

**PLANNING AND
COMMUNITY DEVELOPMENT**

Jason Stewart, Director
Kate Hayes, Interim Planner
Beth Webb, Program Assistant



106 East Morgan Street, Suite 207
Brevard, NC 28712
828.884.3205
planning.transylvaniacounty.org

**TRANSYLVANIA COUNTY PLANNING BOARD MINUTES
Regular Meeting, October 17, 2019**

Call to Order: Chair, Sandy Watson - The Transylvania County Planning Board met in regular session on Thursday, October 17, 2019, in the Community Services Building conference room. Members present were Chair, Sandy Watson, Vice Chair, Kimsey Jackson, Bob Twomey, Rick Lasater and Beecher Allison. Members Lauren Wise and John Wayne Hardison were absent (excused). Staff members present were Transylvania County Planning and Community Development's Director, Jason Stewart, Interim Planner, Kate Hayes and Program Assistant, Beth Webb. Two members of the public were present. No media attended.

- I. **Welcome:** Sandy Watson welcomed everyone. The meeting began @ 7:01 p.m. Sandy Watson said the invocation and Beecher Allison led the Pledge of Allegiance.
- II. **Public Comment:** Sandy Watson asked public member, Kelvin Phillips, if we would like to speak at this time and he replied that he would speak later.
- III. **Approval of Agenda:** Kimsey Jackson made the motion to approve the agenda as presented, the motion was seconded by Bob Twomey and carried unanimously.
- IV. **Approval of Minutes:** Bob Twomey moved to approve the Regular Meeting minutes for September 19, 2019 as prepared. The motion was seconded by Beecher Allison and carried unanimously.
- V. **Subdivision Approvals and Updates:** Kate Hayes notified the Planning Board that since September 19, 2019, there have been twenty (21) subdivision and exemption plats reviewed. Thirteen (13) recombination of previously approved lots, two (2) family subdivisions each no more than 2 parcels, three (3) changing of boundary lines between adjoining property owners and three (3) 2 lot subdivisions. Kate advised the Planning Board that if they ever have questions about any of the subdivisions or exemptions, we can pull them up from the Register of Deeds office website.
- VI. **Old Business:**

Noise Ordinance: Sandy Watson questioned Jason Stewart, if any changes were made last month. Jason Stewart answered that we did not make any changes. Before the meeting, we received an email from the County Attorney changing a few items due to form. With that being said, we have moved on to have the Public Input session tonight to make a recommendation to the Board of Commissioners. Jason Stewart stated that if they are fine with the changes to the form, then he would just make a recommendation to the Board of Commissioners as to the County Attorney's advice as to form. Sandy Watson questioned if Kelvin Phillips had something that he wanted to add at this time? Kelvin Phillips answered that he did have something to add. Kelvin Phillips started with Section 3: Exempted Noises - the following noises are exempt from this Ordinance. Mr. Phillips thinks that item 3.2 with the line through it, has been taken out. Kelvin Phillips stated that, we, in construction (and he is going to speak for a lot of folks) have a serious problem with that. He sells metal

