

## PLANNING COMMISSION MEETING

The meeting was called to order at 7:00 pm

### ROLL CALL

Kate Christopher            Gretchen Dudney            Jim Lamb  
Dan Schroder                Ron Schuman                Eric Mamula  
Dave Pringle arrived at 7:07 pm  
Wendy Wolfe, Town Council Liaison, was absent.

### APPROVAL OF MINUTES

With no changes, the June 2, 2015, Planning Commission Minutes were approved as presented.

### APPROVAL OF AGENDA

With no changes, the June 16, 2015, Planning Commission Agenda was approved as presented.

### CONSENT CALENDAR:

1) Cottage #7, The Cottages at Shock Hill (MM) PL-2015-0166, 51 Regent Drive

With no requests for call up, the consent calendar was approved as presented.

### WORKSESSIONS:

1) Temporary Structures (Tents) (JP)

Ms. Puester presented. The last update to the Temporary Structures ordinance was approved by the Town Council on April 8, 2014.

Primary changes to the Policy April 8, 2014 included:

- Prohibiting temporary structures (not associated with special events) within the Conservation District.
- Allowing a temporary structure to remain in place for up to 3 years (rather than 2 years).
- Allowing uses currently prohibited including office, retail, industrial or commercial uses.
- Allowing for temporary structures on a property without having to obtain a building permit to replace the existing use on site.
- Moving “construction trailers” from the Policy 36 Temporary Structures to Policy 29 Construction Activities.

Issues have arisen since the last update to the policy regarding temporary tents for events. Recently, staff saw a request for a private function with a tent for thirty (30) days in duration which was not approved under the current policy. There is a lack of detail in the Temporary Structures Policy with tents not being addressed except for those that qualify as special events. The Town Code Special Events Chapter (Chapter 13, Title 4) however, applies only to public events, not private. The proposed policy modification attempts to rectify this and make further clarifications regarding tents. As proposed, staff is not recommending temporary tents be allowed for more than a five (5) day duration.

Primary issues addressed in this ordinance include:

- Temporary Event: A 5 day limit for tents with a Class D minor permit, 30 days in between permit issuance, not to exceed 3 permits per year.
- Grandfather clause: The Beaver Run summer seasonal tent has been approved by the Town Planning Commission process (via a Class C) for over 15 years. As there have been no issues with this permitted tent during this time, staff is suggesting a grandfather clause in this case.

A few issues that have come up since writing this memo include the not for profit Barney Ford lot which is

privately owned, not Town property, temporary tent sales which could be addressed with being permitted with approved sidewalk sale days and as mentioned before, the 30 day private function tent at Grand Lodge Peak 7.

*Commissioner Questions / Comments:*

Mr. Lamb: Where do greenhouses fit in? (Ms. Puester: It is in temporary structures policy, but we aren't proposing any changes to that part of the policy, just adding in a section on tents.)

Ms. Dudney: I need a few more examples. Beaver Run would come under this policy? (Ms. Puester: That would fall under the grandfather exemption clause proposed since it has had more than 15 consecutive permits, section G.) Arts Festival is a special event not a temporary structure? (Ms. Puester: Yes, is a special event. A temporary structure per code is when you are knocking down a building and using a temp structure in the meantime. A temporary tent would be a new addition to the code, proposed at a limit of 5 day durations. Another example is a restaurant having a band on their deck with a tent and these have gone through special events because it is open to the public. If it is a private event, like a wedding, then the potential is for that to fall under the 5 day temporary permit.)

Mr. Mamula: I'd like to separate the conservation district out for the discussion. Let's talk about conservation district. One of the issues Julia touched on is the issue of density, parking, PIFs. I would love to be able to put up a tent in March and have additional seating for people. It is just increasing year-round seating without all the other things like density, PIFs and so on. Burke and Reilly's tent for St. Patrick's Day month is a special event right now. (Mr. Grosshuesch: The duration of what they did this year would not be allowed under the proposed changes. It was allowed under SEPA because of an interpretation of that ordinance. We are trying to make the two ordinances more compatible with each other by addressing requests that neither one squarely addresses. But for tonight's meeting, we are not discussing the Special Event ordinance here. We don't want to see temporary tents going on longer than 5 days.) (Ms. Puester: If they are in conservation district they need to be a part of a special event or be on Town Property is how this is proposed.) But the non-profit gets special advantage to have a wedding tent; I think the ordinance should also allow them for a for profit business too then. It isn't fair to private enterprise to exempt the Arts District or Barney Ford.

Ms. Dudney: I'm not quite sure I understand the harm for a restaurant to put up a tent but other non-profits are. There is no way for the restaurants to have one in the conservation district?

Mr. Lamb: As proposed, you are allowed 3 permits of 5 days a year, so you can do it 15 days total (outside of the Conservation District).

