



TOWN OF WAYNESVILLE Planning Board

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Chairman

Patrick McDowell

Planning Board Members

Danny Wingate (Vice)

John Feichter

Marty Prevost

Robert Herrmann

Phillip Gibbs

H.P. Dykes, Jr.

Shell Isenberg

L. Brooks Hale

Development Services

Director

Elizabeth Teague

MINUTES OF THE TOWN OF WAYNESVILLE PLANNING BOARD Regular Meeting Town Hall – 9 South Main St., Waynesville, NC 28786 March 21, 2016

THE WAYNESVILLE PLANNING BOARD held a regular meeting on March 21, 2016 at 5:30 p.m. in the board room of the Town Hall, 9 South Main Street, Waynesville, NC.

A. CALL TO ORDER

1. Welcome/Calendar/Announcements

Chairman Patrick McDowell welcomed everyone and called the meeting to order at 5:30 p.m.

The following members were present:

Danny Wingate
Bucky Dykes
Anthony Sutton
Phillip Gibbs
Marty Prevost
Shell Isenberg
Robert Herrmann
Patrick McDowell

Absent:

Brooks Hale

The following staff members were present:

Elizabeth Teague, Development Services Director
Eddie Ward, Deputy Town Clerk
Tom Maguire, Senior Code Enforcement Official
Ron Sneed, Attorney to the Planning Board

The following media representatives were present:
Becky Johnson, Smoky Mountain News
Rachel Robles, Mountaineer

Special called meeting of the Planning Board for a community meeting regarding the Howell Mill Road Corridor has been set for April 4, 2016, at 5:30 p.m. at the Town of Waynesville Recreation Center located at 430 Vance Street.

Chairman McDowell informed everyone that a special meeting of the Planning Board has been scheduled for April 4, 2016 at 5:30 p.m. at the Town of Waynesville Recreation Center located at 330 Vance Street, Waynesville. This meeting will be a Community Meeting, and the Planning Board can gain information from residents in that area to get an idea of what they would like to see in the future for that corridor.

2. Adoption of Minutes

A motion was made by Board Member Robert Herrmann, seconded by Board Member Anthony Sutton, to approve the minutes of the February 15, 2016 regular meeting as presented. The motion passed unanimously.

B. NEW BUSINESS

1. Public Hearing to consider zoning map amendment requests for 333 Howell Mill Road, 11 Palmer Hill Road and an unnamed lot on Calhoun Road to be rezoned from Howell Mill Medium Density Residential to Russ Avenue Regional Center Commercial

- 333 Howell Mill Road – PIN's 8616-42-3466, 8616-42-6671, 8616-42-6329, 8616-42-5167, 8616-42-4173, 8616-42-3089, 8616-42-5404, (5.29 acres owned by Robert Timothy and Patricia Shook)
- 11 Palmer Hill Road – PIN 8616-42-7327 (0.87 acres owned by Nell Moody Heirs)
- Unaddressed lot on Calhoun Road – PIN 8616-42-6749 (0.5326 acres owned by Romualda Mcrorie)

Chairman McDowell asked Ms. Elizabeth Teague, Development Services Director, to give background information on this item. Ms. Teague stated these requests are from three individual property owners, Tim and Patricia Shook, the Moody Heirs, and Ms. Romualda Mcrorie. Ms. Mcrorie could not attend the meeting, but she has completed necessary paper work, and has asked to be included in this process.

Ms. Teague said the total acreage in these parcels to be rezoned is 6.69 acres. She explained that Mr. and Mrs. Shook made this same request to rezone their properties at 333 Howell Mill Road in 2008, and their request failed with a vote of 3 in favor and 4 opposed at the Planning Board level, and then was tabled at the Board of Aldermen level at their October 28, 2008 meeting. The minutes of that Planning Board Minutes
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meeting reflect concern for how the Howell Mill Road project would impact property and the existing residential nature of the area. The minutes also reflect that the request was tabled to give the petitioner time to study the issue further, and present to the Board for consideration again at a later time.

