

Town of Seven Devils
Planning Board Minutes
Regular & Organizational Meeting
July 19, 2022
5:30pm

The Seven Devils Planning Board on Tuesday, July 19, 2022, at 5:30pm. The format of this meeting was dual format Electronic – Go To Meeting#431008669 and In-Person at Town Hall.

Attendance In-Person included Jack Byrnes, Frank Sell, Jim Jones, Walt Hogan, Joan Streightiff, and John Wells. Mark Williams attended remotely.

Staff attendance included Zoning Administrator Eddie Barnes, Police Chief Johnathan Harris; Town Clerk Hillary Gropp recorded the minutes.

Audience members included Mayor Fontaine, Mayor Pro Tem Lambert & Council Member Bonomo.

Call to Order

Zoning Administrator Eddie Barnes called the meeting to order at 5:30pm.

Barnes welcomed the Planning Board members and introduced himself as the new Zoning Administrator and provided a brief background on his experience.

Oath of Office

Town Clerk Gropp administered the Oath of Office in-person to reappointed members – Joan Streightiff & John Wells IV. Mark Williams attended remotely and was not administered the oath at this time, limiting his ability to participate as a Planning Board member. All votes on motions included only sworn Planning Board members.

A quorum was met.

Election of Chair & Vice Chair

Zoning Administrator Barnes opened the floor for nominations of Chair of the Planning Board. Member Jones nominated Walt Hogan as Chair; Member Byrnes seconded the nomination. There were no other nominations. All members agreed.

The meeting procedures were handed to Walt Hogan from Zoning Administrator Barnes. Chair Hogan asked for nominations for Vice Chair. Member Byrnes nominated Jim Jones as Vice Chair; Member Sell seconded the nomination. There were no other nominations. All members agreed.

Adopt Agenda

Member Byrnes made a motion to adopt the agenda; Member Streightiff seconded the motion. All members agreed.

Approve Minutes November 16, 2021

Member Streightiff made a motion to approve the minutes of November 16, 2021; Member Wells seconded the motion. All members agreed.

New Business

A) Application for Change in Zoning Classification of Property

Hawksnest Zipline – Lenny Cottom, Applicant

Applicant Lenny Cottom submitted an application to change current zoning of approximately 21+ acres from **RB** (Recreation Business) to **RB/HDR** (Recreation Business) (High Density Residential) and 37 acres from **RB/MDR** (Recreation Business) (Medium Density Residential). The reason for the requested change is for better building site and to give the Town some land for parking. Lenny Cottom has met with some Town officials in regard to this possible land swap.

Larry Fontaine spoke of the benefit as a 2 acre parcel would be donated to the Town for additional Otter Falls parking.

Zoning Administrator Barnes the Table of Permitted Uses chart for RB, HDR and MDR.

Questions were asked by Planning Board members included:

- What number of homes that could be built with approved rezoning?
HDR = 60 homes & MDR = 60 units
- Who will supply the water and sewer? The developer.
- What is the allowed maximum height for building? 35ft.
- What is the impact on current roads? Is a traffic impact analysis required?
Zoning Administrator Barnes replied, Skyland Drive is a NCDOT road, and the Town's UDO does not require a traffic impact analysis.
- Has the proposed land for swap been survey? Is there a metes & bounds survey?
Applicant Cottom stated a survey has not been done, however, this would be supplied prior to a public hearing.
- Is there other land that allows access points for additional parking at Otter Falls?
No, Town officials have reviewed other options, and obstacles cannot be overcome.
- Does the Town track how many visitors to Otter Falls? No, the parking lot stays full, even after a previous expansion.

Recess

Planning Board took a recess from 6:25pm to 6:31pm.

After extensive discussion Planning Board members requested more information to be provided before making a final decision. The action steps requested of the applicant to be provided at the next Planning Board meeting are listed below:

- Traffic data
- Improved visual map/survey map of land for swap
- Specific written language of the proposed details of land swap, i.e., size/acreage, granted easements as needed, agreements conferred with town officials, etc.

