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BANNER ELK PLANNING BOARD  
MONDAY, 03 JUNE 2013  
MINUTES

Members Present: Allen Bolick, John Lavelle, William Mauney, Joel Owen, Jillian Rosato, Ann Swinkola, Penny VonCanon

Staff Present: Zoning Administrator (ZA) Cheryl Buchanan, Town Manager Rick Owen

Others Present: Heather Bender, Rebecca Bolick, Mr. & Mrs. Bob Casey, Carlton Collins, Mike and Barbara Vacca, Peter Liberatore, Bob Littleton, Dawn Sellars, Charlie B. VonCanon

Chairman Joel Owen called the meeting to order at 6:04 pm. A quorum was present and the chairman opened the meeting with the pledge of allegiance to the flag.

Approval of the Agenda

Chairman Owen asked if there were any changes to the agenda. ZA Cheryl Buchanan answered that there were not. Chairman Owen stated that the agenda was approved as submitted.

Consideration of the May 2013 Minutes

With no changes noted, Penny VonCanon moved to approve the minutes as submitted. Allen Bolick seconded. The vote was unanimous and the motion carried.

Introduction of New Member

William Mauney lives on Mariposa Lane and in the ETJ. Town Council and the Avery County Commissioners have approved him as an ETJ representative on the Planning Board.

Request to Amend a CUP for an U-Fuel Station at Elk River Airport – Elk River POA, Inc.

ZA Buchanan noted that each packet should have a set of minutes from 2001 (exhibit 2) granting the Elk River POA a CUP for an airport and hangars. ZA Buchanan stated that Elk River POA has made application to amend their CUP (Exhibit 1) to include a fueling station for their member's airplanes. In Exhibit 3, construction specifications are given for the proposed structure. The facility will house two tanks holding a total of 8,000 gallons. The two tanks represent two different fuel types. The facility will measure 34'3" L x 7'8" W x 14' H and will be a concrete building. This design was chosen to reduce any property damage should an explosion happen, as this facility is capable of containing a blast within the walls. The building will have a flat roof and a canopy around the top. The proposed structure will be painted the same color as the current

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hangars and maintenance building. Landscaping is being proposed for one side and the back. The landscaping would be acceptable for helping the structure blend into the surroundings. The only lighting will be for the front where a credit card will be used. No other lighting is proposed because the use of the facility will be from dusk to dawn. Chairman Owen said he felt this was a storage structure and not a building, and that a flat roof fit this request.

Chairman Owen asked about spill containment. Mr. Bob Littleton was present and representing Elk River POA. Mr. Littleton answered that the containment would be internal, with an inner and an outer tank contained inside a fire resistant panel enclosure. Additionally a pressure/vacuum working vent is located on top of the structure. As for small spills that might occur outside while filling, Mr. Littleton said that he could add a fuel spill kit much like auto service stations have. On exhibit 4 and 5, the location of the facility is denoted. The facility will be located approximately 60 feet from the closest property line, approximately 175 feet from the nearest water supply and approximately 150 feet from the nearest building. The width of the access road is 75 feet and the facility will be located an additional 52 feet or so from the road to prevent any large wingspan Elk River might allow from damaging the facility. Penny VonCanon said that the ARG's do not allow a flat roof. It should be noted that flat roofs are allowed in some districts with very few uses as long as they have some type of parapet wall to protect those along a street's view of the mechanical equipment located on the roof. This structure will not be habitable and will not have mechanical equipment on the roof, only vents and gauges.

Ann Swinkola moved to make a recommendation to the Board of Adjustment (BOA) for approval of the amended CUP. Penny VonCanon seconded. The vote was unanimous and the motion carried.

#### Request to Amend a CUP for an Auto Body Repair Shop at 104 Hardees Lane

ZA Buchanan noted that there is a slideshow she has prepared for this meeting. The property was formerly known as Dean Ruppard's auto mechanical repair shop. But this gentleman, Peter Liberatore, wants to put an auto body repair shop, which is indicated as a conditional use in Table 308.1. After reviewing the pictures of the property, ZA Buchanan commented that the front and one side of the building have areas where landscaping will need some serious attention. Mr. Liberatore has offered to landscape those areas to help improve the look of the property. Exhibit #6 shows the property being in a flood plain and directly touching a flood way for most of the back of the property. Two trees are down because of the flooding that occurred three weeks ago.

