

REGULAR MEETING
TOWN OF WAYNESVILLE PLANNING BOARD
MARCH 16, 2009
MONDAY - 5:30 P.M.
TOWN HALL

The Planning Board held a regular meeting on Monday, March 16, 2009. Members present were Don Stephenson, Dan Wright, Rex Feichter, Lee Bouknight, Gary Sorrells, Marty Prevost and Patrick McDowell. Also present were Planning Director Paul Benson and Deputy Town Clerk Freida Rhinehart. Chairman Rex Feichter called the meeting to order at 5:30 p.m.

Approval of Minutes of January 20, 2009

Dan Wright moved, seconded by Lee Bouknight, to approve the minutes of January 20, 2009 as presented. The motion carried unanimously.

Rebecca Phillips - 114 Phillips Road - Zoning Map Amendment - from Hall Top Rural District (HT-RD) to Russ Avenue Town Center (RA-TC)

The 2020 Land Development Plan indicates that planned land use for this area is “Residential, Low to Medium”. This classification is located on lands where utility services are typically provided but roads are such that accommodation for higher density development is not recommended. Land with constraints unsuitable for higher density development is also typically included in this category.

The existing zoning, HT-RD has a vision/goal of residential development on large lot or cluster patterns to respect the terrain and leave as much open space as possible. It is predominately a residential district permitting densities of up to 4 units per acre. The requested zoning, RA-TC has a vision/goal of accommodating a mixture of high intensity land uses. The district permits a wide range of uses including residential services, retail, wholesale and manufacturing. There is no residential density limit.

Utility service: This property has access to Town water and sewer lines.

Accessibility: This property fronts Phillips Road which is a paved, two-lane, State-maintained street. It forms a frontage road to US 23-74 Bypass and serves existing commercial and residential development. The proposed 150-unit Waynesville Overlook project would use Phillips Road for access.

Zoning and development: All property bordering this lot is zoned HT-RD with the exception of the highway right-of-way across Phillips Road which is zoned RA-TC. The property therefore borders the requested district. All surrounding property, with the exception of the highway right-of-way is currently developed with single-family residences.

Staff Recommendation: This request does not meet the adopted Land Development Plan. However, since this property fronts on the Smoky Park Highway, and is served by utilities and good road access, an amendment to the Land Development Plan may be appropriate for this property and the two other lots fronting Phillips Road between Hall Top Road and the K-Mart Shopping Center.

Steve Myers spoke on behalf of the property owner Rebecca Phillips. He stated that the application for the amendment is necessary to allow a commercial use rather than residential at this address. He and his wife own Genesis I Spa and Salon and have 6 employees. They wish to move to this location in order to expand their business.

Rex Feichter asked if there would be adequate parking at this location. Mr. Benson said the plan has not been reviewed at this point but predicted parking would be tight.

Marty Prevost inquired if the application was for three lots which include the lot being petitioned by Mr. Myers. Mr. Benson replied that the application is only for one lot but the application does not comply with the Land Development Plan which shows the lot as planned for residential use. Legally the Land Development Plan would have to be amended. If the Planning Board wishes, it could be recommended that the Board of Aldermen change the Land Development Plan and consider all three lots there in front of K-Mart for rezoning. Mr. Benson added that calls have been received in opposition to any changes to this property.

Gary Sorrells asked about the possibility of a text amendment allowing other uses in this section of the Hall Top Rural District. Mr. Benson responded this could be done, but it makes the ordinance more complicated to administer.

Nancy Crawford spoke in opposition to the proposed rezoning. She said she and Marian Phillips (who was also present) live next to the lot under consideration. Ms. Crawford said she and Ms. Phillips were assured their properties would remain residential after their houses were moved to build K-Mart. Then Days Inn was constructed on the other side of them. They have problems with sewer odors and lowered water pressure when the number of guests increases at Days Inn. She is also concerned about an increase in traffic and taxes if the property next to her is rezoned. Ms. Phillips agreed.

Gary Sorrells moved to recommend to the Board of Aldermen that the Land Development Plan be changed and the three lots be rezoned. The motion failed for lack of a second.

Patrick McDowell moved, seconded by Lee Bouknight, to recommend to the Board of Aldermen that the Land Development Plan not be changed nor that the three lots be rezoned. The motion carried. Gary Sorrells and Rex Feichter opposed.

Mr. Benson informed Mr. Myers he could appeal the Planning Board's decision to the Board of Aldermen. Adjacent property owners would receive notice of that appeal as well.