The Howell Mill Road project was completed on February 19, 2016, and Mr. Shook and two of his adjacent neighbors have asked that this rezoning be considered again. This project included improvements to drainage, grading, culverts, overall traffic safety, truck access, pedestrian safety, a new fly over bridge, and intersection and signal improvements at Russ Avenue and Asheville Highway. With these roadway improvements, traffic is expected to increase and generate interest in new commercial and residential development potential. Ms. Teague said it would be wise for the Planning Board to reexamine the land use designations along the corridor. A community meeting has been scheduled for April 4, at 5:30 in the Town Parks and Recreation Center to get public input.

Ms. Teague pointed out that all of the lots that are being considered for rezoning are in the Extra Territorial Jurisdiction (ETJ), and are subject to Town planning and policies. The properties are now zoned residential, however with the changes to the road, Mr. and Mr. Shook, Ms. Mcrorie, and the Moody Heirs are seeking consideration for the Russ Avenue Regional Center District. This District is considered a gateway into town, multifaceted and is a mixture of residential and commercial uses. Ms. Teague added that Russ Avenue Regional Center Commercial District has a goal of a mixture of residential and commercial uses.

Staff Recommendation:

Ms. Teague explained this rezoning request has been desired by the applicants for many years. She reminded the Board that if they wish to go forward with this request, the Russ Avenue Regional Center District is the least restrictive commercial district. This District allows drive thru restaurants, retail for over a hundred thousand square feet, digital signage, residential, lodging, office services, infrastructure and other commercial uses associated with the most intense commercial areas. This District does not allow adult entertainment, correctional facilities, race tracks, shooting ranges, material recovery facilities or outdoor storage yards.

Staff would generally support rezoning this area to more commercial uses, but Ms. Teague felt that the Board may want to consider whether drive thru restaurants, and digital signage are desirable in this area, or may want to delay taking action until after the community meeting. Staff would also like to hear public input from the community meeting on April 4, 2016.

Requested Actions:

- 1. Motion to find/not find the request consistent with the 2020 Land Development Plan by meeting the needs of the residential, commercial and institutional needs of the community and promoting infill and improving an existing neighborhood area.***
- 2. Motion to recommend approval of the applicant's requests for rezoning the property at Howell Mill, Calhoun, and Palmer to Russ Avenue Regional District.***

Chairman McDowell added that if the Board so desired, the request could be continued, and then addressed again after the Community Meeting.

A motion was made by Board Member Bucky Dykes, seconded by Board Member Anthony Sutton to open the Public Hearing. The motion passed unanimously,

Thomas Moody
248 Fairway Hills
Waynesville, NC 28786

Mr. Moody said his property is adjacent to the Shook, property. Mr. Moody said he felt it was a logical step to rezone this property. This change would increase the ability to sell the property, increase the business use of the property, increase the development of the property, and property value would increase. Mr. Moody state he could not think of anything that would be detrimental with the rezoning of the property.

Karen Hollingsed
782 McClure Cove
Waynesville, NC 28786

Ms. Hollingsed stated she was the real estate agent for Mr. and Mr. Shook. They have had their property listed for sale since 2007, and it has been listed as residential. The former real estate agent only had one inquiry about the property for potential condos for elderly people. Ms. Hollingsed said that project was rejected because of the set backs on the property for the substation. Since 2011 only 3 people have inquired about the property, and all pertained to commercial development. She said that in her opinion, no one will purchase the properties because of being situated directly behind the Associated Packaging Company. She gave an example to the Board about a possible restaurant being located on the hill with shrubbery to hide the Packaging Company.

Tim Shook
333 Howell Mill Road
Waynesville, NC 28786

Mr. Shook is the owner of the properties in the application. Mr. Shook said he had been trying to sell his property for several years, with no real interest in residential development. He can see Ingles, Sonoco, and the Town of Waynesville sub station clearly from his property. He asked the Board to allow the rezoning, and he said the Town would still have input on what could be placed on the property. He would like for the realtor to be able to sell the property as commercial.

Joe Bob Rogers
263 Calhoun Rd
Waynesville, NC 28786

Mr. Rogers asked about receiving notices about the rezoning Public Hearings. Mr. Rogers stated he did not want another Russ Avenue on Howell Mill Road. He gave examples of Verizon and CVS on Russ Avenue, and how difficult it could be to get into these areas. He said he felt it would be difficult for Mr. Shook to sell for the price he is asking.

