

BANNER ELK PLANNING BOARD MEETING
TUESDAY, SEPTEMBER 03, 2019
MINUTES

Members Present: Aaron Barlow, Allen Bolick, Meredith Olan, Joel Owen, Penny VonCanon

Staff Present: Zoning Administrator Cheryl Buchanan, Town Manager Rick Owen, Town Attorney Stacy C. Eggers, IV

Chairman Joel Owen called the meeting to order at 6:01 pm. Mr. Owen opened with the pledge of allegiance to the flag.

Consideration of the August 2019 Minutes

Penny VonCanon motioned to approve the minutes for the August 2019 meeting as submitted. Aaron Barlow seconded the motion. The vote was unanimous and the motion carried.

Old Business

M/U and Height of Building Requirements

Ms. Buchanan began by reviewing the concerns the Planning Board had at the August meeting with regard to amending the height restrictions in the Mixed Use Zoning District and stated that the Town's Attorney, Stacy Eggers is present to speak to the ordinance amendment he had prepared for that particular meeting and to give advice.

Joel Owen told those in attendance that he didn't want to see a lot of tall buildings in Banner Elk. Attorney Eggers stated that in considering those properties that have buildings that already exceed the height restriction, the Board did not want to foster the belief that "*I've got mine but you can't have yours*", because the potential threat to the Town may come from the vacant lot next door. Mr. Eggers further stated that there were several ways the Town could accomplish their goal. First, with the use of setbacks. Second, set a maximum height and then allow for a variance should the property owner need additional height to avoid a hardship. Third, consider where a structure would sit in relation to the ridgeline. Fourth, buildings can be built so that they are terraced and the height comes from the terraced effect, which could be effective geographically.

Mr. Eggers also mentioned picking a vantage point whereby a person could stand at that point and view the building to ensure that it does not rise above the ridgeline. The question of how a ridgeline is defined was broached and Ms. Buchanan said she would come up with a definition for ridgeline. The ordinance has a definition for a ridge, but not a ridgeline. There was mention of averaging the lowest point and the highest point to find the average height of the ridgeline and use that as a determining factor.

Allen Bolick said that other properties come to mind, such as Lees-McRae College and some of their dorms may need to be replaced in the future. Mr. Bolick asked the Board to consider how the Town would handle that request while we're talking about building height in other zoning jurisdictions. Attorney Eggers said that you can have different height restrictions for different zoning jurisdictions, they don't have to all be the same. Joel Owen said we can always come back and change other zoning districts if the need arises.

Meredith Olan suggested that the Board consider a proportionate height for the building in relation to the ridgeline, such as the highest point of the ridgeline must be two (2) times the height of the proposed building. Mr. Eggers thought this was measurable and could be a defensible argument.

Allen Bolick stated that if there is a 65 foot wall existing and the developer needs a 65 foot wall, he cannot see why they can't tear down the old wall and put up a new 65 foot wall. The Town benefits from a new building with a new wall, not an old one that could be deteriorating. Mr. Eggers said that Mr. Bolick's thought could help with the determination of new heights. Aaron Barlow said that at the end of the day, we're looking for a height in that ordinance and the proposed project for this parcel could be used as an example of what might be needed for any project, based on the height of a floor. Joel Owen reasoned 70 feet would work just as well.

Meredith stated that the ridgeline needs to be proportionate to the building's height. Joel Owen agreed, it gives the board something numerical to work with. Town Manager Rick Owen said he wanted to set the record straight on the Nurses Center at LMC, it was built as it was presented on the plans, but at that time the height of a building was calculated by the average slope of the whole parcel, not just the footprint. That has since been changed to determine height within a footprint. Attorney Eggers said he thought these discussions are reasonable and could be defended.

Penny VonCanon read from the vision statement for the Town and said an overly large hotel is not why people come to Banner Elk and that should be something to consider. Meredith Olan said that if a floor on a commercial building is 12 feet, than five (5) stories would be 60 feet, adding five (5) or ten (10) feet for roof, could justify 70 feet. Taking into consideration the ridge is 140 feet above the elevation of the site, then a 70 feet building would be half of the ridge height. Meredith summed the discussion with the height of the building being at most half of the height of the ridgeline as viewed from the vantage point along major thoroughfare. Attorney Eggers said this was enough of a basis for him to work with, that he would prepare something for the next Planning Board Meeting.

New Business

Landsdowne Village, LLC – Mixed Use Planned Commercial Development

Zoning Administrator Cheryl Buchanan began by introducing Steve Cuff as the developer, along with representative from Urban Design Partners and Studio Fusion Architecture. Ms. Buchanan told the Board that due to some legal issues, the project is being proposed in Phases, such as one office building and the rental cabins at the back of the property. Attorney Eggers suggested the Planning Board allow the presentation first, as that may answer some of the questions the Board has. Maggie Watts of Urban Design gave the presentation. Interestingly, there was one slide that shows the original right-of-way and the proposed change to the right-of-way. Changing the right-of-way affects both Phases of the project and is one of the legal issues that needs to be addressed before this project can proceed. The right-of-way was set as a meets and bounds description and cannot be changed without the agreement of the holder of the right-of-way. NCDOT approval will also be a requirement that will need to be fulfilled before the application can be considered complete.

