

Minutes
Spruce Pine Town Council
Monday, January 22, 2024

A meeting of the Town Council was held on January 22, 2024. Present were Mayor Phillip Hise and Council Members Rocky Buchanan, Wayne Peight, Larry McKinney, and Jackie Rensink. Staff in attendance included Darlene Butler and Spencer Bost. Others attended, including Town Attorney Chad Donnahoo, Marsha Whitson and Amanda Hollifield.

CALL TO ORDER

Mayor Phillip Hise called the regular meeting to order at 5:30 PM. Jackie Rensink gave the invocation. Wayne Peight led the Pledge of Allegiance.

APPROVAL OF AGENDA

Larry McKinney moved to approve the agenda as presented. Jackie Rensink seconded the motion, which carried unanimously.

APPROVAL OF MINUTES

Rocky Buchanan moved to approve the minutes of the regular meeting of January 08, 2024. Wayne Peight seconded the motion, which carried unanimously. Larry McKinney moved to approve the minutes of the closed session of January 08, 2024. Rocky Buchanan seconded the motion, which carried with all present in favor.

PUBLIC COMMENT

Amanda Hollifield, representing Penland School of Crafts, invited the Council to a Community Leaders Social on February 24th. The Community Day begins at 1:00 PM, with the meet and greet for public officials at 4:00 PM. All studios will be open.

Marsha Whitson, who lives on Mountain View Drive, expressed concern about property across the road from her that she has heard will be developed into an RV park. She listed concerns regarding zoning, number of sites, seasons of operation, fire and flood exposure, water and sewer services, county and state laws, management, noise, and lighting, etc. She noted that the property already has one RV, in place since summer of 2023. She reiterated that the surrounding property is residential like her property.

ACTION AGENDA

- Larry McKinney moved to adopt the Ordinance to Authorize the Town Manager to Demolish the Dwelling at 116 South Dale Street and File a Lien. Rocky Buchanan seconded the motion, which carried unanimously. Said ordinance is incorporated by reference and attached to these minutes.
- Rocky Buchanan moved to adopt an Ordinance to Authorize the Town Manager to Execute and Record a Substitution of Trustee and Release Deed for Loans. Larry McKinney seconded the motion, which carried unanimously. Said ordinance is incorporated by reference and attached to these minutes. This ordinance pertains to recording satisfactions for those revolving loans that have been paid in full.
- Larry McKinney moved to appoint Darla Harding to the Spruce Pine Public Library Board. Jackie Rensink seconded the motion, which carried unanimously.

TOWN MANAGER

- ✓ Town Manager Darlene Butler advised the Council that the EDA disaster grant application for additional funding for the extension of a new water line out Highway 226 South was not successful due to depletion of funds. Consensus of the Council was to have the Town Attorney craft a resolution committing funds from the direct appropriation from the State of North Carolina so that the project can continue. Engineering plans for the project are complete.
- ✓ Darlene informed the Council that the Spruce Pine Main Street Design and Beautification (D&B) Committee will serve as the Streetscape planning team. A virtual meeting with the engineering firm for the streetscape plan will be on Friday of this week.
- ✓ The request for RFQs for the Stormwater Planning Project will be readvertised since only one proposal was received.
- ✓ Darlene distributed and summarized a letter from the Mitchell County Building Inspector to the property owner (copied to the Town) regarding the proposed use of property along Roan Road for an RV Park. Summarily, the letter finds the current zoning of the property to be incompatible with the proposed use. Said letter is incorporated by reference and attached to these minutes.

- ✓ Darlene requested that the Town Council consider possible candidates to fill two positions on the Zoning Board of Adjustment.
- ✓ Darlene advised Council that a staff member from the Parks and Recreation Trust Fund inspected progress at Brad Ragan Park last week and was impressed with the progress made toward fulfilling the grant tasks.

MAYOR/COUNCIL REQUESTS / COMMENTS

- Consensus of the Council was to have Darlene check with Public Works regarding the possibility of running the water line to the Mitchell Giving Gardens location and setting a meter. The Giving Gardens would be responsible for a monthly bill.
- Council discussed the Nutter request for the Town to take over a proposed water line on Kate's Lane. Mayor Hise noted that a 2-inch line would not have a lot of future use. Council will consider, with action scheduled on a future agenda.
- Council member Rocky Buchanan commented to Main Street Director Spencer Bost that he appreciated the efforts to combine volunteer efforts for holiday lighting downtown. Wayne Peight agreed.

