

REGULAR MEETING
TOWN OF WAYNESVILLE
PLANNING BOARD
July 19, 2010
MONDAY - 5:30 P.M.
TOWN HALL

The Planning Board held a regular meeting on Monday, July 19, 2010. Members present were Marty Prevost, Patrick McDowell, Gary Sorrells, Jim Francis, Jon Feichter and Lee Bouknight. Also present were Planning Director Paul Benson, Administrative Assistant Eddie Ward and Town Clerk Phyllis McClure. Chairman Patrick McDowell called the meeting to order at 5:30 p.m.

Approval of Minutes of March 15, 2010

Jim Francis moved, seconded by Gary Sorrells to approve the minutes of March 15, 2010 as presented. The motion carried unanimously.

Text Amendment – Section 154.129(C) to permit the clearing of trees and brush in the South Waynesville Neighborhood District (SW-ND)

Chairman McDowell asked Paul Benson, Planning Director, to present the staff report. Mr. Benson presented the following staff report and draft ordinance amendment.

Background:

An application was recently made to the Town Planning Department to permit forestry (tree removal) on a 28 acre property located within the corporate limits of Blink Bonny Drive, Fourth Street and Chestnut Park Drive. The property is owned by Dick McCotter of Titusville, Florida. Mr. McCotter has submitted a forestry management plan to the Town calling for the removal of all trees on the property except for small pole size trees.

Town staff has denied a permit for the proposed activities because “forestry” is not a permitted use in this district or in any district within the Town’s zoning jurisdiction.

Mr. Kersten, representing Mr. McCotter, has submitted this amendment request intended to change the Town’s Land Development Standards in a way to permit the proposed forestry activity.

Staff Recommendation:

Town staff does not recommend adoption of the requested amendment as proposed because of matters of form (it applies to only one district, and the proposed language should not be located within the permitted uses section), and substance as it would do nothing to mitigate potentially severe short and long term impacts on surrounding properties and roadways, nor does it distinguish between minor clearing such as that associated with dead tree removal and major clearing such as that associated with large scale clear-cut logging operations.

It does seem reasonable to staff that tree removal, particularly of standing dead trees and hazard trees should be permitted, as should tree removal leading to approved land development activities. This in fact has never been prohibited from the staff perspective, but should be probably clarified in the ordinance.

In addition, it is probably appropriate to permit tree removal for commercial logging and forestry when done in accordance with a professionally developed Forest Management Plan using best management practices to mitigate impact on stream, roads and surrounding properties on properties within the NC Forestry Present Use Property Tax Program.

Less clear is whether other types of tree removal should be permitted throughout the Town's jurisdiction since it's difficult to envision logging operations being undertaken with the possibility of severe impacts on neighboring properties and roads. The staff has prepared a draft ordinance for the Commission's consideration that would address these issues:

Section 154.404 Tree Removal

DRAFT 7/09/10 rev. 7/21/10

- (A) Purpose. This section is adopted for the purpose of regulating tree removal, including forestry, logging, and clear cutting to insure that such activities do not create adverse impacts to neighboring properties, waterways or roadways.
- (B) Exemptions. The following activities are exempt from the standards of this section:
- a. Removal of dead trees and hazard trees (trees in danger of falling due to disease, damage, or position relative to streets, buildings, power lines, etc.)
 - b. Activities occurring on sites of less than 1 acre.
 - c. Forestry activities taking place on property within the State Forestry Present-Use Property Tax Program being done in accordance with a Forestry Management Plan prepared by a qualified professional.
 - d. Removal of trees under six inches in diameter at breast height (dbh), except as provided in (C) h. below.
 - e. Tree removal activities being done in accordance with an approved development plan for which a Land Development Permit has been issued by the Town of Waynesville.
- (C) General Requirements
- a. A Land Development Permit shall be obtained for the proposed tree removal activities prior to the start of such activities, including road construction and site preparation.
 - b. A detailed description in writing of the planned tree removal activities, and post removal stabilization of the site shall be submitted to the Administrator.
 - c. A site plan showing property boundaries, existing structures and utilities, limits of clearing, perennial streams, contour lines at a 5' interval, erosion control measures, internal roads and proposed site access shall be submitted to the Administrator.
 - d. A copy of a valid Erosion Control Permit issued by the NC Department of Natural Resources for all land disturbing activities associated with the tree removal shall be submitted to the Administrator.
 - e. Off-site access roads shall be approved by the Director of Public Works and Chief of Police as safe and suitable for vehicular traffic associated with tree removal activities. A financial guarantee in an amount equal to 125% of the estimated cost of regrading and/or resurfacing effected roadways may be required at the discretion of the Public Works Director.