Chairman Owen started with a checklist of items prepared by Ms. Buchanan that needed to be addressed. The first two items are the legal issues for Mr. Cuff to resolve. Penny VonCanon asked the developer to plant a mix of trees and shrubbery instead of one type in the buffer allowing for disease or age to prevent losing the whole buffer should something happen. Mr. Cuff took that

under advisement. Ms. Buchanan mentioned that she would like a list of plants and trees being proposed on the landscaping plan. Penny VonCanon asked about the current maples at the front of the property. Mr. Cuff answered that some of them are diseased and they will be thinned out to protect the ones that will remain. Ms. Buchanan also reiterated that the buffer would need to go around the entire property since it abuts residential. Maggie Watts said they were waiting to see how much of the current vegetation they can save and how much will be added, but the buffer will go around the whole project.

Mrs. VonCanon noted that the ordinance requires a planting strip every 10 spaces and the plan did not show this requirement. Ms. Buchanan thought that since they are not changing the parking lot, it could remain as a non-conforming use without any change. However, Attorney Eggers said that since the project is over 50% of the value, this would require the whole project to come into compliance with the ordinances. Handicap parking spaces need to be identified on the plans in order to satisfy the requirements of the ordinance, even if they are moved to a better location once the parking lot is done. Ms. Buchanan stated that the parking will not be affected by the first phase, but will also be more difficult to calculate until some of the factors in Phase 2 are complete. Once the entire project is planned, there will not be enough parking to satisfy the requirements of the ordinance and a variance will have to be applied for. This is likely to pass since some of the uses are active at different times of the day and night. Ms. Buchanan said the Town had granted this same approval for Lowes Hardware, maintaining that less parking and more green was important to the Town and the reduced parking did not have a negative impact on that project.

Retaining walls were the next item for discussion. Penny VonCanon asked what materials would be used for the retaining walls. Mr. Cuff said they would most likely be concrete with a rock face. It was noted in Derek Goddard's review that some of the walls could potentially be 26 feet tall, but Mr. Cuff said that once the property is graded, they won't be that tall. Ms. Buchanan told the Board that the conceptual picture of the project is misleading, since the front of the property is in a flood plain and will need to be built up. Additionally, they are proposed retaining walls along the front of the property, but are not shown in the picture. Meredith Olan said she had some concerns about there being a sidewalk and then a steep bank in case someone needed to step off the sidewalk, but Mr. Cuff said the grading would not allow for them to be that steep, they would be more gradual. He stated that the retaining walls would most likely be the buildings themselves.

A valid Lighting Plan is missing and will need to identify where the fixtures will be located, the type of fixtures proposed and a photometric sheet. Ms. Buchanan recommended hooded lighting. With a project this large, it will normally have some impact on the night sky for that area and we don't want to create more if we can help it.

Ms. Buchanan asked about trash removal for the rental units at the back of the property. Mr. Cuff said they would have a service come in like most residential neighborhoods use. Ms. Buchanan also confirmed that the rental units would be able to provide two (2) parking spaces per unit as required. Mr. Cuff confirmed that was true. Meredith Olan asked where people will park if there are guests. Mr. Cuff said the road would be wide enough to be able to accommodate some parking on the side of the road. Ms. Buchanan also noted that since these were rental units, they may not have that much company, however, she did think sidewalks would be an important part of the plan to allow the renters to walk to the restaurant or the shops in the hotel. Mr. Cuff said he wasn't sure of the material, but there would be sidewalks. Additionally, bike racks would be provided throughout the development.

Ms. Buchanan wanted to clarify how tall the professional buildings would be. The answer was 22 to 24 feet and then the parapet, but they would not exceed 35 feet. Ms. Buchanan reminded those in attendance that any mechanical equipment on top would need to be shielded.

Ms. Buchanan stated that the materials list looks good but asked that when the applicant comes back, it would be nice to see some color samples. Ms. Buchanan also mentioned signage. Since the project will have a few different uses, thinking about signage now is important. Will the hotel want a separate sign from the restaurant, or would all of the uses be combined into a development sign. Mr. Cuff said he was looking at low level signage with lighting. Perhaps the professional buildings could have signs facing the parking lot and that they were looking at putting an urgent care center there. Ms. Buchanan said this would definitely be a sign someone would want to see from the road, especially if they were from out of town and had an emergency. Ms. Buchanan said she'd like to see some examples included in the next submittal, even if the brand had not been settled on.

Ms. Buchanan mentioned that she will need a calculation of impervious surface when the second phase is brought for approval. She mentioned that it is not a concern now, but will need to know what that is for the entire project when the last phase comes to the Board. She also mentioned that the percentage of slope plays a part in that calculation as well as the rental cabins and their placement. Any slope over 50% requires a geotechnical engineer to grant approval on building on that kind of slope.

Derek Goddard of Blue Ridge Environmental prepared the review for the stormwater portion of this project. He had some outstanding items that would need to be addressed by Urban Design before this project comes back to the Board.

The Town is excited for this project and wants to afford all the support it can. Some members of the Avery County Commission were present and are in support as well.

With no further business, Meredith Olan moved to adjourn with a second by Aaron Barlow. The vote was unanimous and the meeting came to an end at 8.14 pm.

Respectfully submitted,
Cheryl Buchanan, Zoning Administrator, Town of Banner Elk