

BANNER ELK PLANNING BOARD MEETING  
MONDAY, SEPTEMBER 07, 2021  
MINUTES

Members Present: Melinda Eggers, Jacki Lecka, Meredith Olan, Joel Owen

Members Participating via Zoom Meeting: Aaron Barlow, Penny VonCanon

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

Others Present: Derek Goddard and Rick White

Due to the Covid-19 Pandemic and the restrictions placed on the State of North Carolina in conducting public meetings, the Planning Board meeting for September 2021 was conducted via in person and Zoom audio and video. Chairman Joel Owen called the meeting to order at 6:00 pm; noting that himself, Melinda Eggers, Jacki Lecka, and Meredith Olan were present and Aaron Barlow and Penny VonCanon were present for audio and video. A quorum was present, and the meeting was called to order.

**Consideration of the August 2021 Minutes**

Penny VonCanon motioned to approve the August minutes as submitted. Second by Melinda Eggers. The vote was:

Aaron Barlow – Yea

Melinda Eggers – Yea

Jacki Lecka – Yea

Meredith Olan – Abstain since she wasn't present for the meeting

Joel Owen – Yea


Penny VonCanon – Yea. The motion carried with a 5 to 0 vote in favor and one abstention.

**New Business**

**SUP Request – Planned Commercial Development – M&M Construction**

Before beginning, Melinda Eggers disclosed that she is an employee of M&M Construction and is related to the applicant. There were no objections to her disclosure.

Zoning Administrator Cheryl Buchanan stated that this is a request for a Special Use Permit (SUP) for a Planned Commercial Development (PCD) on a C-2 General Commercially zoned parcel in the town limits of Banner Elk. The property consists of 1.51 acres and is located along Highway 184 near the entrance to Dobbins Road. One item of importance is that the property was once in a flood zone and according to the State of North Carolina, it still is. The property was filled several years ago; and Ms. Buchanan stated that when this occurs, the property owner must file a letter of map revision (LOMR) with the Federal Emergency Management Agency (FEMA) requesting that it be removed out of the flood plain. Until this is done the State will consider the property as still



being in a flood zone. This process can affect several things with this project and Ms. Buchanan asked that this be placed as a condition of their approval.

The Zoning Administrator's review provided information on all the requirements of the ordinance as it pertains to this project. Noteworthy items include 40.7% impervious surface calculation well under the 60% requirement, a total of 38 parking spaces, ingress and egress approval by North Carolina Department of Transportation (NCDOT), stormwater measures designed by Derek Goddard and Blue Ridge Environmental Consultants (BREC), site aspects and building design, location of signage and dumpster, and landscaping and buffering. Ms. Buchanan said she had been working with the developer and his design team for several months and the first design had the building placed at the front of the property with parking in the back. Ms. Buchanan said she felt that the building would block line of sight along Highway 184 and cause a potential security nightmare of people entering from the front and the back and asked for the building to be moved to the back of the property. On a final note, sidewalks are a requirement of all new construction. However, the Town Manager has been in discussion as to the feasibility of the sidewalk being built and will be negotiating this with the property owners and Town Council for a final decision.

Derek Goddard then spoke to the Board about the design of the stormwater measure and the process involved in the application for a LOMR to FEMA and that it is a lengthy process that has already begun. Mr. Goddard said he was confident that the letter would be issued before the building is ready to be occupied. Meredith Olan asked for more information on the Stormwater measure and whether it is detention or retention. Derek Goddard explained that the water is captured from the parking lot and runs into the storage facility located underneath the parking lot where it is allowed to cool and harmful chemicals can filter through the system before the water is released back into the Elk River. This is a standard procedure for water detention, detaining it long enough for that process to happen before it is released back into the environment. Ms. Buchanan said that two examples of retention would be the pond beside the post office that was built for the Presbyterian Church's parking lot and the newest measure beside the event barn on Jim Ward's property. These two sites hold the water until it can filter back into the ground, and it was noted that they are not located close to a body of water like this project will be.

Meredith Olan also asked about the potential of connecting to a Greenway Trail at the back of the property. Derek Goddard said there was certainly enough property behind this development for a greenway trail. Ms. Buchanan said the problem with that is there is no plan for a trail on this property according to the Pedestrian Plan. Manager Rick Owen said that a study was done several years ago on connectivity to the Best Western area and of the five options, a sidewalk along this section of the Highway was the least favored. Manager Owen said he would continue negotiations with the developer and Town Council on a solution to this question.