Shell Isenberg - 224 Love Lane - Text Amendment - Section 154.209 - Increase number of rooms for B&B's from four to five

Staff Report:

The Waynesville zoning ordinance, like most others, distinguishes between lodging facilities based on size; with larger operations being subject to greater restrictions, especially when located in residential districts, to minimize adverse impacts to adjacent properties.

The applicant wishes to have 5 guest rooms in a facility located at 224 Love Lane in the Love Lane Neighborhood District, and cannot meet the greater standards for an "Inn"; specifically the standard that calls for all buildings to be located no closer than 50' from rear and side property.

Staff Recommendation:

The staff does not recommend changing the standard and definition for bed and breakfast homes to increase the number of guest rooms from 4 to 5. This change would effect every neighborhood district in town, and could lead to and adverse impact on neighboring residences, especially in situations where lot sizes are small.

The staff recommends that this situation be addressed by considering an amendment to the Supplemental Use Standards to permit Inns within historic properties as defined by Section 154.233, to waive the 50' setback from side and rear property lines. This would serve to promote the preservation of larger historic structures by permitting more rooms to be used for guests, and would affect far fewer properties throughout town.

Attorney Jack Kersten represented the Isenbergs. Mr. Kersten said several years ago, he and John Swift worked together to establish a Bed and Breakfast ordinance for Waynesville. This ordinance has allowed for preservation of some of the lovely old homes here.

His clients understood that the home they purchased had six bedrooms, five of which could be rented. The realtor explained that only four of the bedrooms could be rented because the ordinance is very strict. Mr. and Mrs. Isenberg then spoke with Byron Hickox seeking a variance. Paul Benson informed them a variance for bed and breakfasts could not be obtained due to economic hardship. Mr. Benson then suggested that they might have an "inn" but the lot setback on one side is too narrow for an inn. Then a variance to the "inn" requirements was considered which would allow up to 30 rooms on 5 acres. The Isenbergs are only interested in renting 5 rooms. If 5 rooms are rented, a commercial refrigerator is required according to Environmental Health regulations. This would not be a problem. Mr. Kersten questioned why 4 rooms is the "magic" number for a bed and breakfast. He continued a Bed and Breakfast is much more "scaled down" from an inn. B&B's serve breakfast, have a small impact on their neighborhood, and the purpose is to save large old houses. Information he found on the Internet indicated 5 rooms are a minimum needed to make a living operating a B&B. The Isenbergs have never rented more than 4 rooms. They have 5 available and allow occupants to choose which 4 they wish to rent. They have not violated any requirements. Mr. Benson has indicated to Mr. Kersten that perhaps the criteria for inns is too strict. The reason the Isenbergs cannot have an inn is that one corner of the house is less than 50 feet from the adjoining property. They have discussed with their neighbor about buying a strip of land. However, they do not want to operate an inn. Mr. Kersten suggested that rather than waiting for the Town to change the criteria for an inn, his clients request increasing the number of guest rooms for bed and breakfast homes from 4 to 5 since 4 rooms is just too small.

Paul Benson said the bed and breakfast industry has a standard for bed and breakfast homes as opposed to bed and breakfast inns. He polled other cities in North Carolina and they vary. The idea is for bed and breakfast homes to fit in with the residential setting. In most neighborhoods, the largest average home would have 4 bedrooms. In Asheville, B&B rooms are limited to 3. The building code

draws the line at 6 before going to a commercial standard. He has also spoken with other B&B owners and welcomed comments from them if present. Mr. Benson pointed out that bed and breakfast inns require a 5-acre site unless the home is a designated historic structure. This is why he suggested in addition to waiving the 5-acre minimum the 50 ft. setback could be waived as well for an inn located in an officially designated historic home. This approach is more tailored to this situation rather than having the ordinance amendment apply all districts across town resulting in a larger impact. Inns require a conditional use permit and must be heard by the Planning Board and Board of Adjustment while bed and breakfast homes require only staff approval.

Tom Halsey owner of the Herren House Inn said he does not oppose adding one room as a neighbor, but he does oppose their proposal due to the financial impact. He continued that Waynesville has a glut of bed and breakfast rooms. All the B&B's are busy a couple of weeks in October but the remainder of the year the average occupancy is only 30-40%. There is not a lack of B&B rooms. If another room is allowed for the petitioners, this takes away from other owners. Even when B&B's are allowed to serve meals, this takes away from other restaurants in town. There is a financial impact.