Steve Leonard
365 Calhoun Road
Waynesville, NC 28786

Mr. Leonard stated he has lived at the end of Calhoun Road since 1981. He said Calhoun Road is a dead end, graveled state road that is very narrow with very little right of way. Mr. Leonard said he would like to see that road stay the same with no widening or paving. Mr. Leonard said that because Calhoun Road runs parallel to Howell Mill Road, the residents of Calhoun Road will be looking at the back side of any commercial building that is built there. He felt it was very likely that property values would decrease for the people who own property along Calhoun Road, and there would definitely be more traffic on the road. Mr. Leonard said he felt it would very detrimental to the property and residents of Calhoun Road.

Ginger Hain
267 Calhoun Road
Waynesville, NC 28786

Ms. Hain asked the question of “Why this would be considered outside of the current 2020 Land Development Plan?” She felt like it would be better to take it under the consideration of a meaningful plan that has been considered by the community.

John Balentine
274 Calhoun Road
Waynesville, NC 28786

Mr. Balentine said he would like to see the preservation of the oak trees that stand on Mr. Shook’s property. He stated Calhoun Road leads to being in the “country” and he would like to see it stay that way. He feels there are other opportunities that Mr. Shook could pursue with his property.

Board Member Robert Herrmann made a motion, seconded by Board Member Bucky Dykes, to continue the Public Hearing until after the community meeting which will be held on April 4, 2016, at the Waynesville Recreation Center at 5:30 p.m. The next regularly scheduled meeting of the Planning Board will be held on April 18, 2016 at 5:50 p.m. in the Town Hall Board Room. The motion passed unanimously.

Board Member Robert Herrmann made a motion, seconded by Board Member Anthony Sutton, to close the Public Hearing. The motion passed unanimously.

C. OLD BUSINESS

1. Discussion and possible initiation of a text amendment on Town policies related to food trucks and food carts.

Ms. Teague referred the Board to the agenda packet, and she noted that suggestions from the March 21, 2016 regular Planning Board Meeting members, and public comments, have been incorporated into a revised draft text amendment. This text amendment would allow food trucks or Planning Board Minutes
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mobile food vendors as temporary uses under the Town's ordinances on a more specific basis. She would like to review the revised draft in order to get additional input and clarifications. One of the clarifications was to expand the thirty day time frame, and to make it easier to renew temporary permits for food trucks. Up to this point, mobile food trucks have been considered as part of civic and cultural events. Civic, cultural, and yard sales are allowed in all districts on private property with a temporary use permit for up to thirty days. However, all temporary permitted uses are issued for no more than 180 days in a calendar year on any individual lot.

Ms. Teague read through the draft ordinance for discussion.

Staff Recommendation:

There is a need to ensure that mobile vendors operating within Town limits are compliant with health department requirements and are present within the Town at the permission of property owners or at the invitation of nearby businesses who have requested this use in an identified public space. Also it is important that mobile food vendors are located in a manner that allows workers access to bathrooms and that assures compliance with applicable building and fire safety codes. When these requirements are met, Food trucks can add diversity and interest to commercial areas as well as convenience, and service to nearby business.

Requested Actions:

1. Motion to direct staff to initiate the above text amendment as presented (or as amended at this meeting) to the Town Code of Ordinances and to set a public hearing at the April 18th, 2016 Planning Board Meeting.

There was discussion about allowing for automatic renewal after 180 days on the same site. Ms. Teague stated that there would need to be clear criteria for that as it would put staff in the position of determining when that would be allowed or not allowed. She also raised concern that if a temporary use could be continuously renewed, then would it not be permanent? She added that mobile units are designed to move around and are permitted by the DMV as mobile. Bob Hermann suggested that the Board eliminate the limitation to the number of days per one calendar year. The Board had questions and much discussion concerning guidelines of code enforcement issues and renewing and revoking temporary permits were discussed at length.

