**Town of Lake Santeetlah**

**Council Meeting Minutes (Zoom)**

**October 14, 2021**

Mayor Hager called the meeting to order at 10:00AM. Councilmembers Predmore, Haag, Simon, and Carlton were present for the meeting. Town Administrator Matheson and Town Clerk Emily Hooper and Attorney Craig Justus were also present.

**Approval of the Agenda:** Councilmember Simon made a motion to approve the agenda as presented. Carlton seconded. The motion passed unanimously. Carlton pointed out that he had comments regarding the Reaffirmation of Public Hearing but would make those when discussed.

**Approval of the September 9, 2021 Council Meeting Minutes:** Councilmember Predmore made a motion to approve the September 9, 2021 Council Meeting Minutes. Councilmember Simon seconded. All others approved. The motion passed unanimously.

**Approval of the September 21, 2021 Public Hearing Minutes:** Councilmember Predmore made a motion to approve the September 21, 2021 Public Hearing Minutes. Councilmember Simon seconded. Carlton pointed out, Item 7 seemed unclear concerning parking spaces. Carlton and Haag opposed. The motion passed three to two.

**Approval of the October 6, 2021 Workshop Session Minutes:** Councilmember Predmore made a motion to approve the October 6, 2021 Workshop Session Minutes. Councilmember Simon seconded. Carlton asked that the word “not” be removed from Item 20 (would “not” be considered minor). Justus suggested to put a (.) after the word: project. Then adding a sentence following: This would not be a minor change. Item 24 needs clarification according to Carlton. Justus confirmed the minutes are correct as stated. Three parking spaces will be necessary if there are two vehicles as well as a watercraft. Predmore agreed to the amendment offered. Simon seconded. All others approved. The motion passed unanimously. The minutes will be updated as suggested.

**Financial/Tax Report:** Town Administrator Matheson provided an update as of September 30, 2021. The general fund balance is $71,012.97, water fund $24,716.11. Tax collection for September was $14,664.85. Carlton asked what the $39,000 under accounts receivable was. Matheson explained the number was water billing. The bills were mailed September 30th. Matheson also pointed out that she had made some corrections on the balance sheet for the audit. Matheson is working with Joe Turchetti to complete the necessary year end changes and will send an updated balance sheet when all changes have been made. Joe is working on the audit draft.

**Request for Public Comment:**

**Jack Gross:** Gross is concerned that the bids received for front entrance should be re-visited. The design created by Creative Art Company is not sufficient for bidding. Gross read the disclaimer on the drawing and shared his concerns with moving forward on this project.

**Tina Emerson:** Emerson asked if a Budget Amendment is necessary for Planning Board Expenses. The Profit/Loss Statement - General Operating under Planning Board Expenses $5,100. Matheson confirmed this is attorney expenses and a Budget Amendment may be necessary at a later time.

September 21, 2021 Public Hearing minutes Item 2. Steps that are attached to the principal dwelling are part of the principal dwelling therefore the setback requirement must be followed. Emerson is concerned that several homes would become non-conforming if this is passed.

Emerson pointed out that she had sent an email to Town Staff but received no response.

**Old Business:**

1. **Developing Strategy for TLS Broadband Upgrade: Status Report from Chris Bradley:** Carlton reviewed the presentation from Mr. Bradley. Slow, unreliable internet is obviously an issue throughout the County and Region. The different providers (Verizon, Frontier, Balsam West, Zito) don’t prioritize our region for upgrades due to the low number of customers/population. It’s not a good business investment for them. The data centers are approximately 40-80 miles from Graham County located in Knoxville, Asheville and Chattanooga. The construction costs for upgrades, new lines and better service are higher due to the steep grades and mountainous terrain. The long term goals are better internet service, broader availability, affordable service, and flexible terms. There are several opportunities to improve the internet in our area. The Feds put money into the ARPA bill for broadband. Graham County got $1,700,000. The money is there and nothing restricts/prohibits the County from using it for improving internet. The State has funds available as well. Having a plan is the important factor. The Town should remain involved and educated to be certain to be a priority when upgrades occur. Balsam West is available in Graham County and largely owned by Drake Software and the ECBI. The existing fiber line along US-129 has been completed. An RF link could be connected at the water tank allowing those in Lake Santeetlah to connect. A cost estimate for that is not available at this time.

