

# TOWN OF BEECH MOUNTAIN

## Planning Board Meeting Minutes

November 27<sup>th</sup>, 2012

### **Call to Order:**

Chairman, Andy Porter, called the meeting to order at 9:02 AM. Other Board Members present in attendance were John Hoffman, Brian Barnes and Matt LaVigne. Several concerned citizens and other stakeholders were also present, including Dennis Ferguson, Jim Brooks, Clarke Kennedy, Talia Freeman, John Troxler, Judy Burleson and Lecia Ferguson.

### **Adoption of Agenda:**

The agenda was adopted with no change.

### **Approval of Minutes:**

Brian Barnes made a motion to adopt the minutes from the previous Planning Board. Matt LaVigne seconded and motion carried with no opposition.

### **Public Comment Period:**

*(This comment period was for agenda items other than the Large Group Rentals Zoning question. Respondents had three minutes maximum each person.)*

Jim Brooks discussed the sign ordinance proposal regarding 'temporary, small scale event signs' and asked the Board if they have read the restrictive covenants from the founding of the Town stating that no commercial signs should be erected on the property without the permission of the company (Carolina Caribbean Corporation). He reminds the board that restrictive covenants are similar to laws and that any property owner can sue someone who does break the restrictive covenants. He therefore recommends that the Town's ordinances be in line with the restrictive covenants and that no commercial outside signs be allowed on residential lots.

John Hoffman replied that the restrictive covenants have not been enforced for many years and that there are many instances of how they are irrelevant. He brings up vinyl siding and modular homes as examples of restrictive covenant provisions that are commonly violated.

Mr. Brooks also suggests that in the draft of the Public Safety chapter of the Comprehensive Plan be revised in such a way that it no longer implies that wrecks and power outages are common occurrences on Beech Mountain. He is concerned about fallen trees hazards and recommends that they be discussed in the plan.

Mr. Dennis Ferguson expresses his support for the small scale event temporary signs provision. He states that the signs are beneficial in allowing people to find open houses.

## **Discuss Zoning for Large Group Rentals:**

Mr. Scott begins by providing an overview of the issue and reiterating some of the proposed solutions. He states that it is at best questionable whether short term rentals (especially Large Group Rentals) are allowable in Beech Mountain under our current zoning ordinance. He also acknowledges that Beech Mountain is a vacation resort that has a long tradition of rental property. He says it is clear that this discrepancy must be addressed in some fashion, and provides two alternatives for the Planning Board to consider. Both of these alternatives specify that short term rentals are an allowable land use in Beech Mountain, but differ in their approach.

The first option presented is simply to acknowledge that short term rentals of all types (large and small) are allowable in Beech Mountain. This would just involve defining what we mean by “short term rentals” and then listing that as an allowable use in every zoning district in which single family homes are allowed. The rationale for this option is based mostly on these arguments:

- 1) A realization that short term rentals, including large ones, are beneficial to the Town’s economy and in keeping with our goals to thrive as a resort destination.
- 2) A realization that the resort rental operation is so prevalent and ingrained in Beech Mountain that to regulate it would be overly burdensome to our citizens and their expectations of what they can use their property for.
- 3) That Beech Mountain can address the negative impacts of these occupancies through already existing ordinances regarding garbage, noise, and parking.
- 4) Enforcement of the other proposed option would be difficult or in some cases impossible.

The second option would be to make a distinction at some number of occupants (the current draft of the ordinance says 13 or more people) at which such a rental operation is no longer acting and operating in a similar manner to a single family home. Operations that rented to groups larger than this on a regular basis would need a Conditional Use Permit, approved by the Board of Adjustments. To be approved for such a permit, the applicant would need to demonstrate that they met certain criteria that would attempt to ensure the large rental operation was generally a “good neighbor” to surrounding residents. The criteria are not intended to be overly onerous or difficult to achieve, but would rather be minimum considerations for the safety of the occupants and the mitigation of impacts such as parking and garbage. The rationale for this approach would be:

- 1) Many of Beech Mountain’s residents have depended upon the existing zoning ordinance to protect their homes as single family residences. To them, what is occurring at large group rentals is a commercial activity that is incompatible with their opinion of what the character of Beech Mountain is or should be. This applies to both existing residents/ owners, and owners of vacant lots who have planned to one day retire to Beech Mountain.

2) Relying solely on existing ordinances is reactionary rather than proactive. Requiring a Conditional use permit would cause applicants to put thought into how they would address common issues and take steps to prevent them before they happen.

3) Conditional Uses are often used as a form of “compromise” to mitigate the impacts of seemingly incompatible land uses in cases where the goals of a community are for both types of uses to exist within a zoning district

Mr. Scott then summarizes by reiterating that this is a difficult issue and its resolution goes to the heart of what kind of community we believe Beech Mountain is and what kind of community our people would like it to become. He says that the Comprehensive Plan is the document that a community should rely upon when making these types of decisions- and that the fact that this issue has been so intensely debated is reflective of our need to ensure that the Plan be completed.

At this point, Chairman Porter opens up the floor for public comments on this issue, beginning with Mr. Clarke Kennedy from 103 Locust Ridge Road, who had requested to be included on the agenda.

Mr. Kennedy explains how his family came to Beech Mountain and built a 7 bedroom house many years ago with the intent and understanding that it would always be used as a large group rental. He also discusses how his family brought many other families with them and introduced them to Beech Mountain. He highlighted that the Carolina Caribbean Corp discussed in their prospectus how “your home can work for you and help pay for itself”- and that this was relied upon by many of the original property owners. He lists stakeholders who benefit from rentals as permanent residents, part time residents, home/property owners, Beech Mountain Club, tourists, businesses and Town employees. He discusses how large group rentals help support the stakeholders by renting homes, paying taxes (sales & occupancy) and buying merchandise. Accordingly, he supports the first option to the proposed zoning changes.

