

BANNER ELK PLANNING BOARD SPECIAL MEETING
TUESDAY, 08 JULY 2014
MINUTES

Members Present: Allen Bolick, Will Mauney, Martha Laura Miller, Joel Owen, and Penny VonCanon

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

Others Present: Dick Evans, Dave Ramsey, Richard Taylor

Chairman Joel Owen called the special meeting to order at 12:05 pm. There was a quorum present.

Consideration of the June 2014 Minutes

Chairman Owen asked if anyone had changes to the minutes from June 2014. None were noted and Penny VonCanon moved to approve as submitted. Allen Bolick seconded. The vote was unanimous and the minutes were approved.

Sign Request for Highlands Union Bank – Heritage Overlay District

The original CUP for Highlands Union Bank authorized a sign that was in accordance with the sign ordinance at that time. However, this did not happen and the sign has been an eyesore for the Town for some time. Due to the sunset date coming up in October 2014 for all sign in Banner Elk to come into conformance, the bank decided to go ahead and change its sign. The design pleased the Planning Board and Penny VonCanon moved to approve the new sign as proposed. Will Mauney seconded. The vote was unanimous and the motion carried.

Elk Creek Rezoning

Zoning Administrator Cheryl Buchanan began by explaining that there are currently two multifamily units in Elk Creek with plans for more units. The previous CUP was for 36 multifamily units and 12 single family lots. The 12 single family lots have been recorded but the front 11.50 acres is still zoned R-1, which will not support multifamily development. Ms. Buchanan said she searched through the minutes for both Planning Board and Town Council and could find no action taken for the rezoning. In order to correct this error, she felt that the property could be rezoned while the developers were waiting on their 401 stormwater permit from the State.

Chairman Owen stated that the property may abut another development that is multifamily, but it also abuts a single family and some commercial zoning as well and it could arguably remain R-1 zoning. Martha Laura Miller asked what the plan includes now. Ms. Buchanan said that it has a mixture of both. Ms. Buchanan stated that the reason the Board does not have the plans is

because they are not ready, that until the 401 permit is approved by the State and the remaining questions she has have been answered, she would not be ready to show them to the Board. The Planning Board's decision should not be based on the proposed plans, but on whether they believe multifamily would be a good fit for that property and be in harmony with the surrounding properties and the confines of the zoning ordinance. Chairman Owen was questioning how much of the proposed development was going to be impervious surface and how much was going to be green space. Chairman Owen said that for the record they were not looking at this for the amount of green space that could be seen, it but how it compares to the original plan. Zoning Administrator Buchanan brought in two (2) sets of plans for the Board to look at. Martha Laura Miller said she was having a hard time trying to decide on the rezoning without seeing what the plan is proposing. Joel Owen said that in theory you do not rezone based on the plan. Ms. Buchanan said that clearly the previous development included multifamily and was inadvertently not rezoned, but should be because of the intent and the fact that there are two units of multifamily on the property currently. Rezoning this section to multifamily would allow this previous error to be corrected.

Will Mauney asked how could this happen to begin with? Martha Laura Miller said that doesn't matter now, but she doesn't understand why they have to rezone it based on the two units that are there. Ms. Buchanan said she doesn't have to, that she was trying to correct an error and prepare for the future plans for this. Ms. Buchanan said that she had been looking for other reasons for rezoning. She read from the Land Use Plan, Section 9, about how the majority of multifamily properties were in town and the single family were out of town and that this was how the Town wanted to continue to develop.

Chairman Owen said that this property also abuts commercial and R-1 residential, so why should it be rezoned R-2. Penny VonCanon said that according to chart 308-1, R-1 would not allow multifamily. ZA Buchanan said that basically what you're telling them is that they cannot plan for any multifamily either. Ms. Buchanan pointed out that there are multifamily units being proposed. Allen Bolick said that he would like to voice some concerns over rezoning this property to R-2. Those concerns are:

1. No plans provided for consideration of the magnitude of the Planning and how they plan to develop the property.
2. Very concerned about the water and sewer allocations.
3. Very concerned about run-off of stormwater.
4. Very concerned about what this might do to adjoining property owners and their property values.
5. Very concerned that there are more units being proposed than was part of the previous CUP.
6. Concerned that the magnitude of what they want to put in that small area.

Chairman Owen added that they might be adding more than what was originally approved and that once it is rezoned R-2, we could be opening up the gates to anything and he wasn't sure he could support that. Once it goes from R-1 to R-2, they come back with a plan that includes anything in the R-2. Mr. Owen asked if we ever found out who owns the bridge at Hardees Lane entrance. The response was no. Chairman Owen said he was concerned that the possibility of this development being cut off from being able to get out because of an emergency situation is too great. That there could be an organized POA that could collect dues and take care and responsibility for any liability that might be encountered on this bridge.

Martha Laura Miller stated that going back to the definition of R-1 and R-2, what is the difference in the CUP for either one of these. Ms. Buchanan answered that if not rezoned, then only one (1) single family structure could be built, without a conditional use permit (CUP), and no multifamily would be allowed to be built on the property.

Allen Bolick suggested that the Board hold off on the rezoning until all State permits have been completed, all of the Zoning Administrator's questions have been answered and plans are completed, concerns for the water and sewer allocations, and any other questions that the town may have. Ms. Buchanan told the Board that although they are asking for eight (8) additional units; they do not have approved water or sewer taps paid for them and this does not mean that they will get them. This decision belongs to the Public Works Director and the Town Council, as they decide these types of allocations. Chairman Owen said some of these requests may not be viable for this request; that he does not feel that there is not information to make this decision unless they base it on the previous plans.

Town Manager asked the Planning Board to list their reasons as generic reasons for why they would not consider rezoning of the property. The reasons were: flooding, access across the private bridge and Hardees Lane, impact to adjoining property owners, impact to wetlands, sewer and water allocations, steep slopes, and the CUP that is expired for the previous development.

Penny VonCanon made some very good comments in support of multifamily developments. Mrs. VonCanon explained that a well-planned multifamily development does not use nearly as large a footprint as single family does. Second, a development is not allowed to impact another development's property and this would be considered. Lastly, most of the owners are seasonal residents and that the main thing is that there has to be a clear plan for ingress and egress that is guaranteed to meet all the requirements of getting in or out. Penny VonCanon told the members that this property is not like Bear Run and will need a different plan.

No motion was made for a recommendation to Town Council and Zoning Administrator Cheryl Buchanan will speak to the developer to see how he would like to proceed.

Penny VonCanon moved to adjourn. Martha Laura Miller seconded. All were in agreement and the meeting came to a close at 1:00 pm.

Cheryl Buchanan, Zoning Administrator for the Town of Banner Elk