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# Town of Lake Lure

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## Minutes of the Regular Meeting of the Zoning and Planning Board

Tuesday, February 21, 2012

Lake Lure Municipal Center

### **ROLL CALL**

**Present:** Paula Jordan  
Ric Thurlby  
Bruce Barrett  
John Wisniewski  
John Moore, Town Council Liaison

**Also Present:** Suzy Smoyer, Planner/ Subdivision Administrator, Recording Secretary  
Shannon Baldwin, Community Development Director  
Mike Egan, Community Development Department Attorney  
Chris Braund, Town Manager  
Bob Keith, Mayor

### **APPROVAL OF THE AGENDA**

Mr. Baldwin made several recommended changes to the agenda. **Mr. Wisniewski made a motion to approve the agenda with the changes. Mr. Thurlby seconded the motion. All were in favor.**

### **APPROVAL OF THE MINUTES**

**The minutes of the January 17, 2011 regular meeting were approved as written upon a motion made by Mr. Barrett and seconded by Mr. Wisniewski.**

### **NEW BUSINESS**

#### **(A) Discuss Amending Comprehensive Plan, as it related to residential vacation rentals**

Shannon Baldwin gave an overview of how the Lake Lure 2007-2027 Comprehensive Plan (Comp Plan) was developed. He informed the Board that two amendments to the Comp Plan that relate to residential vacation rentals have been approved. Residential vacation rental (RVR) regulations were developed, and the RVR program was

implemented. The Zoning Administrator issued 184 permits. Three entities filed suit against the town. The judge issued a ruling in favor of these entities. The Town appealed the decision. Now, the Town and the litigants have begun negotiations which include modifications to the Zoning Regulations. Changes to the Zoning Regulations require that the Zoning and Planning Board make a finding in regard to whether the amendment is consistent with the Comprehensive Plan. Shannon gave an overview of the changes that have been made to the Comprehensive Plan as follows:

There were two amendments to the 2007-2027 Comprehensive Plan (comp plan). One in October 2009 and one in November 2009. Below is the evolution of the comp plan language starting with the original language adopted in 2007 and ending with the last of the two amendments passed November 2009.

**Original language (2007).....**

Policy LU-1-2.3: Study the impacts (e.g. economic, quality of life, etc.) of vacation rentals, particularly those along the lakefront, to determine the need for controls (e.g. additional regulations) or other measures to ensure that the value and enjoyment of all lakefront properties are maintained, and adopt controls for vacation rentals as determined by the study recommendations.

**Language after October 2009 Amendment (Res. No. 09-10-01) was passed.....**

Policy LU-1-2.3: Study the impacts (e.g. economic, quality of life, etc.) of vacation rentals, particularly those along the lakefront, to determine the need for controls (e.g. additional regulations) or other measures to ensure that the value and enjoyment of all lakefront properties are maintained, and adopt controls for vacation rentals as determined by the study recommendations. Once regulatory controls have been in place, the Town should then study the effects of those controls and of the impacts of residential vacation rentals on single-family residential zoning districts. Should those studies indicate that the controls are not proving effective in preserving the character of the Town's single-family residential neighborhoods, then the Town should proceed to prohibit vacation rentals in those districts whose primary purpose is for single-family dwellings and should take the steps necessary to amortize vacation rentals within such districts.

**Language after November 2009 Amendment (Res. No. 09-11-10) was passed.....**

Policy LU-1-2.3: Study the impacts (e.g. economic, quality of life, etc.) of vacation rentals, particularly those along the lakefront, to determine the need for controls (e.g. additional regulations) or other measures to ensure that the value and enjoyment of all lakefront properties are maintained, and adopt controls for vacation rentals as determined by the study recommendations. Once regulatory

controls have been in place, the Town should then study the effects of those controls and of the impacts of residential vacation rentals on single-family residential zoning districts. Should those studies indicate that the objectives of the regulatory controls are not being achieved, it is the desire of Council and the intent of the Comprehensive Plan that future ordinance(s) be enacted to further regulate and, if necessary, prohibit residential vacation rentals in the R-1, R-1A, R1B, R-1C, R-1D, R-2, and M-1 zoning districts and to amortize them in such districts for an appropriate period of time.

**Proposed language per Res. No. 12-02-28 re-establishes the original language.....**

Policy LU-1-2.3: Study the impacts (e.g. economic, quality of life, etc.) of vacation rentals, particularly those along the lakefront, to determine the need for controls (e.g. additional regulations) or other measures to ensure that the value and enjoyment of all lakefront properties are maintained, and adopt controls for vacation rentals as determined by the study recommendations.