Zoning Administrator Barnes will follow up with the applicant as needed for these requested items, as well as scheduling any site visits for Planning Board members, not to meet/exceed a quorum or be in violation of the open meetings law.

Applicant Cottom offered to meet with any Planning Board member and Zoning Administrator for an onsite visit of the land and proposed for zoning change & swap.

Member Jones made a motion to table New Business Item A) until the next Planning Board meeting on August 16, 2022. Member Streightiff seconded the motion. All members agreed.

~OPEN~

B) UDO – Text Changes

Zoning Administrator Barnes stated that in reviewing FY23 Budget Ordinance fees, it was discovered language in the UDO specifies with exact dollar figures, i.e., \$500, and he is suggesting text edits to eliminate where necessary, be reworded to:

Pursuant to North Carolina General Statutes 160A-175(b), a violation of any provision of Section 10, Tree Protection, shall be subject to a civil penalty in the amount established in the Town of Seven Devils most current Budget Ordinance.

Zoning Administrator Barnes also identified an exact dollar figure on the Special Use Permit Application. He recommends text edits on this form, and other forms as necessary to eliminate specified dollar figures but reference the fee according to the most current Budget Ordinance.

Member Jones made a motion to allow edits as necessary in the UDO and Applications; Member Streightiff seconded the motion. All members agreed. ~CLOSED~

Citizens Comments- None

Member Comments - None

Recess

Member Byrnes made the motion to recess; Member Wells seconded the motion. All members agreed. The meeting recessed at 7:00pm.

Continuation of the Planning Board Meeting

August 16, 2022

5:30pm

Town Hall

**NC SOE Terminated effective, August 15, 2022*

The meeting conducted with In-Person attendance to meet quorum.

The meeting was live streamed for viewing purposes only.

In-Person attendance of Planning Board Members included:

Jim Jones, Jack Byrnes, Joan Streightiff, Mark Williams

Members absent:

Walt Hogan, Frank Sell, John Wells IV

Staff Attendance:

Eddie Barnes – Zoning Administrator and Johnathan Harris – Police Chief.
Hillary Gropp – Town Clerk recorded the minutes.

Audience Members included:

Mayor Larry Fontaine, Council Member Bonomo & Applicant Representative Denise Cottom

Call to Order from Recess of July 19, 2022

Zoning Administrator Barnes called the meeting to order from Recess at 5:31pm.

Oath of Office

Town Clerk Gropp administered the Oath of Office to Mark Williams.
A quorum was met.

Old Business**(i) UDO Discussion**

Zoning Administrator Barnes explained to the Planning Board members recent research by the town clerk in regards to the remote meeting laws since the expiration of the emergency orders related to Covid, which occurred after our last Planning Board meeting and consequently after the election of our current chair and vice chair, that it was also discovered in the Administrative Mechanism of the UDO that the Chair and Vice-Chair are required to be full-time residents as referenced in the Town's UDO – Article 2 – Section 2. (C) the following statement.

Both the Chairman and Vice-Chairman shall be full-time residents and property owners of the Town of Seven Devils.

Discussion occurred about the qualifications to be met for status of full-time residents.

Agreement by Board members includes one or more of the following:

Local Watauga/Avery county Voter ID, Driver's License/State Issued ID showing a local Town address or utility billing statement with local Town address.

Member Williams made a motion to recommend the above criteria as proof for full-time resident;
Member Streightiff seconded the motion. Members Byrnes & Jones agreed.

After this discussion, it was determined by Planning Board members who met the requirements to serve as Chair and Vice-Chair to re-elect these positions.

Zoning Administrator Barnes opened the floor for nominations.

Member Byrnes made a motion to nominate Jim Jones as Chairperson; Member Williams seconded the motion. All members agreed.

