

PROPOSED AGENDA

Meeting of the Planning Commission
To be held Monday, June 6, 2016 at 4:00 p.m.

- I. Call to Order
(Chairman Bailey)
- II. Approval of Minutes from July 27, 2015
(Chairman Bailey)
- III. Review and Consideration of Amendments to Town Zoning Ordinance
(Town Administrator Kanipe and Town Attorney Clarke)
- IV. Adjourn
(Chairman Bailey)

TOWN OF BILTMORE FOREST
PLANNING COMMISSION MEETING, JULY 27, 2015

Those in attendance:

Mr. Doug Bailey, Chairman
Mrs. Marjorie Waddell
Mr. Jonathan Kanipe, Zoning Administrator

Mr. Tucker Veach and Mr. William Clarke were not in attendance. Chairman Doug Bailey called the meeting to order at 4:00 p.m.

Mrs. Waddell made a motion to approve the minutes; Chairman Bailey seconded and the minutes were approved.

Mrs. Waddell offered her support to limit the number of rentals to two (2) per year, but said she was willing to consider another perspective on this. Discussion ensued regarding limiting the rentals to two (2) times per year, with Chairman Bailey feeling likewise that (2) two times per year was sufficient and would help protect the character of the neighborhood.

Mr. Kanipe read through the statement of consistency and reasonableness for the Commission to consider in conjunction with the recommended zoning text amendment. Mr. Kanipe clarified the process by which the Commission would make a recommendation to the Board to consider at a public hearing.

Mr. Bailey made a motion to recommend approval of the following ordinance amendment, and further specified the proposed amendment was consistent with the Town's land use plan and was reasonable and in the public interest.

Add to the Definitions Section

Home Stay – Rental of a part of a dwelling unit or accessory structure for consideration, including in kind compensation, to a transient person or persons for a period of less than ninety (90) days. Advertising and renting a room or rooms in a dwelling unit of accessory structure on Airbnb or similar internet web sites would be an example of a Home Stay. Home Stays are not allowed in any zoning district in Biltmore Forest.

Short Term Rental – Rental of a dwelling unit or accessory structure for consideration, including in kind compensation, for a period of less than ninety days. Short Term Rentals are not allowed in any zoning district in Biltmore Forest.

Amend Section 5.04 as follows:

504.01 R-1 Residential District. Insert the following sentence after the third sentence, "**Consistent with, and to protect the existing character of the neighborhoods in this district, Home Stays and Short Term Rentals are not allowed.** "

504.02 R-2 Residential District. Insert the following sentence after the first sentence, "**Consistent with and to protect and preserve the character of the neighborhoods in this district, Home Stays and Short Term Rentals are not allowed.** "

504.03 R-3 Residential District. Insert the same sentence before the last sentence in this section. "**Consistent with and to protect and preserve the character of the neighborhoods in this district, Home Stays and Short Term Rentals are not allowed.** "

504.04 R-4 Residential District – Insert this sentence before the last sentence, "**Consistent with the existing and intended uses of this district, Home Stays and Short Term Rentals are not allowed.**"

504.05 R-5 Residential District – Insert this sentence at the end of the section, "**Consistent with the intended uses of this district, Home Stays and Short Term Rentals are not allowed.**"

Permitted Use Table – Would be amended to reflect the proposed changes to the zoning ordinance.

(The following note will be added to the Permitted Use Table.)

Home Stays and Short Term Rentals are not allowed in any district. There may be only two rentals of a dwelling unit or accessory structure in any calendar year.

Mrs. Waddell seconded the motion, and all were in favor. The recommendation of approval was made to the Board of Commissioners.

There being no further business, Chairman Bailey adjourned the meeting adjourned at 4:12 pm.

Jonathan Kanipe
Zoning Administrator

Chairman Doug Bailey

Proposed Changes to Code of Ordinances and Zoning Ordinance

§150.03 ROOF COVERAGE; APPROVED MATERIALS. [changed to comply with Senate Bill 25] [Code of Ordinances 5-2]

The following list of materials is suggested for roof coverage.

- (A) Brick or concrete surface
- (B) Clay or Portland cement tile
- (C) Tin or slate
- (D) Asbestos shingles one eighth inch thick or thicker
- (E) Pitch or felt, built-up type, four or five plies, gravel, or slag surface
- (F) Asbestos-asphalt, built up type, four or five plies, smoot, or grit surface

§150.06 WOOD SHINGLE ROOFS. [Code of Ordinances 5-6]

If a wood shingle roof is damaged by a fire more than 20%, the entire roof shall be replaced. If a wood shingle roof is to be repaired more than 10% in any one year, the entire roof shall be replaced. [changed to comply with S. 25]

PROPOSED CHANGES TO ZONING ORDINANCE

§153.004 INTERPRETATIONS AND DEFINITIONS.

