

**PLANNING AND
COMMUNITY DEVELOPMENT**



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

Allen McNeill, Interim Director
Darby Terrell, Planner
Beth Webb, Administrative Support

**TRANSYLVANIA COUNTY PLANNING BOARD
MINUTES
Regular Meeting, June 18, 2020**

Call to Order: Chairman, Kimsey Jackson - The Transylvania County Planning Board met in regular session on Thursday, June 18, 2020, in the Commissioners Chambers. Members present were Chair, Kimsey Jackson; Vice-Chair, Lauren Wise; Bob Twomey, Rick Lasater, John Wayne Hardison and Karen Gleasman. Beecher Allison was absent (unexcused). Staff members present were Interim Director of Planning and Community Development, Allen McNeill and Administrative Support Specialist, Beth Webb. Two members of the public were present. No media attended.

- I. **Welcome:** Chairman Jackson welcomed everyone. The meeting began at 7:00 p.m. Mr. Twomey said the invocation and Mr. Lasater led the Pledge of Allegiance.
- II. **Public Comment:** Carrie Blair, resident of Pisgah Forest, has an interest in hearing what the Planning Board is dealing with regarding noise regulations.
- III. **Agenda Modifications:** Ms. Gleasman moved to approve the agenda, the motion was seconded by Mr. Twomey and carried unanimously.
- IV. **Consent Agenda:** Minutes (May 21, 2020) Chairman Jackson commented to Planning Board members the minutes have been placed under the consent agenda. If members have something to discuss, please say so now. Ms. Gleasman had two corrections and asked if board members wanted corrections? Chairman Jackson advised we will need a motion to change the consent agenda and a motion to move minutes to old business. Mr. Twomey made the motion, Mr. Lasater seconded and the motion carried unanimously. Ms. Gleasman advised on page five, paragraph four, it should read John Wayne Hardison commented but the only way to determine an unreasonably loud or disturbing noise is by "*measurement*". The next sentence should read, John Wayne Hardison commented that the whole "*reason*" to have the decibel reading.

Ms. Gleasman acknowledged the work that Mr. Twomey did to prepare his presentation that was put to the side at the last meeting because of our change of structure. Mr. Twomey thanked Ms. Gleasman.

Chairman Jackson called for a motion to approve the minutes as changed. Mr. Hardison motioned to approve the minutes as changed, Mr. Wise seconded the motion and it carried unanimously.

- A. Subdivision Approvals and Updates - Mr. McNeill advised under the point of conduct, if a topic is under consent and is a regular occurring item, then it is not discussed. When you receive your packet and there is information in there about that item and you want to discuss it, you ask the item be added to the agenda during the modifications. Chairman Jackson asked for a motion to approve the consent agenda. Mr. Wise motioned to approve the consent agenda, Ms. Gleasman seconded, the motion carried unanimously.

V. Old Business:

A. Draft Noise Ordinance - Chairman Jackson commented the Noise Ordinance has been in review since November 2018 and hopefully we can send it to the Board of Commissioners for their approval.

Mr. McNeill presented to the Planning Board former section 3.4, which was deleted. There was discussion at the last meeting to include it in the ordinance. Mr. McNeill discussed with the Attorney, Natalia Isenberg, and was advised it was okay to leave it in the Noise Ordinance. The verbiage which is found under section 4, item 4.4, *“Operation or permitting the operation of any automobile, motorcycle, dirt bike, go-cart, recreational vehicle, remote control vehicle, that by frequent, recurrent or habitually constant operation causes unreasonably loud or disturbing noises. This includes but is not limited to vehicles which engage in jackrabbit starts, spinning tires, racing engines, or constitute an overloaded or out of repair vehicle, and results in creating unreasonably loud and disturbing noises so as to disturb the comfort and repose of any person of normal sensibilities in the vicinity.”*

Mr. McNeill advised the Chair there is one other change from last month. Chairman Jackson commented that this is in section 3, item 3.1, Exempted Noises, musical performances was added and it reads as follows: *“Sound emanating from regularly scheduled outdoor athletic events or musical performances.”* Chairman Jackson asked if there was any discussion regarding either of those two changes.