ADJOURNMENT

With no further business, Larry McKinney moved to adjourn the meeting at 6:07 PM.

Darlene Butler
Darlene Butler, Acting Town Clerk

Phillip Hise
Phillip Hise, Mayor

Larry McKinney
Larry McKinney, Mayor Pro Tem

Rocky Buchanan
Rocky Buchanan, Council Member

Wayne Peight
Wayne Peight, Council Member

Jackie Rensink
Jackie Rensink, Council Member

Mail after Recording to: Spruce Pine Town Hall, c/o Darlene Butler, P.O. Box 189, Spruce Pine, NC 28777.

This Instrument prepared by: Chad Ray Donnahoo, Elston, Donnahoo & Williams, 80 Central Ave., Asheville, NC 28801. Pursuant to N.C.G.S. § 160D-1203(5) and Spruce Pine Town Code § 10-17, this Ordinance shall be recorded in the Mitchell County Office of the Register of Deeds and shall be indexed in the name of Edward Lee Goodwin, Jr. in the grantor index.

ORDINANCE TO AUTHORIZE THE TOWN MANAGER TO DEMOLISH THE DWELLING AT 116 SOUTH DALE STREET AND FILE A LIEN

NOW COMES the Council for the Town of Spruce Pine (“Town”), at a duly called meeting with a quorum established, and hereby adopts this *Ordinance to Authorize the Town Manager to Demolish the Dwelling at 116 South Dale Street and File a Lien*.

WHEREAS, Edward Lee Goodwin, Jr. (“Owner”) is the record owner of the real property located at 116 South Dale St., Spruce Pine, NC 28777 and further described in the deed recorded in Book 576 Page 216 of the Mitchell County Registry (the “Property”);

WHEREAS, the residential structure (the “Dwelling”) located on the Property was partially destroyed by a fire on 5 January 2020, with the cost of repairs to make the Dwelling habitable being well over fifty percent (50%) of the value of the Dwelling; and

WHEREAS, pursuant to the 8 January 2024 Judgment entered in *The Town of Spruce Pine v. Edward Lee Goodwin, Jr.*, 23 CVS 168 (Mitchell County Superior Court), Owner is in violation of the 10 April 2023 order issued by the Mitchell County Department of Public Instruction and the Town is authorized to demolish the Dwelling on the Property and the cost of the demolition be assessed as a lien against the Property and collected as a lien for special assessments as provided in Article 10 of Chapter 160A of the North Carolina General Statutes. A copy of the Judgment is attached hereto as Exhibit A.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN the following:

1. That the Town Manager shall deliver a copy of this Ordinance to the Mitchell County Office of Register of Deeds (the "Registry") and said Ordinance shall be recorded in the Registry in the name of Owner in the grantor index.

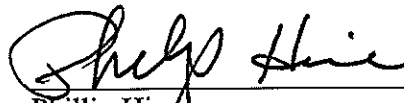
2. That the Town Manager shall immediately cause to be posted on the main entrance of the Dwelling a placard with the following words: "This building is unfit for human habitation; the use of occupation of this building for human habitation is prohibited and unlawful."

3. That after the time for Owner to file an appeal of the 8 January 2024 Judgment has expired, the Town Manager is authorized to solicit bids and enter into a written contract with a contractor to demolish the Dwelling. The contractor shall be required to safeguard anything that is salvageable from the Dwelling prior to demolition.

4. That after the demolition is completed, the Town Manager shall file as a lien against the Property the cost of demolition and said lien shall be collected as a special assessment as provided in Article 10 of Chapter 160A of the North Carolina General Statutes. To the extent that the contractor was able to salvage anything from the Dwelling, the Town Manager is authorized to sell such materials or items and shall credit the proceeds of the sale against the cost of the demolition. If there is any balance remaining from the sold materials or items once the lien is paid in full, the Town Manager shall cause the remaining balance to be deposited in the superior court and be disbursed by the court to Owner or any other entitled party by final order or decree of the court.

READ AND APPROVED this 22nd day of January 2024.

TOWN OF SPRUCE PINE



Phillip Hise
Mayor

Attest: Darlene Butler
Darlene Butler
Town Manager

STATE OF NORTH CAROLINA
COUNTY OF MITCHELL

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

FILED

THE TOWN OF SPRUCE PINE)

Plaintiff,)

v.)

