

Town of Seven Devils
Planning Board Meeting
Tuesday - November 21, 2023
5:30pm

- 1) Call to Order – Jim Jones, Chairman
- 2) Approve minutes of Planning Board – June 20, 2023
- 3) Old Business
 - A. Nuisance Ordinance (increase fines for trash violations, regulate fire pits)
- 4) New Business
 - A. Amend Unified Development Ordinance – Construction time-frame
 - B. Update Comprehensive Land Use Plan (CLUP)
- 5) Citizen Comments
- 6) Planning Board Comments
- 7) Adjourn

Town of Seven Devils
Planning Board Minutes
June 20, 2023

The Seven Devils Planning Board met on Tuesday, June 20, 2023, at 5:30pm at Town Hall. Planning Board members in attendance included: Richard Blonshine, Jim Jones, Joan Streightiff & Walt Hogan. A quorum was met to Call the meeting to Order.

Members John Wells IV and Mark Williams joined at Item 4) New Business

Absent Member: Stuart Ryan

Staff attendance included: Eddie Barnes, Zoning Administrator. Hillary Gropp, Town Clerk recorded the minutes.

Lenny Cottom, Applicant – Revised Rezoning Request was in attendance.

Call to Order

Chairperson Jones called the meeting to order at 5:30pm.

**Clerks Note* The agenda was revised verbally to allow more time for 2 Planning Board members to arrive.*

The minutes reflect the timeline of business as it occurred with Items 2) Approval of the Minutes and 4) New Business- Nuisance Ordinance prior to Item 3) Old Business– Revised Rezoning Request.

There was no formal action to amend the agenda.

Approve Minutes – April 18, 2023

Member Hogan made a motion to approve the Planning Board minutes of April 18, 2023; Member Streightiff seconded the motion. All members agreed.

New Business

A. Nuisance Ordinance

The Town Council has requested the Planning Board review the language/penalty fees in the Town’s Nuisance Ordinance – Article 6 and Article 10.

(i) Trash Violation – Article 6

*Upon occurrence of a **trash violation**, the owner will be notified by telephone, if possible, and sent a letter, return receipt requested. The Town will immediately clean up the trash and bill the property owner **\$100** cleanup fee (as stated below) and send an invoice for the cleanup. Additionally, if the cleanup was required because the property owner failed to comply with this Article, the owner will be subject to the penalty described in this Article.*

Penalty

1) First Violation	Written or Verbal Warning
2) Second Violation	\$100.00 Fine to \$300.00 Fine
3) Third Violation	\$250.00 Fine to \$500.00 Fine
4) Fourth or Subsequent	\$500.00 Fine to \$500.00 Fine

Additional language to be included in the Nuisance Ordinance for Penalty.

Refer to The Town of Seven Devils Annual Operating FY Budget for Penalty dollar figure amount.

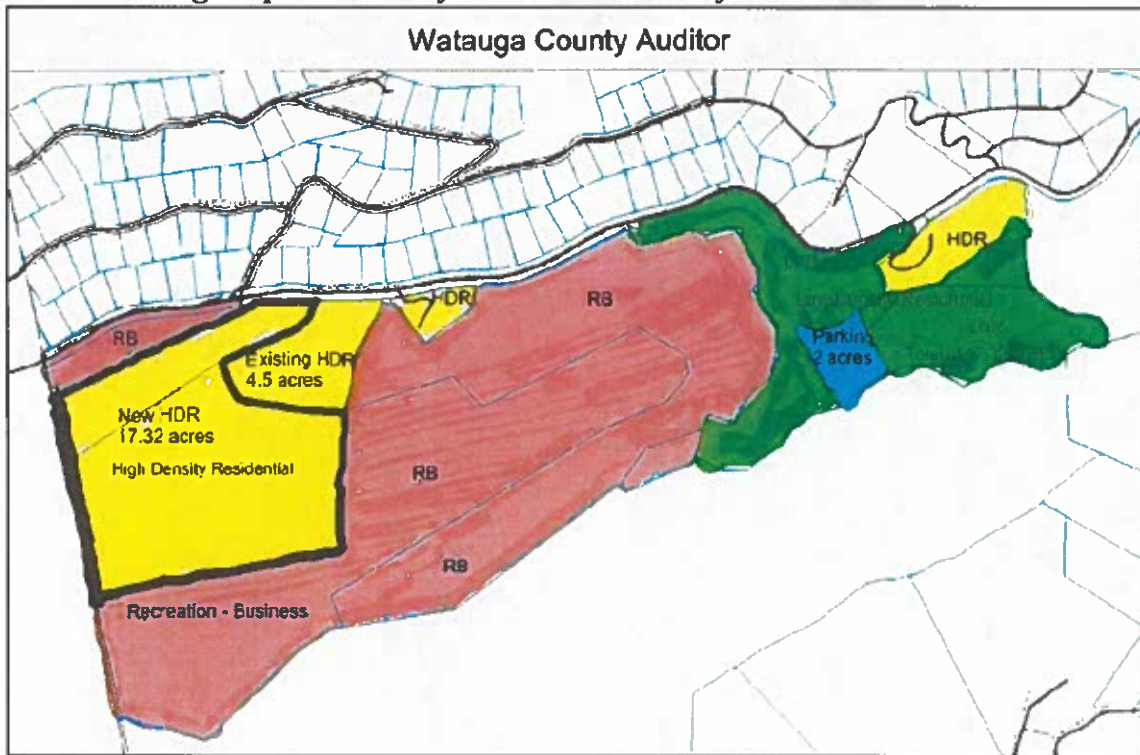
It was suggested by some Planning Board members to include specific language in the written Notice to Owners of the Use of Appropriate Waste Containers and the increasing fines for violations. Member Hogan made a motion to approve the Nuisance Ordinance edits and Penalty amounts; Member Blonshine seconded the motion. All members agreed.