Paul Benson emphasized that the role of Zoning is not to regulate the marketplace or limit commercial property so that existing ones are more valuable. Zoning officials look at the best use of property and how those uses fit the adopted Land Development Plan. The emphasis is more about impact on surrounding property and transportation and utility systems and not so much on the area of competition for business.

Becky Fain from the Inn at Iris Meadows stated they have been receiving calls from developers asking if they are interested in selling some of their property. She said none of the B&B's in town rent 5 rooms no matter how large the facility. As a result, they might at some point wish to break up their property. She gave Mr. Benson a copy of the North Carolina Administrative Codes T15A.18A which defines a bed and breakfast home as a private home offering bed and breakfast accommodations to eight or less persons per night for period of less than a week.

Marty Prevost moved, seconded by Rex Feichter, table the matter until the next meeting so that more information can be gathered by town staff regarding criteria by other agencies. The motion carried unanimously.

JE Golf LLC - Laurel Ridge Country Club - Text Amendment - Section 154.109(B)(8)(a) - Building Height, Massing

Staff Report:

Within the Eagles Nest Rural District all new two-family dwellings, single-family attached dwellings and non-residential buildings must be built at a residential scale.

A residential scale requires that the length/width of any part of a building that faces a street must be articulated (separated) in sections that are not longer than the building is tall. The articulation must

be done with major changes in the nature of the facade (making it appear as two different facades) or using a depth change of at least 6'.

The applicant is in the process of constructing a club house at Laurel Ridge Country Club. The club house is approximately 40' tall so the facade would be required by this standard to have major changes at 40' minimum intervals. The applicant wishes to have less articulation with a building that does not have the appearance of two different facades or using depth changes of 6' or greater.

Staff Recommendation:

The staff feels that the type of building in question – a large clubhouse, on a large resort property that does not front a public road, would probably not fall within the intent of the ordinance to create an interesting residential streetscape, and further to require that the building be made to look like more than 1 building may actually lead to less desirable design. This comment would apply to other non-residential uses permitted in the Eagles Nest Rural District including libraries, churches and schools.

Jack Kersten represented Laurel Ridge Country Club. He distributed a picture showing windows the current town standards require and another picture showing windows and articulation that Laurel Ridge has proposed.

Mr. Benson stated in the Eagles Nest Rural District where Laurel Ridge Country Club is located, non-residential buildings are required to be built on a residential scale. Their original proposed plan did not have the required articulation so the Town agreed to consider the Country Club as a monument building which requires the windows to be twice as tall as they are wide. Now that the building is getting close to being built, they realize that they do not like the large windows across the front and are requesting to scale them down. Mr. Benson agrees this is a unique building which does not face a public street. He suggested to Mr. Kersten that non-residential buildings in the Eagles Nest Rural District only be exempt from the articulation standards since other buildings such as churches and schools which are allowed in the district might have trouble meeting residential standards. The range of non-residential buildings in that district is very small.

Patrick McDowell moved, seconded by Don Stephenson, to recommend to the Board of Aldermen that the Land Development Standards be amended to allow non-residential buildings in the Eagles Nest Rural District only to be exempted from residential scale articulation standards. The motion carried unanimously.

Mountain Housing Opportunities - Howell and Assembly Streets - Conditional Use Permit - East Waynesville Neighborhood District (EW-ND)

Project Description:

The proposed development consists of 1 building with 64 dwelling units, broken down into 40 1-bedroom units and 24 2-bedroom units, with 87 parking spaces.

Plan Review Comments:

Architectural:

More detailed plans are required prior to issuance of construction permits, but the standards for maximum height, (40'), and all building design requirements appear to be met.

Site Plan:

1. This is a double frontage lot – front setbacks of 20' from pavement are required on both Assembly and Howell Streets, These setbacks are met but the plan incorrectly notes a front setback of 15' from Howell Street.
2. A pedestrian connection is required between the entrance facing Howell Street and the sidewalk along Howell Street.
3. Street tree planting strips are required to be 8' minimum on streets without curb and gutter.
4. Since overhead power lines are present along Assembly Street a small maturing tree species is required planted at a maximum of 35' on center.
5. The landscape plan needs to specify species. Large maturing trees are required for parking area shade trees.
6. A parking lot lighting plan is required, with a point by point footcandle array.
7. Utility connects need to be shown on the site plan.
8. Contour lines with at least a 5' interval need to be shown on the site plan.
9. Stormwater management facilities need to be shown on the site plan, along with detail and calculations.