EDWARD LEE GOODWIN, JR.,)

Defendant.)

2024 JAN -8 A 11: 08

MITCHELL CO. C.S.C.
JUDGMENT

BY _____

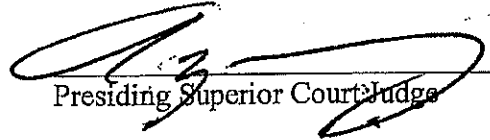
THIS CAUSE WAS HEARD by the undersigned judge on Plaintiff's Motion for Summary Judgment pursuant to Rule 56 of the North Carolina Rules of Civil Procedure as to all claims against Defendant. It appears to the Court that after reviewing the matters of record and hearing arguments from counsel that there is no genuine issue as to any material fact and that Plaintiff is entitled to judgment as a matter of law as to its claims.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED summary judgment is granted in favor of Plaintiff as to all claims against Defendant and Plaintiff is entitled to the following relief:

1. That pursuant to the April 10, 2023 Order issued by Mitchell County Department of Inspections Director Tommy Winchester, in compliance with Plaintiff's Minimum Housing Code and Chapter 160D, Article 12 of the North Carolina General Statutes, Plaintiff, pursuant to a duly authorized ordinance to be enacted by the Town Council (the "Ordinance"), the Town is hereby authorized to demolish the Dwelling located at 116 South Dale St., Spruce Pine, NC 28777 (Book 576 Page 216 of the Mitchell County Registry) (the "Property");
2. That, pursuant to N.C.G.S. § 160D-1203(5) and Plaintiff's Minimum Housing Code § 10-17, the Ordinance shall be recorded in the Mitchell County Office of the Register of Deeds and shall be indexed in the name of Defendant in the grantor index; and
3. That, pursuant to Plaintiff's Minimum Housing Code § 10-18 and N.C.G.S. § 160D-1203(7), the amount of the cost of demolition by Plaintiff shall be a lien against the Property, which lien shall be filed, have the same priority, and be collected as a lien for special assessment provided in Article 10 of Chapter 160A of the North Carolina General Statutes. To the extent anything from the Dwelling is salvageable, Plaintiff shall sell the materials of the Dwelling, and any personal property, fixtures, or appurtenances found in or attached to the Dwelling, and shall credit the proceeds of the sale against the cost of the demolition, and any balance

remaining shall be deposited in the superior court by the public officer, shall be secured in a manner directed by the Court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the Court.

BE IT SO ORDERED this 8th day of January 2024.


Presiding Superior Court Judge

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served the foregoing in the above-entitled action upon all parties to this cause by depositing a copy hereof in a postpaid wrapper in a post office or official depository under the exclusive care and custody of the United States Postal Service, properly addressed to the attorney(s) of record or defendant(s) as listed:

Edward Lee Goodwin, Jr.
20 Snowball Dr.
Marshall, NC 28753

THIS 9th day of January 2024.



Chad Ray Donahoo

ORDINANCE TO AUTHORIZE THE TOWN MANAGER TO EXECUTE AND RECORD A SUBSTITUTION OF TRUSTEE AND RELEASE DEED FOR LOANS

NOW COMES the Town Council for the Town of Spruce Pine ("Town"), at a duly called meeting with a quorum established, and hereby adopts this *Ordinance to Authorize the Town Manager to Execute and Record a Substitution of Trustee and Release Deed for Loans*.

WITNESSETH:

WHEREAS, pursuant to the Town's economic development revolving loan program, the Town provided loans in the form of a Promissory Note secured by a Deed of Trust to the following individuals/entities ("Obligors"):

