

**MINUTES OF THE HUNTSVILLE TOWN
PLANNING COMMISSION MEETING**

MEETING DATE: March 24th, 2016
PLACE: Huntsville Town Hall, 7309 E. 200 S.
TIME: 7:00 P.M.

Commissioners:	Ron Gault Karen Klein	Rex Harris Sandy Hunter	Brent Ahlstrom Preston Cox
Admin Staff:	Gail Ahlstrom	Mike Engstrom	Attorney Bill Morris
Citizens:	Doug Allen Julie Powell	Will Lewis	Artie Powell

Ron Gault called the meeting to order, there is a quorum present.

Introduction of the Town’s new Attorney Bill Morris:

Ron Gault introduced Bill Morris he is the town’s new attorney. Ron invited Bill to tonight’s meeting so he can get an idea on how the PC operates. Ron expects Bill will attend the PC meetings when there is a pressing issue. Gail emailed Bill Title 15 a couple weeks ago; he will review it and come back with recommendations.

Discussion with Will Lewis about business signage: (See Attachment #1)

Will joined the commissioners at the table to discuss the placement and possible signage for his business. His business is Lewis Tree Service; he does tree pruning and removal. Will presented a sketch for the commissioners to review. The sign will be roughly 12’ long and 7’ high. Will’s home is located across from the storage sheds on Hwy 39 and 763 S., the property is zoned R-1. The sign will be made of timbers, have steel letters, and will be placed on a cement slab. Rex said this would be a state right of way. Will replied that he called them and was told the decision would be Huntsville’s. Will’s home is the last house before the land drops off to the river bottoms. He would like to place the sign west of his mailbox which is 10 feet from the property line. Bill stated that monument signs on a highway have a 20 foot setback. Bill asked about the sign square footage based on the R-1 zone requirements. Under commercial uses for free standing signs can be 50 sq. ft. Maximum height restriction is 6’ and Will was hoping for 7’. Mike commented that the ordinances govern what the Commissioners can allow.

Sandy remarked that there doesn’t appear to be anything in the ordinances that covers a commercial sign in a residential zone. Gail said Will is running a commercial business from his home. Doug mentioned that Will’s home is across the street from the Town’s commercial zone. Ron replied that this shouldn’t make a difference. Bill said the PC can write a special provision for residential homes along the highway, but the way it is now the ordinance would need to be amended in order to allow this sign. This would apply to a special area along the highway.

If the ordinances are followed Will would only be allowed a 1'X 2' sign for a residential business, unless the ordinance is amended. Will said he could scale the sign down. Will said he has had a vinyl sign attached to his fence up for four years. The sign will not be lighted and will be placed where the view of traffic will be blocked. Sandy reiterated that the Residential zone doesn't allow signage for a commercial use. Rex said UDOT's design speed of 60 MPH requires a 26-30 feet of clear zone, for 50 MPH requires 20-22 feet, which corresponds with the ordinance. Rex suggested that the ordinances should let the road guide govern. Rex will verify the measurements. Ron said regardless of whether the sign is commercial or residential, UDOT's clear zone would apply.

Sandy said under commercial use it reads "Ground/Monument Sign. Each freestanding building or complex having primary or secondary entry from a street, shall be allowed one (1) ground sign per frontage, not to exceed six (6) feet in height and ten (10) feet in width. The sign may be placed on a landscaped, mounded berm up to two (2) feet from grade." Residential signage should not concede what the commercial signage allows. The area of the sign can only be 50 sq. ft.

Ron asked what the intent of these restrictions are? This sign ordinance was based on W.C.'s ordinances. Originally, when the Chevron Station was going in, the town was focused on lighting and a sign on the street, this ordinance prevented all of that. The town is now looking for something tasteful and could easily match the size of the Chevron's sign. **Ron made a motion to ask the Town Attorney Bill Morris to prepare an update to the ordinance in regards to signage to establish a special zone along Hwy 39, but have it be consistent with commercial and residential.** Rex seconded. All votes aye. Motion passed.

		<u>Yea</u>	<u>Nay</u>
<i>Vote:</i>	Comm. Ron Gault	<u> X </u>	<u> </u>
	Comm. Brent Ahlstrom	<u> X </u>	<u> </u>
	Comm. Preston Cox	<u> X </u>	<u> </u>
	Comm. Rex Harris	<u> X </u>	<u> </u>
	Comm. Sandy Hunter	<u> X </u>	<u> </u>
	Comm. Karen Klein	Absent	

Review of the Town's Land Use request for a pole barn: (See Attachment #2)

Doug Allen presented a site plan for a pole barn at the cemetery. This will be a town building located at the cemetery. Mike asked if the laws of the Town apply to the Town in all situations. The answer was yes. The County will not issue a building permit without a Land Use Permit from the PC. The Commissioners reviewed the setbacks. From the NW corner there will be a 27 feet setback. There is already a garage at the cemetery and there will be 55' between these two buildings. The cemetery is zoned residential. The Commissioners didn't see any setback issues and Ron signed the Land Use Permit.