- f. An undisturbed buffer of a minimum of 30' from the centerline and a maximum of 25' from the top of bank of any perennial streams shall be maintained.
- g. An undisturbed buffer of a minimum of 50' shall be maintained from all exterior property lines and street rights-of-way.
- h. Unless the cleared area is to be immediately replanted for lawn, pasture or reforestation, small pole timber (4" to 8" dbh) shall be preserved to the maximum extent practical in order to restore a continuous tree canopy as quickly as possible.
- i. Protected buffer areas shall be marked by the applicant and approved in the field by the Administrator prior to the start of any tree removal activities.
- j. Tree removal activities involving the use of machinery or power equipment shall be limited to the hours of one hour after sunrise to sunset.

Attorney Kersten, speaking on behalf of Mr. McCotter, said if the developer had gotten an erosion control permit he could have removed the trees from this property. Instead, he approached the Town to get a permit which was denied. Attorney Kersten explained NC General Statutes regarding this issue and conversations with Mr. Rich Ducker with the School of Government and the N. C. Forestry Association. Attorney Kersten felt that the drafted ordinance being considered by the Planning Board was wonderful and he was supportive of its adoption. He explained that the area located off Blink Bonny Drive is a death trap because of the timber on the property that needs to be removed and his client is unable to do so. He spoke in favor of the draft amendment.

There was some discussion regarding the previous plans by Mr. McCotter to develop this property. Attorney Kersten said the plans to develop did not happen and with the current economy there are no plans to develop the property at this time. If there were plans to develop the property, Mr. McCotter would be allowed to remove the trees with a developmental plan.

Marty Prevost said she would like to see additional regulations in place to prevent clear cutting of property. Jon Feichter added that there is a need to allow the removal of dead trees and also prevent someone from clearing all the trees, especially from the ridge tops. Jim Francis added that there are not many tracts of property in Waynesville that contain large areas of timber and if some areas are clear cut this could create erosion problems and possible violations with the State.

Paul Benson suggested adding an additional paragraph to the proposed ordinance to the effect that "healthy pole size timber to be preserved." A definition that would be enforceable could also be added.

Note: Gary Sorrells left the meeting at 6:10 pm to attend another meeting. Prior to leaving Mr. Sorrells stated that he was in favor of the draft ordinance with the addition of the above paragraph.

Jim Francis moved, seconded by Lee Bouknight, to recommend approval of the draft ordinance to add Section 154.04 Tree Removal with the addition of paragraph to be drafted by Paul Benson with the addition of a definition of healthy pole size trees and smaller to be left standing. The motions carried unanimously.

Vacant Position on Planning Board

Paul Benson said that Planning Board Member Dan Wright has moved outside Waynesville's corporate limits and is no longer eligible to serve on the Planning Board. This vacant position will be advertised

and he asked Planning Boards members to let Town Clerk Phyllis McClure know if they are aware of anyone interested in filling this position.

Update on Land Development Standards Review

Patrick McDowell said the Land Development Committee is 95% finished with their review. It is hoped that the revisions will be presented to the Planning Board at their September meeting and then for a public hearing before the Board of Aldermen. There may be a joint meeting of the Planning Board, Board of Aldermen and Land Development Committee prior to that time. Paul Benson added that the Land Development Committee has met weekly for most of the past year.

Adjournment

With no further business, the meeting was adjourned at 6:25 p.m.

Patrick McDowell
Chairperson

Eddie Ward
Administrative Assistant