

BANNER ELK PLANNING BOARD MEETING  
THURSDAY, MARCH 10, 2022  
MINUTES

Members Present: Aaron Barlow, Melinda Eggers, Jacki Lecka, Joel Owen, Penny VonCanon

Staff Present and Participating: Town Manager Rick Owen, Zoning Administrator Riley Pudney

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 March 2022 was conducted via in person and Zoom audio and video. Chairman Joel Owen called the meeting to order at 6:04 pm; noting that himself and all other members of the Board were physically present. A quorum was established, the Pledge of Allegiance was conducted, and the meeting was called to order.

**Consideration of the January 2022 and February 2022 Minutes**

Penny VonCanon asked if the January 2022 minutes have been updated and okay for approval. Manager Owen said that he hasn't been able to update the January minutes to include the requested information from Aaron Barlow regarding Section 308-2(h) in the Heritage Overlay district but will have them to the Board by next meeting. Penny VonCanon made a motion to approve only the February minutes. Second by Jacki Lecka. The vote was:

Aaron Barlow-Yea

Melinda Eggers-Yea

Jacki Lecka-Yea

Joel Owen-Yea

Penny VonCanon-Yea. The motion carried with a 5 to 0 vote in favor.

**New Business**

**Special Use Permit-Restaurant- Nguyen's Asian Grill**

Zoning Administrator Riley presented an application for a special use permit for an Asian Grill Restaurant. She stated that it is going in an existing building at the Scotchman gas station to replace the old Hickerman's store and that it has historically been a restaurant and requires a new permit since the old one has expired. Zoning Administrator Riley explained that they have met the requirements for parking and that there is an existing grease trap in place.

Chairman Joel Owen said that it is good the owners have a working relationship with the property owners behind the restaurant as parking in their lot has caused previous problems. The owner stated that the delivery trucks will be using the front of the building and that they will be sharing the dumpster with the gas station. The grill will serve lunch and dinner and will be closed daily from 2-4pm and open 6 days a week. Chairman Joel Owen confirmed that the permit has expired and that was why they were



reviewing the project rather than it being grandfathered in. Chairman Joel Owen states he is comfortable with keeping a restaurant there and feels the parking is adequate for the space. Aaron Barlow asked about the parking in the rear and whether it is on the property belonging to the restaurant. Chairman Joel Owen and Manager Rick Owen agreed the rear parking belonged to the restaurant and the restaurant owner reiterated that there won't be big trucks in the back.

Penny VonCanon asked the applicant about the dumpster for the restaurant. The applicant said they had to remove the dumpster that was in the rear of their building because of an issue with the garbage truck being able to reach it. They will be sharing a dumpster with the service station that is included in their lease. Penny VonCanon made the applicant aware of the dumpster ordinance regarding fencing, pad and drains needed for food preparation sites. Chairman Joel Owen believed that there never has been a proper dumpster setup for a restaurant and that it needs to be addressed before the Board of Adjustment meeting. The applicant stated that the landowner has been great to work with and believes that meeting the requirements will not be an issue. Zoning Administrator Riley will send a copy of the ordinance to the applicant, so they know what is needed.

Aaron Barlow told the applicant to watch their signage in regard to lighting. The applicant said they will be using the existing sign and will have lighting that points down. Penny VonCanon asked if the sign will have any landscaping. Chairman Joel Owen said it is going on an existing sign that is in the green strip of land along the side of the road. Zoning Administrator Riley said their approval will be contingent on them meeting the sign ordinance and does not see an issue with that happening.

The Board is pleased to have the Business in the Town and believes they will be successful.


Motion by Penny VonCanon for a favorable review with recommendations to take care of the dumpster issue. Second by Melinda Eggers. The vote was:

- Aaron Barlow-Yea
- Melinda Eggers-Yea
- Jacki Lecka-Yea
- Joel Owen-Yea

Penny VonCanon-Yea. The motion carried with a 5 to 0 vote in favor.

**Special Use Permit- Planned Commercial Development-David and Jennifer Woods**

Zoning Administrator Riley presented an application for a special use permit for commercial and residential building on the lot between the old Hardee's and the High-Country Square. The parcel was previously annexed into Town in the prior month. It was explained that the business will be a laundry service for Airbnb's and rental properties. The only concern was for parking, the driveway in the back and the permit for the trout stream buffer. Zoning Administrator Riley informed the Board that the owners own half of Hardee's Lane and 50 feet onto 184.