Review Title 15.17.3.B: Additions and Enlargements: (See Attachment #3)

Ron passed out proposed verbiage for amendments to Title 15.17.3.B. "A building or structure noncomplying as to height, area, setback, or yard regulations shall not be added to or enlarged in any manner (this covers increasing the footprint) unless such addition and enlargement complies with all the regulations of the zone in which it is located.

In the case of a remodel (this covers the instance where the footprint isn't changing). Where there are structural changes to the roof, or foundation, the entire building shall be made to conform to all the regulations of the zone in which it is located." Ron feels that this covered the intent of allowing someone to remodel an existing nonconforming building, but if they start to make substantial changes to the home they need to bring it into compliance. Rex suggested adding "any bearing wall" to the list; this would include interior walls as well.

Ron said the state's definition of non-complying goes with the structure, and non-conforming goes with land use. This will help clarify the two words. Non-complying refers to a structure that legally existed before its land use designation and because of changes in the ordinances it doesn't now comply with the ordinances. Artie said he is familiar with the state code where it makes the distinction between complying vs conforming. Artie said he has read articles written by attorneys, that say, in practice they don't make a distinction between the two. Bill Morris said 15.17 was written to address structures. In Huntsville's ordinances there is a distinction between nonconforming and noncomplying. Bill reminded the PC that any amendment to the Land Use Ordinances requires the PC to hold a public hearing before sending the changes to the TC. The PC is the gatekeeper for all land use ordinances, the PC holds the public hearings and the TC just adopts the amendments. Bill will prepare the language and then the PC will need to hold a public hearing for the next PC meeting.

Ron summarized why this has become an issue. There are small lots in town that don't come close to meeting the $\frac{3}{4}$ acre requirement. People have been purchasing homes on these lots and think they are going to tear the older home down and build a huge home on the noncomplying lot. The Town Government doesn't want this but we also don't want to prevent an existing home from being improved upon. These are older homes in dire need of maintenance, which the Town would encourage. The PC has been working on wording to allow people to improve the home without going overboard and keeping the integrity of the home. Bill asked what a structural change would be. If you take the roof off or pour new footings or move an exterior wall, then the home would need to be modified to meet all current setbacks. The Town is acknowledging that they will not be able to turn a $\frac{1}{4}$ acre lot into a $\frac{3}{4}$ acre lot. The Town is allowing them to improve the home, but if they do more than just painting or siding, if there are structural changes, they must come into compliance with all setbacks. If a building exists on a non-conforming lot, the town acknowledges they wouldn't be able to comply with the sq. footage or frontage. Other than these two items all other requirements would need to be met.

Artie remarked that the town created the problem when they made it a building lot, this was his point in the last meeting. Because it's a nonconforming lot, by restricting the height or anything else, unless they are infringing on the space for a septic system, you aren't addressing any issue. The issue is you have a nonconforming house, someone remodels it extensively, any yet they don't bring it into compliance. Arties said there are situations right now where an existing home, after the remodel, is actually more non-conforming then the original house was which is not what the town wants. Restricting someone because they have a nonconforming lot to the height of their building, what is the issue the town is trying to address, all this does is restrict someone's property rights. Rex agreed, what the PC is attempting to do is bring people as much into compliance as possible. Arties commented that anyone can build a 35' home.

Artie asked what objective is achieved by making someone bring their home in on side setbacks and yet restricting them to a 20' high home. Julie said she lives on a non-complying lot, her home is in compliance. If they stay in conformance to every law everyone else abides by they should be able to do what everyone else does. Rex disagreed. Artie said that would be constitutional taking, and he will sue the town. Artie remarked that the PC is not addressing the issue at hand. Rex remarked that the PC is talking about this; no decisions have been made. Mike replied that no one has proposed to restrict the height of a building on a nonconforming lot. Julie said yes you have, that was the discussion in the last PC meeting. Julie said her home meets all setbacks but is on a nonconforming lot, there is no reason the town should be able to restrict her. Julie said she never complained about the neighbor's home being too tall, never, the problem is that they don't comply with side setbacks. Rex said the PC has the right to have a discussion about what is in the best interest of the town. Julie commented that when ordinances are adopted the town is not taking away certain people's rights. Artie remarked that the way the ordinance was originally written the owners of the home west of theirs, couldn't do anything but routine maintenance on the home. The ordinance was amended and the town allowed the owner to do what they have done. Artie stressed that the ordinance was not written the correct way; in his opinion the PC is not addressing the issue at hand. Mike asked Artie if what is being discussed tonight addresses the issue. Artie replied that he feels that the proposed verbiage is appropriate.