(ii) Fire Pit Regulations

Discussion occurred among Planning Board members about the current language in Article 10 and the suggested edits for outdoor fire pits and increased fines. Several Planning Board members noted Article 10 lacks definitive language for the various types of fire pits that can be used. Zoning Administrator Barnes to follow up with Fire Chief and Town Manager. Member Hogan made a motion to table this item for further review; Member Williams seconded the motion. All members agreed.

Old Business

A. Revised Rezoning Request - Lenny Cottom - 2058 Skyland Drive



Zoning Administrator Barnes stated Lenny Cottom, Applicant has submitted a revised application reflecting an acre for acre swap with the HDR request of 17.32 acres as discussed at the Planning Board meeting on April 19, 2023.

Additionally, the revised map reflects this request, along with a 100ft buffer on Skyland Drive.

Zoning Administrator recapped the following:

Recreational Business (RB) to High Density Residential (HDR) – 17.32 acres would allow for 6 dwellings per acre = 104 dwellings

High Density Residential (HDR) to Low Density Residential (LDR) – 17.32 acres would allow for 1 dwelling per acre; decrease from 104 dwellings to 17 dwellings total.

Zoning Administrator Barnes stated the Planning Board is reviewing the Revised Rezoning request tonight, not any future building plans, as none exist, and land development has other procedures to be followed.

Chair Jones asked for discussion from Planning Board members.

Member Williams stated he is not in favor of the Revised Rezoning request. He stated the swap of acres is an advantage to the Applicant as it is easier to build on some parcels due to topography.

Member Wells stated the swap is uneven, as the Applicant is gaining the ability to add dwellings on a parcel that is zoned RB. He stated it benefits the Applicant, not the Town, it is not worth the 2 acres of donated land to the Town.

Member Blonshine asked Zoning Administrator Barnes, what uses could occur on land with RB zoning? Zoning Administrator Barnes listed items in the Town's UDO permitted table of Recreational Uses, including Hotel/Motel.

Any required Special Use Permit for RB is decided by the Board of Adjustment.

Member Streightiff asked for clarification if any approval of rezoning by the Planning Board still requires other steps for building. Zoning Administrator Barnes confirmed that is correct. She asked if by allowing the HDR to LDR rezoning with less dwellings would this be less damaging to the trees and land. Zoning Administrator Barnes confirmed the Subdivision Ordinance will not allow clear cutting of trees, only a reduction in quantity.

Several citizens in attendance in the audience asked to speak.

Chair Jones allowed this to happen.

Clerks Note

This was not a public hearing, and not followed by the procedures of a public hearing, therefore without a sign-up sheet to speak. Citizens' names are not included. Below is a summary of topics/questions spoken by citizens.