Chairman Joel Owen asked how far the property goes back. The applicant answered that the property goes back to the entrance of Elk Creek. Chairman Joel Owen said he was very familiar with the property and asked the owner for a summary of the project. Was it a coin op business or something else? The applicant explained that it is not a coin op facility, but rather a commercial business that will service rentals in the area. They plan on having a pickup/delivery service as well as servicing walk in rental cleaners with their linens. They have 6 parking spaces, 2 for their residence and 4 for the business. They believe they won't cause a lot of traffic since they will be offering a delivery service.

Chairman Joel Owen agrees that there is a need for this business as the rental industry has exploded in the area. Chairman Joel Owen asked about the look and build of the building. The owner explained that it is a 70 x 40-foot metal building that will have a peaked roof and will match the look of the community. The building is at an angle to meet setback requirements and to provide added safety from the Highway in the front. The owner was excited about the greenspace in the front of the building and plans on using Mountaineer Landscaping across the street.

Aaron Barlow inquired about the driveway in the rear and if it was allowed with the stream buffer. The owner explained that they were following the State requirements and that the driveway is 40 feet off the top of stream. Chairman Joel Owen commented about the lack of a landscape plan and stated that one would be needed before the Board of Adjustment hearing. The owner explained that the rendering they provided was very close to what they wanted to do and will have an official plan before the next meeting.

Aaron Barlow also asked about the water usage and the impact on the Town's infrastructure. Manager Rick Owen explained that the owners have a recycling system for their water and that the impact was significantly less than he expected. Manager Owen stated he may bring it to the Council in their Monday meeting to make sure they are aware with the compacity of the usage.

The Board was pleased with the application.

Motion by Aaron Barlow for a favorable recommendation contingent on the landscape plan and sign approval. Second by Penny VonCanon. The vote was:

Aaron Barlow-Yea

Melinda Eggers-Yea


Jacki Lecka-Yea

Joel Owen-Yea

Penny VonCanon-Yea. The motion carried with a 5 to 0 vote in favor.

### **Special Use Permit-Mixed Use-Orchard Hill Apartments**

Zoning Administrator Riley introduced the Orchard Hill project and explained to the Board that it is going across from the Banner Elk Elementary School and will consists of 3 buildings totaling 40 units. The



parking requirements of the ordinance is met with 80 spots being provided. Zoning Administrator 3Riley informed the Board that the lot is already cleared and there will be minimum grading on the property. The property will be seen from 184 but will match the look of the High County. The applicant has provided a traffic study to show that there will be no impact on the intersection of Hwy 184 and Orchard Lane. The project will be connected to Town Utilities and streets.

Chairman Joel Owen asked for clarification if the apartments would be used as rental units or sold to individual owners. The applicant clarified that it will be apartments that will be leased to families/individuals. Manager Rick Owen informed the Board that the applicant has provided the Board with a presentation and asked for them to introduce themselves. The applicant group included: Shaw Kuester, Brian Bromar, Derek Goddard, Matt Bolick, Kelly Coffey and Dan Williams.

Mr. Kuester began his presentation explaining the project. It will be called Orchard Hill Retreat and is 3 two-story buildings with 40 units. There will be a mix of one-two and three-bedroom units. Kelly Coffey provided the Board with visual renderings of the materials that will be on the building, including stone veneer, heavy timber beams, metal and asphalt roofing with colors that will match the look of the area. Penny VonCanon complimented the renderings created and Chairman Joel Owen agreed.

Derek Goddard went over the stormwater system and explained that the retention/detention system was adequate. He explained that the system will retain the water on site, will filter it through layers of stone and will also cool it down before it is returned to waterways. It will be a corrugated pipe and stone has is seen throughout Banner Elk. The site also has met the impervious surface requirements by adding permeable pavement (pavers or asphalt, similar to what is in Mill Pond Manor). The landscaping will also help treat the runoff and provide shade and greenery for the site.

Matt Bolick conducted a traffic study and presented to the Board the findings. The study found that the development would not impact the flow of traffic and would only add about 2 seconds of time per vehicle. Mr. Bolick visited the school and believes there will be no conflict in the evening, as school releases at 2:50 and the traffic peak hours were between 5-6pm. He spoke with the Principal and Resource Officer and believes the pickup in mornings and evenings will not be anymore impacted then what it is now. Aaron Barlow states that he believes traffic will be an issue for those times, but the police officers that help with traffic are beneficial. Chairman Joel Owen brought up the curb and gutter across the street from their entrance/exit and how it is very narrow and impassable when cars are passing at the same time. Mr. Goddard explained that they will be improving the turn radius for that section and will be using the existing right-of-way to make that improvement. Aaron Barlow reiterated that they should take into consideration that lack of parking at the school as well. It is not the applicant's concern, but they should keep in mind the overflow of parking at the school during school functions.