Mike said he understands Artie and Julie's emotions. Rex said they need to allow discussion without intimidation because the PC is trying to do the right thing. Julie said they have stayed in compliance all of these years. They do own a small lot and she hopes the PC will take their feelings into consideration. To penalize people who have obeyed the ordinances just because other people have chosen to disregard them isn't right. Bill will prepare the draft verbiage for the public hearings.

Rex said part of the discussion is there are only a certain number of nonconforming lots within town, the intent of the proposed changes, he believes, is to try to make as many lots come into compliance as possible. There is a small number of lots that are just shy of being in conformance (.7 acre instead of .75) In Rex's mind there is a difference between a .7 lot vs a .1 acre lot, and that next to the Powell's, he remembers that the PC was trying to acknowledge that there was a rundown tiny house. At that time the ordinances allowed them to do nothing but paint and re-carpet. The PC wanted to give them more freedom, and acknowledge that they would never be able to meet area and frontage requirements. Now, unfortunately, it didn't turn out as hoped, and it has become a mess. The PC wanted to let them improve the property and still comply with restrictions except for area and frontage. Rex said remodeling a home from a 1,000 sq. ft. home to a 3,000 sq. ft. home changes the use of the home.

If you owned an undersized lot, and you could meet the standards like everyone else, you would want the privilege to use the property to the best of your ability. Brent said it's still the same use and same function. If you can meet regulations, and improve the property, he doesn't see the concern. Karen said she has a strong feeling about non-conforming lots, to her the person has the right to improve their home or add more living space if they can meet regulations. Some of these homes will never be able to come into conformance. Most of the non-conforming lots were created in the 1960's, at some time the undersized lots were allowed.

Ron said Mike referred to a nonconforming lot by today's standard that doesn't have a house on it. The ordinances says if the landowner can prove that the lot was approved as a building lot at one time

then the nonconforming lot owner would be allowed to build a home on it but they would be required to meet all setbacks. Brent asked how this is different from someone who owns a nonconforming lot and wants to remodel. Mike asked what the overall vision for the town is. Some towns are trying to get rid of nonconforming lots. Bill mentioned that the town can adopt an amortize clause. A property can be amortized out of existence, which would be politically difficult to do. Rex said the PC needs to decide what is reasonable and meets the general intent of the town. Mike said he hasn't heard a reasonable argument, to say based on the size of the lot standards change. Rex remarked, to him, there is a certain feel for what is the right size home for the size of a lot. Mike said a huge home on a small lot won't look proportional.

Julie interjected that W.C. should have regulated the size of this home with the septic system. The Hoover's septic system isn't going to fit. Mike said W.C.'s final standard was that it's better than it was. **Ron made a motion to ask the Town's Attorney to type up a draft of the proposed verbiage for review at a public hearing on April 28th.** Brent seconded. All votes aye. Motion passed.

Commission Updates:

Gail reported that she has received three complaint letters from Anita Golden, Richard Sorensen, and Robert Hauck, against the rezoning of Dave Booth's property. Richard Sorensen is concerned about the town having two commercial zones that would compete against each other. Both the Hyde's and the Booths feel that their projects will enhance and help each other. Karen commented that both developments will be built gradually, not all at once. Brent stated that both projects are small and if you are doing retail, you need volume. Karen said regardless of what the town does, Snowbasin has a larger plan. If the town doesn't get in front of it, these developments won't have a chance. Karen feels that these developments will cater more to the locals.

Ron reported on the referendum results. The petitioners gathered enough signatures to make the rezoning of Lot 3 go to a vote. Jeff Hyde has come forward and said he will modify his plans and go straight commercial, no residential with his project. The Hyde's closed on the purchase of the lot yesterday. The sale of the property was approved by the TC on August 20th, 2015.

Approval of minutes for Planning Commission meeting held February 25th, 2016:

Rex made a motion to approve the PC minutes for meeting held February 25th, 2016, as amended. Sandy seconded. All votes aye. Motion passed. Minutes were approved.

Set date for next PC meeting:

The next regularly scheduled PC meeting will be held on April 28.

Ron made a motion to adjourn. Brent seconded. All votes aye. Motion passed.

Meeting adjourned at 8:45 P.M.

Gail Ahlstrom, Clerk/Recorder

Ron Gault, Chairman

