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NORTH CAROLINA
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WATAUGA COUNTY WATAUGA COUNTY, N.C.S.C.

BY HT

CONCERNED CITIZENS OF BLOWING
ROCK LLC, A North Carolina Limited
Liability Company
Petitioner,

vs.

TOWN OF BLOWING ROCK AND ITS
BOARD OF COMMISSIONERS and
CATELLUS GROUP, LLC

Respondents.

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
14-CvS- 603

WRIT OF CERTIORARI

To: The Town of Blowing Rock and its Board of Commissioners

THIS CAUSE COMING ON TO BE HEARD AND BEING HEARD before the undersigned Superior Court Judge on the Petition for Writ of Certiorari filed, on November 13, 2014 by Concerned Citizens of Blowing Rock, LLC Petitioner; and it appearing to the court through representations made by Petitioner in its Petition as follows:

1. This action is brought in the Superior Court of Watauga County, North Carolina, pursuant to the provisions of NCGS §160A-393.
2. Petitioner is a limited liability company existing under the laws of the State of North Carolina, organized to protect and foster the interests of the Town of Blowing Rock and its surrounding neighborhoods and areas.
3. Respondent Town of Blowing Rock, and its Board of Commissioners (collectively "the Town"), is a body politic, organized and existing under the laws of the State of North Carolina.
4. Respondent Catellus Group, LLC ("Catellus") is a limited liability company existing under the laws of the State of North Carolina.

5. Bank of Granite is (the "Bank") the owner of two parcels of land located off North Main Street between Chetola Resort entrance and Hill Street in the Town of Blowing Rock, North Carolina, the same being described in the deeds recorded in Record Book 1589, Page 595 and Record Book 1667, Page 686, Watauga County Registry, and further identified as Tax Parcel Nos. 2817-08-4673-000 and 2817-08-9806-000 (the "subject property").

6. Three of petitioner's members, to wit: Katharine Holding Dunlap, Margaret Holding-Barrett and Robert Pace Holding, Jr., are the owners of an 11.349 acre parcel of land in Blowing Rock, North Carolina and described in the deed recorded in Record Book 1620, Page 549, Watauga County Registry (the "Holding property"). The Holding property is contiguous to and adjoins the subject property.

7. On information and belief, the subject property of the Bank is under option to Catellus.

8. Catellus is the applicant for a Conditional Use Permit (CUP), No 2014-03, for mixed or combination use—hotel, restaurant, retail and residential—project ("the Mountainleaf project") to be constructed on the subject property. If developed, the Mountainleaf project will include a 112-room hotel with one side to be 55 feet in height, and contain 26,000 square feet of retail and restaurant space, 20 condominiums and other commercial uses.

9. On October 14, 2014, the Board of Commissioners of the Town of Blowing Rock (the "Board") issued final approval for CUP No. 2014-03. On October 14, 2014, the CUP was served upon the applicant and the other parties who requested such service, including the petitioner on October 15, 2014.

10. The Town's final approval of CUP No. 2014-3 came after public hearings before the Board on July 8, 2014 and August 12, 2014. An additional hearing occurred before the Board on August 27, 2014, wherein the Board approved the CUP No. 2014-3 and subsequently issued its final approval on October 14, 2014.

11. Petitioners will show that the Town of Blowing Rock improperly approved the CUP and three of the members of petitioner, Katharine Holding Dunlap, Margaret Holding-Barrett and Robert Pace Holding, Jr., will suffer direct injury to their property by reason of the Town's approval of the CUP.

12. On information and belief, the Holding property will be substantially diminished in value by reason of the approval of the CUP on the adjacent subject property.

13. On information and belief, the Board improperly approved CUP No. 2014-03 and prejudiced the rights of petitioner when the Board made its findings, inferences, conclusions and decision, for that those findings, inferences, conclusions and decision were:

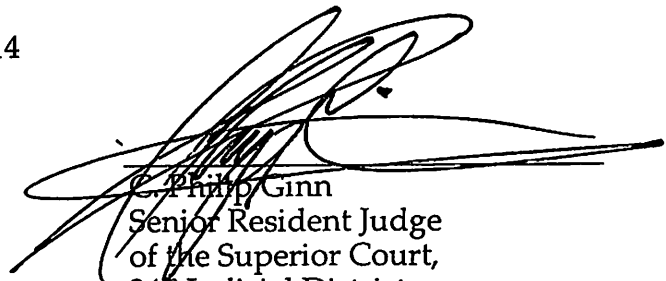
- a. Unsupported by substantial competent evidence in view of the entire record,
- b. Arbitrary and capricious,
- c. In violation of constitutional provisions, including those protecting procedural due process rights,
- d. In excess of the statutory authority conferred upon the Town or the Board by Blowing Rock ordinances,
- e. Inconsistent with applicable procedures specified by statute or Blowing Rock ordinances,
- f. Affected by other errors of law.

14. Petitioner requests that the court issue a Writ of Certiorari to the respondent, Town of Blowing Rock, to certify and bring before this court a full and complete transcript of the Board of Commissioners hearings and decisions on the CUP No. 2014-03 which were held July 8, 2014, August 12, 2014, August 27, 2014 and October 14, 2014, together with all evidence that was entered into the record at those hearings.

15. The Petition has been timely filed and this court has jurisdiction over the parties and the subject matter pursuant to NCGS §160A-388 and §160A-393.

WHEREFORE, Respondents are hereby ORDERED to certify and return to the Superior Court of Watauga County, North Carolina, on the 19th day of JANUARY, 2015 a true and complete copy of the record and the transcript of the public hearings and meetings of the Town of Blowing Rock Board of Commissioners conducted on July 8, 2014, August 12, 2014, August 27, 2014 and October 14, 2014, together with all evidence that was entered into the record at those hearings, regarding the approval of Catellus Group, LLC's Application for Conditional Use Permit No. 2014-03 to the end that the record may be reviewed by this Court and such action taken thereon as of right and as according to law shall be taken and done.

This the 14th day of November, 2014


C. Philip Ginn
Senior Resident Judge
of the Superior Court,
24th Judicial District