



**WORK SESSION MINUTES
MONDAY APRIL 24, 2023 @ 6:00 PM
TOWN HALL COUNCIL CHAMBERS**

The Town Council of the Town of Pineville, NC, met in a Work Session on Monday, April 24, 2023 @ 6:00 p.m.

ATTENDANCE

Mayor: Jack Edwards
Mayor Pro-Tem: Ed Samaha
Council Members: Amelia Stinson Wesley, Les Gladden & Chris McDonough
Town Manager: Ryan Spitzer
Planning & Zoning Director: Travis Morgan
Town Clerk: Lisa Snyder

CALL TO ORDER

Mayor Jack Edwards called the meeting to order at 6:10 p.m.

DISCUSSION ITEMS:

Carolina Logistics Park. Planning & Zoning Director Travis Morgan led the discussion on the request by Beacon Partners to amend the proposed conditional zoning plan off of Downs Road. Their request is to add a driveway access point along the northern section of the property along Downs Road. Only one access point was approved as part of the prior approved plans and traffic study. The new driveway access point is just north of Eagleton Downs and across from the Site One located at 11901 Downs Road. The proposal requires a conditional plan amendment because it alters the prior traffic study and single access point discussed and approved on earlier plans. Staff could support the proposal with certain requirements, which were listed on the packet. The purpose of this meeting is to familiarize council with the applicant's request, go over the updates, modifications, and recommendations. The process is legislative with the standard conditional zoning process.

Council Member Stinson-Wesley asked if there would be any impact to the residents or businesses on the other side of the road. Mr. Morgan replied that if a public hearing is needed, any adjacent owners will be notified.

Council Member Gladden said he'd like to see evergreen screening on the back of the property, like we did at Amazon. Mr. Morgan said that he could add that in there. Mayor Edwards added that screening is important. Mr. Morgan summarized that the next step will be to do ads and set a public hearing.

Towing Ordinance Update. Chief Hudgins shared a draft ordinance that he wanted council to consider regarding towing. Our town currently does not have an ordinance to regulate towing practices. The state code only regulates private parking spaces, which does not apply to this issue. Surrounding jurisdictions have towing ordinances on the books. Since the state and our Town lack regulatory authority over towing practices, the police department cannot change the behavior of Tip Towing, outside of persuasion. He would like to change the position. He proposed that we create a new title in the Town's ordinance called, "Title VII – Towing and Booting."

Chief Hudgins spoke with the property manager and said that the owner would have to post the proper language on their signs for it to be clean. Planning & Zoning would have to handle the noticing to the property owners.

LIV Design Proposal for College & Church Streets. Mayor Edwards reminded those in the audience that in the Work Session, there are no comments from the audience, only comments can be from LIV and Council. He stated that there are strong feelings on both sides, but only LIV and Council will be speaking.

Town Manager Spitzer stated that U S Developments has come back from the last council meeting with their updates to the plan for parking for the last two buildings. Blake Day with Kimley Horn, recently spoke with U S Developments, and spoke on his review of the downtown plan and potential parking locations that would be used by the downtown businesses. One of the plans is to facilitate downtown walkability. He noted four potential parking places within the downtown area, ranging from a 5-minute walk or 1,000 feet, to 1,300 feet, a slightly longer walk. In total, they came up with 743 total spaces. There are potentially 45 more spaces they could squeeze out of those public parking lots.

Council Member Les Gladden asked what LIV has done to lessen the number of units on “their” property to provide more spaces? Everything they have done has been on Town property. He added that none of this project meets the community development project. It does not qualify for it. We have to go through the normal procedure, present a concept, concept gets comment, it then goes to Travis, then it goes to the town, county, and state, then we look at it and it goes to public hearing, and then it goes to a vote. He wondered how they superseded this.

Mr. Spitzer said that the difference is the other two buildings, at one time, council requested that the road between these buildings to go back into that Grower’s Outlet property, as part of the master plan, that’s why they have three buildings now. Once we purchased the Grower’s Outlet, there was no way that the street could be put in, so then they consolidated their three buildings down to two and that’s what they brought back. The PSA outlines building one, but not buildings two and three. They would still have to bring that back to get approval from Council. Buildings 2 and 3, the PSA did not definitively outline. The PSA and community development are two different things. Town Manager Spitzer stated that the statute is vague, the attorneys are here to give their opinion on the statute.