Starlink is also an option for the area that provides 40-90Mb/s. However to qualify for this speed a clear line of sight to the northern sky is required. This eliminates a large portion of homes in our County.

Bradley recommends by the end of 2021, Town Staff meet with Balsam West to determine what would be necessary to complete the connection from US129 to the Water Tower.

Hager will contact Balsam West to set up a meeting and follow up at a Town Council meeting.

1. **Town-wide Speed Bump/Humps:** Speed Bumps/Humps have been a controversial topic within the Town. Hager explained that he observes traffic going fast near his home at Cherokee Trail and feels that the Speed Bumps are necessary to keep speed down. Simon stated that the Speed bumps are necessary for the safety of those who walk the loop. Carlton pointed out the complaint from one Town resident who suffers back pain when going over the bumps. After discussion, the Town Council determined the Speed bumps will remain as they currently are and new ones will be installed in Lakeside when the signs are received.
2. **Kudzu Report/Follow up from letter**: No response was received from the letters sent last month. Matheson suggested that the Town follow up by a phone call. Scott Kamps can call those effected and offer assistance. Kamps can explain the severity of Kudzu and how fast it can grow without treatment. Kamps is very knowledgeable about Kudzu and eradication and could likely convince homeowners the importance of attention to the matter. Carlton is concerned that the voluntary program is not working and the Town should consider seeking legal advice of how to move forward with an Ordinance making it mandatory to address Kudzu. Justus explained that it would require an expert in vegetation proving that the spreading of Kudzu was detrimental and causing a public health risk to the community. Carlton referred to Jim Krinner, who gave a presentation at Town Hall. Carlton stated he could be considered a professional with his extensive background with vegetation and insects. Justus asked to review the minutes from that presentation. Justus explained that any type of an Ordinance that deals with maintenance of property rising to the level of a nuisance requires the acknowledgement of a professional advising the Town that is would be detrimental to the Public Health of the Town if not removed. If authorized by the Council Justus stated he would further research what legal authority the Town would have to create an Ordinance of this manner. Hager asked Matheson to forward the minutes of Jim Krinner’s presentation to Craig Justus for review and Justus could provide a recommendation at the November Council Meeting.
3. **Nash/Han Internet connection on Island Drives**: Attorney Justus created an agreement for the homeowners to sign prior to cutting the roadway. Carlton asked if this document would be recorded with the register of deeds. Recording this document would allow future homeowners to know what had occurred at this property. Carlton asked if a sentence could be added to the agreement stating it would be filed with the register of deeds. Justus agreed to add. Carlton made a motion to approve the agreement with the changes and authorize the Mayor to execute the documents. Haag seconded. All others approved. The motion passed unanimously.
4. **Front Entrance Upgrades:** Hager provided an update that $800 in donations had been received since the last meeting. The total of donations is now $28,300. $35,000 had been budgeted for the upgrade. A total of $63,300. Two proposals were received. Aldridge Brothers and H&H Contracting submitted an updated bid. Predmore suggested that Councilmen sit down with both contractors individually and determine if the drawings could be used for accurate bids. Predmore and Haag will meet with Aldridge Brothers and H&H Contracting and report at the November Council Meeting.
5. **Lake Santeetlah Water Quality Report:** Earth Environmental Services has completed four water testing’s over the last year. All prove that Lake Santeetlah (at the sites tested) has exceptional water quality. The report is available for anyone interested. The Town Council will discuss whether to complete the testing next year during the budget preparation process.

**New Business:**

1. **Reaffirmation of setting a Public Hearing for October 26, 2021, for the One Way Streets at 10AM & Town-wide Speed Limit at 11AM:** Carlton explained that Attorney Gulden had determined that One Way Streets would require additional research and the Hearing should be delayed until a meeting with DOT. Justus explained that the Council could proceed to discuss one way streets and seek public opinion without making any decisions. Carlton made a motion to reaffirm the Hearing on One Way Streets at 10:00AM and Town-wide Speed limit at 11:00AM. Simon seconded. All others approved. The motion passed unanimously.
2. **Audit Update:** Auditor Joseph Turchetti is completing the draft audit and should send a copy to Town Hall within the next week. A Special Meeting will be held before the end of October to review and approve the FY20-21 audit.
3. **Bonus for Election Workers/ARPA Funds:** A request of a $700 bonus for election workers has been received from the County Election Office. Justus expressed concerns of the legality of this request. Carlton explained that the County attorney had authorized the request therefore it would likely be legal. Carlton made a motion to pay the $700 to the County as requested from the ARPA funds. There was no second to this motion. The Town of Lake Santeetlah will not be funding a bonus to the Election workers as requested.

