

Town of Seven Devils  
Planning Board Minutes  
Regular Meeting  
June 21, 2010

**Call to Order**

The Seven Devils Planning Board met on Monday, June 21, 2010 at Town Hall. The meeting was called to order at 5:33 p.m. by Vice Chair Bob Haugh. Other members present were George Ehlinger, Butch McLean, Mike Tarlton, and Barry Isquith. Former Chair David Hooper was absent because he had submitted his resignation two weeks earlier, and Larry Fontaine was absent and excused. Also in attendance were Ed Evans, Zoning Administrator and Town Clerk, Bethany Higgins, who recorded the minutes.

**Adopt Agenda**

Member McLean made a motion to adopt the agenda. Member Ehlinger seconded the motion. The members agreed unanimously.

**Approval Minutes**

- May 17, 2010 Regular Minutes

Member McLean made a motion to approve the May 17, 2010 regular scheduled minutes with one correction noted by Member Tarlton to change “David Tarlton” to “Mike Tarlton” and include the attendance of the Zoning Administrator, Ed Evans. Member Ehlinger seconded the motion. The members agreed unanimously.

**Citizen Comments**

Kay Ehlinger noted how everyone will miss the former Planning Board Chair David Hooper.

*At 5:37 PM Member Tarlton stepped out of the room.*

*At 5:38 PM Member Tarlton returned to room.*

**Administrative Comments**

Zoning Administrator Evans told the Planning Board that no permits were issued in the previous month but that he had been very busy reviewing the Town’s Zoning, Construction and Subdivision Ordinances with the High Country Council of Governments (HCCOG) senior planner Kelly Coffey who was also in attendance. Kelly Coffey and Phil Trew of HCCOG are reviewing the ordinances to ensure they are in conformance with regulations.

## Old Business

- A. Status of review of ordinances for recommendations from the High Country Council of Governments – The Zoning Administrator said the review of the ordinances is progressing and should be finished by the next Planning Board Meeting. He stressed that input from the HCCOG are not mandates, but are open for the Planning Board’s consideration and possible recommendation to the Town Council. Kelly Coffey of HCCOG then made several recommendations to the Planning Board regarding particular items in the ordinances that needed improvement or correction. Routine corrections included replacing the term “Article 9.3” with “Article 8.3” and in several places, replacing “Planning Department” with the term “Zoning Administrator.” Other recommended changes in the Zoning Ordinance included page 2-4, under 2.2.7 Quorum and Voting; where a conflict of interest statement that was added to follow the general statute. On page 3-1, under Article 3, General Definitions, 3.2 Definitions, General, Amusement and Recreation Facility, the activities “zip lining, snow tubing, and non-motorized cycling” were added to reflect what is currently taking place in Town. In the same clause, Mr. Coffey recommended replacing the term “including” with “specifically limited to” for the purpose of closing any loopholes for unwanted activities not listed for this category also being important to a later reference in the ordinance. On page 4-1, under Article 4-Zoning Districts, 4.1.3 “Transitional District” was changed to “High Density Residential (HDR)” with the following amended definition: “The High-Density Residential District is established to provide a zone of higher-density residential development. Permitted uses include multi-family structures such as duplexes, condominiums, townhouses, etc.” These recommended changes better describe the original intent of transitioning from a low density residential (LDR) to a high density residential (HDR). On page 5-3, Table 5.1 entitled “Table of Permitted Uses” to be consistent with the High Density Residential Zoning District language, Residential Uses, 3-4 Dwelling Units as a permitted use under HDR and added a new Category “Other Amusement and Recreation Facility” which reflects a permitted use. The Zoning Administrator also covered several changes in the Zoning Ordinance discussed by the Planning Board and adopted by the Town Council subject to Public Hearing starting on page 7-3, Article 7, Intensity Regulations, 7.12, Exceptions to Setback regulations, which adds (5) “one walkway providing access to residence.” The next change noted was Article 8—Community Design Standards, adding subsection 8.2.3.3 entitled “structural walkways” defined as “structural walkways regardless of whether in or out of the setback must be a minimum of forty-two inches wide and can be a maximum of sixty inches wide.” In the definition section on page 3-9, the definition of “structural walkway” has been added below the definition of “structural alteration” defined as “a walkway from a road or authorized parking area providing access to a residence.” On page 8-3, HCCOG has recommended adding a definition of a visibility triangle described as measuring “twenty (25)