Ms. Teague asked about the distance requirement of 200 feet away from a residential unit as she envisioned most food trucks operating in commercial areas where the Town was trying to encourage mixed-use and the Board discussed reducing that requirement.

The Board also discussed the requirements of food vendors having accessibility to restrooms as required by Haywood County Health Department. In order for a food vendor to obtain a Temporary Use Permit from the Town of Waynesville, in addition to permits from Haywood County, the Town would work with the property owner and vendor to ensure that fire codes, traffic safety, and building codes were addressed on a case by case situation. Senior Code Compliance Officer Tom Maguire spoke on the challenges of mobile food vending units under building codes. There was discussion on building code compliance of the mobile food trailer at Mad Anthony's.

All food vendors must have permission to be on the property where they are permitted. If a food vendor is invited onto private property by the owner, the owner assumes liability. On public property, the Town would need to have an actual lease agreement, and terms of liability would be worked out in the agreement. Food vendors operating on public properties have not been allowed in the past outside of special events, and this is something the Town would need to work out specific details in addition to the ordinance. Use of public property has to be approved by the Board of Aldermen with a specific lease arrangement. The lease would govern the terms and conditions under which a food vendor could utilize public property or right-of-way.

There was consensus among the Board concerning:

4.6.1 General Standards/Permits

E. No temporary use shall be located closer than two hundred (200) feet to a dwelling unit. Yard sales are excluded from this requirement.

The Board agreed that the two hundred (200) feet to a dwelling unit be lowered to fifty (50) feet.

4.6.1 General Standards/Permits

B. Temporary use permits shall be issued for no more than one hundred and eighty (180) days within a calendar year on any individual lot. *Days may be non-consecutive with a schedule pre-approved by the Administrator that shall accompany the permit.*

The Board agreed to strike the phrase “within a calendar year” and add the phrase “term can be renewed when in compliance with all other codes.”

D. PUBLIC COMMENT /CALL ON THE AUDIENCE

Chairman McDowell asked if anyone would like to speak concerning the text amendment for food trucks.

Alex Still
254 Love Joy Road
Canton, NC 28716

Mr. Still said he owns a hot dog cart, and had recently received a permit to operate the cart in the Town of Waynesville at Bob’s Sports Store parking lot. He stated he is grateful for the opportunity to speak, and for the Planning Board reviewing the text amendment for food carts. His cart is an opportunity for people to have lunch from 11:00 am – 2:00 pm. Mr. Still said what he has heard from the Board today sounded really good and he wanted to thank the Board for their consideration of food carts.

David Young
384 Thomas Park Drive
Waynesville, NC 28786

Mr. Young stated he is one of the owners of Mad Anthony's. He thanked the Board for allowing him to speak. He said he wanted to clarify the claim that Mad Anthony's is not in code compliance. He said they had been told they were in compliance, and had asked for a letter specifying which codes, and had not received that letter. Concerning the text amendment, Mr. Young asked the Board to reject it outright. They do not want to be included into the temporary uses category. Mr. Young said Waynesville is their home, and they want to stay here. He told the Board he had a sample draft of an ordinance that he would like for the Board to consider. This ordinance would establish food trucks as their own separate classification. He asked the Board to review his draft and possibly adopt the ordinance.

Glenna Young

Ms. Young stated she was co-owner of the food truck at Mad Anthony's. She asked the Board to reject the proposed amendment. She said the Town needed an ordinance that addresses specifically food vendors. Ms. Young said that financially her business could not survive being classified as temporary and only operate 180 days. She stressed that margin of profit is very small with a food truck.

Lynn Young

Mr. Young stated that if the Board went the route with the text amendment, he would be bankrupt within a month. He said that the owners of Mad Anthony's wanted to be able to operate on a year round basis. He said his business offered jobs for Waynesville, and he wanted the Board to reject the text amendment.

Chairman McDowell thanked everyone for their comments.

D. ADJOURN

With no further business, a motion was made by Board Member Marty Prevost, seconded by Board Member Robert Herrmann, to adjourn the meeting at 7:14 pm. The motion passed unanimously.


Patrick McDowell, Chairman


Eddie Ward, Deputy Clerk