**After a short discussion, Bruce Barrett made a motion to recommend that Town Council adopt the draft Resolution No.12-02-38 that re-establishes the original language in the Comp Plan. John Wisniewski seconded the motion. All were in favor.**

**(B) Amendment to Section 92.042 of the Zoning Regulations that pertains to Residential Vacation Rentals**

Chris Braund gave an overview of the draft regulations. He noted that there has been one change since this document was sent to the ZPB which includes an additional category for vested RVRs. Shannon Baldwin reminded the group that the judge made a broad decision; the Town appealed; and we are now negotiating. There were several questions regarding the potential for town liability if any injuries occurred as a result of relaxing the regulations. Mike Egan indicated that the town would be protected when making legislative decisions. There was a discussion regarding repeat violations and the ability to revoke a permit. John Moore noted that the judge's order found that we can't hold one person liable for another person's actions. The Board then discussed the standard procedures when a zoning violation occurs. A similar process would apply if there was a violation with an RVR. Ric Thurlby expressed concern with safety of homes without proper egress. It was noted that Judge Bridges said that this requirement is already addressed by the building code. Ric Thurlby suggested a hold harmless statement on the application for vacation rentals. Mr. Egan noted that vested properties would not have to comply with this requirement. However, the Board wanted to suggest this application language to the Town Council.

Bruce Barrett made a motion that the Zoning and Planning Board find that the revised ordinance amending Section 92.042 is consistent with the 2007-2027 Comprehensive Plan, in its original form. John Wisniewski seconded the motion. All were in favor.

Bruce Barrett made a motion to recommend that Town Council enact the ordinance amending Section 92.042 of the Zoning Regulations (dated February 28, 2012). John Wisniewski seconded the motion. All were in favor.

Ric Thurlby made a motion to mention the following two points to Town Council:

- Include a hold harmless statement on the application.
- Look at the ability to resend a permit if too many violations occur.

John Wisniewski seconded the motion. All were in favor.

### **OLD BUSINESS**

#### **(A) Discussion regarding amending the Zoning Regulations to define “special events” and identify zoning districts for this type of use.**

Suzy Smoyer gave an overview of the progress made with the sub-committee since the last meeting. Bruce Barrett and Paula Jordan, members of the sub-committee, met with Town Staff to discuss the amendment in more detail. The sub-committee is still considering additional changes to the draft outlined in the memo. Chair Paula Jordan gave an overview of the various types of event venues and the review procedures (included in the packet). The sub-committee will finalize an amendment before the next Zoning and Planning Board meeting, with a recommendation for Town Council at the April meeting.

#### **(B) Discussion regarding amending the Subdivision Regulations to allow creation of new lots without water and sewer services provided that future development on these lots is prohibited based on a conservation easement, deed restriction or other similar restriction.**

Suzy Smoyer gave a brief overview of the proposed amendment that would change the definition of open space and allow for the subdivision of open space tracts without water and sewer services provided that they meet certain criteria. She reviewed the draft resolution included in the ZPB packets, which included a draft definition for passive recreation. **Mr. Wisniewski made a motion that the proposed ordinance is consistent with the Comprehensive Plan and that the Zoning and Planning Board recommend approval. Mr. Thurlby seconded the motion. All were in favor.**

### **COMPREHENSIVE PLAN PRESENTATIONS**

#### **(A) Ed Ditmer – Parks and Recreation Element**

Ed Ditmer gave a presentation regarding Parks and Recreation. A copy of this power point presentation will be saved with the Community Development Department.

### **DISCUSSION**

#### **(A) Report on Sign Investigations and Progress**

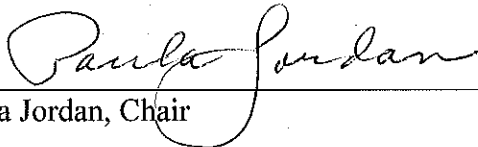
Paula Jordan gave a brief overview of the progress to date. Sheila Spicer is currently developing a list of signs that we have concerns about. The group will meet with James Evans (NCDOT) to discuss problem signs.

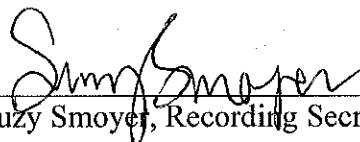
### **ADJOURNMENT**

Before closing the meeting, Paula Jordan asked the group to consider two dates to meet with Eric Woolridge regarding ecotourism- March 12 or March 27. She also noted that the Zoning and Planning Board takes the task of developing regulations very seriously. She wanted to let it be known that they they were ready to assist with the Lake Lure Classical Academy review, but were not notified until after the fact.

Upon a motion by Mr. Wisniewski and seconded by Mr. Thurlby, the meeting was adjourned at 11:52 a.m. The next regular meeting is scheduled for Tuesday, March 20, 2012 at 9:30 a.m. at the Lake Lure Municipal Center.

### **ATTEST**

  
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Paula Jordan, Chair

  
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Suzy Smoyer, Recording Secretary