Beaver County
Planning & Zoning Commission
March 28, 2007
7:00 p.m.

Unapproved Minutes

Attendance: Robin Bradshaw, Chairman; Scott Bealer, Rowland Yardley, Jack McMullin, Dennis Miller, Roger Larsen, Craig Davis, Administrator; Von Christiansen, Attorney; and Billie Dalton, County Commissioner.

Visitors: See attached list

Called to order at 7:05 p.m.

MINUTES
The minutes from the February 21, 2007 meeting were read. Rowland Yardley made a motion to approve the minutes, Dennis seconded the motion. Motion passed unanimously.

The minutes from the March 7, 2007 meeting were read. Scott B. made a motion to approve the minutes, Roger Larsen seconded the motion. Motion passed unanimously.

The names of the people we received written comments were read into the minutes - Lisa Hendrickson, Carol McCulley, US Forest Service, Robert Rosenthal, Mark & Joni Yandric, Jan & Bill, Jim Bradshaw, Julia Moore, Dallen Crittenden, Steve Reiss, Penny Blair, William & Betty Treder, Sheri Graham, Cora & Sonny Jckowski, Gib & Denise Yardley Family, Peter Pastemak, Marlene Marshall, Gary Kantor, James & Carol Decker, Larry & Jill Petsche, Alan Bradshaw (2), Margaret Wellman, & letter signed by 32 Beaver County Businessmen.

Robin Bradshaw had also received a letter from Margaret Wellman, Julia Marie Moore, Sheri Graham, and Carol McCulley-Committee for "Save Beaver County" & some petitions signed by approximately 635 people.

DEVELOPMENT AGREEMENT
Bruce Parker, Planning & Development Services, commended the P&Z for the way the Public Hearing was handled last week, he asked them to think of the pro's & cons and balance the rights of the private property owners and the interests of the county. A consultant's report was handed out, stating the five main issues and project items. These are 1) water-both adequacies of water rights and necessary protections of water quality, 2) access to ski facilities, 3) maintaining a level of public access to existing trails and roads, 4) maintaining a level of public access to Puffer Lake, and 5) proposed amendments and revisions to existing County Ordinances. He asked that they deliberate, discuss & vote each point and then do an all encompassing motion at the end. Bruce then

gave a brief overview of where and how the 16 original conditions placed in the Concept Plan are in the Development Agreement.
Blackout dates, ski access and ski obligation were discussed, what is reasonable, letting owners know at the beginning of each ski year the blackout dates, homeowners wanting the number of blackout dates defined, and the dates being reviewed by the County every year. Jack McMullin made a motion to change Part G, #7 to read: The Owner may impose reasonable "blackout dates" when daily lift passes shall not be available for purchase by Qualifying Owners, pursuant to the Ski Obligation. Such "blackout dates" shall be identified by the Owner and reviewed and accepted by the Board of County Commissioners, prior to being communicated to all Qualifying Owners at the beginning of each annual ski season and prior to opening. "Blackout dates" may be determined based on customary peak Ski Facilities usage by members of Mount Holly Club, and shall not be used to avoid the Ski Obligation imposed by this Part, or to render it functionally meaningless. Dennis Miller seconded the motion, motion passed unanimously.

Having to have 50% ownership to qualify for ski passes was discussed. Jack McMullin made a motion to revise it so you only need 30% ownership to qualify. Roger Larsen seconded the motion, motion passed unanimously.

The price for a ski ticket was discussed. Scott Bealer made a motion that the first five years the developer will stay with the average of the instate resorts for ticket prices, then have it reevaluated by the County Commission. Rowland Yardley seconded the motion, motion passed unanimously.

Individual Qualifying Owners and groups of Qualifying Owners filing claims of interest was discussed. Rowland Yadley made a motion to have Part G, #16 read: In the event that any Formal Claim of Interest is brought with respect to the Ski Obligation, as provided by this Part, or Ski Facilities generally, by an individual Qualifying Owner, or group of Qualifying Owners, the Owner agrees to promptly have the claim resolved either by agreement, or by a ruling of a court of competent jurisdiction. If a court of competent jurisdiction issues an order resolving such claim, then the ruling of the court shall be considered final on the issue of access for such Qualifying Owner, or a group of Qualifying Owners who brought the Formal Claim of Interest, and the Parties shall have no obligation to recognize or provide the Ski Obligation, as provided by this Part, or access to the Ski Facilities beyond that specifically granted by the Court to such Qualifying Owner, or group of Qualifying Owners. Jack McMullin seconded the motion, motion passed unanimously.

A five minute break was taken.

Von Christiansen brought up the issue of the ski obligation having to continue if the resort is sold, he would like Part G, #12 & 13 to reflect that. Penalties for not following the rules while skiing being the same for members and homeowners were discussed. Roger Larsen made a motion to have Part G, # 3 read: The Owner reserves the right to cause its security personnel to uniformly monitor the activities of all users of the Ski Facilities, including Qualifying Owners, and their guests, while the same are using the Ski

Facilities. If a Qualifying Owner, or any guest thereof, is found to be in violation of a rule or regulation of Mount Holly Club, as also applied to Mount Holly Club members, such Qualifying Owner may forfeit the rights and privileges granted by a daily lift pass. All determinations of a violation of a rule or regulation of Mount Holly Club, and any forfeiture of rights and privileges by a Qualifying Owner, or guest(s), shall be made in good faith and shall be applied equally to Mount Holly Club Members and Qualifying Owners, and their guests. Scott Bealer seconded the motion, motion passed unanimously.

