
TRANSYLVANIA COUNTY PLANNING BOARD MINUTES

Regular Meeting, October 18, 2018

Call to Order, Chair Daryle Hogsed

The Transylvania County Planning Board met in regular session on Thursday, October 18, 2018, at 7:00pm in the Community Services Building Conference Room. Members present were Chair Daryle Hogsed, Kimsey Jackson, Bob Twomey, Sandy Watson, Lauren Wise and Steve Woodsmall. Vice-Chair Mack McNeely was absent (excused). Staff members present were Transylvania County Planning and Community Development's County Planner, Joy Fields, and Program Assistant, Kalen Lawson. Also present were eleven members of the public. No media were present.

I. Welcome

II. Public Comment

- Huxley Coulter introduced himself as the son of property owners on Fire Tower Road where the cell tower is proposed to be sited and thanked the board for their efforts. After reading Section 21 of the Transylvania County Telecommunications Tower Ordinance, he requested the Planning Board request expert assistance.

Section 21. Retention of Expert Assistance: The County may retain a consultant and/or expert necessary to assist the County review and evaluate the application for a proposed tower, collocation, or modification. The County may also request expert assistance for other issues, such as economic development impacts, residential values, noise mitigation, viewshed protection, etc, in order to ensure the general health, safety, and welfare of the public. The cost of the expert assistance shall be consistent with state law and will be paid by the applicant.

- Mr. Coulter also stated that the application has not proven 'economic hardship'.
- Planning Board Chair Daryle Hogsed asked County Planner Joy Fields who or which board would be most appropriate to engage an expert and she responded it could be the Board of Commissioners or the County Manager.
- For clarity, Daryle Hogsed explained that the Planning Board's role is to make recommendations to the Board of Commissioners. Joy Fields clarified that it was up to the Planning Board to recommend (or not) the engagement of expert assistance.

III. Approval of Agenda

Daryle Hogsed proposed the agenda be amended to allow for the presentation from the Cedar Mountain Community to be heard before the discussions of old business. Kimsey Jackson moved to approve the October 18, 2018 agenda as amended. The motion was seconded by Lauren Wise and carried unanimously.

TRANSYLVANIA COUNTY PLANNING BOARD MINUTES
Regular Meeting, October 18, 2018

IV. Approval of Minutes

Sandy Watson moved to approve the minutes of the August 23, 2018 special meeting. The motion was seconded by Steve Woodsmall and carried unanimously. The September 20, 2018 meeting did not have a quorum, but the public input that was heard that evening was documented.

V. Subdivision Approvals and Updates

Joy Fields notified the Planning Board that there were twenty-three (23) exception plats, one plat review, and no subdivisions approved between August 23, 2018 and October 17, 2018. Joy clarified the subdivision process for the citizens present.

VI. New Business:

A. Cedar Mountain Community Planning Effort

- Karen Ramsaur, Chair of the Cedar Mountain Community Center (CMCC) Small Area Planning Committee introduced other committee members in attendance including Suzanne Lawson (President of CMCC), Robert Lawson (who compiled survey data and created presentation), Lucia Gerdes (business owner), and Jacquelyn Rogow.
- When Mark Burrows (now retired Director of Planning and Community Development) and Joy Fields (County Planner) visited at CMCC in May of 2018, they challenged the community to define itself, identify its boundaries and determine how/who they want to be via a community survey.
- Recognizing property rights, the residents would like to determine how the community grows.
- Robert Lawson gave the attached presentation. He noted that CMCC is continuing forward with collaboration and plan development, but wanted to inform the Planning Board of their progress and intentions, and, most importantly, enlist the support of the Planning Board.
- He presented the results of the survey of Cedar Mountain residents and noted there was an estimated 10% response rate. Estimating the number of residents in Cedar Mountain is difficult as it is not its own census tract. He estimated 1800 residents with half being part-time residents. Following is an excerpt of survey results fully explained in the attached presentation:

