

TOWN OF SEVEN DEVILS
TUESDAY, AUGUST 8, 2023
PUBLIC HEARING – 5:00PM
REGULAR COUNCIL MEETING – 5:30PM

The Seven Devils Town Council met for a Public Hearing for two (2) Rezoning Requests on Tuesday, August 8, 2023 at 5:00pm and followed by a Regular Town Council meeting at Town Hall.

Attendance included: Mayor Larry Fontaine, Mayor Pro Tem Lambert, Council Members – Wayne Bonomo, Leigh Sasse & Jeffrey Williams.

Staff included: Town Manager Johnathan Harris, Zoning Administrator Eddie Barnes, Town Attorney Rob Angle; the minutes were recorded by Town Clerk Hillary Gropp.

INVOCATION

Mayor Fontaine gave the Invocation for the Public Hearing and Town Council meeting.

PLEDGE OF ALLEGIANCE

Council members and citizens recited the Pledge of Allegiance.

CALL TO ORDER

Mayor Fontaine called the Public Hearing to order at 5:01pm. Mayor Fontaine explained the purpose of the Public Hearing is to receive public comment for the two (2) rezoning requests by Applicant, Lenny Cottom. No other business will be presented or considered at this hearing. Mayor Fontaine outlined the following guidelines:

- Citizens who want to speak during the public comment must sign up.
- Speakers will be limited to two (2) minutes each. The clerk controls the timer.
- Speakers must make presentations from the podium.

OPEN PUBLIC HEARING

Mayor Fontaine asked for a motion to Open the Public Hearing. Member Williams made a motion to open the Public Hearing; Mayor Pro Tem Lambert seconded the motion. All members agreed.

Presentation – Eddie Barnes, Zoning Administrator

On June 20, 2023, the Planning Board reviewed revised applications submitted by Lenny & Denise Cottom – Hawksnest Snowtubing for the following:

- **High Density Residential (HDR) to Low Density Residential (LDR) – 17.32 acres**
- **Recreation Business (RB) to High Density Residential (HDR) – 17.32 acres**

The Planning Board voted 4-2 to send with favorable recommendation to the Town Council for rezoning. If approved, the rezoning will transfer HDR building rights from the heavily wooded location adjacent to Hanging Rock Villas, approximately 1,500 ft. west to a new 17.32 acre parcel near the Avery/Watauga County line, the site of the former golf course.

At the July 11, 2023 Town Council meeting, action was taken to hold a public hearing on August 8, 2023 for the rezoning.

On July 25, 2023, the public hearing notice was mailed via 1st Class US Postal mail to 65 adjoining/adjacent property owners. Two signs were posted on the subject property notifying the date, time, and location of the public hearing.

Advertisement for the Public Hearing was published in the Watauga Democrat two times on the dates of Wednesday, July 26th and Wednesday, August 2nd. The notice and rezoning map were posted on the

Town's website; a rezoning fact sheet was emailed or mailed to all water billing customers, and citizens of Woodwinds I & II.

Zoning Administrator Barnes stated the Applicant has current zoning that allows for 104 Single Family (SF) dwellings, and if approved, as submitted, the net gain in the proposed LDR will be 15 SF dwellings, excluding donation of 2 acres for Otter Falls parking.

Zoning Administrator Barnes stated current uses allowable with a Special Use Permit (SUP) in RB zoning according to the table of Permitted Uses in the Town's UDO. Examples of some RB uses include, but not limited to are a petting zoo, museum, clubhouse, tavern, hotel/motel, and amusement/recreation.

Presentation – Jim Jones, Chairperson of the Planning Board

Planning Board Chairperson Jones provided an overview of the timeline and history of the Planning Board’s actions to date.