- Evaluation of current infrastructure to support HDR zoning should occur.
- Roads & Egress are inadequate for the rezoning request.
- Why was the golf course & ski closed?
- What has changed in the Town to cause a need to for rezoning? Is more housing needed?
- Why build houses? Building a hotel/motel should be illegal and how is that allowed?
- The land should be kept as an open green space for recreational use and unobstructed views.
- Town's water infrastructure is old and inadequate to support more citizens.
- What is the Town's fire plan for evacuation routes?
- The Town has not informed the citizens of meetings or notification of the status of rezoning.
- The boardroom configuration is difficult for citizens in attendance to see or hear the meeting; microphones are not being used by board members.
- Citizens live elsewhere for several months at a time and the Town is not transparent with them.
- Citizens have purchased property, not the view, and any view offered to the surrounding owners is at the expense of the Applicant.
- A long time citizen stated that throughout the decades, much development has occurred, including condominiums and homes, it can be expected more construction will happen.

- Will the Town have an agreement with the Applicant for the 2 acre donation?
- Is this application revised? Will there be a public hearing?
- If the Rezoning request is approved by the Town Council, then it is probable building will occur.
- Citizens purchased in the Town because it is quiet and nice and should stay the same.

Lenny Cottom, Applicant spoke to the Planning Board and Citizens.

He stated the Planning Board originally approved this, but it should have been for the 17.32 acres RB to HDR, not 15 acres, or an even acre for acre swap.

He stated Town officials approached him with the idea of a land donation for Otter Falls parking. After meeting with Town officials and walking his property, the Rezoning map is a result of those discussions. Cottom stated, when the Town asked him to donate land, he was agreeable, and questioned how many other citizens would do the same.

He said as a property owner for 34 years, he is also the largest taxpayer, and whenever a citizen claims they will lose their view, to consider he owns the land, and any view is at his expense and tax dollars. Due to his business of Hawksnest Zipline & Snowtubing being successful, the NCDOT has made improvements on Skyland Drive with culverts and the roads are routinely cleared in the winter for vehicle traffic. This benefits the Town and all citizens. He wants to keep the Town nice as a property owner. Cottom stated, this property already has zoning designated as HDR, but with the swap of zoning on the parcels, future development, whenever that might happen, will provide more trees and greenspace.

Several citizens spoke out of turn and with criticism of Cottom's statements.

Member Wells questioned Cottom about who were the Town officials that approached him? Cottom did not reveal names, but stated that some were in attendance tonight, and included staff too. Member Wells stated he is passionate about this issue and is not supportive of the Rezoning request.

Chair Jones confirmed with Zoning Administrator Barnes that any vote by the Planning Board tonight is merely a recommendation to the Town Council and will require a future public hearing and a final decision by the Town Council.

Zoning Administrator Barnes agreed.

Chair Jones called for a motion.

Member Blonshine made a motion to approve the two (2) Revised Rezoning request of:

17.32 acres HDR to LDR – Revised Application, dated 05/15/2023

17.32 acres RB to HDR – Revised Application, dated 05/15/2023

Member Streightiff seconded the motion.

Roll Call

Richard Blonshine – Yea John Wells IV – Nay Walt Hogan – Yea Jim Jones – Yea

Joan Streightiff – Yea Mark Williams – Nay

4 Yeas 2 Nays – The motion passed.

Citizens Comments

Tom Bookstaver commented the bear proof trash cans can be used by citizens to avoid violations. Tina Lakhotia stated the Planning Board decisions should represent the citizens viewpoint.

Planning Board Comments - None

Adjourn

Member Hogan made a motion to adjourn the meeting; Member Williams seconded the motion. All members agreed. The meeting was adjourned at 7:00pm.

Jim Jones, Chairperson

Hillary Gropp, Town Clerk

DRAFT

Failure of a property owner to provide adequate trash receptacle(s) as required by this Article, resulting in the subsequent removal of trash by animals, weather, or other means, to generate a health hazard or unsightly appearance, shall be guilty of a **trash violation**.

Upon occurrence of a **trash violation**, the owner will be notified by telephone, if possible, and sent a letter, return receipt requested. The Town will immediately clean up the trash and bill the property owner \$100 cleanup fee (as stated above) and send an invoice for the cleanup. Additionally, if the cleanup was required because the property owner failed to comply with this Article, the owner will be subject to the penalty described in this Article.

6.7 Penalty

- | | | |
|-----------|-----------------------------|----------------------------------|
| 1) | First Violation | Written or Verbal Warning |
| 2) | Second Violation | \$100.00 Fine |
| 3) | Third Violation | \$250.00 Fine |
| 4) | Fourth or Subsequent | \$500.00 Fine |

First violation, written or verbal warning second and subsequent violations \$500 Fine

10.3 Banning of Fires

The Fire Chief, Police Chief, or Town Manager has the right to declare a complete ban on burning if conditions dictate that a ban is necessary.