feet on both the driveway and street boundaries (see diagram below).” The same definition and diagram has also been inserted on page 8-5 under 8.4.6 (1). On page 10-3, the changes reflect that the separation distances include decks and porches for manufactured homes. On page 14-4, bottom of page, the phrase “building structure” has been removed with the idea that there may be some land use that does not involve a building or structure, with a second sentence replacing “such building or structure” with “it” referring to a nonconforming use. On pages 17-2 through 17-3, a large clause taken from the NC General Statute now describes a feature that must be followed. Mr. Coffey concluded after his review, that overall the ordinance is sound, conforming to most of the General Statutes. Member McLean noted a clerical error on page 4-10, where “Avery Journa” should read “Avery Journal” and the Zoning Administrator added that the Town is NOT required to advertise in two different publications in both counties, but that the UNC School of Government said the Town was only required to advertise for public notice in one paper with the highest circulation in the area. The Zoning Administrator concluded the ordinance review with pointing out minor scrivener’s errors and instructing the Planning Board that the Town will have to hold a public hearing for any recommendations that are time sensitive. HCCOG is now working on the Construction and Subdivision Ordinances, and Mr. Coffey is scheduled to speak at the July and August Planning Board Meetings on those recommended changes/corrections. It was mutually agreed by members to consider the suggestions and discuss at the next Planning Board meeting. Since zoning ordinances apply to all residents, the public hearing will be advertised in *the Echo*, the Town website, and a newspaper. The discussion concluded that the new wording for the “High Density Residential” formerly “Transitional”, did not change the intent of the original wording, except for making a 3-4 unit residential building a permitted use. Vice Chair Haugh wanted to know if a Transitional District needed to be left in to cover transitional residential to commercial and the Town Manager said that could be a consideration by the Planning Board to add such a provision, but that it still remained as a conditional use in the current ordinance. Kelly suggested that the zoning ordinance reflect the reality of the Town now rather than build in provisions for “future uses.”

- B. Status of Planning Board recommendations to Town Council on the Tree Protections section of the Zoning Ordinance – Committee report –Larry Fontaine – Zoning Administrator Ed Evans affirmed that the status was unchanged; still waiting to see if Seven Devils receives an Urban and Community Forestry Grant. He also gave a brief report to the Planning Board about the status of the current tree ordinance. Most citizens were getting tree permits to remove trees based on taste and view enhancement (approx. 6 requests/month) and many remain confused about topping (not allowed) versus selective pruning of branches. Vice Chair Haugh asked how the grant money would be used to improve the Tree Ordinance and the Zoning Administrator replied that the money would be used to hire people with experience writing tree ordinances who can help clarify language in the

ordinance, resulting in enforcement that is both reasonable and equitable while maintaining the original spirit of preserving Town's trees. Vice Chair Haugh was concerned about whether the regulations could be tightened up to be more consistently enforced rather than relying on the judgment calls of the Zoning Administrator. Mr. Evans replied affirmatively. He stated that there are three (3) reasons why the Town has a great incentive to preserve trees: 1) severity of topography 2) restoration/preservation of topsoil and 3) preservation of slope. Mr. Evans concluded the discussion saying that he had been very busy performing tree permit application reviews over the last two months.

## **New Business**

- A. Discussion of adding a new Planning Board Member and discussion of a new Planning Board chair – Vice Chair Haugh commended David Hooper's service as Chair and asked for nominations for a Chair from the members. Member McLean nominated Member Fontaine. Vice Chair Haugh commented that Member Fontaine expressed to him no interest in serving as Chair.

Member McLean made a motion to nominate Vice Chair Haugh. Member Ehlinger seconded the motion. Bob Haugh accepted the nomination. A quorum was present. The members agreed unanimously (4-0).