Part Time	Full Time	Grand Total	
4.89	4.81	↑ 4.83	Protect against certain types of development (adult theme sto
4.82	4.73	↑ 4.76	Protect character of community
4.74	4.85	↑ 4.82	Protect quality of environment
4.74	4.58	↑ 4.63	Protect open space and recreational areas
4.50	4.69	↑ 4.64	Maintain a rural atmosphere
4.71	4.59	↑ 4.63	Limited signs / billboards
4.32	4.46	↑ 4.42	Wooded areas
4.66	4.34	↑ 4.43	Open space: parks, scenic areas, outdoor recreation, etc.
4.66	4.51	↑ 4.55	Protect property value
4.26	4.23	↑ 4.24	Reduce flooding through storm water management
3.84	4.10	↑ 4.03	Better cell phone reception / tower in Cedar Mountain
4.11	4.32	↑ 4.26	Peaceful community / Low noise zone (limit noise levels, loud
4.05	4.35	↑ 4.26	Business lighting controls (downward parking lot lights, lighte
4.34	4.37	↑ 4.36	Buffer between development types (i.e., vegetation required b
4.08	4.12	↑ 4.11	Natural buffers between business and road
3.95	4.05	↑ 4.02	Use of native plants in commercial landscaping
3.82	3.95	↑ 3.91	Areas of open land
3.68	4.00	↑ 3.91	Farming / Pasture lands
3.21	3.70	↑ 3.57	Single Family Residential development
3.84	3.72	↑ 3.76	Limit number of entrances / exits onto highway from business
3.58	3.12	↔ 3.25	Community website
3.16	3.31	↔ 3.26	Establish historic district
1.61	2.06	↓ 1.93	Professional Office development
1.58	1.87	↓ 1.79	Commercial development
1.47	1.79	↓ 1.70	Multi-family Residential development
1.37	1.77	↓ 1.65	Add traffic light at intersection of Cascade Lake and Hwy 276
1.08	1.33	↓ 1.26	Industrial development

TRANSYLVANIA COUNTY PLANNING BOARD MINUTES
Regular Meeting, October 18, 2018

- Lucia Gerdes, a Cedar Mountain business owner, addressed the Planning Board with some of the ideas they would like to include in a plan and noted that a 10% response rate without significant deviation was a significant sample in this case.
- Lauren Wise thanked the CMCC committee and noted appreciation for their efforts to self-determine.
- Bob Twomey noted the amount of floodplain in Cedar Mountain and shared his opinion that he did not think there would be a lot of fill in the floodplain. Joy Fields noted that the Floodplain Damage Prevention Ordinance does allow for fill in the 100-year floodplain and that the floodway is not always mapped in the Cedar Mountain area.
- Kimsey Jackson said he was a native of Transylvania County and he cautioned the CMCC Committee about limiting commercial development and to think about tourists wanting to buy things without driving to Brevard. Lucia Gerdes responded that the idea is not to prohibit businesses, but make sure development is appropriate regarding flooding, signs, lighting, buffers, native plantings, safe highway entrances, etc. Kimsey Jackson commended the committee for their involvement and progress.
- Joy Fields stated that for the CMCC small area plan project to move forward, the CMCC committee needs the Planning Board's assistance regarding land use regulations. Planning Board would review the plan, ensure regulations are legal, and possibly recommend the plan for the Board of Commissioners to consider for public hearing and possible approval. The CMCC committee is requesting the Planning Board to take an action regarding support of their small area plan.
- Daryle Hogsed noted that zoning can be a contentious issue and he shared that he thought the people of the community should be the ones deciding how development occurs. He noted that he appreciated their efforts and stated he would be pleased for the board to be supportive.
- Daryle Hogsed moved that Planning Board support the small area plan project of CMCC and allow Planning and Community Development Department to assist. The motion was seconded by Steve Woodsmall and carried unanimously.

VII. Old Business:

A. Telecommunication Tower Application

- Joy Fields reviewed the SeeShore Tower Application. The request is to build a new cell tower less than ½ mile from an existing tower, and less than 100 feet below the elevation of a protected mountain ridge. She noted that the existing towers at the Rich Mountain site on Charles Taylor's property are not cell towers.
- Joy Fields reviewed the objectives of the:
 - * Transylvania County Comprehensive Plan
 - Economic Health Goal: Transylvania County has a diverse and vibrant economic base that is business-friendly and is supported by exceptional infrastructure.
 - Objective 2: Initiates efforts to maintain and enhance infrastructure in order to improve our unique quality of place.
 - Action Step 2i: Advocate for actively identifying locations funding, and necessary partnerships to increase broadband speed, coverage and reliability throughout the county.
 - * Board of Commissioner's Strategic Plan