Mayor Hager called for a recess until 12:00PM. The Council will resume for the Public Hearing at that time.

**Motion to Open Public Hearing:**

1. **Town of Lake Santeetlah Board of Adjustment will consider changes to the condition of the variance concerning the Condo/Lodge plan of the proposed condo project for Lake Point Properties on Santeetlah LLC for property located at 90 Old Lodge Rd.** Councilman Kevin Haag made a motion to open the Public Hearing. Simon seconded. All others were present for the hearing. The Town Council is sitting as the Board of Adjustment in this hearing. Hager read the opening statement.

Justus explained that this was a request to modify one condition of a previously issued variance. The developer is requesting to modify condition six by substituting a new modified site plan. The standard the Board should follow in this hearing is to determine if the request meets the spirit and intent of the variance previously given. Justus explained that all standards for a variance does not have to be reviewed in this hearing. Matheson explained the detail of the staff report (attached as part of the record).

Hager asked if any board member had partiality that should be disclosed. There were none reported.

Hager asked if any member had site visits to disclose.

Carlton and Simon have visited the site.

Hager asked if any member had conversations to disclose.

Carlton explained that he is a member of Lakeside Homeowners Board and brief discussions were held at those meetings in the form of updates. Carlton has an opinion statement from the NC School of Government stating he can function as a ZBA/Town Council member and resident of Lakeside. Carlton can participate in the hearings regarding Lakeside as long as he has no personal gain in the matter.

Hager asked for a motion to open the evidentiary portion of the hearing. Carlton made the motion. Simon seconded. All others approved. The motion passed unanimously.

Town Clerk Emily Hooper administered the oath to those who planned to speak at the hearing:

Jackie Salazar

Jose Rosado

Robert Oast

Bill Tunnell

Bryan Farley

Jack Minski

Kim Matheson

All those affirmed the oath.

Jose Rosado explained that Attorney Bob Oast would be presenting on behalf of Lakepoint Properties.

Bob Oast provided a brief history of the condo project. As the project has progressed it has been determined that a parking deck under the condos is not feasible. A variance was approved in March 2020 for the building to be 44.9ft. The design proposed in 2020 displayed a parking garage underneath the condos which was thought to be necessary in order to accommodate parking. As the project has progressed and detailed architectural drawings completed it has become evident that parking could be provided with surface parking only. This has a couple of benefits according to Oast. The parking garage not being necessary under the structure there is no need for major excavation. Only minor grading would be required. This would also allow for enhanced landscaping and preservation of trees on the site.

Condition 6 of the variance allows for minor variations in the site plan. Zoning Administrator, Bryan Farley, reviewed the application and updated drawings to decide that the change was major and would need a hearing for approval.

Bill Tunnell, Architect for Lakeside Condo Project, reviewed the updated site plan. Tunnell explained that prior to receiving a building permit from the County they need authorization from the Town of Lake Santeetlah. Tunnell reviewed the site plan that was presented in 2020. The total parking count in the plan had 10 spaces in the parking garage and 24 surface spaces. The three proposed cottages also had an additional five spaces with a total of 39. This plan also anticipated the use of golf carts and had an area for golf cart parking within the surface lot. Carlton asked if the two proposed homes west of Twin Falls cottage interfered with the Old Lodge septic. Tunnell confirmed that it was not. He stated when the plans were designed they made sure the future house footprints did not encroach the drain field.

