allow outdoor storage units in the Main Street Neighborhood District.

Troy Inman said he owns the property adjacent to this property. When the trees are full you don't notice that the containers are there. From his personal opinion he does not think the containers are very offensive. As far as he is concerned he does not have a problem with Ms. Henderson keeping the containers there.

No one else spoke; Attorney Griffin closed the public hearing.

Mayor Brown asked Paul Benson if there are specific plans for a railroad corridor district. Mr. Benson said there has been no work done on this. All the property in this area is residential, even across the railroad tracks. He has spoken with Ms. Henderson about rezoning the property. He feels that the property can't be rezoned at this time because it could be illegal spot zoning. Mr. Benson said the Board made a conscious decision in 2003 that this area would be residential. Not only is it zoned residential, the comprehensive plans show it residential for future use. The issue with the old warehouse wasn't its use. It was the state of dilapidation which required demolition. Several dilapidated structures were demolished throughout Waynesville during this time period.

Manager Galloway said rezoning has been requested for the Muse lot, located two lots up from this property four times over the years. Previous board members have always declined to rezone the property. Mayor Brown added that the Barker operation on this property was grandfathered in. The Barker family was given a period of time in which to bring the building up to standard. It was an unsafe structure, especially for children in that area.

Alderman Greeley said as a new board member there has been reference to what has happened in the past. The request has been made to amend the ordinance. The Planning Board has said this is probably not the best use for this property. If this Board were voting to change the zoning of this property, it is going to listen to what is recommended by the Planning Board.

The Board took no action to amend the zoning text as requested by Ms. Henderson. This requested amendment was not recommended by the Planning Board. Mayor Brown referred Ms. Henderson to speak with the Planning Department regarding her questions about other options, including rezoning and/or building a larger building on the property.

Historic Preservation Commission Reappointments

There are three individuals whose terms on the Historic Preservation Commission expired on January 31, 2011. Those individuals completing four year terms are Shawn Leatherwood, Nikki Owens and Bob Kearney, and each has been contacted about their continuing service on this Commission. Mr. Leatherwood and Ms. Owens have expressed an interest and desire to be reappointed to the Historic Preservation Commission, but Mr. Kearney has advised Town Clerk Phyllis McClure that he does not wish to be reappointed to this Commission. The revised land Development Standards recommend that the membership of the Historic Preservation Commission be reduced from 9 to 7 members.

Alderman Feichter moved, seconded by Alderman Greeley, to reappoint Nikki Owens and Shawn Leatherwood to serve another four year term to end on January 31, 2015 on the Historic Preservation Commission. The motion carried unanimously.

Street Closure Request by Historic Frog Level Merchants' Association, Inc., "The 'Whole Bloomin' Thing Festival"

A letter was received from the Historic Frog Level Merchants' Association requesting that the Town close streets in Frog Level on Saturday, May 7, 2011, for the 9th Annual 'Whole Bloomin' Thing' Festival. Specifically, the request is to close Commerce Street from Panacea Coffee to Depot Street between the hours of 5:30 a.m. and 5:30 p.m. In addition, the Association requests that Depot Street be closed between the railroad tracks and the intersection of Depot Street and Water Street. Traffic would be rerouted onto Boundary, Charles and Water Streets so that vehicles could bypass the festival area.

During the past several years, this festival has grown and it has been determined that it is much safer to close Depot Street and reroute traffic. This has worked well and Waynesville has received cooperation from the North Carolina Department of Transportation with the installation of a mechanical sign on Russ Avenue a few weeks in advance of the festival to warn motorists about the detour around the festival.

In recommending to the Board that this request from the Association be approved, Manager Galloway also recommended that the Association be tasked with the responsibility of notifying every business operator in the affected area of the plans for the street closings so they are aware of the changes that will be occurring that day.

Alderman Caldwell moved, seconded by Alderman Roberson to approve the street closure request by the Historic Frog Level Merchants' Association, Inc., for "The 'Whole Bloomin' Thing Festival" as requested and that the Association be responsible for notifying all businesses in the area of the street closing plans. The motion carried unanimously.

Discussion Regarding Waynesville Housing Authority Appointments

A letter of resignation has been received from Waynesville Housing Authority Chairman Dr. George W. Brown. Dr. Brown has served on the Waynesville Housing Authority since its beginning in 1966.

Appointments to the Waynesville Housing Authority are made by the Mayor of the municipality per North Carolina General Statutes. Historically the appointments made by Waynesville's Mayor are done so with the blessings of the Board of Aldermen. Mayor Gavin Brown has requested that appointments to the Waynesville Housing Authority be placed on the agenda for the discussion by the Board.

Mayor Brown asked the Board Members to be thinking about possible replacements for this vacant position. Town Clerk Phyllis McClure was asked to advertise vacancies on the various boards/commissions.

Miscellaneous Items

Manager Galloway said there is uncertainty regarding budget issues at the State level and a need for Waynesville to stay informed of the situations. At the upcoming retreat on Friday, February 18, the

Board will not talk about finances very much because of these uncertainties. Other concerns include property revaluations and solid waste issues.

Manager Galloway said the Planning Board may take a vote on the revised Land Development Standards at their February meeting. The Board of Aldermen will conduct a public hearing at a meeting once the Planning Board has taken a vote.

Manager Galloway said there are some streets in Waynesville that need attention, especially due to damage caused during the past two winters. Town crews may need to concentrate on road repair rather than sidewalk construction this year.

Adjournment

With no further business, it was the consensus of the Board to adjourn the meeting at 9:14 p.m.

Phyllis R. McClure
Town Clerk

Gavin A. Brown
Mayor