Mr. Lasater questioned regularly scheduled with who? Mr. McNeill stated that he discussed with the Attorney and because regular sporting events are scheduled with your High School Athletic Association, which is what that language is originally getting at, but regular sporting events can also be scheduled at Little League associations. Mr. Lasater was asking about musical performances. Mr. McNeill answered that because we didn't define who regularly scheduled sporting events were with, we also didn't define who you would regularly schedule music events or entertainment events.

Ms. Gleasman stated on 3.3, “Noises of safety signals”, she is confused on how we define “period”, so it would operate during daytime hours for a duration of no longer than five minutes in any given period.

Board members discussed section 3.3 which reads, “Noises of safety signals, warning devices, emergency pressure valves, factory steam whistles and all mechanical and electronic bells or chimes, or similar devices which operate during daytime hours for a duration of no longer than five minutes in any given period.

Board members discussed if changing the word from daytime to regular could be day or night. Ms. Gleasman replied that would be a good add as well, regular hours, because it is more general. Her question is more around longer than five minutes in any given period.

Board members discussed if this was more around factories and members agreed that it was not well defined. Are we worried about what the language might open to give someone an opening to create a noise that goes against this ordinance? Ms. Gleasman gave an example of a four minute whistle, waiting six minutes, another four minute whistle and so on. Just to be annoying and it wouldn't get caught.

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Board members discussed how this was geared towards industrial except for “all mechanical and electronic bells or chimes” and suggested striking any vague language about what’s making a noise.

Chairman Jackson asked if we leave factory steam whistles or similar devices which operate during regular hours and strike all mechanical and electronic bells or chimes, or similar devices which operate. Chairman Jackson asked Mr. McNeill what he thought. Mr. McNeill responded that he thinks it is the Planning Board’s discretion, he doesn’t think striking that would cause any legal conflicts. Chairman Jackson replied okay and asked if there was anything else.

Ms. Gleasman advised Section 4, Noises Prohibited, the second line reads, list of prohibited noises are specifically declared to be unreasonably loud, “*distributing*” and it should be “*disturbing*”. Planning Board members agreed.

If no other changes, Chairman Jackson asked for a motion to approve with modifications the proposed draft Noise Ordinance with Board recommendation to the Transylvania County Board of Commissioners for public hearing. Bob Twomey made the motion, Rick Lasater seconded the motion and it carried unanimously.

Chairman Jackson asked for public comment. Ms. Blair commented her complaint is a neighbor with a loud dog. Chairman Jackson advised that is addressed in the noise ordinance. Ms. Blair commented on a predictable basis evenings, afternoons and late at night and there doesn’t seem to be any attempt to control the dog. The only thing she could find in the document that Ms. Hogan sent her was there is no attempt to regulate the daytime noise of a dog. Ms. Blair referenced the 9:00 p.m. to 6:00 a.m. timeframe being addressed. It seems that she has no recourse until after 9:00 p.m. to complain.

Mr. Lasater referenced “Presumption in Prosecution of Noise Ordinance Violations”. Chairman Jackson advised both periods 9:00 p.m. to 6:00 a.m. and 6:00 a.m. to 9:00 p.m. are addressed in section 2.2.4.

Ms. Blair asked if law enforcement takes this seriously and if they will take action. She doesn’t want to complain and make an enemy of her neighbor and get nothing accomplished except retaliation.

Mr. Lasater commented once this is passed by the Board of Commissioners, the Sheriff’s Department will enforce it. Chairman Jackson advised we will forward this to the Board of Commissioners and they will address it and if they agree with it as it is written, they will pass it. Mr. Lasater advised if they approve it, then it will be a certain date after it has been passed that it can be enforced.