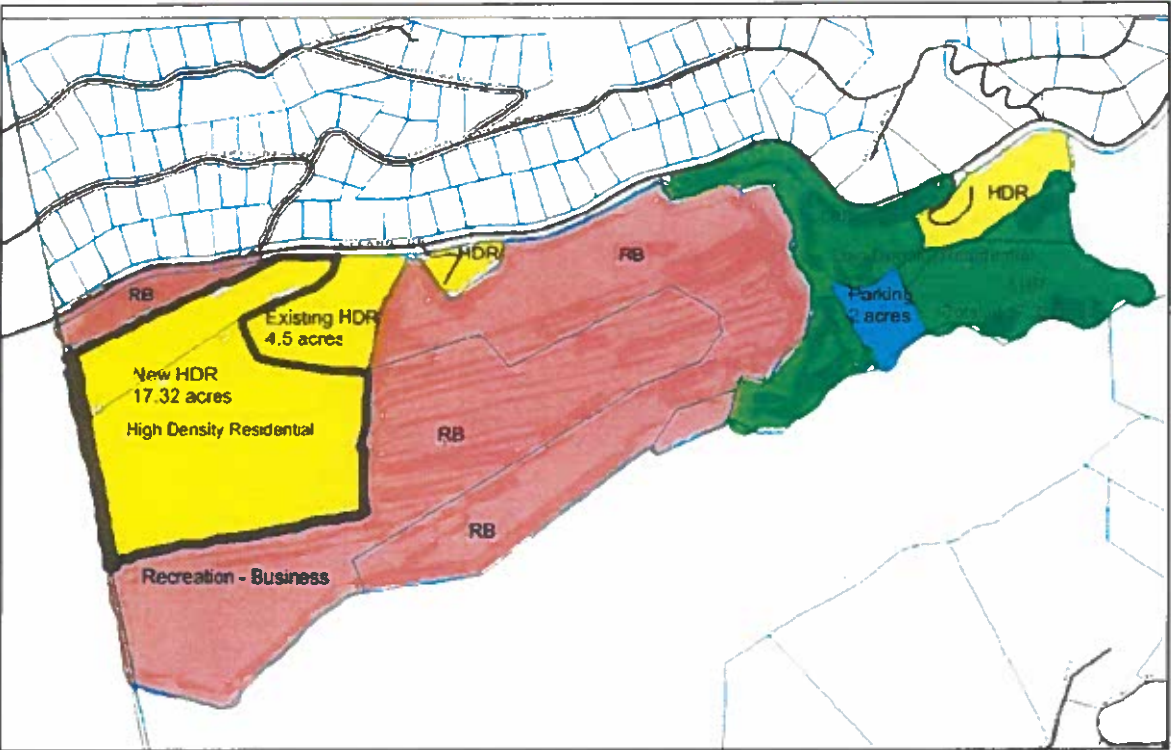
During July 2022 to September 2022, the Planning Board initially reviewed three (3) rezoning requests by the Applicant. The Applicant has current zoning that allows for 128 dwellings in existing HDR zoning. At that time, the Applicant’s request would have had a net gain of 116 dwellings, or a maximum of 244 dwellings, if the Planning Board had approved those 3 rezoning requests. The Planning Board discussed many concerns, including density and increased traffic. Data was provided for vehicular traffic on Skyland Drive. The Planning Board’s action included denying one (1) of the applications for rezoning, as well as reducing the request of acreage/density for two (2) other applications.

The Applicant’s rezoning requests have passed back and forth between the Planning Board and Town Council, with a public hearing occurring in December 2022. Ultimately, dialogue with the Applicant and Zoning Administrator Barnes, along with the requests/recommendations of the Planning Board and Town Council, the Applicant submitted two (2) revised applications for rezoning, as presented tonight by Zoning Administrator Barnes.

The two (2) revised applications were reviewed by the Planning Board on June 20, 2023.

- **High Density Residential (HDR) to Low Density Residential (LDR) – 17.32 acres**
- **Recreation Business (RB) to High Density Residential (HDR) – 17.32 acres**

A motion to approve the two (2) revised applications passed 4 yeas – 2 nays



Planning Board Chairperson Jones stated the two (2) revised applications tonight come after much discussion and thought by the Planning Board, when considering what is in the best interest of the Town, while being fair to the Applicant.

Points of consideration by the Planning Board members included:

- Tree preservation on the parcel with HDR to LDR.
- A buffer of approximately 100 ft of land will be provided along Skyland Drive in RB.
- The parcel of land for HDR slopes away from Skyland Drive and the dwellings will be situated below Skyland Drive.
- Reducing impact in density.
- When considering the current zoning already exists on the Applicant’s parcel for 104 SF dwellings, the Planning Board’s recommendation allows for a net gain of 15 SF dwellings only.