Transylvania County Planning Board Minutes
Regular Meeting, October 17, 2019

roofing, siding, agricultural, industrial and commercial. A lot of crews that they sell to were starting as soon as the sun came up and quitting around 1:00 p.m., just so they could stand the heat. It's not just roofing crews, its other construction. If you can't start until 9:00 a.m., it cuts into your day substantially. It's not only so during extreme temperatures, like we have just had, but also during the winter time. And, in the winter time, you have to start a little later because there is frost on the roof. So, you start a little later and work a little later in the afternoon, so you may pass 6:00 p.m. The construction end is very detrimental in a lot of cases. He has a big problem with that being taken out. Bob Twomey advised that the Board decided to go ahead and exempt construction. Kelvin Phillips added that it still has the line through it. If he is misunderstanding, then that's great, but it looks like it has been taken out, so it is not exempted anymore and that's a serious problem. There are other things like 3.7 farming operations shall be exempt from the operation of this ordinance. And, it had the line through it. Kimsey Jackson stated that up at the top, it says the following noises are exempt from this ordinance when you first start reading it, so that means that everything underneath it is exempt. Bob Twomey answered that the County Attorney looked at that and helped us shorten the verbiage. Kelvin Phillips suggests leaving that wording in, so far as construction and farming. Bob Twomey stated that Misti Bass, County Attorney, had us take that out because it says shall be exempt and right up above, it says all of the following noises are exempt. So, she thought that it was just double verbiage. So, we took her advice to take it out. Sandy Watson added that farming operations is there. Bob Twomey was hoping that just saying general farming operations, covers everything. Kelvin Phillips stated that if that's the case, then that would be better, but like he said, the following noises are exempt, construction is left out. It seems to Kelvin Phillips, the wording needs to be in there. Because there is nowhere that it addresses construction. Bob Twomey questioned if we left just the word construction in, that covers everything from building a fence to motor graders and heavy equipment and everything in between. Construction would be the collective term for all or none. Kelvin Phillips added that he doesn't disagree with that on construction. Mr. Phillips would also include manufacturers and not take that out. Anything that makes it less ambiguous should be left in there. You can understand with all of the construction stuff with a line through it and the folks that he talked to understood that it was dropped from being exempt because there was no wording in there that addressed it anymore. Bob Twomey stated that we talked about construction and then we got into what is industry and what is construction? Kimsey Jackson advised that we can address that. Sandy Watson advised that the Board will talk about it among themselves. Those were all of Mr. Phillips's comments for now. The Planning Board members thanked Mr. Phillips for his input.

Chris MacMillan lives at College Walk and used to live at Cedar Mountain. He has had visitors from Winston Salem, who are looking to retire to Western North Carolina. They come to College Walk and look around, but they are looking to buy property and build a house. They have all voiced concern about the un-muffled compression (Jake) brakes that come through town when they are downtown eating at a restaurant. At College Walk, some of the older people have been frightened by compression brakes when they travel down Neely Road. It's intermittent, but it's loud. Mr. MacMillan added, the other complaint was that the roads are pretty bad. Sandy Watson stated that College Walk is part of the City of Brevard. Planning Board members agreed that College Walk is in the City. Planning Board members thanked Mr. MacMillan for coming in.

Transylvania County Planning Board Minutes
Regular Meeting, October 17, 2019

Planning Board members discussed the input from Misti Bass, County Attorney with her changes due to form for the following:

- Article IV, Jurisdiction and Administration, should read, *“This Ordinance shall apply to all areas of Transylvania County located outside the boundaries of any incorporated city or town. Transylvania County Noise Ordinance is on file at the office of the Transylvania County Clerk to the County Commissioners. NCGS 153A-48 requires the ordinance to be kept on file with the Clerk to the Board. The Transylvania County Sheriff, or their appointee, shall be known as the Enforcement Officer.” Deleted Transylvania County Sheriff’s Office and the Transylvania County Planning and Community Development Department. The Transylvania County Sheriff’s Department shall administer this Ordinance.*
- Article V, Definitions 1.5 should read, *“Noise – any sound or combination of sounds, which, because of its volume or quality, tends to disturb reasonable persons of **ordinary** sensitivity or to interfere with normal human activity.”* Delete the word “normal” and replace with “ordinary”.
- Article VI, Noise Regulations, Section 4.5 should read, *“Knowingly permitting the occurrence or emanation of any of the foregoing specifically enumerated violations of this Ordinance on property owned, possessed, or used in whole or in part by any person or entity shall be a violation of this Ordinance.” Deleted unless a permit is applied for and granted by the Enforcement Officer prior to the occurrence (due to no permitting).*
- Article VIII, Violations, Penalties & Enforcement, Section 9: Penalties, 5.1 should read, *“Criminal penalties: Any Deputy Sheriff of Transylvania County, having first investigated this matter, pursuant to Article VI above, may obtain criminal process for violation of this Ordinance. A violation of any Ordinance provision shall constitute a Class 3 misdemeanor and may be punished by fine in the discretion of the Court, up to a maximum of \$500 per offense.” Deleted or per visit by the enforcement officer to the location of the violation.*