Tunnell presented the updated site plan with 27 (2 handicap) car parking spaces in the surface area that cover the area once proposed as surface parking as well as the golf cart parking, which has since been removed. Through the planning stages of the project it was determined that the golf carts/parking for them was not considered a “value add” and not necessary to include. Tunnell explained that parking underneath the building had been removed. The additional parking spaces are located at the cottages (5). Total parking spaces are now 32. By eliminating the garage it reduces environmental impacts of excavation and will allow the large oak trees to be saved on the property. The original plan was to save the trees however after research and a new survey was completed it would have been difficult to save them. The detailed grading needed to complete the garage proved evident that the trees would have removed.

The variance originally sought in 2020 was for height and that has not changed from the original plan. The change and need for an additional variance is due to Farley’s questions of parking count and open space. Tunnell explained that when he calculated the difference in the paved area in of the updated plan versus the previous the new plan has 160 square ft. less paving than the original plan. Tunnell would hope this would ease concerns of open space. The new plan has an area labeled, amenity. The intention is to build a porch on the front of the pump building with landscaping and garden features outside for residents to enjoy as a pavilion area. This plan highlights additional landscaping along Thunderbird Mountain Rd. It will further screen the parking from the highway.

In the design and engineering process it became evident that a separate fire pump building was needed to increase the water pressure for the condo’s supply. The original plan displayed it at the corner of the lodge. It has been determined that there is adequate space near the other control locations to put that building as well.

Attorney Oast asked Tunnell to clarify emergency access to the condo. Tunnell explained that the one way road shown on the plan is a private drive. Marina Drive is a public road and is arguably a two way road. The front of the building (parking lot) provides access for all emergency vehicles. The cottages have fire access from Marina Drive. The code requires 150ft hose pull from the fire truck. Ambulance access must be available to all cottages and the condos. The private drive or “loop road” would allow ambulance access if cars are parked correctly in the designated spot. It would be tight but an ambulance could pass. When a County building application is completed Graham County will perform a final review and will not provide a building permit unless all codes are followed. If changes are necessary during that process the developers will make any changes needed to comply.

Oast ask if a parking garage is not needed would the timeline be changed for construction. Tunnell explained that the project would take a shorter time frame to complete without the garage. The goal was to begin construction by the end of the calendar year and the developer hopes that the approval occurs in order for that schedule to remain in place. The updated plans drastically decrease the cost of the project. The rise in material cost since the planning stages of this project have made impacts causing reevaluation. According to Tunnell the parking garage was basically a “deal breaker.”

Rosado explained that the fire hydrants are located on Marina Drive and the plan had always been for fire truck access to be from Marina Drive.

Justus asked for clarification if parking spaces 28-32 would be outside of the right-of-way on the private drive. Justus explained it would need to be located on the lot and not within the road or vehicular access way. Tunnell explained that his interpretation of right-of-way in this circumstance would be different. There is no platted line that states a defined right-of-way to measure 2ft. The driveway as drawn is 10ft and 8ft for parking is adequate.

Justus explained otherwise. As proposed the private drive is used for vehicular access which Twin Falls and Dragonfly cottage as well as the future cottages have a right to use that is by nature a right-of-way. Justus explained that the Towns requirements state that the parking spaces must be out of the vehicular ROW otherwise it impedes the vehicular way. In order for those parking spaces to be counted they must be out of the vehicular ROW. Tunnell asked if the parking spaces could be 10ft. Then he would assume the area allotted would allow traffic to pass. Justus stated that a delineation is needed between the travel width and the parking spaces. Oast confirmed that the public/private drive doesn’t matter in this circumstance that there must be sufficient width for cars to pass with others parked in the spaces allotted along the side. There must be dedicated vehicular space that is dedicated to one purpose, vehicular ingress or egress according to Justus. In order to receive a Zoning Compliance certificate appropriate size parking spaces must be approved.

Justus also pointed out that the reference to saving trees by Tunnell was a condition in the previous approved variance. The developers confirmed that the updated site plan would still plan to save the trees. Justus stressed to the developers that the specific condition (tree preservation) in the approved variance was being followed moving forward.

Hager asked if parking space 13 was in the right-of-way. Tunnell explained that he felt comfortable that a car could easily park in that spot without being in the right-of-way.

Predmore asked what the requirement is for handicap parking spaces. Tunnell stated two are required.

Predmore asked if there was a landscape buffer between the roadway and parking lot (near parking space #13). Tunnell stated there is no buffer.

Tunnell explained that landscaping is not fully defined in this plan and will be in more detail later.