ACCESSORY STRUCTURE. A structure incidental and subordinate to the principal use or building on the lot and located on the same lot with such principal use or building. Accessory Structures include, but are not limited to, fences, walls, curbs, pools, play sets, statues, water features, playhouses, decorative walls, sculptures, solar collectors, residential street lamps, rock and stone moved from its original location to any other location on the property, and the like. [new definition replacing ACCESSORY USE] [401.1 in Zoning Ordinance]

BUILDING. Any structure having a roof supported by columns or by walls, and intended for shelter, housing, or enclosure of persons, animals or property. Two structures shall be deemed a single building only if connected by heated and enclosed living space. [revised second sentence] [401.07 in Zoning Ordinance]

BUILDING, ACCESSORY. A detached building subordinate to the main building on a lot and used for purposes customarily incidental to the main or principal building and located on

the same lot. [changed period after BUILDING to comma and deleted second sentence regarding garage apartments or rental units used by family member] [401.08 in Zoning Ordinance]

ROOF COVERAGE. For the purposes of building construction and the calculation of maximum roof coverage pursuant to §§ 153.029(B)(1)(b) and 153.043 (and any other section of this chapter dealing with roof coverage), **ROOF COVERAGE** shall be the area contained under the roof of the primary building or any accessory structure/building and shall also include any impervious deck surface or any other above-grade impervious surface extending from or being attached to any primary building or accessory structure/building. Both **heated** and unheated enclosed **spaces** or any open space within, under or covered by the roof of the primary building or accessory structure/building or by any above-grade impervious surface (such as a deck, and the like), extending from the primary building or accessory structure/building shall be included in the calculation of **ROOF COVERAGE**. [changed "healed" to "heated," and made "space" plural] [401.52 in Zoning Ordinance]

STRUCTURE. Anything constructed or erected, including but not limited to, buildings, which requires location on the land or attachment to something having permanent location on the land. [everything after subparagraph (a) was removed from this section and inserted in a new section, 153.029(c), covering fences] [9401.56 in Zoning Ordinance]

VARIANCE. Variance shall be as defined in G.S. §160A-388(d) together with any amendments thereto. [changed definition to be in compliance with state statute] [401.59 in Zoning Ordinance]

YARD, FRONT. An open, unoccupied space on the same lot with a principal building, extending the full width of the lot, and situated between the street or property line and the front line of the building, projected to the side lot lines of the lot. Driveways, to the extent possible, shall enter the property through the front yard. In the case of a lot with frontage on more than one street, the side of the lot with the most street frontage shall be considered the **FRONT YARD**, however, in the consideration and determination of applications for conditional use or variance on such a lot, the Board of Adjustment **shall** take into account and consider the visibility of both the **FRONT** and **SIDE YARDS** to the street and adjoining properties in any determination. [expanded definition to address visibility of lots fronting on two streets] [401.62 in Zoning Ordinance]

§153.005 ESTABLISHMENT OF ZONING DISTRICTS AND MAP.

(C) *Establishment of zoning map.* A zoning map, entitled the "Official Zoning Map of the Town of Biltmore Forest," depicts all approved use districts and their respective boundaries. Such map is hereby made a part of this chapter and shall be maintained by the Town Zoning Administrator and updated to reflect changes and amendments to this Zoning Ordinance. This map shall be available for inspection by interested persons during normal business hours of the Town Zoning Administrator. It shall be the duty of the Town Zoning Administrator to

maintain the said map and post any changes thereto as they may be made. [made some changes to language] [502, 503 and 504 in Zoning Ordinance]

(E) *Statement of district intents.*

(1) *R-1 Residential District.*

(b) Nonresidential uses, including home occupations, have been limited in this District as a means of maintaining the character of these neighborhoods. Likewise, dimensional requirements pertaining to lot size, building setbacks, yard requirements, and height limitations have been established to promote the general welfare and preservation of the community. [inserted comma after "home occupations"] [503 in Zoning Ordinance]

(2) *R-2 Residential District.*

(b) As in the R-1, nonresidential uses, including home occupations, have been limited in this District as a means of assuring a pleasant residential atmosphere. [inserted comma after, "home occupations"]