Member Sasse stated the review of previous rezoning applications seems disconnected from the Planning Board meetings and Town Council review, making it difficult to understand.

Planning Board Chairperson Jones and Zoning Administrator Barnes agreed, the initial applications have been revised since August 2022. Tonight’s presentation is the most current revised application.

Public Comments:

Darlene Kronemann-166 Cliff Dwellers Lane– Not in favor due to concern about infrastructure for existing citizens including H2O supply and a single road in/out of the town.

Jim Shafer – 105 Longview Drive – Not in favor as it conflicts with the Town’s vision statement about managing growth with a primary focus on owner occupied SF homes. Shafer read Webster’s definition of primary and suggested the Applicant is requesting the HDR rezoning swap as it’s a better parcel to build on vs the parcel with trees, and the level ground is worth more money. The property on Skyland Drive is an open green space and it is wrong to allow townhomes and more vehicles and traffic. Rezoning does not affect the Town Council members as they do not live in this area of the town.

Bill Prewitt – 277 Snowcloud – Not in favor, Prewitt has rented seasonally in the Town for 25 years and recently purchased because of the views. Rezoning will change the natural beauty and become urban with increased traffic, and the road is the only way in/out of the town.

Karen Prewitt – 277 Snowcloud – Not in favor, Prewitt purchased 2 years ago using an inheritance and this town is a sanctuary for calm from Charleston, SC, where Prewitt has a home in the high tourist area. Prewitt fears the rezoning will ruin this sanctuary. Prewitt showed a photo of the view and land for proposed rezoning to the Town Council while speaking at the public hearing.

Lisa Otter Rose – 268 Lillian Drive – Not in favor. Lisa stated her middle name is Otter, the same as the falls, and 16 years ago, she and family vacationed in the Town, and they are still here with a home and their daughter attended ASU. She stated the Town has approximately 582 homes, and should the rezoning be approved, there will be a 38% increase in the population/homes. There is one road in/out of the Town, and this provides safety and security. New homes will probably not be owned by year-round or seasonal citizens but become short term rentals making the town less safe. TDA benefits from the Occupancy tax. Property values will go down. Construction will cause traffic issues on Skyland Drive.

Mary Ballinger – 526 Buckeye Lane – Ballinger yield the 2 minute speaking time to the next citizen, allowing ample time for a letter to be read to the Town Council.

Olga Davies – 299 Cliffside Lane – Davies read a letter from her husband, who could not be in attendance. Davies is very concerned about the proposed rezoning and wants to retain the scenic quality of the Town. Davies does not understand since the Town has increased property taxes, why there is a financial need to increase housing and the tax base. Rezoning will cause some property owners a negative impact and declining property values due to increased traffic. The Planning Board recommendation for tonight’s meeting was not unanimous, and 1/3 did not vote in favor. Other negative impacts include a strain on the Town’s water system, light pollution on the mountain, and increased traffic, including during winter weather conditions that cause stranded vehicles or other issues on Seven Devils Road. The 2 acre donation for Otter Falls parking is the benefit but will come at a financial cost to the Town. The Town Council’s responsibility should be more towards the citizens of the Town, and not the tourists.

Cindy Miller – 1584 Skyland Drive – Miller thanked the Town Staff – Harris, Barnes & Gropp for answering her questions recently about the proposed rezoning. Miller acknowledges the view from her property is due to Cottom’s ownership of the parcel. Miller spoke about the Town’s Comprehensive Land Use Plan and the primary focus on owner-occupied SF dwellings, preservation, and natural beauty of the mountain and questions how a condo is different aesthetically from a townhouse. Miller brought up Town Council action from 2 years prior, when a resolution was passed against zoning reform legislation. Miller spoke of language from the resolution in reference to townhouses, development becoming uncontrollable and reckless, the strain of the Town’s infrastructure, and declining property values. Miller asked the Town Council if they were opposed to the legislation two years ago, what has changed that this proposed rezoning application is even being discussed now. Miller thinks the donation of 2 acres is a bribe by the applicant and is opposed to rezoning.