Ms. Dudney: But a private restaurant can't do it at all unless they go through SEPA if they are in the conservation district?

Mr. Mamula: But that (SEPA) is not under the Planning Commission authority.

Ms. Dudney: A restaurant has to go through SEPA? (Ms. Puester: Yes if it's a special event "open to the public".)

Mr. Mamula: Unless you have a SEPA permit in the conservation district you can't get a tent. I think it is patently unfair that a public property can do this but private property can't. (Mr. Grosshuesch: If private bars and restaurants were allowed the 5 days rule as the private entities outside of the Conservation District are allowed by these changes, would that be good for you?) The issue is, is it ok to limit the number of days that tents are up? Most of the time these tents are up in the summer, except for Burke and Reilly's that does New Year's and St. Patty's Day. It would allow 3, 5-day events for the year. (Mr. Grosshuesch: We got to the 5 days because we seem to tolerate events that only last a weekend but then you have holiday weekends like the 4<sup>th</sup> of July that sometimes start on Wednesday, so that's where we drew the line.)

Mr. Pringle: Would the draft ordinance somehow separate it so it can't be 15 days in a row? (Ms. Puester:

- As proposed, it has to be a month apart.)
- Mr. Schroder: I think tents make the town lively. They draw your attention. Town, Arts District, doesn't have to adhere to the code right? (Ms. Puester: We do try to live by our own rules. They often use the SEPA process. I would like to set it up so that we aren't limiting the Arts District or Town's activities.) I agree with Ms. Puester and I don't want to limit the Arts District.
- Mr. Mamula: I think there is a big difference when it's a band or public event but I don't think that weddings should be allowed to get tents on town property or for nonprofits. (Mr. Grosshuesch: The Council didn't want temporary structures in the conservation district in general last year. They are accepting of the Arts District having tents, outdoor activities. When they drew the parking lot they discussed permanent anchors for tents. We programmed Masonic Hall to be able to hold receptions and want it to integrate with Barney Ford because they have tents and events. We saw it as a revenue generating area for the nonprofits. There was a lot of support for these are sites to host events and receptions. So we are drawing this ordinance so that we can continue to allow that programming be fulfilled.) I totally get that, but the Town can't just hold events in order to get funding but at the detriment of private entities. I don't think this is fair. I think there is a balance that says that public events are appropriate but when they go into private functions and weddings then it is direct competition and same rules apply.
- Mr. Pringle: The Town hasn't been in the wedding business until now? (Ms. Puester: The Riverwalk Center has been a venue for a long time.) There are a lot of weddings at Father Dyer all the time and I'm thinking that if people know they can have a wedding in the Arts District they will love it and a tent will be up every weekend. (Mr. Grosshuesch: Weddings are a piece of the summer economy. The wedding and event planners understand that the Council is ok with this. The Heritage Alliance has allowed weddings in the Barney Ford lawn for the last 5 years.) It sounds to me like this is going to be a significant piece of late summer / fall business in the Arts District.
- Mr. Mamula: Which is fine as long as private entities can do it to.
- Ms. Christopher: I agree that it should be fair.
- Mr. Mamula: I'm ok with the Arts District as long as private enterprise can do the same thing. Like have a tent on your deck. (Mr. Grosshuesch: I think that is a fair comment.)
- Mr. Pringle: I think it is one thing to have a BBQ for 4<sup>th</sup> of July open walled tent on museum lawn as opposed to a big event tent with walls on it as opposed to a big tent in the Arts District. I'd be wanting to make sure we aren't walling off in the Arts District. (Mr. Grosshuesch: We are the landlord for the Arts District and I think we will be able to deal with concerns. There will be a lot of public input if these events get out of hand.)
- Mr. Mamula: We want a level playing field in the conservation district.
- Mr. Pringle: It really bothers me to see the 5 Hour Energy tent in the public plaza there all summer but it is allowed because of SEPA. It looks terrible. Don't understand why that is allowed through SEPA. (Mr. Grosshuesch: SEPA's rules are more fluid; it is a marketing thing not a land use thing. They meet on a regular basis and manage it from an impacts perspective; it is a lot more fluid with a lot of people influencing it. We need to focus on what we oversee. The (SEPA) events are reviewed at the end of each event and feedback is given on how to improve them.) (Ms. Puester: Does the 5 day rule sound reasonable? Does the 30 days in between?) If the event is only one day, could we say that the tent only goes up the day before and comes down after the event and be up no more than 5 days. Please put this in the ordinance. (Ms. Puester: The exempt tent with Beaver Run who has had permits for 15 consecutive years; support for it to be grandfathered?)
- Mr. Mamula: What if we make it something like anyplace that has more than 75 rooms, make something broader for the larger properties? (Mr. Grosshuesch: Breck Grand Vacations has an event for their owners that goes on 5 weekends. We didn't know about it until recently but it is

currently against the code. Beaver Run has been doing theirs for a long time. So we wrote in a grandfather clause for Beaver Run because it has been approved by Planning Commission and Town Council for so long. Beaver Run lends itself to a grandfather clause. The Breck Grand Vacations is more recent but with similar impacts. We could make them take the tent down in between Saturdays, but that's very expensive to do. We aren't quite sure how to do this one. It is one of the unresolved issues with the ordinance draft.)