Discussion followed about applications for the position being available via the Town website or from the Town Clerk. The open position calls for someone to serve on the Planning Board with the experience, background, and willingness to serve. In response to a question from Member Tarlton, Mr. Evans said that to date, one person has picked up an application. Applications should be directed to the Town Manager, Ed Evans, and he would make them part of the packet at the next Planning Board meeting. Member Ehlinger expressed an interest in keeping the application period open for sixty days until the August 16, 2010 meeting. The members unanimously agreed.

- B. Proposed Minor Subdivision –Bobby West – Newly elected Chair Haugh recused himself from participating in the vote pertaining to the proposed minor subdivision due to his financial interest in the Nettles Knob Phase II project. The Zoning Administrator opened the discussion describing the procedure for submitting a preliminary minor subdivision plat for Planning Board approval. Mr. Evans confirmed that Bobby West and Bob Haugh had submitted their preliminary plat as per the Town's subdivision ordinance prior to the meeting as previously provided to the Members so they could do a site visit before the meeting. The subdivision ordinance is a little vague on whether the plat must have contours at 5 ft. or 10 ft. intervals, and because Mr. Evans has interpreted it to mean 5 ft. intervals, an updated plat with 5 ft. contour intervals has been provided at the meeting for the proposed project.

Chair Haugh then introduced the project's land planner/surveyor, Chris Shepherd to speak on his behalf. Mr. Shepherd explained that the project would consist of three houses accessed by a private drive with a twenty-five (25) ROW and a turn around inside the property. He addressed the public water access issue. The closest 6" water main was located 800 ft. away. Mr. Evans said that he and Public Works director Kevin Aldridge analyzed public water access on Grandview and determined it was not feasible. The developer recommended drilling private wells. Mr. Evans and Mr. Aldridge then examined the possibility of allowing three water taps and meters on Alpine Drive and explained it would be beneficial to the Town and to the developer. Member Ehlinger expressed concern that in the past, property purchasers did not know what they were getting into in terms of utility availability and costs and he would like to see the water lines installed for all three houses before construction begins. The Zoning Administrator reminded the Board that the preliminary plat for a minor subdivision known as Nettles Knob Phase II meets the conditions of the ordinance and he sees no reason for the Planning Board to deny approval of the preliminary plat, and he recommends approval of the plat as submitted. A final plat will need to be submitted, that takes care of problems voiced that could be binding, to the Planning Board. He also clarified under (2) of plat approval, "within thirty (30) days of submission of the preliminary plat the Planning Board shall either approve or deny the proposed minor subdivision." A minor subdivision (no more than three lots) does not have to get approval from the Town Council. Member Ehlinger asked if the Members could put a condition on the preliminary plat approval. The Zoning Administrator said he would need to check on the legality of with the Town Attorney, Rob Angle. Chris Shepherd said he could list the conditions on the plat and he agreed with the Members that the water lines to the three (3) lots should all be installed at the same time. Mr. Shepherd is seeking preliminary plat approval so the developer can move forward with the health department for design and approval of a drip (septic) system.

Member McLean made a motion to accept the preliminary plat as presented. Member Tarlton seconded the motion with the following four (4) conditions: 1) Developer to confirm whether the utility easement is publicly or privately owned 2) Developer to install underground water lines to all three lots at the same time, using best practices to all three lots; for example, sleeved pipes, if required, etc. 3) All questions about the shared, private road would be answered to the satisfaction of the Planning Board via a "road maintenance agreement," and 4) developer to pave the turn around to prevent future damage to the Town road. The members agreed unanimously (4-0).

### **Other Business**

In the Board Member comments, Chair Haugh made a recommendation for Butch McLean as Vice Chair. Member Ehlinger seconded the motion. Butch McLean accepted

the nomination. The motion carried unanimously (4-0).

Member Tarlton made a recommendation that Town staff send a thank you gift and plaque to David Hooper for his six years of service on the Planning Board.

### **Adjourn**

At 7:05 p.m. Chair Haugh made a motion to adjourn. Member Ehlinger seconded the motion. The members agreed unanimously (4-0).

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Bob Haugh, Chair

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Bethany Higgins, Town Clerk