

Town of Seven Devils

Planning Board Minutes

November 21, 2023

The Seven Devils Planning Board met on Tuesday, November 21, 2023, at 5:30pm at Town Hall.

Planning Board members in attendance included: Richard Blonshine, Jim Jones, Stuart Ryan, Joan Streightiff and John Wells IV.

Members absent: Walt Hogan & Mark Williams

Staff attendance included: Eddie Barnes, Zoning Administrator and Johnathan Harris, Town Manager; Hillary Gropp, Town Clerk recorded the minutes.

Call to Order

Chairperson Jones called the meeting to order at 5:30pm.

Approve Minutes – June 20, 2023

Member Blonshine made a motion to approve the Planning Board minutes of June 20, 2023; Member Streightiff seconded the motion. All members agreed.

Old Business

A. Nuisance Ordinance – Increased Fines

(i) Trash Violations

Town Manager Harris explained the Nuisance Ordinance – Article 6.7 lists the penalties for trash violations and increasing fines for subsequent violations; these penalties/fines are set by NC statute. There have been several incidences of trash violations, and the owner does not comply with the trash cleanup, preferring the fine be sent for payment; this has been a reoccurring pattern by owners of short term rentals/absentee owners. Town Manager Harris requests the cleanup fee be increased from \$100 to higher for when the police/staff need to perform the cleanup and to deter the pattern and encourage owners to take measures of cleanup and installation of bear proof trash receptacles.

Member Blonshine asked if the \$100 fee increases with each violation. Town Manager Harris replied no, it is a \$100 cleanup fee no matter how many times a violation is issued.

Member Streightiff stated the Planning Board reviewed the increased fee at the June 20, 2023, meeting. Town Manager Harris confirmed this is true, but the recommendation has yet been sent to the Town Council, so it is being reviewed again by the Planning Board tonight.

Member Streightiff inquired what dollar figure is acceptable? At the June Planning Board meeting, a \$300 cleanup fee was discussed. Town Manager Harris will accept whatever recommendation of the Planning Board but asked the increase to be significant as a deterrent.

Member Blonshine inquired about the cost of hiring someone? No reply.

Chairperson Jones inquired about the increasing penalty violations, if they are affected. Town Manager Harris explained the penalty list and violations remain the same – written/verbal warning and increasing fines, the request tonight is for the separate cleanup fee of \$100 to be increased.

Member Ryan asked who receives the cleanup fee? Town Manager Harris replied it is deposited to the Town general fund.

Member Wells asked for clarification, is there a tier? Is the cost of the first cleanup fee to be \$100 and subsequent cleanups to be increased to more? Town Manager Harris replied it is whatever the Planning Board decides as a recommendation.

Member Ryan stated the goal should be to penalize, so an owner will install a bear proof trash can.

Chairperson Jones stated the decision the Planning Board needs to make is what the cleanup fee should increase to?

Member Wells suggested increasing the cleanup fee to \$500. Member Streightiff agreed, a \$500 cleanup fee is high and should cause some owners to consider an alternative. Member Ryan agreed, as an owner might install a bear proof trash can. Town Manager Harris would prefer owners to take the steps of installing a bear proof trash can, instead of issuing violations and fees.

Member Streightiff made a motion to increase the cleanup fee to \$500 and forward this recommendation to the Town Council; Member Wells seconded. All members agreed.

(ii) Fire Pits

Zoning Administrator Barnes provided an update from the Tabled Item – Fire Pits of Planning Board meeting in June. A discussion occurred with Zoning Administrator Barnes and Fire Chief Millsaps about additional language for firepits.

10.2(1). All non-gas firepits shall be required to submit an application to the Town of Seven Devils. Upon receipt of the application the Fire Chief or his designee shall conduct a site inspection to determine if the application meets the requirements of Article 10.2 (2-11). After the issuance of a permit the firepit may be periodically inspected to ensure compliance with said requirements.