Additionally, the row of white pines in front of the property appears to be neglected as well, the bottom braches look dead and brown and could use some trimming to clear them away from the parking spaces. The ordinance calls for 12 spaces for this use, Mr. Liberatore has identified 15 as you can see in Exhibit #4. The building has 3 working bays, an office area and a small apartment. A room off the back of the building will serve as a holding area for roll off carts, but needs a door. There is not sufficient space to put a dumpster on the property and Mr. Liberatore says he can work with roll-off carts. A door will be installed to keep the water from carrying the carts off should the property flood.

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There are several drains inside the building and one outside. There is a pump that operates in order to pump any wastewater the property might produce into the town's sewer system. The property has access to a private well for water. Will Mauney said that they walk the property a lot and have noticed on several occasions water is seeping up through the pavement in front of the outside grated area and wondered if it might be sewage. Chairman Owen's told Mr. Mauney that if it had been, he would have known it. No one knew where this water comes from; but the Town Manager said it would behoove the Town to go out and check where the cracks are and what is coming out of them.

Chairman Owen said he had looked at the building years ago and knew there was a studio apartment and wondered if this could still be allowed. Ms. Buchanan said she thought their approval was allowed in the CUP as an accessory use.

Chairman Owen asked about security lighting? Mr. Liberatore said he would put some lights on the building corners that would be pointed downward. Penny VonCanon said she had read the letter from previously town manager, Michael Brooks. Mr. Brooks says in the letter that it was better if the project was not referred to as a Planned Commercial District (PCD). However, a PCD would allow no greater than 40% of the property for residential. Ms. Buchanan said that an accessory apartment in the C-2 is a conditional use and that it might be better if someone was there for added security measures. Peter Liberatore said he was told the insurance rates would be better with someone in the building.

There was some discussion about how anyone knew the drains are connected to the town's wastewater lines. Allen Bolick asked if each time it rained are we getting water in the sewer system because of the outside drain. Town Manager Rick Owen said he would be looking into this to see where it might drain. Penny VonCanon asked if Mr. Liberatore plans to use the outside car wash bay. Mr. Liberatore said he would like to; that when you are finished fixing a vehicle, it always needs to be cleaned up and detailed. Joel Owen asked if he would consider more coin-operated bays. The answer was no. Allen Bolick asked about business hours. Mr. Liberatore said that he wasn't sure; but that he has a shop now in Florida that he's owned for 30 years and his hours there are 9:00 am to 6:00 pm.

Penny VonCanon asked about the number of cars that could be sitting around the lot in a state of disrepair. Mr. Liberatore said he didn't think he would have the same volume of work here that he has in Florida, that most of the cars will be in one of the parking spaces unless they are being repaired. ZA Buchanan said she wasn't quite sure how to classify him, that he was neither a filling station or convenience store and he wasn't a junk yard, salvage yard either, but maybe a little bit of both. ZA Buchanan said that they had spoken about the property being located in a flood zone and that she would require an evacuation plan in case there was a flood. The plan would include contact numbers and how Mr. Liberatore plans to move incapacitated vehicles out of harm's way. There were some questions about who is responsible for the line of trees and the creek. An accurate survey would show exactly where the property lines are. William Mauney asked about the back pines and what Mr. Liberatore's plans are for those. Mr. Liberatore said he would like to trim the ones in front but was planning on leaving the ones in the back

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alone. Ms. Buchanan said that according to a GIS picture she has of the property, the bridge is part of the Hardees Lane property and she wasn't sure exactly whose responsibility it is. Mr. Mauney asked about the policy to cut back or down trees that are too tall. Ms. Buchanan said the newly adopted tree ordinance does not encourage tree topping, but thinning is an option. Mr. Mauney said that white pines should be outlawed as a tree buffer because they grow too fast and are a danger anytime they are near property. ZA Buchanan said that she agreed and that she had taken some pictures of other white pines around town that are beginning to present a problem. For the moment the Town would recommend an arborist look at them and give a recommendation. ZA Buchanan said that thinning them out might actually be good for the trees.

Chairman Owen stated that this is a CUP and should a letter from the property owner be in order? ZA Buchanan answered yes, the BOA will have a letter included in their packet, but be mindful that the contract on the property must pass our review before he will purchase the property. Ann Swinkola said that basically this is the same type of thing that Dean Ruppard did and it was acceptable. Ms. Buchanan agreed.

Penny VonCanon asked about where the damaged parts will be stored. Mr. Liberatore said that much like his place in Florida, the parts could be stored inside, like bins. Will Mauney asked if there would be painting on the premises. Mr. Liberatore answered yes, he was hoping to use one of the blocked in bays and it will be enclosed.