(3) *R-3 Residential District.*

(b) This District is primarily a low-density residential district; however, to accommodate contemporary design and building practices, it includes residential planned unit developments as a conditional use at a maximum density of eight dwelling units per acre. Nonresidential uses, including home occupations, will also be limited in the R-3 District in order to maintain the same quiet and pleasant living environment as found in the R-1 and R-2 Districts. [eliminated first two sentences about there being no public water and sewer in R-3]

(7) *Landscaping plans. [*Move this paragraph to §153.034 (D) – shown below]*

§153.006 PERMITTED USE TABLE. [Article VI in Zoning Ordinance]

[moved footnotes from the Permitted Use Table to a new section immediately following Permitted Use Table]

(A) *TABLE*

(B) *General Provisions*

(1) Only two clothing or jewelry sales may be held per year at each dwelling, not to exceed five consecutive days for each sale. Property owners are required to contact the Zoning Administrator prior to holding the sale so that the date of the sale may be noted.

(2) Only one estate auction sale may be held during a resident's ownership of the property. Property owners are required to contact the Zoning Administrator prior to holding the sale so that the date of the sale may be noted.

(3) Only one garage/yard sale may be held per year at each dwelling. Property owners are required to contact the Zoning Administrator prior to holding the sale so that the date of the sale may be noted.

(4) Only four fundraising events may be held per year at each dwelling. No such event shall last longer than five hours in a single day and any such event must end by 11:00 P.M. There shall be no sales of goods or services at any such event. Parking for such an event must not impede the normal flow of traffic and must not be upon any other property without permission from the property owners.

(5) No home business activity shall employ any person who does not live in the home. No person shall come to the home for a business transaction of any nature as part of the home business activity, including, but not limited to, retail or commercial sales or fee for service transactions. No shipping, via Fed Ex, UPS, or any other provider, shall be permitted from the dwelling.

(6) Where there is proposed more than one principal building per lot or where there is proposed any building with a gross floor area of 50,000 square feet or more, a planned unit development must be sought.

§153.007 DIMENSIONAL REQUIREMENTS. [Article VII in Zoning Ordinance]

[Put footnotes from this section in a new section, GENERAL PROVISIONS, after table. *Moved footnote 2 to §153.009 – shown below]

(A) *TABLE*

(B) *General Provisions*

(1) The minimum lot area for lots not served by public water and sewer shall be subject to approval by the County Health Department to ensure the proper operation of septic tanks and wells. In no case, shall the minimum Lot Size be less than the dimensional requirements in 153.007.

(2) The minimum lot width at the street line shall be 125 feet in the R-1 District, and 80 feet in the R-2, R-3 and R-4 Districts.

(3) On all corner lots, a 30-foot side yard setback is required.

(4) Accessory structures, including driveways, shall meet all setback requirements. Notwithstanding the foregoing, setback requirements for driveway entrance

columns or driveway entrance walls may be waived or modified by the Board of Adjustment in accordance with the granting of a Conditional Use permit without the need for a Variance.

(5) Height requirements may be varied upon approval from the Board of Adjustment.

§153.008 CONDITIONAL USES. [802 in Zoning Ordinance]

(C) *Conditional use standards.*

(6) *All commercial services, professional office uses, consumer services, and retail business.*

(c) Front setbacks along Hendersonville Road shall be considered on a case-by-case basis by the Board of Adjustment with input from the Zoning Administrator. The Board of Adjustment shall determine the setback upon consideration of the most suitable location for parking. Required parking shall be provided either at the side, rear, or front of the proposed development, based upon the location of adjacent and/or nearby residential dwellings, topography, existing or proposed screening, or other factors which may include noise or glare. When parking is designated to be at the rear of the proposed building, the front setback shall be determined on a case-by-case basis by the Board of Adjustment; when parking is designated to be at the front of the proposed building, then the front setback shall be 50 feet. [deleted unnecessary "on" from 4th line]

§153.027 LOT FRONTAGE. [1102 in Zoning Ordinance]

All lots shall front on a public street. It is suggested but not required that garage doors not face or be visible from the public street, that garage doors not be more than ten feet wide, and if there are multiple garage doors, that there be at least 18 inches of separation between them. [changed to comply with S. 25]

§153.029 ACCESSORY STRUCTURES AND BUILDINGS. [1104 in Zoning Ordinance]

(A) Accessory structures and/or necessary buildings shall not detract from nor interfere with adjacent properties. No accessory structure or building shall be constructed, erected, or located within any front yard or within any side yard or rear yard setback. [added language about no ACCESSORY STRUCTURES in side or rear yard setbacks.]