After receiving comments from Kelvin Phillips, Planning Board members discussed the following sections of the Noise Ordinance:

- Section 3: Exempted Noises – The following noises are exempt from this Ordinance:
- Deleted Section 3.2 - Construction Commercial Service or industrial operations from 6:00 a.m. to 9:00 p.m. on weekdays and 8:00 a.m. to 9:00 p.m. on weekends for which building applicable permits have been issued, or construction operations not requiring permits due to ownership of the project by an agency of government; provided all equipment is operating in accordance with the manufacturer’s specifications and with all standard equipment manufacturer’s mufflers and noise reducing equipment in use and in properly operating condition. *Planning Board members decided to add section back Section 3.2 should read, “Construction Operations”.*
- Section 3.8 – Use of firearms for lawful recreational purposes and noise associated with taking any wildlife resources. Rick Lasater asked the Planning Board to look at this exemption. Mr. Lasater thinks lawful is in the wrong place. We don’t have a definition with lawful recreational purposes anywhere and he has read the North Carolina General Statutes. When he originally wanted that

in there, he was trying to say, with the lawful taking of wildlife resources. Sandy Watson questioned, so what are unlawful recreational purposes. Rick Lasater answered, that's just it, there is no definition of either, so you are putting something in there that there is just no definition of. And, by leaving lawful with the taking, you are actually saying unlawful taking is okay. Sandy Watson stated that Section 3.8 should read, *"The use of firearms for recreational purposes and noise associated with lawful taking of any wildlife resources."*

- Sandy Watson questioned the last part of Section 4: Noises Prohibited – The following list of prohibited noises shall not be deemed to be exclusive *and other sources of unreasonably loud and disturbing noise are subject to the provisions of this Ordinance.* She didn't feel like the second half of that sentence had anything to do with the first half. We have already established that this is just prohibited noises, it's not an exclusive list. Rick Lasater commented the Planning Board was talking about down the road and noises that we have no idea even exist today coming into existence. Kimsey Jackson commented that he thinks we have to leave something like that in there because down the road there will be something else that maybe we haven't thought of everything. Beecher Allison stated that keeps it pretty general, we are covering for the future. Jason Stewart commented that sometimes when you change a few words around legally, you end up messing up the whole thing. Beecher Allison commented that this is really more of a legal document. Jason Stewart added that you definitely don't want to limit yourself in an unattended way down the road.
- Beecher Allison questioned if there have been a lot of complaints in reference to *Section 4.4 – Dogs or any other constrained animals that, by frequent, recurrent or constant howling, yelping, barking, baying or otherwise cause unreasonably loud or disturbing noises, provided the animals are not associated with farming operations as defined by NC G.S. 106-581.1?* Specifically about donkeys braying and barking dogs? Sandy Watson advised that originally it was barking dogs and braying. We have somebody in the county who raises donkeys, so really dogs don't bray, donkeys bray, so we changed it to baying.
- Bob Twomey questioned what was the reasoning for taking out sections 6, 7, & 8? Sandy Watson answered no permitting.
- Kate Hayes stated that just for the Planning Board's information, we had an individual come into our office, who was planning an event that they knew would be louder than the allowed decibel and he was trying to see if there was a permit process. Sandy Watson questioned when the event would take place? Kate Hayes answered that it was a Halloween / Wedding Anniversary. Jason Stewart stated that this won't go to the Board of Commissioners until next month.

Bob Twomey stated that he is good with the changes made tonight. Kimsey Jackson asked if we are in agreement with the items Misti Bass recommended. Sandy Watson asked for a motion to accept Misti Bass's changes. Beecher Allison made a motion to put in construction operations and lawful, and the changes suggested by the County Attorney due to form. Kimsey Jackson seconded the motion. The motion carried unanimously.