Mr. Pringle: The Beaver Run tent was put up before the convention center went up. Then the convention center goes up and we still have the tent. We don't want to get into the same situation with Breck Grand Vacations. I think we need to have a permitting process with a definite beginning and end that can be renewed. We don't want to see these permit processes stay because we have Sprung structures go up and don't go away.

Mr. Lamb: It sounds like Grand Timber has been doing it for at least a few years? (Ms. Puester: Possibly but we didn't know about it or permit it, trying to work that out right now.)

Mr. Schuman: How big are they? Maybe they allow a size limitation. (Ms. Katie LeStrange, Breck Grand Vacations: I wanted to sit in on this and we ended up with a SEPA permit since it wasn't allowed but it isn't open to the public. We have been stuck in the middle. It is an event we've had for 5 years and it is in the off season that brings in people to the Town. It is a happy hour, music event for our owners. It is on the Sevens patio. It is for 2 hours for every Saturday, last weekend of April goes through the end of May but not during Memorial Day.)

Ms. Dudney: The Grand Vacations and Beaver Run, they should be allowed. The question is what about others? Have we had other requests?

Mr. Pringle: We have a good temporary structure ordinance; we don't get a lot of permit applications. When does this become a big problem, when other large entities want longer time periods? I'm leery about making wholesale changes. I think Breck Grand Vacations should get a permit. (Ms. Puester: The problem is that there isn't the ability in the current codes for Breck Grand Vacations to get a permit; they don't really meet SEPA since it is a private event and they don't meet our temporary structures permit requirements either. We can't just turn our heads because then we have no parameters for other businesses. Should we allow this or not? If so, we need to craft some direct language so people know what they can or cannot do and where. Needs to be universal.) (Mr. Truckey: Is it fair to give it just to Beaver Run and Breck Grand Vacations and not other big lodges?)

Ms. Dudney: Let's open it up and err on the side of fairness.

Mr. Lamb: I'm fine with Beaver Run and also Peak 7. I would like to give this back to staff to see what they come up with that is fair to everyone. I think it could be worded in a way that we could keep it under control. (Ms. Puester: I'm hearing support of the 30 day separation.) Yes, the historic district should be 5 days, 30 days apart.

Ms. Christopher: I'm not ok with grandfathering for a company who has been doing this for 15 years and only allowing them to have a seasonal tent. Either everyone can do it or not, or have parameters where there can only be 3 or 4 tents and let first come first serve.

Mr. Schroder: Temporary is the word I have a problem with, because if they are doing it every summer it isn't temporary. I think Beaver Run should be vacated and new policy written so everyone has a chance.

Mr. Schuman: I think there is a way to get rid of grandfather and open it up to size and quantity. I have a question: we are allowing a temporary structure to be there 3 years not 2 years? (Ms. Puester: That was approved last year with the modification to this policy. No change proposed to that.)

Mr. Pringle: I agree with Mr. Schroder; we don't want to see Beaver Run continue, it is not for the purpose for which it was raised. The Breck Grand vacations tent was not allowed but we didn't have a code provision for that. I don't think it is fair that these continue. I don't think the code is broken because we've prohibited it in the code, but the problem is that we've looked the other way.

- Mr. Schuman: I feel comfortable that staff can write a policy to get rid of the grandfather and make it fair.
- Mr. Mamula: I would like to keep it to the “larger” lodges who have enough property to allow this to happen. I don’t want to see a small lodge tent their deck. (Mr. Grosshuesch: Fair equity way is to let everyone have 5 days 3 times a year.) I think there is scale issue, especially when they are bringing people in the off season. (Mr. Grosshuesch: Would you entertain seasonal restrictions?) Yes.
- Ms. Dudney: Shouldn’t it be a legitimate special event instead of just increasing their density all summer long?
- Mr. Mamula: I don’t think that is fair.
- Ms. Christopher: If we don’t allow anyone else why would we continue?
- Ms. Dudney: Because maybe they didn’t have a code back when it started, now it’s part of their business plan. Can’t change the rules on them now.