Sally Lovejoy – 215 Greenview Drive – Not in favor, Lovejoy now owns the home her parents purchased years ago because of the view of the golf course and ski slope. The Town has outdated pipes and citizens recently experienced water problems/outages. The Town has approved an alpine coaster, and this will add to congestion on Seven Devils Road.

Jim Shafer – 105 Longview Drive – Asked permission from Town Council to submit signatures of approximately 90 citizens opposed to the rezoning. Council agreed, Shafer submitted to Town Clerk.

Mayor Fontaine reply:

Following the public comments, Mayor Fontaine addressed some of the issues that were spoken about.

Tonight's meeting is only about the proposed rezoning request, not permitting for construction or development. Any future development will follow the Town's UDO – Article 7 – Intensity Regulations, Article 8 – Community Design Standards and Article 9 – Subdivision – Minor & Major.

Water infrastructure will be provided by any new development, not the Town's current water system. The Applicant has an existing Wastewater Treatment Plant (WWTP) permit and can be expanded to treat 100,000 gallons of wastewater daily. Currently, the WWTP is utilized at a significantly lower amount.

Citizens who are concerned about the view should know the Town of Seven Devils worked with the Blue Ridge Conservancy to purchase Peak Mountain Ridge, to retain the view forever after and to avoid development of that parcel several years ago. This proposed rezoning parcel is privately owned, and the Cottom's have property rights, as well as being the largest landowner and taxpayer in the Town.

Mayor Fontaine addressed Jim Shafer directly, as he does not appreciate the misinformation that has been circulated among citizens, including posting this misinformation in a public building or illegally putting letters in the citizen's mailboxes. The rezoning will not add 300 homes, or apartments/condo to the Town.

Mayor Fontaine addressed Cindy Miller's comments about Resolution #2021-02 passed by Town Council. Mayor Fontaine explained legislation in SB349/HB401 would have eliminated zoning rights for the Town, causing many more issues, not allowing for regulations, and would have reduced property values. The legislation promoted statewide zoning, eliminated single family dwellings, and encouraged multi-family housing, as affordable housing. The Town Council passed Resolution #2021-02 to Oppose Zoning Reform that was being considered.

Mayor Fontaine spoke about the recent water outages in the Town but reports the Town's water loss rate is superior at 97%. Recent improvements to the Town's water infrastructure include replacing five (5) Pressure Reduce Valves. Future projects include removing old plastic waterlines, which are subject to breaks, and upgrade with ductile iron waterlines. The recent increase in water rates/tiers, effective July 1st (FY24) is a decision by the Town Council, to increase the revenue for water projects and operate with a gain, not a financial loss. The rate tiers increase for high usage customers, who should pay more.

CLOSE PUBLIC HEARING

Member Bonomo made a motion to Close the Public Hearing; Member Sasse seconded the motion. All members agreed.

RECESS

Member Williams made a motion to Recess; Member Bonomo seconded. All members agreed. The Town Council recessed at 5:40pm.

CALL TO ORDER- End Recess

Member Williams made a motion to End Recess and call the meeting to order at 5:50pm; Mayor Pro Tem Lambert seconded the motion. All members agreed.

ADOPT AGENDA

Member Bonomo made a motion to adopt the Agenda; Member Williams seconded the motion. All members agreed.

CONSENT AGENDA

Adopt minutes of Town Council meeting – July 11, 2023.

Mayor Pro Tem Lambert made a motion to approve and adopt the minutes; Member Sasse seconded the motion. All members agreed.

CITIZEN COMMENTS

Sunny Hand – 160 Snowcloud – Stated the decision for the two (2) rezoning requests, should include consideration for citizen's safety with another road access to Highway 105, as construction traffic will be a problem with big trucks on the curves of Seven Devils Road and it's dangerous.

Town Manager Harris replied, NCDOT recently painted the center lines on Seven Devils Road, and another access road from the mountain was closed permanently due to a legal judgement and will never be reopened for daily access. A sign is posted at the beginning of Seven Devils Road alerting long trucks to call for Police escort up the mountain, or a violation will be issued.