- Goal 1, Strategy 1B: Plan, advocate and provide for infrastructure to support economic development and to make the community a desirable place to live and work
- Shown on the large screen were pictures from the application packet including:
 - * a photo of the existing Fox TV tower that is over 1k feet tall that includes other towers on the ridge
 - * an image of all towers in the area
 - * a rendering of the proposed replacement tower (The application is to replace an 80' tower with a new monopole of 150'. The survey in the tower packet shows the tower to be removed.)
 - * a photo simulation of where the new tower is proposed to be
- The tower is proposed to be 100' off the protected mountain ridge, but not 100' below in elevation as the ordinance states.
- The Mountain Ridge Protection Ordinance (MRPO) does not expressly prohibit or exempt telecommunications towers. The Telecommunications Tower Ordinance (TTO) does prohibit towers from being located on protected mountain ridges. The TTO limits towers to 180' in height. Towers over 200' require lighting according to the FCC.
- Joy reviewed the following sections from the TTO:
 - * Section 11. Preferred Locations for Wireless Communication Facilities
The Board of Commissioners asks applicants to locate, site, and erect Telecommunications Towers in the order of the following priorities:
 1. Existing Telecommunications Towers, water towers, or other structures
 2. Utility easements or public rights-of-way containing overhead utility transmission and/or distribution structures that are eighty (80) feet or greater in height.
 3. Publicly owned (Federal, State, or Local) property
 4. Property accessed by a state maintained road
 5. Property accessed by a private road.
 - * Section 12. Prohibited Tower Locations
The Board of Commissioners finds that mountain views and aesthetics are an integral part of Transylvania County's economy and thus prohibits Telecommunications Towers on Protected Mountain Ridges. The County may also disapprove an application if the placement and location of Towers would result in an unacceptable risk to County residents, the public, or employees.
 - * Section 5 definitions of:
 - Ridge: The elongated crest or series of crests at the apex or uppermost point of intersection between two (2) opposite slopes or sides of a mountain, and includes all land within one hundred (100) feet below the elevation of any portion of such line or surface along the crest.
 - Telecommunications Tower: Any tower or structure erected for the purpose of supporting one or more antennas designed to transmit or receive signals (e.g., telephonic, radio, television or microwave) and antennas or other devices affixed thereto.
- This tower is proposed to be 100' away from the crest of the ridge, but not 100' below in elevation.
- The other existing towers were all built before the current MRPO. None of the existing towers were constructed as telecommunications towers for cell companies. It is our understanding that there are currently no cell companies on the Fox TV tower.

TRANSYLVANIA COUNTY PLANNING BOARD MINUTES
Regular Meeting, October 18, 2018

- Sec 18.12 of the TTO states two towers cannot be within 2,640 feet of each other unless documentation is shown that it is not feasible. There are currently four telecommunication towers on that ridge within 2,640 feet of each other.
- Joy Fields clarified that this tower application is for the Planning Board to consider a recommendation to the Board of Commissioners as this application is not in compliance with the required distance between towers and it is not 100' below the protected mountain ridge in elevation.
- Joy Fields noted that Planning Board is to give a recommendation on this application to the Board of Commissions to consider for approval. Typically, tower applications are approved by Planning Board when the applicant meets all the requirements – it is a 'permissive ordinance'. This application requires a variance and must be considered for approval by the Board of Commissioners in accordance with the TTO. It is an option for the Planning Board to recommend approval by the Board of Commissioners with contingencies.
- In this application, design requirements make collocation on towers other than the Fox TV tower inappropriate. This proposed monopole will allow for three arrays in addition to US Cellular's primary array. The TTO requires only one additional space for collocation.
- Coverage maps were discussed and Michael Doran (applicant) explained the new coverage will be around 9 miles. There will be coverage where there is none now. The coverage would make a difference in regard to safety and emergency services in Cedar Mountain and in DuPont State Forest which has over 500,000 visitors annually.
- The issue of safety was discussed, especially in DuPont State Forest.
- Michael Doran noted they wanted to collocate on the Fox TV tower initially, but negotiations fell through when they could not negotiate a 'fair market' price. They were able to negotiate down to \$4,000 per month from \$6,000 per month rent, which, according to Michael Doran is about 75% more than the typical market rate.
- The reason this tower's proposed height is 150' instead of 120', is for the ability for three other cell companies to collocate.
- Michael Doran stated the timeframe for construction is for it to be built in 2018. The NEPA is scheduled for completion on November 11, 2018.
- Joy Fields has issued a letter to the developer stating the following documents are required for the application to be complete:
 - * NEPA document
 - * Foundation plan (which won't be done until NEPA is done)
 - * A letter from the FCC and FAA exempting from their regulations (Michael Duran stated that the FAA no longer writes exemption letters)
- It was noted that the tower's construction drawings are stamped by a professional engineer.
- Joy Fields noted that the Planning Board can make a recommendation to the Board of Commissioners that approval would be contingent upon completing the application.
- Huxley Coulter asked about collocation and noted it is close to other towers and on a protected mountain ridge. He asked about the financial hardship.
- Michael Doran said they are asking \$4,000 per month, and typical rent is \$1,800-2,000 per month. He stated the cost of this proposed tower would be around \$250,000.
- Steve Woodsmall asked if the county might have any leverage to influence a more reasonable rent with the Fox TV tower owner. Michael Doran noted that a workable

contract would also have to be made available by the Fox Tower owner – they may have other language in their lease that US Cellular cannot do.