Board Members Twomey and Watson think the board did a wonderful job on the Noise Ordinance. Sandy Watson commented that she will try to attend the Board of

Commissioners meeting when the Noise Ordinance is on the agenda. Sandy also commented whoever can attend should plan to be there. Kimsey Jackson questioned Jason Stewart when he thinks it will be on the agenda. Jason Stewart answered that it will probably be the second Board of Commissioners meeting in November. Kate Hayes advised that the meeting date would be November 25th. Jason Stewart advised that the Board of Commissioners Chairman and the County Manager would have to decide when they want to schedule. Jason Stewart advised that the Planning staff will let the Planning Board know when the Board of Commissioners will review. It will have to be advertised, so we will have to decide pretty quickly, because it is a public hearing.

VII. New Business

- A. Planning and Community Development Department Update – Jason Stewart has no major updates.
- B. Cedar Mountain Small Area Plan – Update – Jason Stewart advised that this item will be on the agenda monthly to give the Planning Board updates. The first meeting was held last month and the next meeting will be on Thursday, October 24th at 6:00 p.m. in the Commissioners Chambers. Going forward, we will try to schedule these meetings on the fourth Thursday of the month. At the October 24th meeting, we are going to start discussing how they want to define the boundary of Cedar Mountain and then set some basic goals and the commission statement. Sandy Watson commented that they need to know, she remembers us talking about that in the past, because so much of Cedar Mountain is State owned. Kimsey Jackson stated that they have a formal board now to proceed with that, before it was a group of citizens and they have a defined area. Jason Stewart stated that it's a question if the official committee that's appointed by the Board of Commissioners, wants to go with that defined area or if they want to shrink it or expand it. Kimsey Jackson stated that several questions came up and he regrets that he didn't stand up and address them, but he doesn't think people realize they are asking for rules, regulations, requirements to say what can be built where, and it goes very much against the general attitude in this county. The other thing was and he thought about it afterwards, listening to the people introduce themselves, Kimsey Jackson doesn't think that there was but one lady in the audience that was not a transplant. Kimsey Jackson only knew one of the board members and that was Robert Lawson. Kimsey Jackson doesn't know if the other four were transplants or if they have lived here a while. So, that could be a little problem for them. They may not realize what will come up overall when you look at this great project of democracy at work – it was from the people, by the people. Neither the commissioners nor us had anything to do with it. They did it all. If that's what they want, fine, but he is afraid they are going to come into a little pushback when they start telling somebody they can't build something on their property. Jason Stewart commented that's one of the things that the Planning Board and the Commissioners will have to take into account, the interest of the whole county, not just different areas of the county. Rick Lasater commented that it sounds like restrictive covenants, like some of these little developments. Bob Twomey commented that one of the things that they were talking about, he doesn't think that people were necessarily opposed, using the Dollar General again as the hub, if they would have made it blend in to the landscape a little better, instead of just a big yellow and white box store. Bob Twomey gathered from the group that they were not necessarily opposed to development, but they wanted it to fit the culture and the ambiance and the nature of the community. Jason Stewart commented that's one thing that could come out of it, if there is some sort of regulation, maybe it happens as it relates to form, not use. You are not really