OLD BUSINESS - None

NEW BUSINESS

A. Proclamation – International Overdose Awareness Day

Following a presentation by Mary McKinney about the statistics of drug overdose in the community and the stigma in families, Mayor Fontaine read the Proclamation recognizing August 31, 2023 as End Overdose Day in Watauga County.



Proclamation
International Overdose Awareness Day

WHEREAS, the Town of Seven Devils, North Carolina does affirm and acknowledge the harm and hardship caused by drug overdose; and

WHEREAS, we recognize the purpose of International Overdose Awareness Day as remembering loved ones lost to overdose and ending the stigma of drug-related deaths; and

WHEREAS, we resolve to play our part in reducing the toll of overdose in our community, which claimed the lives of more than 14¹ residents of Watauga County last year, together with countless more affected forever; and

WHEREAS, we affirm that the people affected by overdose are our sons and daughters, our mothers and fathers, our brothers and sisters, and deserving of our love, compassion and support;

THEREFORE, I, Larry Fontaine, do hereby proclaim August 31, 2023, as End Overdose in Watauga Day in Seven Devils, North Carolina, and encourage all residents to consider being trained in the use of life-saving overdose reversal medication and having it available to use.

This the 8th day of August, 2023.



Larry Fontaine, Mayor



¹ Source for 2022 overdose deaths by county:
<https://www.cdc.gov/nchs/nvss/prov-county-drug-overdose.htm>

B. Chestnut Ridge Waterline Replacement Project


Mayor Fontaine stated the Town of Seven Devils was awarded a \$700,000 American Rescue Plan (ARP) grant for water infrastructure projects. The Chestnut Ridge Waterline Replacement was identified for use of these funds. Town Engineer Thomas of West Consultants, PLLC prepared and advertised the bid package and in July received three (3) bids at the official bid opening. All bids received were in excess of the \$700,000 funds. The scope of work for the Chestnut Ridge Waterline Project was scaled down and Carolina Grading & Utilities, Inc. of Jefferson, NC, the low bidder reduced their bid in correlation.

Member Sasse inquired if all three (3) companies who bid on the original package were asked to reduce their bid to correlate with the reduced scope of work. Mayor Fontaine replied, no.

Mayor Fontaine stated the grant requires the Town to pay out costs for the project, and then be reimbursed the funds. Estimated timeline for reimbursement is 2-3 months.

Member Bonomo asked for details of how many customers will be affected by the reduced scope of work. No negative outcome and all existing customers on Chestnut Ridge will be included in the project.

Resolution #2023-02 – Award of Bid



RESOLUTION #2023-02

Town of Seven Devils
Resolution of Award
Chestnut Ridge Trail Waterline Replacement
SRP-D-ARP-0012

WHEREAS, the Town of Seven Devils publicly advertised for bids to be received for the Chestnut Ridge Trail Waterline Replacement Project (SRP-D-ARP-0012), and

WHEREAS, the bids were publicly opened on July 18, 2023, and read aloud, and


WHEREAS, American Rescue Plan Act (ARPA) grant funding from the State Fiscal Recovery Fund established in S.L. 2021-180 (SRP-D-ARP-0012) is expected to be provided by the North Carolina Department of Environmental Quality, Division of Water Infrastructure, in the amount of \$700,000; and

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF SEVEN DEVILS that the construction contract be awarded to, subject to final documentation and final funding being provided and approved by the aforementioned funding agency, in accordance with the Engineer's recommendation:


Carolina Grading & Utilities, Inc.
Jefferson, NC

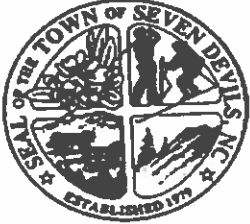
Not to Exceed \$715,000

Adopted this the 8th day of August, 2023 at Seven Devils, North Carolina


Larry Fontaine, Mayor

ATTEST:


Hillary Gropp, Town Clerk



R2023-02

Member Bonomo made a motion to adopt Resolution #2023-02; Member Williams seconded the motion.