Ms. Blair questioned when she will be made aware this has been passed. Planning Board members directed Ms. Blair to the Transylvania County website or advised her to attend the Transylvania County Board of Commissioners meeting when the Noise Ordinance is on the agenda. Board members also directed Ms. Blair to Section 4.1, Noises Prohibited of the Draft Noise Ordinance which talks of dogs specifically. Mr. Hardison commented barking dogs have been the most complained about noise in the county and according to the sheriff it is one of their main focus. We want to make it where it is most effective to the most common disturbing noise. The Planning Board tried our best to help with this problem. Ms. Blair thanked the Board for their attention.

VI. New Business:

- A. Cedar Mountain Small Area Plan Update – Chairman Jackson advised the new business is the Cedar Mountain Small Area Plan and asked Mr. McNeill to update everyone.

Mr. McNeill advised last year the Board of Commissioners approved a new small area plan process. Underneath that process, there are a number of items as the Cedar Mountain Small Area Plan committee prepares their plan, they are to provide you updates. A couple of items have been prepared and approved by the committee. Mr. McNeill reminded the Planning Board you are not providing your review, this is not for your approval or your modification at this step, it is for you to take note of the work that is being done by this committee and provide any feedback you see necessary. There will be a point in the process, where you will provide your feedback and ask for modification before you approve for the Board of Commissioners to review. At this point, you are providing feedback to the Cedar Mountain Small Area Plan committee.

- i. Draft Mission Statement - Mr. McNeill read the mission statement to the Planning Board. The Cedar Mountain Small Area Plan committee adopted their mission statement on January 28, 2020. Due to the COVID-19 pandemic, the Cedar Mountain Small Area Plan committee has not been able to meet since their meeting in February. They will be meeting for the first time since February, next Tuesday, June 23rd, in the Commissioners Chambers at 6:00 p.m.

Mr. Twomey commented he attended the meeting where they discussed their vision statement. They had concern about land use management, as it relates to the beauty of the area and the physical characteristics of Cedar Mountain.

Ms. Gleasman recommended they consider a word other than perspective. It says that, *“this committee will develop a land use management perspective”*, which doesn’t sound like they are intending it to be enforced. She thinks they intend to use this to control what gets done in their community. Maybe a land use management plan or guideline. Ms. Gleasman gave the meaning of perspective from the dictionary, it says attitude or way of regarding something.

Mr. Twomey commented they were cautious of anything leaning towards zoning and that may have been the reason they chose the word perspective.

Planning Board members made a recommendation for Mr. McNeill to advise the Cedar Mountain Small Area Plan Committee of their recommendation to change the word perspective in their vision statement.

- ii. Draft Planning Boundary – Mr. McNeill advised this is for the purpose of the Planning Board’s review and to provide feedback for the defined physical boundary the Cedar Mountain Small Area Plan committee established at their November meeting.

Mr. McNeill advised a couple of small inconsistencies were on the original map prepared by staff. Mr. McNeill will be showing another map with corrections. The Cedar Mountain Small Area Plan committee will likely amend their map on Tuesday night to include those corrections, the second map is most likely the map that will be used for the official planning boundary.

To make sure it is uniform and all parcels are subject to the plan, we included the

entire parcel and not a portion of it. Mr. McNeill advised all we have adjusted from the original adopted plan were some best practices for map making including entire parcels. Parcels are not split as a result of the plan and also not including parcels inside of a plan not subject to a document.

Planning Board members discussed different areas in the Cedar Mountain and DuPont State Forest areas and where the boundaries were originally.

Chairman Jackson asked if there were any recommendations on the planning boundary. Mr. McNeill will inform the Cedar Mountain Small Plan Committee that the boundary looks good.

- iii. Draft Plan Timeline – Mr. McNeill advised Cedar Mountain Small Area Plan Committee has not seen the timeline as an entirety because of the COVID-19 pandemic. The committee has not been able to meet since February and with staff turnover during that time with former Director, Mr. Stewart, leaving, it became important to that committee to try and establish a new timeline for this plan. Staff worked with the County Manager, and the Board of Commissioners, to draft a proposed timeline for the committee that followed the progression of the Small Area Plan Process approved by the Board of Commissioners. This gave them an estimate of the earliest point they could present a draft small area plan to this Board and to the Board of Commissioners for review.