Carlton asked if the parking lot and private drive would be paved or gravel. Tunnell explained a steep section on loop road on the eastern side would benefit from being paved. All others would be gravel.

Carlton asked the measurements of the parking spaces. Tunnell stated the measurements are standard. Driveway is 24ft wide and spaces on each side are 18ft deep and minimum of 9ft wide. Handicap spaces are an exception. All handicap requirements will be met. The parking lot will have edging of some sort.

Carlton asked if the existing re-use plant counts about 25 structures both big and small. Does the amenity area and parking lot accommodate all those so they remain functional? Tunnell answered, yes.

Carlton asked how wide the entrance was to the parking lot near the Lakeside Lodge sign. Tunnell stated he wasn’t certain of exact measurements but likely 26-28ft.

Tunnell pointed out that the proposed parking lot had always been a parking lot in some form. Tunnell explained that parking space 13 could be eliminated if the Town would rather have landscaping in that area. There are tradeoffs that can be considered and still have the required number of parking spaces.

Carlton asked if the pump house would have porch.

Tunnell explained the porch would have chairs and a covered area for sitting.

Kevin Haag asked if the high cost for the condos would not be better to have paved parking and drives rather than gravel. Haag feels that this would be prudent as a benefit to the homeowners. Tunnell explained that the parking lot had always intended to be gravel. Tunnell defined that high end developments currently use gravel with adequate landscaping and it looks good in rustic areas such as Lake Santeetlah.

Diana referenced a document that was provided on October 12, 2021. The parking lot in this document is proposed as asphalt and the private drive is gravel. Carlton pointed out the document was a McGill site plan submitted by the developer.

Diana Simon shared her concern that on both ends of the lodge there are raised platforms with condensers for air conditioning systems. Do these platforms comply with setback requirements to the roadway (10ft)? Also parking spaces 31 and 32 no side setbacks are shown.

Tunnell is uncertain of the document that proposed asphalt parking lot. The developer’s intention was for the parking lot to remain gravel. Tunnell pointed out that the document would be updated and was likely due to miscommunication.

Tunnell explained that typically the right-of-way is measured from a public road or boundary line. He provided graphics comparing the previous and revised plans to explain that the changes in skirting of the condensers. Previously shown in stone and now in a wood form. Tunnell feels that the condensers are within the setback requirements.

Justus commented that parking requirements within the Town are a minimum of 10x22ft. Justus asked for clarification of the proposed measurement in this plan. Tunnell explained that in all plans the standard is 9x22ft. Tunnell stated this standard was likely created in the 80’s. The requirement for a double loaded parking lot was 64ft. wide and is now 60ft. Tunnell pointed out that he was not aware of this and asked if the Town would revisit or a variance should be requested. Tunnell stated that 9x22ft. is a standard throughout the United States. Justus explained that it would need to be discussed and if a variance is needed it would have to be advertised and discussed at a later time.

Justus asked for confirmation about a specific rendering displaying the back of the lodge. Justus asked to be certain that the trees and fire pit would not be eliminated as they are not shown in the updated plan.

Tunnell explained that both the trees and fire pit would be kept that the difference was only the detail of the two pictures.

Tunnell is concerned about the parking requirement and stated it would need to be discussed by the developing team and determine how to respond.

Carlton asked if the proposed Ordinance stating that the Zoning Administrator could make minor changes in the approval of a PUD project. Minor was clarified as 5% or less. Carlton asked if the ZA could determine that the dimensions in a parking space could be a minor change. Justus stated that this would be more than 5% and he would not be able to make that decision.

Justus explained that parking spaces 30-32 at the cottages is showing a parking pad adjoining what appears to be lot lines. Under the current Ordinance, any structure, any improved “thing” artificially placed on the ground (that would include parking) and that has to be 10ft off the lot lines. The current proposal of the Ordinance to be adopted is to potentially reduce that to 5ft. Simon pointed out that the current proposal looks to be encroaching on the lot lines.

Carlton asked to be clear that any approval today does not approve any approval of the cottages as they don’t seem to comply with setbacks. The proposed cottages are only a reflection of what could be built in that area. Justus confirmed that all default standards of the Ordinance are in place unless a modification has been requested. The only modification that has been requested at this time is for height. Carlton asked Tunnell to confirm where the two Old Lodge septic tanks are located.