Chairman Porter asks for any additional comments and several people reply:

Mr. Brooks states most houses are not set up for large rental groups. He says that trash becomes an issue even and is an issue with non-rental homes. Trash not being picked up on Mondays and holidays is part of the problem. He recommends a welcome package that includes information on parking and trash pickup be made available for non-rental managed property.

Talia Freeman advises that the most stressful part of her job is to locate where large groups can rent due to not having places where large groups can stay and how businesses are losing money due to more availability off the mountain. When snow is bad and people are not able to make it up the mountain they take their money to other ski slopes.

John Troxler agrees with that the first option and the possibility of large group homeowners getting together to discuss safety of their rental homes. His main concern is around safety and he supports the group rentals and how they affect the economy.

The Planning Board then discusses the proposed alternatives. After some deliberation, Mr. Barnes moves that we adopt alternative A (option 1) but believes 30 days is too short of a time frame and

suggest that it be changed to 90 days. Matt LaVigne seconds and John Hoffman also agrees with Mr. Barnes. Mr. Porter explains this was started from a complaint and understands the value to rentals homes. He calls for a vote and the motion passes with no opposition.

### **Discuss Sign Regulations:**

This agenda item was to discuss temporary signs for small scale events such as open houses, weddings, parties, etc. These signs are currently prohibited by the sign ordinance, but this provision has been difficult to enforce and has been ignored to some extent. Public sentiment and the sentiment of the Planning Board seems to be that these signs should be allowed within some guidelines.

Mr. James Brooks reiterates that he does not want these signs allowed and that they are a violation of restrictive covenants. Brian Barnes' opinion is that once the town was founded that the original covenants were eliminated. The Planning Board is in agreement to move forward with the discussion.

Mr. Barnes wants a clearer difference in the wording between a homeowner having a sign for a yard sale and a business erecting a sign to advertise a "special." Mr. Scott agrees that this could be a problem, but believes that there is enough difference between commercial signs and private events in the wording of the proposed ordinance and does not know how to make it any clearer. He advises that the attorneys still need to review before this goes before the Town Council. Mr. LaVigne suggests adding the fine for any violation to include fines for the size of the sign. Mr. Scott suggests that the ordinance read such that the sign may be removed by the Town and/or fined.

Mr. Scott asks if the board is ready to move the sign ordinance to the Town Council.

Mr. Porter asks about the commercial sign ordinance and Mr. Scott advises that everyone is on notice as of 1<sup>st</sup> of the year penalties will be imposed and it appears that businesses are taking action to upgrade their signs.

Brian Barnes makes a motion for a vote and John Hoffman seconds the motion. Motion is passed

### **Comprehensive Planning:**

Mr. Scott provides an overview of his draft of the Public Safety component of the Comprehensive Plan. The purpose of this section is to keep the town safe & lessen the impact of potential emergencies should they occur.

Mr. Scott outlined the major goals, policies, and strategies regarding public safety in his draft. The plan discussed providing operational capability for the town to respond adequately to emergencies, identifying potential hazards and providing mitigation strategies for each, and creating response plans for major emergencies or disasters.

Mr. Scott advises that Bob Pudney with the Fire Dept & Jerry Turbyfill with the Police Department have provided feedback and assisted in the development of this section of the plan. He solicited

comments, but also encouraged everyone to read over the draft at their leisure and provide him with comments and ideas.

It was suggested that the plan discuss road "Wash Out" due to past history of Beech Mountain Pkwy being closed for several days. It was also reiterated that fallen trees should be added as a hazard.

Mr. Scott then discussed the draft of the Water/Sewer element of the plan in the same general format. He outlined the major portions of his draft, which included adequate water and sewer capacity, superior water quality, and efficiency in the delivery of services. He stated that much of his plan was a reflection of the completed Beech Mountain Water and Sewer engineering study by Rothrock Engineers.

Once again, he solicited comments, but recommended that everyone read over the draft of the plan and help with editing, ideas, and opinions.

### **Regional Hazard Mitigation Plan:**

Mr. Scott discussed that Watauga County is participating in the creation of a regional hazard mitigation plan with funding from FEMA, and that the county would like the Town to adopt the plan. He had previously provided CD's of the plan and asked the Board to review them and give him any feedback. Mr. Suddreth from Watauga County Emergency Management would like to present to the Town Council at the next meeting. A motion to recommend that council adopt the Regional Hazard Mitigation Plan is made by John Hoffman and seconded by Brian Barnes and was passed with no objection.

### **Other Business:**

Mr. Porter asks for other business

Mr. Scott advises that the Town Attorney Four Eggers has suggested that the board look into specifying our stance on camping on residential lots. He just wanted to mention this as a potential topic for future meetings.

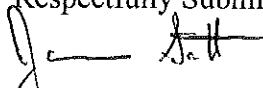
The concern is when property owners may not be aware of someone camping for example during large events, but John advises that this could impact families who just want to pitch a tent for kids to play in the backyard. The question is does the planning board need to address or is it addressed under trespassing. And there is already a zoning ordinance already in place that does cover campground. Mr. Porter suggests tabling to another meeting.

Brian Barnes advises that the next meeting falls on Christmas day and asks if the Tuesday prior is available. Mr. Barnes also wants the planning board to urge the town council to encourage our police force to enforce our town ordinances including noise, parking, and garbage issues. Town Manager Randy Feierabend explains the difference between a planning officer and a zoning officer enforcing the ordinances and some of the difficulties and unintended effects when police enforce these types of ordinances.

**Call to Adjournment:**

A motion to adjourn was made by Brian Barnes and Matt LaVigne seconded. The motion carried.

Respectfully Submitted,



James Scott  
Secretary to the Board