The meeting procedures were turned to Chairperson Jones.

Chairperson Jones asked for nominations for Vice-Chairperson.

Member Byrnes nominated Joan Streightiff as Vice-Chairperson; Member Williams seconded the motion. All members agreed.

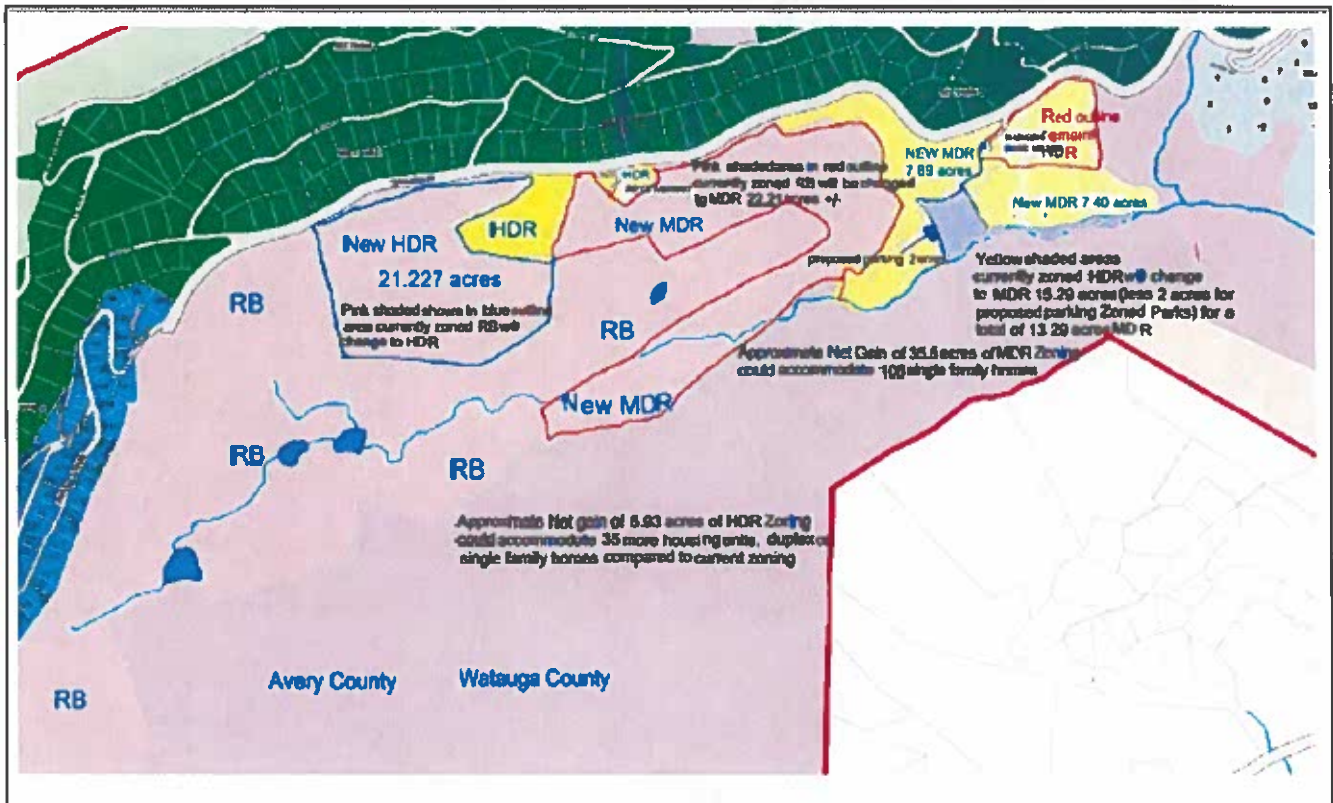
(ii) Change in Zoning Classification – Hawksnest Zipline – Lenny Cottom

Additional items were requested at the Planning Board meeting of July 19, 2022. Listed below are the supplied materials.