Zoning Administrator Barnes stated this applies to wood burning firepits only, not gas firepits.

Chairperson Jones inquired if gas firepits would require inspection at completion by the Town. Zoning Administrator Barnes replied no, but the propane gas provider does safety inspections.

Chairperson Jones asked about the details of the inspection, it will provide review of build, distance and size of the firepit. Town Manager Harris agreed.

Member Streightiff asked about existing firepits, if this will apply to those locations. Town Manager Harris stated the requirement cannot be retroactive to previously built firepits and the Town cannot trespass to inspect firepits. Efforts will be made to educate the citizens about firepits and inspections available for safety.

Member Streightiff made a motion to approve the recommend the language in 10.2.(1); Member Blonshine seconded the motion. All members agreed.

Town Manager Harris stated Article 10.3 lacks language and a fine for violations during a Fire Ban.

10.3 Violation of \$500 during burn ban.

Discussion occurred about the methods currently utilized to alert citizens of burn ban including sign at entrance at the Town of Seven Devils, website, subscribe notifications, social media as well as distribution from media outlets such as newspaper and news stations. The current burn ban affects many counties.

Discussion occurred about additional illuminated signage for citizens/tourists.

Member Streightiff asked if the \$500 fine should be higher or increasing due to the dangerous situation.

Town Manager Harris stated the fine

limit cannot exceed \$500. Fines are issued to the owners of a location, not tourists.

Member Blonshine made a motion to approve and recommend the \$500 Violation fine; Member Wells seconded the motion. All members agreed.

New Business

A. Amend Unified Development Ordinance (UDO) – Construction time frame

Zoning Administrator Barnes reported that the current time frame of two (2) years for construction needs reconsideration. Post covid has caused supply chain disruptions, labor shortages and in this region the weather is also a consideration for delay. Zoning Administrator Barnes explained two recently newly built homes exceeded the 2 year time frame, causing a violation and increasing daily fine of \$250.00 for each day that exceeds the time frame. The recommended UDO edits are as follows:

- Exterior construction shall be completed within ~~18 months~~ 2 years after construction begins.
- All buildings and structures shall be completed within ~~2 years~~ 30 months.

This request shall give additional time, and permits (grading, driveway, etc.) can be obtained in phases prior to the zoning permit that work favorably with the builder/owner to decrease the chances of exceeding the construction time frame.

Discussion occurred among Planning Board members about editing the UDO with this recommendation or to give the Zoning Administrator the ability to decide based on individual circumstances.

Zoning Administrator Barnes asked for consideration of this recommendation, therefore removing any arbitrary decision on part of staff. This recommendation will be applied to all permits upon approval.

Zoning Administrator Barnes stated the appeals process is available with the Board of Adjustment.

Member Streightiff asked for clarification that this new time frame differs from previously established by extending at the front end of the permit process to equal a total of 30 months going forward.

Zoning Administrator Barnes agreed.

Member Ryan asked what is the policy of other towns? Zoning Administrator Barnes offered no reply, as he did not research the policies of other towns.

Zoning Administrator Barnes did report that in North Carolina any construction project that is idle/ceases construction for 12 months, the building permit becomes invalid and must be reissued.

Member Blonshine stated his concern is when building materials have been delivered to the construction site and not used in a timely manner; it is unsightly and dangerous. Town Manager Harris replied if construction materials are not in the road, there's no violation.

Member Wells made a motion for the following recommendations to amend the Town's UDO; Member Streightiff seconded the motion. All members agreed.

- **Exterior construction shall be completed within ~~18 months~~ 2 years after construction begins.**
- **All buildings and structures shall be completed within ~~2 years~~ 30 months.**

The recommendations will be sent to the Town Council and a future public hearing will be held.

