

ERWIN BOARD OF COMMISSIONERS
REGULAR MINUTES
JUNE 4, 2015
ERWIN, NORTH CAROLINA

The Board of Commissioners for the Town of Erwin with Mayor Patsy Carson presiding, held its Regular Meeting in the Town Hall on Thursday, June 4, 2015 at 7:00 P. M. in Erwin, North Carolina.

Board Members present were: Commissioners William Turnage, Alvester McKoy, Ricky Blackmon, Randy Baker, Thurman Whitman and Frankie Ballard.

Town Manager Richard Douglas, Town Clerk Cynthia Patterson and Town Attorney Mac Hunter were present.

Mayor Patsy Carson called the meeting to order at 7:00 P. M.

Commissioner Alvester McKoy gave the invocation.

Those present recited the Pledge of Allegiance.

APPROVAL OF AGENDA

Commissioner Whitman made a motion to amend the agenda with the following:

Add a Closed Session pursuant the General Statue 143-318.11a6 for the purpose of Discussion of Personnel under New Business 6B on the agenda and was seconded by Commissioner Ballard. **Motion Unanimously Approved.**

Commissioner Whitman made a motion to approve the agenda with changes and was seconded by Commissioner Turnage. **Motion Unanimously Approved.**

CONSENT ITEMS

Commissioner Whitman made a motion to approve **(Item A)** Approval of Regular Minutes of 05/07/15 with correction on Page 8002 under Reconvene motion, **(Item B)** Approval of Budget Workshop Minutes of 05/14/15, **(Item C)** Approval of Budget Workshop Minutes of 05/26/15, **(Item D)** Contract with Harnett County on Computer Support Services **(Item E)** Financial Report Summary for April 2015 **(Item F)** Textile Museum Capital Project Fund Resolution and was seconded by Commissioner Baker. **Motion Unanimously Approved.**

A copy of the Contract with Harnett County on Computer Support Services, Financial Report Summary, and Textile Museum Capital Project Fund Resolution is incorporated into these minutes as Attachment #1

MINUTES CONTINUED FROM JUNE 4, 2015

PUBLIC HEARING

Commissioner Turnage made a motion to go into a public hearing at 7:01pm and was seconded by Commissioner Whitman. **Motion Unanimously Approved.**

ZONING TEXT AMENDMENT ZT-2015-002 TIME LIMITATION FOR CERTIFICATES OF ZONING COMPLIANCE

Erwin Planner Kathy Blake came forward and informed the Board that the current Zoning Ordinance does not include time limitations for certificate of zoning compliance permits. Recently, staff was approached with a situation of a property owner of a commercial building that had obtained zoning compliance approval in 2009 to renovate half of the building but has not completed the work. The 2009 building permit has expired but not the Town's zoning compliance approval, therefore, any text amendments since 2009 are not applicable.

After reviewing text from several local governments and establishing that most have a stated time limitation on zoning compliance, staff adapted the proposed text from the Harnett County Unified Development Ordinance. Specifically, under the text amendment, certificate of zoning compliance permits would expire if work is not started in 180 days of issuance or if work is discontinued for a period of 12 months.

Mayor Carson asked if anyone would like to speak in favor of the proposed Zoning Text Amendment to please come forward. No one came forward.

Mayor Carson asked if anyone would like to speak against the proposed Zoning Text Amendment to please come forward. No one came forward.

Commissioner McKoy made a motion to close the public hearing at 7:03pm and was seconded by Commissioner Turnage. **Motion Unanimously Approved.**

Commissioner Baker moved that the Board of Commissioners of the Town of Erwin hereby finds that the proposed ordinance entitled ZT-2015-002 Zoning Text Amendment to Article XX Section 36-579 Certificate of Zoning compliance and Building Permit required by adding (d) to define a time limitation for certificates of zoning compliance is consistent with the Town of Erwin Land Use Plan adopted June 5, 2014 because proposed development should meet future established standards. Further, the Board finds that the ordinance is reasonable and in the public interest because it closely follows the time expirations for building permits and made a motion to approve ZT-2015-002 Zoning Text Amendment to Article XX Section 36-579 Certificate of Zoning Compliance and building permit required by adding (d) to define time limitations for certificates of zoning compliance and shall read as follows:

MINUTES CONTINUED FROM JUNE 4, 2015

(d) If the work described in any zoning compliance permit has not begun within 180 days from the date of issuance thereof, said permit shall expire. If after commencement, the work is discontinued for any period of 12 months or greater, the permit shall immediately expire and further work as described in the expired permit shall not proceed unless and until a new zoning compliance permit has been obtained. and was seconded by Commissioner Turnage. **Motion Unanimously Approved.**

A copy of the Staff's Memo and Ordinance is incorporated into these minutes as Attachment #2

PUBLIC HEARING

Commissioner Blackmon made a motion to go into public hearing at 7:05pm and was seconded by Commissioner Turnage. Motion Unanimously Approved.