10.4 Abatement

The Town of Seven Devils may immediately abate violations of this Article by requiring fires to be extinguished by the property owner/renter/occupant. If the respective party does not extinguish the fire, the Town of Seven Devils is authorized to immediately extinguish any fire in violation of this Article.

10.5 Penalty

1) First Violation	Written or Verbal Warning
2) Second Violation	\$100.00 Fine
3) Third Violation	\$250.00 Fine
4) Fourth or Subsequent	\$500.00 Fine

10.2 (1). All non-gas firepits shall be required to submit an application to the Town of Seven Devils. Upon receipt of the application the Fire Chief or his designee shall conduct a site inspection to determine if the application meets the requirements of Article 10.2 (2-11). After the issuance of a permit the firepit may be periodically inspected to insure compliance with said requirements.

Article 15. PERMITS AND SITE PLAN APPROVAL

Section 1. Zoning Permit Required

It shall be unlawful to begin any clearing, grading, excavation, or other earth disturbing activities on lands contemplated for development or to begin any construction, moving, alteration or renovation, except: (1) ordinary repairs of any building or other structure or (2) as otherwise specifically provided in this ordinance, until the Zoning Administrator has issued a Zoning Permit for such action.

It shall also be unlawful to change the type of use or type of occupancy of any land or structure, or to extend any use on any lot on which there exists a nonconforming use, until the Zoning Administrator has issued a Zoning Permit for such action, certifying that the intended use(s) comply with the applicable requirements of this Ordinance.

Section 2. Site Plan Review Required

Site plan review and approval by the Zoning Administrator, Planning Board, and Board of Adjustment, as appropriate, shall be required prior to the issuance of a Zoning Permit for any development or change in use described in Section 1.

Section 3. Requirements for Site Plans

Site plans shall contain sufficient information, drawn to scale, to allow the Zoning Administrator, Planning Board, and Board of Adjustment to determine if the requirements of this Ordinance, as applied to the proposed development, have been met. In general, the site plan shall include the following information:

1. **Driveways and Traffic Circulation** - The proposed points of entrance and exit together with proposed traffic patterns.
2. **Parking and Loading** - The proposed location and layout of parking and loading areas, including parking spaces and aisles.
3. **Timing of Development** - The proposed schedule of development, including phases or stages likely to be followed.
4. **Natural Elements** - Topography, streams, large rock formations, protected trees, and other natural elements, showing what is to be preserved.
5. Preliminary sketches of all structures, street access, and property lines.
6. Location and designs of lighting, signs, and service and garbage collection areas.
7. Proposed landscaping, screening, and buffers.
8. Detailed plans and supporting calculations for the construction of stormwater management installations. Refer to Article 13 in this Ordinance.

Section 4. Procedures

(a) *Application Submittal Requirements*

Applications for a Zoning Permit shall be filed with the Zoning Administrator. See Figure 15.1 for application, guidelines, and fees.

The Zoning Administrator shall accept no application unless it complies with such submittal requirements. Applications that are not complete shall be returned promptly to the applicant, with a notation of the deficiencies in the application.

Applications for a Building Permit, or a Sign Permit may be made coincidentally with the application for a Zoning Permit.

(b) *Action on the Application*

On receipt of a completed application, the Zoning Administrator or his/her designee shall review the application and site plan.

In the case of developments requiring a Special Use Permit, the procedures established in Article 14, Section 3 of this Ordinance shall be followed.

The Zoning Administrator may take final action on all applications for developments not requiring Special Use Permit. Final action shall be based solely on finding as to compliance with all applicable provisions of this Ordinance.

(c) *Actions Subsequent to Decision*

No land or structure for which a Zoning Permit has been issued shall be used or occupied until the final inspection is held and a Certificate of Occupancy has been issued.

(d) *Appeal of Decision*

A decision of the Zoning Administrator in granting or denying a Zoning Permit may be appealed to the Board of Adjustment in accord with the provisions of Article 17 of this Ordinance.

Section 5. Construction Completion and Permit Expiration

A Zoning Permit shall expire six months after the date of issuance if work authorized by the permit has not commenced. All buildings and structures shall be completed within two (2) years of permit issuance. If construction is not complete within 2 years, a new zoning and building permit is required.

For the purposes of this ordinance, construction completion shall mean that the building or structure has received a final inspection approval from the Zoning Administrator and a Certificate of Occupancy by the appropriate inspecting authority.