B. Update Comprehensive Land Use Plan (CLUP)

Zoning Administrator Barnes reported that the Town's CLUP is required to be reviewed every five years by the Planning Board. The current CLUP was amended in 2018, therefore this will be an item of business to occur within the next several months, and estimated goal of completion sometime in 2024.

Zoning Administrator Barnes further explained the Planning Board will review and provide recommendations to the Town Council, but the final authority on changes/updates is the decision of the Town Council.

Zoning Administrator Barnes reviewed the CLUP with the Planning Board with suggestions as follows: The CLUP is a guiding document to help steer the future direction of the Town of Seven Devils. Although the plan is an essential part of the land-use planning process and is required by the State of North Carolina as part of the land-use planning process, it is non-binding and has no actual enforcement elements. However, it can guide the town in the legislative process of developing land-use ordinances.

- 1) Make no changes, except update the demographics (population, housing numbers, permits trends).
- 2) Send survey to residents asking the following questions:
 - Are you familiar with the Town of Seven Devils CLUP?
 - Are you satisfied with the current CLUP?
 - What changes would you like to see in the CLUP?
- 3) Make recommendations based on the survey and then submit to the Town Council for adoption.

This process can involve citizen input up front and then a public hearing prior to the Town Council decision.

Member Wells stated he is in favor of surveying the citizens. Other members were in agreement.

Zoning Administrator Barnes reminded them the CLUP is not an enforcement document, but a recommendation document. The Town's UDO is an enforcement document.

Chairperson Jones suggested the Planning Board meet again and to include new incoming members in January, but to begin the citizen survey soon. Zoning Administrator Barnes replied once the Planning Board decides on questions for the survey, the process can begin.

Mayor Fontaine was in attendance in the audience and asked to make a statement.

The Planning Board members allowed it. Mayor Fontaine stated that citizen input is important, and the trend of short-term rentals (STR) is changing the town. Be aware of what can or cannot be applied to STR.

Citizens Comments

Sarah Manning – Asked if the CLUP review will include a review of the Town's Vision statement?
Zoning Administrator Barnes replied the vision statement is part of the CLUP.

Mary Ballinger – Asked questions or made comments about the following:

- How are trash violations notified to an owner? *The police review and notify the owner.*
- Is there a fee for fire pit inspections, or free? *No fee, as compliance is the goal.*
- Consideration should be given about outdoor fireplaces and overhanging trees/combustible materials that is a fire hazard.
- Surveys for the CLUP can be done in phases to provide improved guidance.

Planning Board Comments

Member Ryan stated the agenda should include citizen's questions, not just comments.

Member Ryan spoke about Planning Board items from the April 2023 meeting and the passing of the Alternate Energy Ordinance as a very positive action.

Member Ryan spoke about Article 13 – Recreational Vehicles Prohibited and his frustration with the process of communicating with staff, whether current or prior and to date it has not been adequately addressed to his satisfaction. He stated the Planning Board sets policy, not staff.

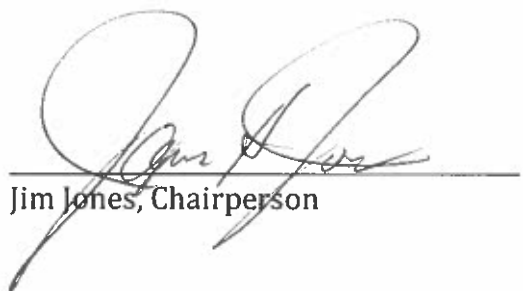
Zoning Administrator Barnes replied that his understanding based on verbal communication with Member Ryan, the request to review Article 13 was no longer a concern, nor an item of business.

Member Ryan asked for the procedure of how to get an item of business on the Planning Board agenda.

Town Manager Harris replied the Planning Board can decide what items of business to include.

Adjourn

Member Ryan made a motion to adjourn the meeting; Member Streightiff seconded the motion. All members agreed. The meeting was adjourned at 6:45pm.


Jim Jones, Chairperson
Hillary Gropp, Town Clerk