Ann Swinkola moved to make a favorable recommendation to the BOA. Penny VonCanon said she seconded with some amendments:

- #1. The storage of scrap parts and metal to be kept inside or in an enclosure outside,
- #2. The vehicles waiting for repair or waiting to be picked up must be parked in the front parking spaces. The transitional inventory can remain in the back area of the building,
- #3. A recommendation to the BOA to look at the buffering and perhaps a better solution can be found.

The vote was unanimous and the motion carried.

#### Request to Preliminarily Review a New Construction Project for LMC

Dawn Sellars introduced this project along with a representative from the architectural firm of McMillian, Pazdan, and Smith. Mr. Colton Collins introduced himself and said that he has been working on this project for a couple of months. His firm is in the process of designing and this is just a preliminary review. LMC is looking at opening this facility in the fall of 2014, so the firm is on a pretty aggressive timeline for site work, building design, and completion of the building.

Mr. Collins presented the overview. The site plan shows the facility located on two parking lots on West Main Street directly across from the campus. Mr. Collins said that he is looking to keep the parking area in an "L" shape with a good physical presence to the street. The road crossing you see in the renderings lines up well with the sidewalk to the Administrative Building. The building will be 2-story, 16,000sf total. Parking provided meets the requirements of the ordinance. The building will be in the existing

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confines of the parking lots. There might be some minimal grading to the hillside in the back, but no retaining walls will be needed. The pad of the building should be at the same elevation as the parking lot, about a foot above the sidewalk at the street. There is a sidewalk depicted on Maple Court and plans to remove the row of white pines along Maple Court and re-landscape. A dumpster in the back of the parking lot that will be properly screened.

The building has been designed to blend with the historic feel of the campus. LMC has many old stone buildings with hip roofs, and this was incorporated into the design for the new facility. An all-stone building is not fiscally possible, so a mixture of brick and stone, windows are scaled to proportion. The roof will be metal in a reddish-brown color with a 6 and 12 slope. There may be some hardy plank siding instead of the brick, since this is such a fast tract building. Mr. Collins said they would be looking at how cost effective the building will be while they are in the budget process and won't be making some decisions until they get to certain phases of the project.

Chairman Owen noticed that the proposed rockwork looks to be all gray, but wondered if some brown hues would find its way into the color scheme. The plans waffle between a sidewalk on Maple Court and one that is not, and the sidewalk will probably be important the town. Chairman Owen said that the road width is narrow and he has some pretty large trucks that travel that road and is concerned about the increase in traffic this project will cause. Mr. Collins said there is more than one choice, there is no definitive answer right now and he will certainly be working with the Town to see that the best solution is followed. Town Manager Rick Owen asked if Mr. Collins thought that they would need to redo the Town sidewalk, with which Mr. Collins answered he was not sure. Allen Bolick said it appears to be a 6ft sidewalk and the current sidewalk is not that wide. Mr. Bolick said that if it is a town sidewalk, then it is a town expense, because these are town expenses. Mr. Collins said he would not think that the extra width is intended to be an expense to the Town.

Chairman Owen said he needed a little more clarification on the slope of the roof in relation to the property. Chairman Owen said that if you take the slope of the front of the building and average it with the slope at the back, the roof would be too high. Dawn Sellars said it is not written that way, that you take the average slope of the entire property. Chairman Owen said it was not supposed to be written that way. ZA Buchanan said that it is written as average slope of the property at the bottom of Table 308-3. Chairman Owen said it was supposed to be written in relation to the footprint of the building, not the whole property. Dawn Sellars said that the measuring point is to the mid-point of the roof and that a flat roof is a possibility in the M/E Zoning District. Mrs. Sellars said she felt the town would not want to promote a flat roof in the downtown area.

Chairman Owen said this appears to be a big building and that the town had put a cap at 30,000sf or 40,000sf. Ms. Buchanan said it is 50,000sf, to which Penny VonCanon confirmed. Chairman Owen said that was even better and the town might want to look at that again. Dawn Sellars said it is for a college, a different use than retail. Chairman Owen said this might be the reason why we would want to look at the scale of buildings in the future. ZA Buchanan said this like the discussion the planning board had on freestanding signs and how much larger a sign looks in the downtown area where

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everything is so densely populated. A building this big could look relatively small if it were placed along Highway 184.

Penny VonCanon said she has some concerns for the color of the building and would like to see some darker, more subdued exterior materials; a more-earthly look would be more appropriate. Mrs. VonCanon said that taking out the pines and putting a sidewalk along Maple Court was a step in the right direction. Mr. Collins said the sidewalk is only going as far as the parking lot, no further along Maple Court.