Derek Goddard introduced Rick White of Granco to speak to the design of the building. Mr. White brought several design boards of proposed materials for the building. The items illustrated were dry stack stone and barn wood look materials as well as board and batten. Mr. White said the building is proposed to be 6,526 square feet, and a flat roof with a parapet wall around the perimeter. Mr. White reviewed the elevation drawing and spoke to each of the materials to be used and the changes in materials and heights to break up a long continuous look that is discouraged by the ordinance. Meredith Olan asked if there would be patio space on the back of the building. Ms. Buchanan said the plan indicated that the grassy area to the left of the front of the building could accommodate some tables for employees to have lunch, but nothing is planned for the back of the building. Ms. Buchanan said that the road goes around the back and would

allow for delivery trucks to make deliveries. Mr. Granco spoke to the roof material and Ms. Buchanan asked that it be a matte finish to prevent it from reflecting on properties built on the hillside above the building. Meredith Olan asked if there would be mechanicals would be shielded on the roof. Mr. White said yes, that was the plan and the reason for the parapet wall. Meredith Olan asked about snow load on the roof and wanted to make sure he was following Banner Elk's building code. Mr. White said it was designed to handle the snow load for this area. Ms. Buchanan commented that Banner Elk does not have a building code, that they are required to meet the North Carolina State Building Code. Derek Goddard further commented that the State is divided into regions and that those regions each have different requirements. Mr. Goddard said these requirements are designed to withstand the worst of conditions.

Meredith Olan said that since Covid a lot of the restaurants had expanded to outdoor eating areas and wondered if there would be an area in the back for this. Joel Owen said that Cheryl Buchanan had alluded to this earlier that a takeout restaurant was mentioned during the planning stages. Ms. Buchanan said that the area to the left of the building could potentially handle some seating, but that the building was relatively small and parking requirements would also dictate whether a sit in restaurant could be feasible. Meredith Olan confirmed that the Board is not approving a dine-in restaurant. Ms. Buchanan said it could be a possibility, but that they would have to meet the requirements of the ordinance as to seating, grease trap and parking.

Meredith Olan asked about utility availability. Derek Goddard said that utilities are available, and the power will be buried on the site.

Meredith Olan motioned to make a positive recommendation to the Board of Adjustment with the condition that the LOMR process is completed, and the letter is obtained from FEMA before occupation, and the sidewalk issue is resolved to the Town Council's satisfaction. Second by Jacki Lecka. The vote was:

Aaron Barlow – Yea

Melinda Eggers – Abstained due to relationship to the applicant

Jacki Lecka – Yea


Meredith Olan - Yea

Joel Owen – Yea

Penny VonCanon – Yea. The motion carried with a 5 to 0 vote in favor with one abstention.

### **Ordinance Discussion on Commercial Campgrounds**

Joel Owen said that the version before the Board tonight looks a lot more like what they were looking for. Mr. Owen brought up the potential for camp site fires and asked the Board for input. Ms. Buchanan said that the Avery County Fire Marshall will be involved in the approval process. Ms. Buchanan also reiterated that her family does a lot of camping and cannot imagine not being allowed to have a campfire. Joel Owen said he may have overaccentuated because of the types of fires he often works with for burning brush. Mr. Owen commented that there are a lot of variables to choose from and in some of the materials provided he noticed that there was even a small concrete pad that the fires could be built on and with a ring that would be incredibly safe. Mr. Owen said he felt that the responsibility should be up to the owner as to how they plan to moderate campfires on the property. Meredith Olan said this should also include whether there would be a water source available at each camp site in case of an emergency. Ms. Buchanan said she thought



this would be a Fire Marshall issue and if a project like this came to the Town, she would expect a letter of recommendation from that same entity.

Meredith Olan said she had been approached by a citizen about this subject and she told them that she could not have communication with them outside of the Planning Board meeting. Manager Rick Owen told her that she was welcome to investigate, ask for information or talk to anyone about matters before the Planning Board unless they involved litigation. The scenario she is referring to relates to matters before the Board of Adjustment (BOA) as a quasi-judicial board. The BOA is charged with no ex parte communications regarding cases before that board. Joel Owen said if there was a certain majority of board members gathered then it could be conceived as a planned meeting without proper notification

Penny VonCanon said she thought that the following should be added: “no foraging for firewood, only using wood provided by the camp office or under the supervision of the camp supervisor. Additionally, no burning during dry or windy conditions.” Penny also asked that we add notation that security should be provided 24hr/7 days by the property owner in case of emergencies. Penny VonCanon said she disagrees with no camp store as she feels that some items should be made available like bug spray, band aids, or other necessary incidentals. Joel Owen said that these items could be made available in the camp office without the need for a full-blown camp store. Mrs. VonCanon also said that under food storage, vehicles should remain locked as bears can get into unlocked vehicles. And lastly, she wanted to address pet friendly campgrounds and measures to be used for a pet’s physical restraint. Meredith Olan agreed that this needs to be outlined. Cheryl Buchanan reminded them that the Board had previously agreed that they leave this up to the property owner under policies and if the policy did not meet the wishes of the board, then it can be addressed at the meeting.

Joel Owen asked if the Board wanted to approve this ordinance tonight. Manager Rick Owen said he would like a clean copy brought back to the board before any recommendations are made to Town Council.

### **Ordinance Consideration – Window Signs**

Cheryl Buchanan said she had never noticed the time limit on window signs. A lot of discussion went into the intent of this phrase in this section. Cheryl Buchanan said that the Town’s Attorney told her that advertisements on the inside of the window cannot be regulated by the Zoning Administrator. A discussion on what freedom of speech constitutes followed. No recommendation was made for this topic.

With no further business, Meredith Olan moved to adjourn. Second by Jacki Lecka. All agreed and the meeting came to an end at 7:38 pm.

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