ZONING TEXT AMENDMENT ZT-2015-003 LANDSCAPING REQUIREMENTS FOR EXISTING DEVELOPED PROPERTIES

Erwin Planner Kathy Blake came forward and informed the Board that staff has begun to work with the newly adopted landscape regulations, there are several zoning text adjustments staff has found that need clarification.

A. Section 36-440

1. Interpretation of *Section 36-440* requires renovations smaller than 25% of the gross floor area or less than one-third of the replacement value to comply with landscaping requirements but not larger renovation projects. This appears to put a greater financial burden on smaller businesses. Following is the existing text from *Chapter 36 Zoning, Article XV General Provisions, Section 36-440 Existing developed properties –*
Nonresidential properties which were existing and developed prior to the effective date of the article making improvements, expansions, renovations or repairs to interior and exterior features greater than 25 percent of the gross floor area or at least one-third of the replacement value, or changes in the type of occupancy are not required to comply with the requirements of this article.
2. Existing development is now addressed in the text adopted February 5, 2015 in *Section 9-4041.24.2* (now in *Section 36-436*) *Affected property, (b) Renovation to existing development.*
Any "change of use" as defined by the state building code or if total renovations to an existing development within a five-year period enlarge the total footprint twenty-five (25) percent or more, then the parking area for such development shall be required to comply with the minimum requirements set forth herein to the fullest extent technically feasible as determined by the permit-issuing authority.

MINUTES CONTINUED FROM JUNE 4, 2015

B. Section 9-4041.24.2, (b), 8 and 9

1. This section lists development exempt from approval. In the list are (8) proposed land use and (9) existing land use which appear to contradict the intent of the landscaping regulations. The existing text for *Section 9-4041.24.2* (now in *Section 36-436*) *Affected property, Development exempt from approval* follows:

(8) *Proposed (land) use.* The intended or anticipated use of the property once the certificate of occupancy is issued.

(9) *Existing (land) use.* The legal or permitted use of the land according to the city zoning ordinance.

Mayor Carson asked if anyone would like to speak in favor of the proposed Zoning Text Amendment to please come forward. No one came forward.

Mayor Carson asked if anyone would like to speak against the proposed Zoning Text Amendment to please come forward. No one came forward.

Commissioner Baker made a motion to close the public hearing at 7:10pm and was seconded by Commissioner Turnage. **Motion Unanimously Approved.**

Commission Baker moved that the Board of Commissioners of the Town of Erwin hereby finds that the proposed ordinance entitled ZT-2015-003 Zoning Text Amendment to delete Section 36-440 Existing developed properties and to amend Section 9-44041.24.2 (after recodification on April 2, 2015 now under Section 36-436) Affected property (b) Development exempt from approval by deleting (8) and (9) is consistent with the Town of Erwin Land Use Plan adopted June 5, 2014 because it works to improve the appearance of the Community while preserving the rights of existing businesses. Further, the Board finds that the ordinance is reasonable and in the public interest because it requires property owners to comply with parking area landscaping requirements for projects involving significant improvements while limiting impacts on existing businesses and made a motion to approve ZT-2015-003 Zoning Text Amendment to delete Section 36-440 Existing developed properties and to amend Section 9-4041.24.2 (after recodification on April 2, 2015 now under Section 36-436) Affected property (b) Development exempt from approval by deleting (8) and (9) and was seconded by Commissioner Blackmon. **Motion Unanimously Approved.**

A copy of the Staff's Memo and Ordinance is incorporated into these minutes as Attachment #3

MINUTES CONTINUED FROM JUNE 4, 2015

OLD BUSINESS

STORM WATER UTILITY POLICY AND RESOLUTION

Town Manager Richard Douglas informed the Board that as presented at the May Board of Commissioners regular meeting and discussed at the Board of Commissioners February planning session, staff is recommending the implementation of a storm water utility to better address our storm water management issues and provide a funding source. It has been modeled with the City of Washington's program and input from Town Engineer Bill Dreitzler. To provide for simpler administration, the proposed monthly customer fee is the same for all utility accounts, regardless of the type of use (residential, commercial, etc.), size of lot, and amount of impervious surface.

Staff has reduced the proposed monthly customer fee from \$4 per month for all utility accounts to \$1.25 per month, as discussed at a prior budget work session. This fee is projected to generate approximately \$28,000 per year for storm water maintenance. If adopted, the storm water utility fee would be effective July 1, 2015, and customers would see this fee reflected in the sanitation line item of their county utility bills. Staff recommends approval of the resolution and policy establishing a storm water utility.