**TOWN COUNCIL REPORT:**

Ms. Wolfe was absent but sent an e-mail with a summary:

- Moved through the sign code, going to second reading next week.
- Limited wetland TDR’s.
- Continuing to work on the parking and transit plan.
- There was a meeting today with the Lodging Association. We are working on a series of meetings with the community which will begin soon.

**OTHER MATTERS:**

1) Barney Ford Museum Landmarking (Stiles, Block 2, Lots 1, 2 & 3) (MM) PL-2015-0201, 200 South Main Street

Mr. Mosher presented a proposal to locally landmark the Barney Ford Museum at 200 South Main Street (111 East Washington) per Section 9-11-3, Designation of Landmarks, Landmark Sites, Historic Districts and Cultural Landscape Districts, of the Town Code. The property is at least 50 years old, having been constructed around 1880.

The property exemplifies Victorian-era architecture, including some elements of the Italianate style, and is one of Breckenridge’s best preserved and most notable historic structures. The Barney Ford House is most significant for its association with its original owner, Barney Ford, a former slave that became a successful businessman and statesman.

The property shows character, interest or value as part of the development, heritage or cultural characteristics of the community, region, state or nation. The building displays the fine craftsmanship of a bygone era and historic materials, and has been particularly well preserved, thus satisfying the criteria of having the property retaining original design features, materials and / or character. Finally, the structure is on its original location or in the same historic context after having been moved.

The Planning Department suggested the Planning Commission recommend that the Town Council adopt an ordinance to Landmark the Barney Ford Museum at 200 South Main Street (111 East Washington), PL-2015-0201, based on past restoration efforts and the fulfillment of criteria for Architectural and Physical Integrity Significance as stated in Section 9-11-4 of the Landmarking Ordinance.

*Commissioner Questions / Comments:*

Mr. Lamb: I just want to point out that from the aerial shot you can see a tent in the front yard.

Mr. Schroder made a motion to recommend the Town Council adopt an ordinance to Landmark the Barney

Ford Museum at 200 South Main Street (111 East Washington), PL-2015-0201, based on past restoration efforts and the fulfillment of criteria for Architectural and Physical Integrity Significance as stated in Section 9-11-4 of the Landmarking Ordinance. Mr. Schuman seconded, and the motion was carried unanimously (7-0).

2) Joint Town Council Work Session Topics

Ms. Puester presented. Suggested topics for the joint meeting with the Town Council on July 28 are:

- 1) Development Agreement provisions relationship with point generating Development Code policies.
- 2) Temporary Tents.
- 3) Policy 7/R regarding retaining wall heights and site disturbance.
- 4) Sign Code Amendments update.

The 2015 Planning Commission Top Ten List with Status Updates:

1. Wireless Communication Towers/Antennas (*Currently in process.*)
2. Amenity Bonus Square footage/positive points (Policy 24/R Social Community).
3. Shuttles/positive point reallocation (Policy 25/R Transit) (TOOK TO PC; NO CHANGE NEEDED.)
4. Wood Shake Shingles. (NO ACTION REQUIRED AT THIS TIME.)
5. Local Landmarking: Klack Placer Cabin; County Courthouse; Tin Shop; Mikolitis Barn; Barney Ford House; Sawmill Wakefield Site; Lomax Placer; Dipping Station. (Lomax Placer complete.)
6. Policy 7R regarding retaining wall heights and site disturbance.
7. Parking: Residential parking in garages (positive points).
8. Public Art (off -site improvements). (TOOK TO PC; NO CHANGE NEEDED.)
9. Mass Policy: Airlock Entries and other mass consuming energy conservation features.
10. Employee housing annexation positive point allocations.
11. Sandwich board signs/Outdoor display of merchandise. (TOOK TO PC; IN PROCESS WITH TC.)
12. Development Agreement provisions relationship with point generating Development Code policies.

*Commissioner Questions / Comments:*

Mr. Mamula: Sign codes are pretty much done as they are going for second reading next week. I would like to have a planning commission work session on retaining walls. The first two are very important.

Mr. Lamb: I also like the first two.

Mr. Mamula: We could reiterate that the sign code is important and that we are glad that they are taking our recommendations and enforcing it. It looks terrible out there, sign after sign as you walk down the street. (Mr. Truckey: We won't be enforcing sign code until September, but we will be educating until then.) Anything else on the top ten list if we get through the first two. (Mr. Grosshuesch: We struggle where to go on a field trip, maybe parking structures and shopping centers?) I think parking structures would be good field trip one with F Lot.

Mr. Pringle: We talk about development agreements with every Council.

Ms. Dudney: Just so you know, the International Council on Shopping Centers, which is part of CML, has a big seminar here tomorrow night at Beaver Run.

**ADJOURNMENT:**

The meeting was adjourned at 8:12 pm.

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Eric Mamula, Chair