Mr. McNeill commented this timeline is very aggressive and pending they get through the agenda items as they are proposed on the night they are scheduled. Mr. McNeill advised it is for this Board's discretion if they want to provide any feedback on this timeline for the committee to consider.

Ms. Gleasman recommended the Cedar Small Area Planning Committee plan on meeting more than once per month. Sometimes it's helpful to have a full day workshop in addition to their monthly meeting.

Planning Board members discussed how the Cedar Mountain Small Area Plan Committee had been pushing to get the small area plan done and the amount of work they had to do, but they are ready to hit the road running and the committee is pretty motivated.

Mr. McNeill added an adjustment on the timeline the Planning Board has, staff met with Chairman Curley Huggins and they adjusted their agenda and decided to not include a draft demographic section, it will be pushed to the July meeting.

Mr. McNeill commented that as a part of the small area planning process adopted by the Board of Commissioners, it explicitly indicates the committee will conduct a survey. As of this time, the committee established by the Board of Commissioners has not conducted a public input survey. The Steering Committee conducted a survey, but it is not subject to public record nor has it been provided to county staff to verify any information. Staff has worked to prepare a draft survey they will be considering Tuesday night to go out the end of this month to try and expedite the process. Mr. McNeill believes a large portion of their meeting Tuesday night will be reviewing the draft survey and wordsmithing it so it becomes something they are comfortable with to be administered to every parcel owner inside the defined planning boundary.

Mr. McNeill added the survey will be available online, a mailer will go out to all the parcels owners and will give instructions on how to get to the survey and how to conduct it. There are a number of Cedar Mountain community members that don't own or live in Cedar Mountain and they may just be employed in the area and may have a say in the community. Anyone can participate in the survey.

Planning Board members discussed attending the Cedar Mountain Small Area Plan meetings and how it will help make sense when it comes before the Planning Board. Members also have concerns about the number of responses they had from the previous survey.

Chairman Jackson asked Mr. McNeill if he knew how many people live in this area. Mr. McNeill responded that the total number of parcels included in the defined planning boundary is 1,509, and does include some conservation areas, the State Forest as well as a couple other areas and parcels in conservation. He can't define exactly how many people live there without current Census data, but that is a good estimate of the total number of impacted property owners. It incorporates about 8.4% of the entire county's geographic space, being 17,000 acres, but again almost 9,000 acres is in the State Forest.

Chairman Jackson commented if he recalls, the total number of responses was about 76 and that is not a lot of responses for what's going to happen. Ms. Gleasman asked if there is any requirement for the percentage of respondent's for the survey to be valid. Mr. McNeill answered, no, there are general rules of thumb with public input data collection and it's all very dependent on the information you are gathering. With the 1,500 parcels he mentioned, each will be getting an individual mailer notifying them of the survey. Chairman Jackson thinks it is important to identify full time versus part time residents. Mr. Lasater commented if it is going by parcel owners, the State Forest is owned by all the citizens of North Carolina and theoretically, anybody in the State can send in a response.

Mr. Twomey questioned if they had questions about the flood plain areas, they wouldn't try to guide anything, that's their plan, right. Mr. McNeill answered that is how it is drafted. According to the plan adopted by the Board of Commissioners, it is for them to draft this plan and give the Planning Board opportunities to review their progress and provide your feedback. Ultimately, you will review their plan for approval or non-approval for recommended changes before the Board of Commissioners review.

Mr. McNeill advised two points on the timeline that are different. There are two public input sessions that are both in October. Those hopefully, COVID permitting, will be traditional public workshop opportunities. There will be not only an opportunity to the public to provide input during the survey, but two separate public input opportunities at the end of the planning process.

Chairman Jackson questioned where the meetings will be held? Mr. McNeill answered that will be for the committee to establish. Likely, they would do one inside the community, probably at the community center and in typical planning practices you also host one in more populated areas for those that don't live directly in the community. Mr. Lasater recommended one should be in the ROGOW room.