Haag asked if the loop road would need a retaining wall below the fire pit area and possibly around the corner where the future cottages are to accommodate enough roadway. Tunnell explained that a wall will be needed around the fire pit but feels that he may have to build a retaining wall in that area. Tunnell pointed out that a retaining wall would be built around the fire pit. The retaining wall currently in place around the Dragonfly cottage was intended to minimally effect the environment but likely caused one oak tree to die.

Tunnell stated if a 10ft setback is needed between the edge of a parking space and the front of a building then there is a problem. It would be likely the cottages could not be built with that restraint. The current parking in front of the Dragonfly cottage would not have that setback.

Hager asked for comment from those with standing.

Jackie Salazar made four points: Salazar spoke on behalf of the Twin Falls Cottage.

The road needs to be paved for the new condo project.

The narrow roadway is tight, difficult to pass and unsafe and should be addressed.

Salazar is concerned Fire pit location being a fire hazard to the Dragonfly and Twin Falls cottage.

Salazar stated that parking size is an issue. Cars are bigger now and would not fit in that area while still allowing other cars to pass.

Pete Szuch, owner of 13 Old Lodge Road, agreed with Salazar.

Carlton also suggested using gas log pits to avoid sparks.

Hager offered suggestions for moving forward. The main issue is parking for today’s hearing. There is a conflict with the current parking size in the ordinance and what is proposed. Hager suggested continuing the hearing for further research.

Attorney Oast provided a closing statement.

Hager asked for a motion to close the evidentiary portion of the hearing and move to deliberation. Carlton made a motion. Haag seconded. All approved. The motion passed unanimously.

Carlton made a motion to approve the amendment to condition 6 of the previously approved variance, subject to the following conditions:

#1The parking lot be paved and be reduced to 25 spaces. Designed to current standards at the time they apply for a Zoning Certificate including handicapped space with appropriate drainage.

#2 The one way road (loop road) be paved in its entirety and the alignment of the road be such that each of the five houses has one space complaint with Town standards. (10ft wide, one parking space per cottage and allow 2ft. off pavement).

#3 The fire pit be gas and some type of retaining wall be built around the pit and the whole length of that walkway. Material of the wall could be determined by the developer.

Carlton explained if the conditions are acceptable this would allow approval today. Justus suggested the retaining wall was extra. Carlton removed the requirement for retaining wall.

Hager seconded.

Carlton asked if the continued hearing would continue with future discussion and no need to review all items discussed today. Justus said, yes.

Oast asked for a recess to speak with his clients. Oast contacted his clients privately to discuss the proposed motion. The meeting was on hold for approximately ten minutes. Justus had to leave the call for another meeting.

Hager re-opened the hearing and asked for a motion to continue to hearing to 10:30AM October 26, 2021. Predmore made the motion. Simon seconded. All others approved.

Predmore made a motion to move to the regular Council meeting. Simon seconded. All others approved.

Predmore moved to adjourn. Carlton seconded. All others approved.

Justus explained the duration of development approval is good for one year by state statute. After a variance is approved. It is possible that an extension could be provided upon approval of the Council.

A Zoning Certificate of completion must be signed off on. The hearing will continue October 26th.

**Announcements:**

* A Public Hearing will be held October 26, 2021 at 10:00AM to discuss One Way Streets. An additional hearing at 11:00AM to discuss Town-wide Speed Limit. This meeting will be held by Zoom. An invitation will be sent by mass email. 10:30AM will be the continued hearing for Lakeside Condo project.
* A continued Public Hearing will be held October 28, 2021 at 10:00AM to further discuss the proposed Zoning Ordinance, Map and Forms. This meeting will be held by Zoon. An invitation will be sent by mass email.
* The next regular scheduled Council Meeting will be held November 18, 2021 at 10:00AM. This meeting will be held via Zoom, unless otherwise notified. Information will be sent at a later date.

**Motion to Adjourn.**

Councilmember Predmore made a motion to adjourn the meeting. Simon seconded. The meeting was adjourned at 2:57PM.

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Jim Hager, Mayor Emily Hooper, Town Clerk