Council Member Amelia Stinson-Wesley asked how we handled Chadwick Park, which is on the other side of Main Street and housing-based? Planning Director Travis Morgan stated that it came in as a site-specific rezoning, similar to Beacon in some ways. It came in as on-street parking and added an extra parking lot and part of it is shared with the church.

Council Member Chris McDonough asked if Buildings 2 and 3 are approved, what is the parking count needed? Mr. Morgan replied that he did not have a specific count, but it would be determined by the number of units. U S Developments did not have that specific number at that moment.

Council Member Gladden asked why we should allow this shortage of parking that will have a negative impact on everything that happens downtown after this goes in, and where is the “letter” from the railroad not an email? Mr. Spitzer replied that U S Developments did not get that to us. U S Developments answered that the railroad won’t send anything “stamped” with the approved site plan, because they need to know exactly what is going where. The email said 25 feet and they’re at 26 feet. LIV was under the impression that this was all agreed upon, and the site plan was approved, according to the LIV representative that was in attendance.

Stephen Rosenburgh added that when they entered into the agreement, they did it under economic development because the current bylaws for parking were developed to preclude apartments from coming here. They sat down with staff, under the downtown urban development, under the economic development agreement, which they had a public hearing and vote by council which approved that. They assured parking on the first building, their purchase and sale agreement clearly states and shows the plan for the back buildings, as three buildings then converted to two. The parking stands on the original plan were 1.5 and now are 1.6. We agreed to pave to allow more parking during construction. Their attorney is also present if they want to ask him. They had to get architectural and site plan approval. On site plan approval, they have not changed the original count or the parking since day one. He thinks that they’ve done everything that council has asked them to do.

Council Member Gladden said that he has not had a public hearing, and this is a concept plan for buildings two and three. They haven’t had a process like everyone else.

Attorney Chaplin Spencer, Jr. spoke and said that this was an economic development and the council at the time had a public hearing, made a finding that it qualified, then sold the property. They wouldn't have sold the property had they not had a vote hearing and made a finding. He has three letters stating there was a public hearing. It says the concept plan was approved it expressly has parking on there and the units. Follow up letters dated 8/22/22 states that the concept plan consists of and has all the parcels, a local development project following NCGS 158-7.1 per Pineville Zoning Ordinance Section 2.6 is not needed and will need standard review to go over the architectural. On 9/25/22 these parcels have been through the conditional zoning processes with a public hearing. These were letters from the Town.

Council Member Gladden added that they did not finish the whole process. Council Member Stinson-Wesley stated the proposal that was shared initially was supposed to be along the lines of a Baxter Village or a Birkdale Village, as per language that was shared with council. The housing component on buildings two and three do not have commercial on the bottom. She is curious about the economic development statute, is there not supposed to include commercial in a mixed-use building. U S Developments answered that there is no requirement that it has to be in each building. Mr. Rosenberg added that what was presented was the final plan. Council Member Stinson-Wesley said that she thought that we would see a building built before they agreed to more.

Attorney John Buben stated that the development is an economic development project, it is what the contract originally required. This is what council approved back in 2020. It approved the contract. It approved that this is an economic development and that it would qualify for prospective tax revenues, economic stimulus, and business promotions. In 2020, council determined that it would qualify for economic development. If anything changed in the plan, it would take it out of that realm. Council Member Gladden added that the buildings changed from three to two, took out a road, changed the number of buildings, but it was still a concept plan. Council Member Gladden reiterated that he's not against the buildings, he's against parking. We should not use the town money to benefit someone else. The rooftops aren't going to hurt us, but the parking is going to kill our downtown because their customers won't have a place to park.

One resident (no name given) stated that council needs to do their jobs and this is embarrassing.

Council Member Gladden: I don't understand why we should use property that we own.

Mayor Pro Tem Ed Samaha: so we can benefit from the development.

Council Member Gladden: why are we allowing them to go forward. They have not made one effort to cure this problem on their land. If they would've come back and said we can raise it up one floor and put a parking deck underneath, that's an effort on their side, but they have not done that. It makes no sense for us to do this right now.

Council Member McDonough: Is there any compromise. There's a standstill and we're not going anywhere.

Stephen Rosenburgh: We've come with a plan, two years, we've made 23 meetings, we've had 9 different plans, it's never changed the number of units and the amount of parking. If you look around the communities, almost everyone who has developments, they've put up a parking deck, not paid for by the developer, paid for by the community. They're willing to step up and pave it and they want to cooperate. After all this time, he doesn't see the rationale to start cutting their building. This is downtown urban renewal.