- B. Director's Report – Mr. McNeill advised this is a new section added to the agenda and is an opportunity to provide the Planning Board updates on the department that are not traditional business.
- County business offices have re-opened since the closure due to COVID-19. We do recommend anyone visiting our offices wear appropriate PPE, if available and practice responsible social distancing practices. If they can, please try and conduct any business over the phone, online or via email.
 - Planning staff has moved downstairs to the Community Services Conference Room, due to HVAC repairs and department facility upgrades. We will likely be there the next three weeks.
 - Dollar General is in the inspection process. Building, Permitting & Enforcements is in the process of going through their final inspections. Mr. McNeill advised he will be onsite tomorrow to inspect their sign location. They applied for a sign permit two weeks ago and have put it in the ground. If it meets our sign ordinance, he will approve that permit tomorrow.

VII. Public Comments (15-minute time limit. Speakers are limited to three minutes.): Christy Blakely from the Dunn's Rock voting district. Ms. Blakely has been working with the Dunn's Rock community for a while. The leaders of the community have been interested in the small area planning process and in fact, were interested a couple of years ago when Mark Burrows introduced the small area plan process to them. They especially got interested when the See-Off Dollar General went in, but knew they were in line behind the Cedar Mountain Small Area Plan. There is a whole community right next to Cedar Mountain that wants a small area boundary that is feeling like they want to see Cedar Mountain wrap up and get going. Ms. Blakely questioned if there have been recommended allocated funds for two small area plans. At what point in this timeline might the Dunn's Rock Steering Committee group actually start to form and develop some momentum and bring you their vision statement.

Mr. McNeill answered it would be to the Board of Commissioners discretion to appoint a new committee for another Small Area Plan. Mr. McNeill added current staff allowed for the Planning Department would have a difficult time handling two small area plans at once. The process is going to this Board as you are doing now and then going to the Board of Commissioners and requesting that same process for your area.

Mr. Hardison questioned if we are only allowing one small area to develop a committee at a time right now. Mr. McNeill answered at the moment, correct. Unless you are in an organization that has the staff to facilitate or the funds to resource out or contract with a planning organization to do your small area plans for you, it is very difficult for a planning staff of two to conduct multiple small area plans at once. Mr. McNeill also mentioned this is the community's first ever small area plan, the first one in the county, so using it to develop a process and critique it, is what the Board of Commissioners are looking for to make sure the small area plan is done responsibly and efficiently. Mr. McNeill added we wouldn't want this staff to do multiples and make the same mistake on all of them and then not be able to correct it after.

Mr. Hardison asked what determines what area goes next. Mr. McNeill answered some communities will plan, if you are familiar with Henderson County, they designated what communities will receive small area plans by what order they have received them. Our Board of Commissioners have not established such order, so at this time, it is really to the desire of that community to have a small area plan and reaching out to their boards to advocate for that planning process committee to be established to be in the small area planning process.

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Ms. Gleasman advised we are at the midway point for our 2025 Comprehensive Plan. She thinks it would be good that staff work our way through a review process of that plan, so that we assess progress on action items. Perhaps there are some things we should be doing to assist staff or just to know where we are and then as we review it, she thinks it would be good that we list items we might be thinking about when we start our Comprehensive Plan in 2023. Not urgent, but something we could do at a measured pace. Also, as we consider recommendations to Cedar Mountain, we need to think about the criteria we will use for the plan and document that for our process going forward.

Mr. McNeill mentioned there are benchmark figures this Board would like to see as they review the Cedar Mountain work, whether that be percent of respondent's, public input, attendance at public input meetings, if you would like to make staff aware, we can make sure we prepare information. Ms. Gleasman thinks that would be helpful.