- i. Don Waldroup and wife Doris Waldroup (Promissory Note in the amount of \$15,000, Deed of Trust recorded in Book 209 Page 284 of the Mitchell County Registry);
- ii. Dellinger Wholesale Nursey, Inc. (Promissory Note in the amount of \$3,500, Deed of Trust recorded in Book 212 Page 507 of the Mitchell County Registry);
- iii. Sam and wife Barbara McKinney (Promissory Note in the amount of \$15,000, Deed of Trust recorded in Book 312 Page 481 of the Mitchell County Registry);
- iv. Dellinger Wholesale Nursey, Inc. (Promissory Note in the amount of \$5,000, Deed of Trust recorded in Book 309 Page 631 of the Mitchell County Registry);
- v. Sam and wife Barbara McKinney (Promissory Note in the amount of \$15,000, Deed of Trust recorded in Book 213 Page 704 of the Mitchell County Registry);
- vi. Phillip Frye and wife June Frye (Promissory Note in the amount of \$15,000, Deed of Trust Book 323 Page 180 of the Mitchell County Registry);
- vii. Michael L. Robinson and wife Mary Robinson, Dennis E. Robinson, single, and Young, Miller & Associates, P.A. (Promissory Note in the amount of \$15,000, Deed of Trust Book 331 Page 718 of the Mitchell County Registry);
- viii. Leland Riddle, single (Promissory Note in the amount of \$15,000, Deed of Trust Book 344 Page 440 of the Mitchell County Registry);

- ix. David E. Wylie and wife Pamela K. Wylie (Promissory Note in the amount of \$15,000, Deed of Trust Book 355 Page 146 of the Mitchell County Registry);
- x. Kenneth Pat Pitman and wife Vernoica Pitman and Daniel A. Pitman (Promissory Note in the amount of \$15,000, Deed of Trust 356 Page 512 of the Mitchell County Registry); and
- xi. Neil L. Brown and wife Marie Brown (Promissory Note in the amount of \$15,000, Deed of Trust Book 418 Page 323 of the Mitchell County Registry).

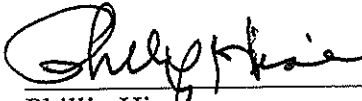
WHEREAS, as of this date, all eleven (11) Promissory Notes identified herein have been paid in full with applicable interest and Obligor are no longer indebted to the Town pursuant to the said Promissory Notes; and

WHEREAS, the Town desires to authorize the Town Manager to execute and record a Substitution of Trustee for each identified Deed of Trust and execute and record a Release as full satisfaction and accord of Obligor's debts to the Town pursuant to the Promissory Notes.

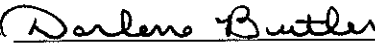
NOW, THEREFORE, BE IT RESOLVED BY THE TOWN that the Town Manager is hereby authorized to execute and record a Substitution of Trustee and Release for all Deeds of Trust stated herein.

READ AND APPROVED this 22nd day of January 2024.

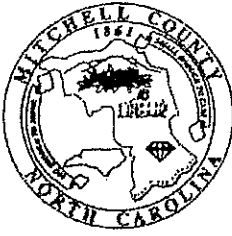
TOWN OF SPRUCE PINE



Phillip Hise
Mayor

Attest: 

Darlene Butler
Town Manager



Mitchell County

Department of Inspections, Zoning, Addressing & Road Sign Maintenance

January 19, 2024

SENT VIA CERTIFIED AND ELECTRONIC MAIL

Real Solutions Now, LLC
c/o John Edward Keen
186 Oak Ave.
Spruce Pine, NC 28777
Email: johnedwardkeen@aol.com

**RE: Zoning Determination Letter for Intended Use
Parcel No.: 0880-16-84-3033 (Mitchell County Registry Book 657 Page 601)**

Dear Mr. Keen:

At the September 11, 2023 Spruce Pine Town Council meeting, during a public appointment with the Council, you expressed an interest to develop Parcel No.: 0880-16-84-3033 (Mitchell County Registry Book 657 Page 601) (the "Property") into the Rockin' on the River Campground (the "Campground"). You provided the Council with a preliminary site plan and brief explanation of your intended purpose. While Council members were generally receptive to the idea, the Council did not have any information before it regarding zoning implications for your intended future use of the Property. You requested the Council provide a "letter of support" for the Campground. As of this date, the Council has not provided any letter indicating its support or approval of the Campground.

On September 18, 2023, Shelley Buchanan sent you an email asking several more specific questions regarding your intended use for the Property. On September 20, 2023, you responded that the Campground would be "an up-scale campground for Fifth Wheelers and Trail-Along Campers only." You also stated that there would be no tent camping or permanent mobile homes, that no camping units would be fixed to the property permanently and the sites would be seasonal.