Transylvania County Planning Board Minutes
Regular Meeting, October 17, 2019

restricting people on how they use their property, but how it looks on the corridor. Kimsey Jackson commented that the other thing in that defined area, is that he recalls they had replies from 140 people. Kimsey Jackson doubts that was the whole population of the area. Bob Twomey added that it was only a certain percentage of that area. Jason Stewart advised one of the questions he has discussed with the Chairman of the committee is the validity of the survey results and how do we interpret them, because it may not necessarily be reflective of the area. Kimsey Jackson stated that he doesn't know how many people live in that area. Bob Twomey commented that from the Cedar Mountain Steering Committee's report, there are about 4,000 residents in the total Cedar Mountain area. Kate Hayes commented that she thinks that was in the census tract and the boundary that they used for their area was about half, so he was using about 2,000 homes. Jason Stewart added that when you are using an online survey, how far reaching is that to people who don't have internet. Kimsey Jackson stated that if that's only 130 out of 2,000, then that's probably not statistically significant. Rick Lasater stated if you take it from a survey, then you can play demographics, time of day and the questions you asked and how you asked the questions and you can make the survey say anything you want it to say. Jason Stewart added that you have to take information that you think is relevant and interpret it. Bob Twomey commented that they had to have a starting point. Bob Twomey questioned Jason Stewart if he picked up on any concern between the Cedar Mountain Steering Committee who put all of this together versus the Commissioner appointed Cedar Mountain committee as to how they are going to work together. Jason responded that he and Kate Hayes met with the Chairman, Mr. Huggins, last week and he thinks moving forward they recognize that they have been putting a lot of work into it, but this is the official Commissioner appointed committee, so things are going to have to filter through them and that's the dynamic that's going to be at work here for the time being. You can't really have two committees, but we do have one official commissioner appointed committee and they are the ones who are going to have to make the recommendation to the Planning Board. Jason Stewart stated that he thinks that the Commissioner appointed Committee will welcome the Steering Committee's input, but there can still only be one recommendation and one committee at a time. Kimsey Jackson commented when it comes down to it, the five-member appointed board has got to make the decision. Jason Stewart stated that's the dynamic that's going to have to take shape the next few months. Sandy Watson stated that the people were so involved initially. Kimsey Jackson commented that it was great that they were so involved. Jason Stewart stated that this is the process, the Commissioners have appointed the committee and they will make the recommendation to the Planning Board. When people understand the process, he thinks that it will go smooth.

- C. Joint Meeting with Transportation Advisory Committee and Planning Board - Kate Hayes advised that staff has been meeting with representatives from the Land of Sky Regional Council and Department of Transportation Regional Engineers. At our Transportation Advisory Committee meeting in January, we will be meeting to prioritize which projects from the County we want to make it into the State Transportation Improvement Plan. They reached out wanting to have a joint meeting with the Planning Board. That group meets quarterly and their next meeting will be January 14th. If it would be feasible for members of the Planning Board, we could make that a joint meeting, so that members from this board can have a say on which projects get prioritized as well. Basically for a transportation project to be approved in the State plan, it has to have local input and it also has to be prioritized from Land of Sky and DOT Division 14. All three of those pieces have to coincide for a project to move forward. Jason Stewart advised that we would need enough for a

Transylvania County Planning Board Minutes
Regular Meeting, October 17, 2019

quorum. Kimsey Jackson questioned if they could expect to get anything before this meeting. Jason Stewart replied if Planning Board members had any comments and they couldn't be there, they could just filter those through the planning staff and we'll bring them up. Kate Hayes stated that we should be getting a potential project list from Land of Sky around November and we would ideally be able to send that out in advance of the January 14th meeting. Kate Hayes also advised that we can provide a lot of those construction updates when we have the joint meeting. Those projects are already in the current steps, but it's a ten year document and those projects have already been funded and are slated for construction. This would be 2027 and would be for that next ten year document. Kate Hayes commented with the Bike Plan, we are waiting to get that back she believes from DOT after changes were going to be made that didn't mandate the county to maintain the roadways. Jason Stewart advised the Planning Board to let us know if the 14th would work out with everyone's schedule. He asked the Planning Board to send comments when we get the package in of what you would like to see and we'll make it known.

D. Other - None

- VIII. **Public and Board Member Comments:** Sandy Watson thinks that this went well and we listened to the one visitor to the meeting. Kimsey Jackson is glad the Board has finished the Noise Ordinance. Rick Lasater thinks when you get a finished copy and you pull out all the strike-outs, which will take away a lot of the confusion. Jason Stewart advised that we will send out a revised copy of the Noise Ordinance, which will be the draft copy that is going to the Commissioners.
- IX. **Adjourn:** The next meeting is scheduled for November 21, 2019 at 7:00 pm and there being no further discussion, Bob Twomey moved to adjourn. The motion was seconded by Kimsey Jackson and carried unanimously. The meeting ended at 8:04 p.m.

MINUTES APPROVED


Sandy Watson, Chair


Beth Webb, Recording Secretary