Allen Bolick asked Mr. Collins if he knew when he plans to come back. Mr. Collins said he needs some guidance on that as well. Because of their fast track schedule, they would like to get a site work package going and actually begin to do some site work on the property before the final questions have been answered about the building. The first question is, would you allow us to come back with a civil site work package to meet your approval process that could be submitted in the next 6 weeks. This would allow the designers more time to look at materials. Penny VonCanon asked if they were at a point where they could possibly bring in some samples of the materials they are considering for the exterior of the building. Mr. Collins said he might be able to bring some when he comes back for an approval of the site work plan. However, his fear is that the designers won't be ready by that time. Allen Bolick asked if they could build that structure in a year. Mr. Collins answered, yes. Allen Bolick is concerned that if you are not ready in July, or August or by September, can you build the structure in 9 months. Mr. Collins could not answer on behalf of the contractor.

ZA Buchanan said that the board meets again the first Monday in July, which is the first of July and asked how many board members have plans to go out of town and how many will be here. In past we have not had a meeting in July because of a lack of a quorum. Joel, Jillian, Penny, and Ann committed to being there, but some were unsure.

ZA Buchanan indicated that her concerns are that the property is actually two lots and she will need to sign off on a plat for recombination before any approvals can be granted. Also, the parking that is being displaced will need to be relocated and ready for school at the end of this summer, not next year. It is important to make sure that LMC has provided the parking that they have removed due to this project, and to have it ready for the next school year's students. ZA Buchanan said she understood that this was not McMillian, Pazdan and Smith's problem, but it is LMC's and they are going to need to address that and be prepared to carry that out, since it is inadvertently a part of this project. Chairman Owen said that their proposed parking would have to be existing parking before this pavement is gone. ZA Buchanan agreed.

ZA Buchanan said she had never reviewed a project with a partial submittal of plans. Penny VonCanon agreed and said they have always been able to review a full package. Chairman Owen said that the only reason he could see that they could do the grading is that they are not changing the topography of the property and second, that we allowed LMC to do that on the Theatre project. Town Manager said that the Theatre project was the demolition of a structure and they did not need our approval. Chairman Owen said they should have seeded it. Town Manager answered that he was not sure that we could require that either. Town Manager said that he wasn't sure what was in this package and

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he would like to get the Town's Attorney's advice before committing to anything at this meeting.

Ann Swinkola stated that she would be agreeable to having a special meeting. Dawn Sellars asked if she has to go through the Board of Adjustment. ZA Buchanan answered that this is a permitted use, but the recommendation of the PAC will be needed first. Dawn asked about the setbacks of where the building is being placed. ZA Buchanan said that the biggest concern was the front setback and that's the one that was recently changed in the ordinance text, from a maximum of 15ft to a maximum of 35ft. Due to the fact that Maple Court is a town street, this property is now a corner lot and adds 10ft to the side setback. Dawn Sellars said that the ordinance does say that the setbacks in the M/E can be adjusted if needed and she's asking how that affects them. ZA Buchanan says that she must apply whichever is the most stringent, so the additional 10ft width shall be applied.

A discussion about the need for a sidewalk along Maple Court continued for several minutes. Town Manager Rick Owen said he would like to see curb and guttering on Maple Court and it is his belief that they can require the money and if there is any left over, the town can take it and put it towards another sidewalk project. Joel Owen said that he was worried about the width of the road and meeting other vehicles and what a tight fit it is on that road. Jillian Rosato asked if the flow of the traffic could be reversed so that traffic coming off the site could turn down and would be required to stop and look before pulling out on Maple Court.

Dawn Sellars told the board that when she met with the PAC, one member said the exterior colors were too light and needed to be darker. Although she didn't see the minutes to that meeting, Dawn is asking the Planning Board for some guidance. Bringing in colors samples would probably be the best way to handle this and Dawn said that she believes the conversation was about dark and light and not grays and browns. Dawn Sellars said that she has a site plan checklist and asked ZA Buchanan if this is what they need to furnish. ZA Buchanan said this comes from the subdivision ordinance and she would need to ask the Town's Attorney about how that would apply and what information is required.

With no further business before the board, Ann Swinkola moved to adjourn. Jillian Rosato seconded. The vote was unanimous and the meeting came to an end at 8:34 pm.

Respectfully submitted,  
Cheryl L. Buchanan, Zoning Administrator for the Town of Banner Elk