Pursuant to Article III, § 31 of the Town's Zoning Ordinance ("Ordinance"), the Mitchell County Builder Inspector is the Town's designated Zoning Enforcement Officer. Having reviewed the applicable zoning for the Property and your stated intended use, per this correspondence, it is my determination based on my interpretation of the Ordinance that your intended use for the Property is a Nonconforming Use for a R-1 Low-Density Residential District ("R-1 District").

The Property is zoned in the R-1 District. Pursuant to Article X, §§ 101.2 and 101.3 of the Ordinance, the permitted uses in an R-1 District are:

130 Forest Service Drive, Suite B
Bakersville, NC 28705

828-688-4771 (phone)
828-688-3668 (fax)

1. Family dwellings. (See Table 1.)
2. Farms and related agricultural uses.
3. Camps, parks, picnic areas, golf courses and similar recreational uses.
4. Churches or similar places of worship, including parish houses, parsonages, convents and dormitories accessory thereto.
5. Public and private schools.
6. Customary accessory buildings, including private garages and noncommercial greenhouses and workshops.
7. Customary incidental home occupations including the professional office of a physician, dentist, lawyer, artist, musician, architect, engineer, city planner or the accommodation of not more than two boarders or roomers; provided, there is no external evidence of such occupation except an announcement or professional sign not more than two square feet in area and that the operations are conducted within a dwelling by not more than one person in addition to those persons resident therein.
8. Basement or garage apartment - one per lot.

A single-wide mobile home is permitted as a special use under certain criteria.

Among other uses, the R-1 District allows for "camps." That term is not defined in the Ordinance. The term "camp" is defined several ways in the dictionary with the first definition being "a place usually away from urban areas where tents or simple buildings (such as cabins) are erected for shelter or for temporary residence (as for laborers, prisoners, or vacationers)." Merriam-Webster Online Edition. The term "camp" can also mean "a group of tents, cabins, or huts." *Id.* The term is also defined as "a place usually in the country for recreation or instruction often during the summer." *Id.*

While R-1 District allows for "camps," your stated intended use, supported by the preliminary site plan you provided the Council, is to create a recreational vehicle park consisting of over a dozen temporary sites for recreational vehicles to park for extended periods of time. North Carolina defines a Fifth-wheel trailer as being a recreational vehicle. N.C.G.S. § 20-4.01(32b)(b). The Ordinance does not define "recreational vehicle" or "Fifth-wheel trailer." However, in reviewing the Ordinance dealing with the T-1 Trailer and Trailer Park District ("T-1 District"), the Ordinance does use the term "trailer coach" and specifically regulates that use in the T-1 District. The term "trailer coach" is not defined in the Ordinance but in reviewing the common term when searching on the Internet, the term "trailer coach" is synonymous with travel trailers, truck campers, fifth wheels, and motor homes.

Based on my review of the Ordinance in its entirety, it is my interpretation and decision that a recreational vehicle park with sites for more than one "trailer coach" is a Nonconforming Use for an R-1 District. Pursuant to Article V, § 54 of the Ordinance, you may appeal my determination to the Spruce Pine Board of Zoning Adjustment within twenty (20) days from the date of my decision by filing your written appeal with my office and the Town Manager.

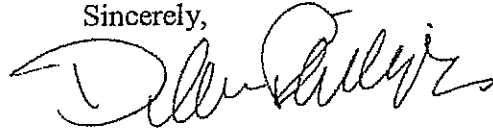
With respect to having a single "trailer coach" on the Property, there are some permitting issues outside of the Town's Ordinance that initially need to be addressed. A recreational vehicle (R.V., camper, tag-along, trailer coach), has to have its own electrical service, known as a camper service, mounted on a pedestal with a single 50 amp, single 30 amp, and minimum of one 20 amp receptacle, all required to be GFCI receptacles per the 2020 NEC code book of which the State of

North Carolina has adopted. In order to have your stand alone "camper service", an adequate septic system is required to be in place, inspected and approved by the Mitchell County Department of Health.

As to zoning implications for a single "trailer coach" in a R-1 District, I have some follow-up questions to determine whether this use is a permitted use. Is the "trailer coach," permanently affixed to the Property? Do you intend to permanently reside in the "trailer coach" or is it for temporary use?

Should you have any questions, please don't hesitate to contact me.

Sincerely,



Dillon Phillips
Mitchell County Builder Inspector

Cc: Darlene Butler, Town Manager (via email)
Chad Ray Donnahoo, Town Attorney (via email)