Roll Call:

Mayor Fontaine – Yea Mayor Pro Tem Lambert– Yea Member Sasse – Yea
Member Bonomo – Yea Member Williams – Yea
Motion passed – 5 Yeas 0 Nays

C. Discussion of Rezoning Request – 2058 Skyland Drive
(i) RB to HDR – 17.32 acres

Member Sasse stated the Town Council should take time following tonight’s public hearing to consider the comments received and to delay action, so discussion and decision can occur at a future meeting.

Member Sasse stated the rezoning request of RB to HDR benefits the Applicant, not the Town, as it’s a parcel, where currently no development can occur.

Mayor Fontaine replied, the revised rezoning applications benefit both the Applicant and the Town.

Member Sasse made a motion to Delay/Table Item 12) New Business, C. Rezoning Request, (i) RB to HDR – 17.32 acres; Member Bonomo seconded the motion.

Roll Call:

Mayor Pro Tem Lambert – Yea Member Bonomo – Yea Member Sasse – Yea
Mayor Fontaine – Nay Member Williams – Nay

Motion passed – 3 Yeas 2 Nays
Item Tabled ~OPEN~

6

(ii) HD to LDR – 17.32 acres

Mayor Fontaine suggested a request to the Applicant be made for this rezoning be revised to:

Withdraw HDR to LDR – 17.32 acres to revised HDR to RB -17.32 acres which includes the 2 acre donation for Otter Falls Parking. All rezoning details will include legalities for roads, right of way, easements, and metes & bounds description, etc.

The Applicant is a long time business owner, this zoning designation land swap will be equal changes for both parcels.

Member Bonomo suggested the Town Council should take time to consider how the RB zoning will affect the Town.

No Council member made a motion for Mayor Fontaine's suggestion.

Member Sasse made a motion to Delay/Table Item 12) New Business, C. Rezoning Request, (ii) HD to LDR – 17.32 acres; Member Bonomo seconded the motion.

Roll Call:

Mayor Pro Tem Lambert – Yea Member Bonomo – Yea Member Sasse – Yea

Mayor Fontaine – Nay Member Williams – Nay

Motion passed – 3 Yeas 2 Nays

Item Tabled ~OPEN~

ADMINISTRATIVE UPDATE

Town Manager Harris provided the administrative update:

- The Town audit process is complete, and the presentation will be at the September meeting.
- The final summer concert is Friday, August 11th featuring Wayne Henderson.
- The bid process for the Chestnut Ridge waterline project is complete.
- PARTF awards ceremony will be August 11th in Raleigh.
- A water leak on Buckeye was repaired.
- A well pump was replaced at the Town Hall.
- Preventative maintenance was done on exercise equipment at 7D Community Center.
- The TDA meeting will be on August 23 at 9:00am.

COMMITTEE REPORTS

Board of Adjustment – June draft minutes

Planning Board – No meeting

Public Works Committee -No meeting

Public Safety Committee – No meeting

Parks & Recreation Committee – July minutes

TDA – July minutes

ABC Board – June minutes

Tree Committee – No meeting

Police Report

Fire Report

Financial Report

COUNCIL COMMENTS

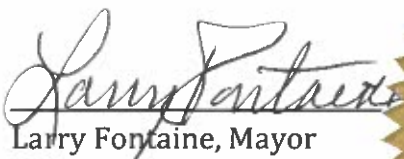
Mayor Fontaine stated the filing period for Municipal elections for three (3) Town Council seats was in July with the Board of Elections office.


Mayor Fontaine & Council Member Bonomo filed for re-election and Citizen Bob Bridges filed for election. Council Member Bonomo thanked Mayor Fontaine for his commitment to the Town of Seven Devils and all his time and effort.

Mayor Pro Tem Lambert and Council Members Sasse & Williams agreed and thanked Mayor Fontaine. Council Member Williams spoke in general to the audience and encouraged citizens to serve on the various Boards & Committees in the Town.

ADJOURN

Mayor Pro Tem Lambert made a motion to adjourn the meeting; Member Sasse seconded the motion. All members agreed. The meeting adjourned at 6:35pm.


Larry Fontaine, Mayor


Hillary Gropp, Town Clerk