Council Member Gladden: You didn't do your homework on what concept meant and complete building plans met, which requires you to go through the process like everybody else does. The 23 meetings weren't with us, they were with other people. You have done no giving. Show us what you've given.

Mayor Edwards stated that we have to vote per state statute. Town Manager Spitzer clarified that per the PSA, a vote is needed (not state statute).

Council Member Gladden: I make a motion that we not, project, in the current format, with the shortage of parking that they have there on their property, on their property, that doesn't meet our ordinance, it's not about the building, it's not about anything

other than, it's going to be a horrendous mess out there and we can't give away that \$500,000 worth of property in order to have extra parking places, unless we have a study done for our downtown development and the commercial that happens to be in our first building. That would be my motion. It has to do with parking solely and the health, safety, and negativity that it would have on our town and our downtown. That's my reasoning for it. It's all about the parking.

Council Member Stinson-Wesley made a second to Council Member Gladden's motion.

The vote was: Les Gladden – Aye; Amelia Stinson-Wesley – Aye; Ed Samaha – Nay; Chris McDonough – Nay

Mayor Edwards: I recused myself at the last meeting because I wanted legal advice, which I got.

Resident: "you need to every meeting because of your relationship with this man."

Resident: "Jack stand up and do the right thing or I'm going to do something, and you're won't like it I guarantee it."

Mayor: "thank you very much, your threats are just invigorating."

Resident: You already said that you have a conflict of interest with this developer and another council member called you out.

Mayor: I'll end the meeting right now.

Resident: End it! I'm tired of seeing our town treated like this. We don't owe anybody anything. Let them be here because they wanna be here, not because we owe them something. Wake up guys!

Resident: If he's so interested in doing the right thing, buy the damn lots. Put the money in there.

Resident: and then go in the back room and vote on it when everyone leaves.

The Mayor added a comment that if residents don't like the way that council does their jobs, get up and get down to the Board of Elections in July and sign up for it.

Mayor Edwards: I'm gonna vote "yes."

Resident Melissa Davis: Can we ask a question about the general statute to the attorney for the town?

Resident: Because of a conflict of interest, you don't have a vote if it's not an affirmative vote.

Mayor Edwards: The law states that if I do not say anything, it is a "yes" vote.

Resident: That is the wrong statute. I can pull it up. You're an elected mayor. Elected mayor does not have to vote if he recuses himself, it does not come back as an affirmative vote.

Attorney Catherine Barr stated that pursuant to statutes that there are several situations under which the mayor can be reused, that council would have to decide, if it meets the criteria. He can tell the council why he thinks he can be recused and then it would be up to council to decide whether it meets the statutory criteria or not.

She further stated that if the mayor does not vote, and there's a tie vote, then that would not be considered a yes vote, it would be considered a tie. In that case, it would have to go back in front of council again and be voted on again with further presentation to get council to decide one way or the other. You cannot just have a tie and say it's going to stay a tie. There has to be a yay or nay response.

Mayor Edwards said that this seemed to be a good project when council voted on it a few years ago and suddenly became a firestorm of personalities and people. Mayor Edwards said that it's still a good project and there is a lot of work to be done on

buildings two and three. The problem with the parking lot is, its town property, but he feels the town has an obligation to also furnish parking for the downtown businesses. This conversation may still not be over.

Town Manager Spitzer added that the mayor has the obligation to vote unless he finds out in the statute that he has either has a financial stake in the project or a familial relationship with the developer.

Resident: My concern is, there is ethic violations here and everybody sitting on this council table knows it. That's what really upsets me. Every time somebody runs for office, they're automatically required to take two hours of training on ethics. Some of you had taken it numerous times. You're sitting there right now with ethics violations. You've chastised this man over here on the right a few months ago. There's no transparency in this town anymore. Everything you do is behind closed doors, one-on-one meetings, emails, and conversations with developments is not appropriate. This is not going away, I promise you, I will get an investigation started because I can prove what I've said. It won't be one or two people. Everybody on this council will have to answer. I'm tired of this. We're going to be stuck with infrastructure and traffic.

The Mayor adjourned the meeting at 7:40 pm.

Jack Edwards, Mayor

ATTEST:

Lisa Snyder