Mr. Parker then went page by page and stopped and discussed when there were questions or problems. Who the Land Use Authority was discussed-it is the P&Z board on C.U.P's and Concept Plans, it is County Commission on Final Plats, it is Craig Davis the Zoning Administrator on permitted uses. Sec. 10 was revised, and Rowland Yardley made a motion to change 12-1-d by adding - and providing a copy of such order to the Beaver River Water Commissioner, Beaver City Corporation, and the Board of County Commissioners - and adding e) If a determination is made by the State Engineer that water usage by users and activities located on the Project Area are negatively impacting, in any way, the water rights of other water users in the Beaver River drainage, the County will require the Owner and Developer to comply with all corrective actions, as may be identified by the State Engineer, including Compensation for damages cause by such usage. Scott Bealer seconded the motion, motion passed unanimously.

The DEQ will approve the sewer system for the EMSSD. Having a quality assurance person, a double check person, during construction that would be responsible to report to the County Commission was discussed. Dennis Miller made a motion to hire a qualified firm to perform quality assurance during & thru construction. Jack McMullin seconded the motion, motion passed unanimously.

Daily turbidity testing during construction, testing Beaver River every other month and testing Beaver City water monthly was discussed. Beaver City does monthly tests, if it is abnormal, they will have an independent test done. Rowland Yardley made a motion to have Sec. 17 d) To require water quality testing as follows; i) To allow Beaver City Corp to conduct necessary "baseline"testing of the City's culinary water system at location(s) in proximity to the Project Are and prior to any construction commencing on the Project Are, and thereafter monthly water quality testing at the same locations. ii) To allow Beaver City corp to conduct an annual chemical analysis of the City's culinary water system at a location in Baker's Canyon and before the City's "head house". iii) To conduct water turbidity monitoring during all times of construction on the Project Area and following the United State Army Corps of Engineers guidelines at locations determined necessary by the County. iv) To conduct necessary "baseline" testing of the water of the Beaver River at location(s) in proximity to the Project Area and prior to any construction commencing on the Project Area and thereafter monthly water quality testing at the same locations for the term of this Agreement for Esherichia coli (E. Coli), pesticides and nitrates. Dennis Miller seconded the motion, motion passed unanimously.

Rowland Yardley made a motion to have Sec. 17, g) read: To require the Owner and Developer to take all corrective actions necessary, as may be determined by the Division

of Drinking Water, if it is shown that the quality of Beaver City Corp. culinary water, or the quality of water in the Beaver River, is deteriorated as a result of uses or activities occurring on the Project Area. Jack McMullin seconded the motion, motion passed unanimously.

Cynthia Mackelprang, US Forest Service, discussed access & right of ways. She will get with Bryan Harris to get the access & rights of ways addressed before Monday's County Commission Public Hearing. Public access to Puffer Lake, surface waters, realigning & moving roads in exchange for access was discussed. Scott Bealer made a motion to omit Part E, Sec. 20, 1-b, 2-b & 3-b. Jack McMullin seconded the motion, motion passed unanimously.

Jet fuel, costs, and developers responsible were discussed. Rowland Yardley made a motion to have it the responsibility of the developers to put in the jet fuel tanks etc. at the Beaver City Airport according to the law. Scott Bealer seconded the motion, motion passed with Dennis Miller voting against.

Dennis Miller made a motion to delete F-2 which dealt with the General Plan & County Land Use Ordinances, Scott Bealer seconded the motion. Motion passed unanimously.

The Commissions reiterated that the Development Agreement does not require amending the Zoning or Subdivision Ordinance.

Rowland made a motion to have added to Sec 28, the wording-all Land Use Applications, and all Land Use Permits for the Project Area, or Phase thereof, shall comply with the requirements and standards of the Zoning Ordinance, in effect at the time a Land Use Application is determined complete, as provided by the Act. Roger Larsen seconded the motion. Motion passed unanimously.

Dennis Miller made a motion to strike Sec. 46-#6 from the document. Scott Bealer seconded the motion, motion passed unanimously.

Permitted and Conditional Uses were discussed and clarified. Rowland Yardley made a motion to have Schools be a conditional use. Roger Larsen seconded the motion. Motion passed unanimously. Scott Bealer made a motion to have a home occupation be a conditional use. Dennis Miller seconded the motion. Motion passed unanimously. Rowland Yardley made a motion to have Recycling be a conditional use. Dennis Miller seconded the motion. Motion passed unanimously. Rowland Yardley made a motion to have a restaurant be a permitted use but if they serve alcohol, it would have to be by conditional use and get a liquor license. ??? seconded the motion. Motion passed unanimously.

Spring protection, law enforcement, private security, they have a 10 year period for construction that can be continued for another 10 years, reclamation & infrastructure bonding were discussed.

Jack McMullin made a motion to add-unless such changes are necessary to meet a compelling, countervailing public purpose as permitted by applicable law- to Sec. 36 #1. Rowland Yardley seconded the motion, motion passed unanimously.

Jack McMullin made a motion to add - and including, but not limited to, a Planned Unit Development Permit Application, a Preliminary Subdivision/Plat Application, a Final Subdivision/Plat application, a Permitted Use Application, a Conditional Use Application, and Site Plan Application - to Def. #25. Dennis Miller seconded the motion. Motion passed unanimously.

The P&Z Commission is fully under the impression that CPB Dev./Mount Holly Partners intends to be a for profit venture.

Jack McMullin made a motion that we recommend the County Commission approve this Development Agreement as reviewed and amended by the P&Z Commission on March 28, 2007. Roger Larsen seconded the motion. Motion passed unanimously.

A copy of the Development Agreement recommended by the P&Z is attached.

There being on other business, the meeting adjourned at 11:20

Minutes read on _____ and approved.

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Robin K. Bradshaw, Chairman