Chairman Joel Owen praised Mr. Kuester for his High-Country Square Apartments and believes that rental units are desperately needed in the area. Aaron Barlow asked about how long construction would take. Brian, the project manager, is hoping to break ground this summer, go vertical in December and be open and occupied by June-July of next year. Chairman Joel Owen asked if the single-family homes



behind the complex have an easement where the road is at the entrance/exit. Mr. Goddard confirmed that they had an easement.

Manager Owen asked how the traffic study was computed, whether it was by units or by bedrooms and if it were to make a difference. Matt Bolick explained that for multi-family homes, the measurement is by units, and it considers “multi families”. Manager Owen also told the Board that historically there had been plans for a traffic light and round-a-bout to help with school traffic. These plans were not ideal for the Town and were left in the past. Now the Town tries to have an officer on site to help. Manager Owen believes that the traffic problem will only be an issue during those times, and it will become “normal traffic” after the public gets used to the new flow.

Chairman Joel Owen stated that he believes that this project is not “high impact” compared to what could go on the property and that 80 cars will not be that noticeable. Aaron Barlow asked if there has been any study on the affect of construction on the school and kids. Mr. Kuester believes that they will be doing the heavy work during summer and holidays and should not have a negative impact on the kids. Penny VonCanon believes the school should have proper insulation and that the noise will not be a problem.

The Board is excited and pleased with their presentation and their preparedness.


Motion by Melinda Eggers for a favorable review with no amendments of the application. Second by Jacki Lecka. The vote was:

- Aaron Barlow-Yea
- Melinda Eggers-Yea
- Jacki Lecka-Yea
- Joel Owen-Yea
- Penny VonCanon-Yea. The motion carried with a 5 to 0 vote in favor.

The Board took a brief five-minute break before hearing from Phil Trew.

**Discussion with Phil Trew of High Country Council of Government on Land Use Plan Updates**

Phil Trew continued his review of the Town’s current Land Use Plan and provided documentation to the Board on his updates. Mr. Trew went over the outline for the new plan and what it would include. The plan would have the introduction, process of completing the plan, Town data including demographics, utilities, existing land use...etc. There will be public input from surveys that will go out electronically. The plan will conclude with goals/objectives, recommendations and implementation. The plan needs to be completed and adopted by June 30<sup>th</sup>, 2022, in order to avoid lawsuits and the inability to make zoning decisions.



Mr. Trew then went over the survey he plans on conducting through the online format, Survey Monkey. The survey contains 28 questions that pertain to public perception of the Town's zoning operations. There was a lot of discussion on how to get the survey out and limit out of Town responses. Aaron Barlow recommended asking for the address of the survey takers. Manager Owen believed that might not be a good idea because it might deter responses. Aaron Barlow asked if the survey could be sent out with water bills, and it was found to be too late for that option. The Board discussed options on how to get the survey out, which included the Town's email list, posting it on the Town's Website, Facebook, a sign at the old hospital, mailing the survey and word of mouth. Due to the tight time frame that the plan needs to be completed by the Board believed that the email list and word of mouth were the best options. Mr. Trew wanted the Board to know that the survey does not carry too much weight but needs to be included in the discussion.

The Board and Mr. Trew then reviewed a drafted list of goals of the plan. Phil explained that the goals are what the Board will fall back on when making zoning decisions. The Board then began a detailed discussion on the old hospital property and if these goals would help improve the property/eliminate the building. Phil asked why the building hasn't sold and Manager Owen informed him that the cost to demolish is rather high due to the asbestos that is in the building. Manager Owen updated the Board on the current owner's process of receiving a grant that could help cover the cost of that removal. Penny VonCanon believes that that property is the perfect place for a hotel or something that would exceed the Town's 35' tall building height ordinance.

Phil also handed out information on the Banner Elk Demographics and encouraged the Board to look over the data. Phil wants the Board, Rick Owen and Zoning Administrator Riley to review any zoning issues they believe need to be addressed in the plan for the next meeting, with the special mention of panhandle parcels. Phil Trew will meet with Manager Owen and Zoning Administrator Riley in the following days to go over information that is needed.

Zoning Administrator Riley told the Board that there was nothing as of yet that is on their schedule for their April meeting and that the majority of time can be used for the Land Use Plan review. Manager Owen informed the Board that Lee's McRae renovation project may be on their schedule but should not be a complicated/long review.

Aaron Barlow asked if there was a need to ask the public for any comments. Chairman Joel Owen said he didn't see a need since it was never done previously and that they usually don't have any public attendance.

With no further business, Aaron Barlow motioned to adjourn. Second by Melinda Eggers. All agreed and the meeting came to an end at 8:38 pm.

Respectfully submitted,  
Rick Owen, Manager, Town of Banner Elk