(B) (1)

(a)

(b)

- (c)
- (d)
- (e)
- (f)
- (g)

(h) Solar collectors shall be regulated in accordance with North Carolina General Statutes 160A-201. [new section to comply with NC statute]

(2) For all satellite dishes less than 24 inches in diameter, an application for a zoning compliance certificate shall be made directly to the Zoning Administrator; the Zoning Administrator shall issue a zoning compliance certificate.

(C) The town is a unique community concerned with historic continuity. The Town, originally part of the Vanderbilt Estate, was established 100 years ago. Since its inception, Biltmore Forest has been a forested residential community with substantial green open space. To that end, persons constructing new residences and renovating existing residences are encouraged to limit the construction of fences and walls. Fences, including the replacement of an existing fence, are allowed only as a conditional use. Fences must comply with the following conditions: [added introductory language and moved current language from Definitions section – added sections (5) and (6)]

(1) Wooden fences should be of natural color or painted in a manner compatible with the color of the primary residence. Non-wooden fencing material shall be black, dark green, or brown to blend with surrounding trees or vegetation.

(2) No new chain link fences shall be allowed. Existing chain link fences may be replaced with fencing of other material subject to the approval of the Board of Adjustment.

(3) The Board of Adjustment may require buffering of any fencing to conceal the fence from neighboring properties and the street as a condition of allowing the fencing.

(4) No fencing shall be allowed in the front yard of a Lot, or within the side or rear yard setbacks.

(5) Confining dogs shall not be considered sufficient purpose for building a fence if other options, such as underground electric fences are available.

(6) The Design Review Board shall develop standards and specifications for acceptable fencing material.

§153.034 LAND DISTURBANCE AND SEDIMENTATION CONTROL. [1109 in Zoning Ordinance]

(A) Any land-disturbing activity, such as grading projects or removal of natural vegetation, that involves the disturbance of 20% or more of the land area of any lot shall submit a landscaping and grading plan for such activity to the Board of Adjustment for review and approval. Prior to commencing such activity in a public service district, any land-disturbing activity such as grading projects or removal of natural vegetation other than routine maintenance

shall be subject to approval by the Town Board of Adjustment regardless of the area to be disturbed.

(B) The intent of this requirement ...

(C) Where applicable ...

(D) A specific landscaping plan prepared by an appropriate professional shall be submitted to the Board of Adjustment which shall details all plantings or reforestation to take place as part of the land-disturbing activity. [moved from 153.005 (E)(7).]

§153.044 MATERIAL AND COLOR REQUIREMENTS FOR RESIDENTIAL DWELLING UNITS. [1119 in Zoning Ordinance]

(A) The town is a unique community concerned with historic continuity. The Town and its citizens are interested in the exterior appearance of residential structures, including the materials and color used in constructing and reconstructing such structures. To that end, those persons constructing new residences or renovating or expanding existing residences are encouraged to consider the provisions of this section regarding building materials. [changed to comply with S. 25]

(1) *Materials.*

1. *Siding.*

a. *Suggested exterior siding materials.*

b. *The following exterior siding materials are discouraged.*

2. *Roofing visible from adjacent property.*

a. *Suggested roofing materials.*

b. *The following roofing materials are discouraged.*

(2) *Color.* The intent of these provisions is to promote colors which blend with the existing structures and preserve the existing visual environment. It is further the intent of these provisions to prevent exterior paints or stains which are distracting and present inappropriate color contrast to the surrounding natural and built environment.

(a) *Suggested exterior colors.*

(b) The use of day-glow or fluorescent colors is discouraged.

§153.045 SITE DESIGN AND BUILDING FORM AND MASS FOR RESIDENTIAL DWELLING UNITS. [1120 in Zoning Ordinance]

(B)

(3) *Building forms and mass.*

(b) *Roof form.*

1. *The following roof forms are encouraged.*

2. *The following roof forms are discouraged as inconsistent with existing structures in the Town.*

§153.061 GENERAL INFORMATION. [1301 in Zoning Ordinance]

(A) *Applicability.*

(3) New parking spaces or lots are not required to comply with the provisions of this section.

§153.064 PARKING LOT LANDSCAPING REQUIREMENTS. [1304 in Zoning Ordinance]

(A) There shall be a continuously-maintained growing strip planted with grass or similar low-growing vegetation, measured from the back of the curb and extending ten feet perpendicular to the road. The purpose of this growing strip is to provide a clear line of sight for motorists, pedestrians, and cyclists entering and leaving commercial properties. [changed "glass" to "grass."]

§153.065 SCREENING OF DUMPSTERS, LOADING DOCKS, OUTDOOR STORAGE AREAS, AND UTILITY STRUCTURES. [changed "Docs" to "Docks"] [1305 in Zoning Ordinance]