Commissioner Turnage made a motion to approve the Storm Water Utility Policy and Resolution and was seconded by Commissioner McKoy. **Motion Unanimously Approved.**

A copy of the Storm Water Utility Policy and Resolution is incorporated into these minutes as Attachment #4

NEW BUSINESS

REQUEST FOR A PUBLIC HEARING: ZONING TEXT AMENDMENT, TO CLARIFY SITE PLAN REQUIREMENTS

Planner Kathy Blake informed the board for a request from staff to set a public hearing date to consider the proposed zoning text amendment case # ZT-2015-004, *Zoning Text Amendment to clarify site plan requirements and legal description for various applications for the regular Board of Commissioners meeting set on July 2, 2015.*

The Planning Board recommended approval for the proposed zoning text amendment.

MINUTES CONTINUED FROM JUNE 4, 2015

The following is being considered:

Staff Recommendation: (bold is proposed and ~~strike~~ proposes removing existing text)

1. Add to *Article II. Definitions, Section 36-34. Definitions* the following:

Site Plan (Site Specific Development Plan) means a plan submitted to the Town that describes existing conditions, proposed use, and improvements for parcel(s) of property to allow for verification that codes are being met. Such a plan is generally for the purpose of obtaining various zoning and floodplain permits or approvals, but not limited to, any of the following plans or approvals: preliminary or general development plan, zoning compliance permit, subdivision plat, conditional use permit, conditional use zoning district, planned unit development, or any other land use approval designation as may be utilized by the Town.

2. Amend portions of *Article XIV Parallel Conditional Use, Section 36-394 Application* as follows:

Petitions for a zoning map amendment to establish a Parallel Conditional Use District shall be submitted in accordance with the provisions of this article. The Parallel Conditional Use District classification shall be considered only by application of the owner of the subject property or duly authorized agent. Such applications shall be accompanied by *a legal description*, written text specifying the use proposed, and by a site plan showing the following:

- (1) The *dimensions metes and bounds* and acreage of the site and its relation to surrounding properties.
- (8) Title, north arrow, scale, names of owner, developer, surveyor, and the date of preparation of the plan. *Scale no smaller than one inch equals 100 feet (1"=100') on standard sheet sizes of 8.5" x 11", 8.5" x 14", 11" x 17" or 18" x 24". The applicant shall furnish an electronic or PDF copy of all site plan sheets larger than 8.5" x 14".*

3. Amend *Article XX Administration and Enforcement Sec. 36-580. - Application procedures* as follows:

(a) Each application for a certificate of zoning compliance shall be accompanied by two sets of plans drawn to an engineering scale *no smaller than one inch equals 100 feet (1"=100') on standard sheet sizes of 8.5" x 11", 8.5" x 14", 11" x 17" or 18" x 24"*, one of which shall be returned to the applicant upon approval. *The applicant shall furnish an electronic or PDF copy of all site plan sheets larger than 8.5" x 14"*. The plan shall show the following:

MINUTES CONTINUED FROM JUNE 4, 2015

Amend Article XXII Conditional Uses, Sec. 36-642. - Application for conditional use as follows:

- a) *Application for conditional use permits.* Application for the conditional use permit, signed by the applicant, shall be addressed to the board of commissioners and presented to the administrative official. Each application shall contain or be accompanied by such legal descriptions, maps, plans and other information so as to completely describe the proposed use and existing conditions. The application shall be forwarded to the board of commissioners and the administrative official shall notify the chairperson of the planning board of the application. ***The site specific development plan shall include the following:***

- (1) ***The metes and bounds and acreage of the site and its relation to surrounding properties.***
- (2) ***The layout of the entire project including the proposed use and location of all buildings.***
- (3) ***The location and dimension of present and proposed streets and private drives, and pedestrian facilities.***
- (4) ***The location of points of entry and exit for motor vehicles and the internal vehicular circulation pattern.***
- (5) ***The location and layout of all off-street parking and loading spaces, including the number of spaces shown and required for each use.***
- (6) ***The location of existing and proposed plantings and screenings, including the type and size of each plant to be installed.***
- (7) ***The location and size of existing and proposed utility lines, water courses and drainage lines and easements.***
- (8) ***Title, north arrow, scale, names of owner, developer, surveyor, and the date of preparation of the plan. Scale no smaller than one inch equals 100 feet (1"=100') on standard sheet sizes of 8.5" x 11", 8.5" x 14", 11" x 17" or 18" x 24". The applicant shall furnish an electronic or PDF copy of all site plan sheets larger than 8.5" x 14".***
- (9) ***Proposed phasing, if any, and approximate completion time of the project.***
- (10) ***Any and all conditions and requirements of this article.***

4. Amend Article XXII Conditional Uses, Sec. 36-648. - Conditions for planned unit developments, condominiums and town homes as follows:

(13) *Submission requirements.*

- b. Each applicant shall also provide a site plan drawn at a scale of at least one inch equals 50 feet ***on standard sheet sizes of 8.5" x 11", 8.5" x 14", 11" x 17" or 18" x 24". The applicant shall furnish an electronic or PDF copy of all site plan sheets larger than 8.5" x 14". The site plan shall show ~~and showing~~* the following information:**

MINUTES CONTINUED FROM JUNE 4, 2015

- c. The required site plan shall be prepared by a licensed architect, landscape architect, professional land planning consultant, or registered surveyor. ***License or registration must be in the State of North Carolina.***
 - d. Each applicant shall provide building plans prepared by a ***North Carolina*** licensed architect and drawn at a scale of at least one-eighth-inch equals one foot which shall show the following:
5. *Amend Article XXIII Changes and Amendments, Sec. 36-671. - Action by the applicant* (This section includes text regulations and zoning district lines) as follows:
- 2. *Application.* Application for any change or amendment shall be filed with the administrative official at least 25 days prior to the planning board meeting at which the application is to be considered. The application shall contain a description of the proposed amendment, ***a legal description if not a text amendment***, and the names and addresses of property owners, ***per the Harnett County property records***, directly affected by the proposed change.

Commissioner Baker asked Planner Kathy Blake to explain why the Town of Erwin needs this and what kind of purpose of having this in place.

Ms. Blake stated that the benefits of having this in place is spelled out and makes it clearer to everyone else involved. It was clear to Ms. Blake however it was not clear to everyone else that a plan is a site plan which is a drawing that is done to scale, an engineer scale (1 to 100 & 1 to 10) typically in everywhere I have worked since the 1980's you get an engineer drawing. It doesn't necessarily mean that a surveyor or a registered engineer has to do it although some of your plans which are already required for multifamily site plan, commercial site plans they are all done by a registered surveyor. Someone coming in to do addition on their house or build a shed in their backyard, they can use graph paper and draw out a plan that works for that.

Commissioner Baker asked if this would not require every single person or applicant to go to the expense of having a professional site plan. Ms. Blake stated no it does not.

It was the Consensus of the Board to move forward with the Public Hearing at the next regular meeting on Thursday, July 2, 2015 at 7pm.

CLOSED SESSION

Commissioner Whitman made a motion to go into closed session at 7:34pm Pursuant to General Statute 143-318.11(a)(6) for the Purpose of Discussing Matters Concerning Personnel and was seconded by Commissioner Blackmon. **Motion Unanimously Approved.**

MINUTES CONTINUED FROM JUNE 4, 2015

RECONVENE

Commissioner Baker made a motion to go back into regular session at 7:40pm and was seconded by Commissioner Turnage. **Motion Unanimously Approved.**

PUBLIC COMMENT

Charlie Page of 79 Green Forest Circle, Dunn, NC came forward and spoke to the Board. Mr. Page stated he had some concerns with the Planning & Zoning with a situation that he has had since March 2015 trying to get a permit for a customer. Mr. Page stated that he has dealt with many places in getting permits for customers through Clayton Homes of Dunn and the Town of Erwin was the hardest place to get one. I can get a permit with Cary and Raleigh easier than the Town of Erwin. Again, we began this process back in March and just received the permit this week. What Mr. Page's concern is the Board sits up here at night and makes some rules based on what people say and not knowing the cost. A surveyor starts at \$800 on a small piece of property and goes up. An engineer starts at \$600 for him to even start the process and if you asked a customer to draw something to engineering scale that's tough to do unless they went to engineering school.

Linda Lamonda of 500 West A. Street, Erwin, NC. came forward and spoke to the Board. Mrs. Lamonda expressed concerns with dogs at neighbor's house. They are pit bulls at which one of them attacks the fence and follows Mrs. Lamonda by the fence and charges at me. Mrs. Lamonda needs someone with her when she is out in the yard to scare the dog off. She has lots of flowers in the backyard and should not be scared to be in her own yard. Her fence is 4ft in height and those dogs can jump over it. She has even videoed the dogs. The Chief of Police has been there on one occasion when the dog attacked the fence. The dogs bark all the time. Animal Control has been out and they put it back on the Erwin Police Dept. Would like for the Town of Erwin to talk with Animal Control and stop this.

GOVERNING BOARD COMMENTS

Mayor Carson informed the Board that she has received a bid from Brewington's for \$12,000 on moving the depot. The Town would need to tear off the front part of the depot. This needs to be addressed soon due to being charged rental of where the depot is located now.

MINUTES CONTINUED FROM JUNE 4, 2015

ADJOURNMENT

Commissioner Blackmon made a motion to adjourn at 7:59pm and was seconded by Commissioner McKoy. **Motion Unanimously Approved.**

**MINUTES RECORDED AND TYPED BY
CYNTHIA B PATTERSON TOWN CLERK**

Patsy M. Carson
Mayor

Cynthia B. Patterson, CMC
Town Clerk