Mr. Hardison commented he would like to be as prepared as possible when the Cedar Mountain Small Area Plan comes to us to review. When it comes time for the Planning Board to review, we should be prepared ahead of time for things we want to see in there and what we are going to base our recommendations on, whether we approve it or disapprove it. He thinks we owe that to the Cedar Mountain Small Area Plan Committee, they have put a lot of work into it and trying to get it moved through pretty quickly.

Chairman Jackson questioned who prepares their minutes? Mr. McNeill responded staff prepares their minutes. Chairman Jackson asked if staff could provide the Planning Board with copies of the minutes. Mr. McNeill responded absolutely and if they would like that to be a regular item in their agenda packet, we could provide you copies of their previously approved meeting minutes. Planning Board members agreed they would like copies of the Cedar Mountain Small Area Plan minutes.

Mr. Wise commented any benchmark they can know would be helpful, because it is a great example of rural/civic, what we looking for. Mr. McNeill commented he can put together information to help you understand what constitutes a good development plan and what constitutes good public input. Mr. Hardison asked if they could have it in their agenda over the next three or four months to review? Mr. McNeill asked specifically a review of public input practices? Mr. Hardison answered small area plans, what a small area plan looks like, what an effective small area plan looks like. Also other communities that have had good small area plans, what those look like and what requirements they have, so Planning Board can start getting prepared for what they are looking for. Mr. McNeill answered absolutely, staff can prepare some sort of presentation and prepare a synopsis of small area planning as a whole to give Planning Board a good idea of what a small area plan should look like.

Mr. Twomey asked Mr. McNeill if this will apply to some of their training hours. Mr. McNeill asked if he could clarify that answer. Ms. Gleasman questioned if they are required to get training? Mr. Twomey responded yes, as a public board. Mr. McNeill responded some of the trainings that were planned for this board this year include public meeting procedure. We have new board members who have not gone to training and it is a standard training for all of our boards and committees. He does believe that training would count towards your training hours. He will confirm with the County Clerk.

Mr. Lasater questioned if they are going to Montreat for Land of Sky training. Mr. McNeill commented in a time outside of COVID-19, yes you probably would. Training for staff off location is very limited right now. The training he would have attended this year has been postponed or changed to some sort of online module that doesn't require any travel. When we

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have information about trainings, we will let this board know and if you are interested, we will make that accommodation.


Mr. Twomey thanked fellow board members for the two years of work on the Noise Ordinance and that shows diligence in doing a good job. Mr. Twomey also thanked Mr. McNeill for his approach to sending out the recommendation sheets attached to the agenda, they are very precise. Mr. McNeill commented if that is something this Board likes, then we will add those to your packets.

VIII. Board Members' Comments: Ms. Gleasman asked if we want an agenda item as to why did it take 20 months on the noise ordinance and what could we do to get an ordinance through more quickly. Mr. McNeill commented that's a good point and added there is a State requirement to change one of our major ordinances, the Subdivision Ordinance. It's NC GS 160D, a lot of it is clerical changes, but it does require your review and he has been told that at that time, it will be at the discretion of the Board of Commissioners to assess a lot of our ordinances for clerical modifications and any recommended modifications. That is being planned to start presenting to this Board and put those ordinances in front of you, so that you can provide your commentary on possible changes being included with that kind of large proposed ordinance change. We have to adopt those new ordinances with the NC GS 160D modifications. Mr. McNeill advised he believes there are seven ordinances administered out of the Planning Department. The only one that has to be modified by July 2021 is the Subdivision Ordinance.

Planning Board members commented the Noise Ordinance review took longer because of staff changes, three different lawyers, missed meetings due to inclement weather and COVID. Planning Board members also agree they could be more diligent, prepared, doing research and have answers to questions or suggestions.

Adjournment: The next Planning Board meeting is scheduled for July 16, 2020, at 7:00 pm in the Commissioners Chambers. There being no further discussion, Bob Twomey moved to adjourn. The motion was seconded by Karen Gleasman and carried unanimously. The meeting ended at 8:30 pm.

MINUTES APPROVED


Richard K. Jackson, Chair


Beth Webb, Recording Secretary