Traffic Data:

1. Police Chief Harris provided traffic data. Highlights of the report indicate between the months of May 2022 to August 15, 2022, a total of 32,900 vehicles traveled on Skyland Drive at the proposed rezoning parcels.
2. Police Chief Harris noted the “busiest hour of the busiest day” during this timeframe equates to approximately two vehicles per minute.

Visual Map includes acreage, density details, 2 acres proposed parking with easement:



Zoning Administrator Barnes explained the various Zoning designations on the map with allowable uses. **RB** (Recreational Business) could include a hotel, roller coaster, theme park with review and approval of a SUP (Special Use Permit) by the Board of Adjustment.

Applicant Lenny Cottom submitted an application to change current zoning of approximately 21+ acres from **RB** (Recreation Business) to **RB/HDR** (Recreation Business) (High Density Residential) and 37 acres from **RB/MDR** (Recreation Business) (Medium Density Residential). The reason for the requested change is for better building site and to give the Town some land for parking. Lenny Cottom has met with some Town officials in regard to this possible land swap.

The current Zoning map in HDR already allows approximately 114 SFR units, equivalent to six per acre. The proposed request of HDR/MDR would add approximately another 145 units, equivalent to three per acres and restrictions prohibit condominiums.

Discussion among the Planning Board members included:

- Concern about the increase in traffic, and more people in the town, especially as this is located on the upper end of the mountain with limited fire station resources.
- The Town's tax base will increase with this proposal, but questions arose about will these become additional STR units.
- Several members were concerned about the increase of approximately 300 units. The Applicant and Zoning Administrator Barnes stated the current zoning already allows for approximately 114 units of these 300 units being discussed. The Applicant stated the topography of the land will ultimately be a deciding factor with the total number of units that can actually be built.
- Discussion included the preference by some Planning Board members to have more green space, not development.
- Planning Board members wanted to understand the timeline for their consideration, and the step to follow. Zoning Administrator Barnes a decision by the Planning Board should occur by 60 days and the recommendation forwarded to Town Council for review; a Public Hearing will be conducted prior to Town Council decision.
- Planning Board would like knowledge of what the intended action of the Town Council will be. Mayor Fontaine spoke to the Planning Board and said this would not be "rubber stamped" without proper procedures. Mayor Fontaine asked if any Planning Board member took the opportunity to meet with the Applicant at the proposed site location, as he was only aware the Zoning Administrator had followed up with a site visit. Much of the Town already is built out with MDR in the surrounding areas of this proposed location. The proposed HDR swap is very equal to the existing HDR. The ratios will be maintained according to the UDO. The Town Council can make certain demands of the developer, including providing their own water supply, wastewater, and a fire station. Any zoning designation will be applied to the land, no matter whoever the owner is.
- Planning Board members asked if they could approve the application with conditions and requested changes to the proposal. Zoning Administrator Barnes stated the Applicant has the right to be reviewed on the current proposed application. The Planning Board decision is either approve or deny before forwarding to the Town Council.

Chairperson Jones asked if there were any more questions or comments.

Chairperson Jones for a motion.

Member Byrnes made a motion to approve the Application for Change in Zoning Classification and recommended forwarding to Town Council. No member seconded the motion. Chairperson Jones stated the motion has failed, due to lack of a second.

Chairperson asked if there were any other motions.