- Michael Doran noted that this proposed tower is replacing another existing tower.
- Kimsey Jackson asked Michael Doran if US Cellular still wanted to be on the Fox TV tower and Doran stated that negotiations were exhausted.
- Daryle Hogsed was not aware of any leverage the county would have. He noted the Planning Board could include in their recommendation to the Board of Commissioners that they would like the county to investigate if they did have any leverage to influence the Fox TV tower owner to allow more reasonable collocation leases. Lauren Wise expressed his concern that it may be out of the county's purview.
- Michael Doran stated that, with a workable lease and reasonable rent, US Cellular would be interested in collocating on the Fox TV tower.
- Concern was shared that permitting this tower would set a precedent for other towers on other protected ridges. Others argued that this ridge is the 'sacrificial lamb' for telecommunications and that given the fact there are already towers there, it does not set precedent for new towers on protected ridges without existing towers.
- Joy Fields read input from Mark Tooley into the minutes (attached hereto).
- Bob Twomey moved to recommend that the Board of Commissioners approve the telecommunications tower variance subject to a completed application, and only if agreement for a workable lease and reasonable rent cannot be negotiated with the county for the Fox TV tower. Lauren Wise seconded the motion. Five members voted 'aye'. Steve Woodsmall abstained. The motion carried.

B. Voluntary Ag District Ordinance update by Cooperative Extension and reviewed by Planning Board:

- Joy Fields referred to the draft ordinance issued in the Planning Board's packets, noting it was edited to be in same format as other county land use ordinances (content has not changed).
- Joy Fields noted that the Agricultural Advisory Board has reviewed this draft and that it is Planning Board's role to make a recommendation to the Board of Commissioners.
- The Agricultural Advisory Board specifically did not want an acreage requirement in the ordinance.
- Bart Renner of NC Cooperative Extension explained that the Transylvania County Voluntary Agricultural District Ordinance is more about communications and awareness, not protections. It does not affect tax status.
- Kimsey Jackson moved to recommend the Transylvania County Voluntary Agricultural District Ordinance for approval by the Board of Commissioners with the following changes:
 - i. Include a definition of 'ex officio'
 - ii. Use a simple majority rather than two-thirds majority
 - iii. Update section 14.3
 - iv. Complete formatting
- The motion was seconded by Steve Woodsmall and carried unanimously.
- Bart Renner noted that Joy Fields and Kalen Lawson were very helpful in the development of the ordinance and its process, and he appreciated their assistance.

C. Watershed Protection Ordinance Review

Due to time constraints, it was decided to move review of the Watershed Protection Ordinance to next month's agenda

D. Planning & Community Development Department Update

- The JHPC will be offering a workshop with staff from the State Historic Preservation Office for property owners of historic structures.
- The Transportation Advisory Committee (TAC) is beginning the process of a Comprehensive Transportation Plan, which is a system level plan that will include planning for pedestrians, freight, bikes, cars, etc.
- Joy Fields attended a floodplain conference. Transylvania County is on the docket to get new flood maps from FEMA in 2022.
- The Board of Commissioners and the County Manager have requested that Planning Board determine if it would be beneficial to update or change the Noise Control Ordinance. As it will involve case law and statute review, Daryle Hogsed suggested the county attorney be involved and Joy Fields noted that position was currently unfilled with the county. Review of the Noise Control Ordinance will be on the agenda for the next Planning Board meeting.
- Joy Fields shared that it might be beneficial for the Planning Board to consider regulation of roads for safety purposes on parcels or contiguous parcels with multiple seasonal units (like tiny home villages, cottage/cabin rentals, and campgrounds). Currently, road requirements are in-place for condominium complexes in the Subdivision Control Ordinance. Manufactured home park road requirements are in-place in the Manufactured Home Park Ordinance. There currently is no ordinance covering other multiple units on one parcel.
- Joy Fields will email alternative dates for the November Planning Board meeting, which is currently scheduled for November 15, 2018. Those alternative dates will include November 8 and 13.

VIII. Public and Board Member Comments

- Daryle Hogsed thanked board members for their thought, input and effort and thinks the recommendations to the Board of Commissioners are well thought through.
- Joy Fields noted that telecommunication tower COWs (carrier on wheels) are allowed for 180 days and are exempt from the telecomm ordinance. US Cellular could choose to place one on the requested site to be able to keep their FCC license until there is a decision on whether their new tower can be placed.
- Kimsey Jackson shared that he liked the way this board works well together.
- Bob Twomey and Sandy Watson thought everyone did a good job, and complimented Joy Fields' management of the meeting.

TRANSYLVANIA COUNTY PLANNING BOARD MINUTES
Regular Meeting, October 18, 2018

IX. **Adjourn**

There being no further discussion, Sandy Watson moved to adjourn. The motion was seconded by Bob Twomey and carried unanimously.

MINUTES APPROVED



Daryle Hogsed, Chair



Kalen Lawson, Recording Secretary