Staff Recommendation:

The staff recommends issuance of a conditional use permit provided that the above 9 conditions are met.

Cindy Weeks spoke on behalf Mountain Housing located in Asheville which develops all types of homes for senior citizens. There will be many site amenities in the 64 apartment building proposed between Howell and Assembly Streets. The building will feature high energy efficiency standards. The project was reviewed by the Community Appearance Commission and revisions have been made to the site plan following that meeting.

Patrick Bradshaw then reviewed the plans. Based on the number of units, a conditional use permit will be required. Mountain Housing will be seeking some grant funding, therefore approval is being sought based on preliminary minimum plans to receive approval for a conditional use permit. Parking has been reviewed. Meetings have been held with Public Works Director Fred Baker regarding water, sewer and stormwater. Community Appearance concerns have been amended on more recent drawings. A lighting plan, stormwater management and contour drawings will be presented at a later time. Other comments on the site plan have been addressed.

Mr. Benson said revised plans have been received. The only outstanding items which can come in later are the lighting plan, stormwater management plan and contour lines on the site plan. It's not unusual to have conditional use permits approved without those in place.

Marty Prevost moved, seconded by Lee Bouknight, to recommend approval of a conditional use permit to the Board of Adjustment. The motion carried unanimously.

Charles W. Messer - 70 Long Street - Zoning Map Amendment - from Allens Creek Neighborhood District (AC-ND) to South Main Business District (SM-BD)

The 2020 Land Development Plan indicates that planned land use for this area is “Mixed Use, Low to Medium”. This classification is located on land where utility services are provided and road access is suitable for providers of goods and services to the local community. Typically such mixed use land is found in the vicinity of major collector intersections where the land is suitable for low to medium residential development and small scale office, commercial and institutional development.

The existing zoning, AC-ND has a vision /goal of medium density residential development along with agricultural uses. It is predominantly a residential district permitting densities of up to 10 units per acre.

The requested zoning, SM-BD has a vision/goal of densely developed areas with a broad mix of land uses. The district permits a wide range of uses including residential, services, retail, wholesale and manufacturing. There is no residential density limit.

Utility service: This property has access to Town water and sewer lines.

Accessibility: This property fronts Long Street which is a paved, two-lane (18' width), Town-maintained street. It forms a connector between South Main Street and Allens Creek Road and serves some commercial development in the vicinity of south Main, but primarily serves single-family residences.

Zoning and development pattern: Property immediately to the north of this lot (toward South Main Street) was rezoned to SM-BD last month. As a result the subject property now borders SM-BD. Property in all other directions is zoned AC-ND and is developed with single-family residences. The subject property is currently used for a single family residence in a manufactured home. Note: This property is entirely within the 100-year flood plain.

Charles “Bill” Messer stated he owns the lot at 70 Long Street which is approximately 7000 sq. ft. This lot adjoins property belonging to Jeffrey Green which was recently approved for rezoning. Mr. Messer feels that the best use of his property would allow commercial uses. He currently lives in a mobile home on the property and is concerned whether he might replace the mobile home if it were lost in a fire or flood.

Mr. Benson informed Mr. Messer that his lot could continue being used as residential property and in the event his mobile home were to be destroyed by fire or natural causes, he could replace it with another mobile home under our current standards. Mr. Benson added that new flood maps are about to come out and after they do, Mr. Messer could not replace the mobile home without a variance from the Board of Adjustment.

Patrick McDowell continues to be concerned about “creep” – a continued rezoning of residential properties for commercial uses within primarily residential districts.

Rex Feichter said he would like to wait for results from the new Land Development Study before approving other rezonings.

Gary Sorrells pointed out that Mr. Green’s rezoning request was approved previously and feels this should be approved as well.

Mr. Benson added that many of the residents of Allens Creek Neighborhood District are concerned about future commercial development in this area.

Don Stephenson recused himself from voting due to his involvement as realtor with the Green property.

Marty Prevost moved, seconded by Dan Wright, to deny recommendation of a map amendment to the Board of Aldermen. The motion carried.

Mr. Benson informed Mr. Messer that he could either appeal this decision to the Board of Aldermen or request another rezoning if the property is sold.

Adjournment

With no further business, Gary Sorrells moved, seconded by Dan Wright that the meeting be adjourned at 7:00 p.m.

Rex Feichter
Chairman

Freida F. Rhinehart
Secretary