Member Williams made a motion to **deny** the Application for Change in Zoning Classification; Member Streightiff seconded the motion. Motion passed 3 yea – 1 nay with Member votes as follows:

Mark Williams – Yea Jim Jones – Yea Joan Streightiff – Yea Jack Byrnes - Nay

TOWN MANAGER
Debbie Powers, MSBA, CZO

TOWN FINANCE OFFICER
Helga Sappington

TOWN CLERK
Hillary Grupp, CMC, NCCMC



TOWN OF SEVEN DEVILS

TOWN COUNCIL

MAYOR - *Larry Fontaine*
MAYOR PRO-TEM - *Brent Lambert*
Wayne Bonomo
Leigh Sasse
Jeffrey Williams

Consistency Statement for Rezoning of Property from RB - HDR

The Town of Seven Devils Planning Board having heard the rezoning request from Hawks Nest Zipline & Lenny Cottom on August 16, 2022, do hereby forward an unfavorable recommendation to the Town Council of the Town of Seven Devils for the proposed plan. The applicant has the right to proceed to the Town Council for a public hearing to consider the rezoning request of a portion of parcels 1868-74-0469, 1868-73-7927 consisting of approximately 21.23 acres and being further identified as being located in Watauga County at the Avery County line on the south side of Skyland Drive and abutting Leonard Cottom Jr, Living Trust on the west, east and south and Skyland Drive on the north be rezoned from Recreational Business (RB) to High Density Residential (HDR). While the board finds that said rezoning is consistent with the Comprehensive Land Use Plan vision statement giving emphasis to the development of single family, owner occupied homes and the Unified Development Ordinance, Article 1, page 7, encouraging a primary focus on the development of owner occupied single family homes, and Article 5, section 1, to encourage developers to utilize land and public facilities more efficiently and to provide flexibility in the relation of buildings to each other and to critical environmental areas, we also find that the proposed rezoning may potentially add significantly to the density of the town, thereby straining its infrastructure.

Signed *[Signature]* Chairman

Date 8/16/2022

* 157 Seven Devils Rd., Seven Devils, NC 28604 * PH: (828) 963-5343 * www.sevendevils.net *

The Town of Seven Devils does not discriminate on the basis of age, sex, religion, national origin, disability, political affiliation, or marital status.

Consistency Statement #2 RB- HDR to MDR

TOWN MANAGER
Debbie Powers MSBA, CZO

TOWN FINANCE OFFICER
Helga Sappington

TOWN CLERK
Hillary Gropp, CMC, NCCMC



TOWN OF SEVEN DEVILS

TOWN COUNCIL

MAYOR - *Larry Fontaine*
MAYOR PRO-TEM - *Brad Lambert*
Wayno Bonomo
Leigh Sasse
Jeffrey Williams

Consistency Statement for Rezoning of Property from RB - HDR to MDR

The Town of Seven Devils Planning Board having heard the rezoning request from Hawks Nest Zipline & Lenny Cottom on August 16, 2022, do hereby forward an unfavorable recommendation to the Town Council of the Town of Seven Devils for the proposed plan. The applicant has the right to proceed to the Town Council for a public hearing to consider the rezoning request of parcels 1868-84-4457, 1868-94-4671 and 1868-94-8525 consisting of approximately 37.5 acres and being further identified as being located in Watauga County on the south side of Skyland Drive and abutting Leonard Cottom Jr, Living Trust on the west, Skyland Drive and Fifth Fairway HOA on the north, Hanging Rock Villas HOA on the east and the Blue Ridge Conservancy on the south be rezoned from Recreational Business (RB) and High Density Residential (HDR) to Medium Density Residential (MDR). While the board finds that said rezoning is consistent with the Comprehensive Land Use Plan vision statement giving emphasis to the development of single family, owner occupied homes and the Unified Development Ordinance, Article 1, page 7, encouraging a primary focus on the development of owner occupied single family homes, and Article 5, section 1, to encourage developers to utilize land and public facilities more efficiently and to provide flexibility in the relation of buildings to each other and to critical environmental areas, we also find that the proposed rezoning may potentially add significantly to the density of the town, thereby straining its infrastructure.

Signed *[Signature]* Chairman

Date 8/16/2022

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[Signature]
Jim Jones, Chair

[Signature]
Hillary Gropp, Town Clerk

**Clerk's Note - The Applicant withdrew the Re-Zoning request, effective, Monday - August 22, 2022*