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Town of Maggie Valley
Board of Aldermen Meeting
March 8, 2022
MINUTES

Members Present: Mayor Mike Eveland, Aldermen: Jim Owens, Tammy Wight, John Hinton, and Phillip Wight

Staff Present: Manager Nathan Clark, Attorney Craig Justus, Public Works Director Mike Mehaffey, Town Planner Kaitland Finkle, Chief Russ Gilliland, and Town Clerk Vickie Best

Others Present: 147 people were in attendance including reporters from the Mountaineer and Smoky Mountain News

1) **Meeting Called to Order**

Mayor Eveland called the meeting to order at 6:30 pm on Tuesday March 8, 2022, in the Town Hall Boardroom.

2) **Pledge of Allegiance**

The Pledge and a moment of silence for Ukraine was held before the prayer.

3) **Approval of the Agenda**

Due to the agenda being so long with three public hearings, the Department Head Reports will be emailed to Council and eliminated from agenda.

The issue needing to be discussed under Attorney-Client Consultation has been resolved, therefore, the Closed Session will be eliminated from the agenda.

4) **Consent Agenda**

- a. Minutes to be Approved: January 31, February 1 & February 8, 2022
- b. Budget to Actual
- c. A/R Report
- d. Tax Releases
- e. ARP Funds Report
- f. Voluntary Annexation – Direct Clerk to Investigate Sufficiency
- i. Resolution 22-3 Hotchkiss PIN 7696-77-7475
- ii. Resolution 22-4 McIntyre PINs 8607-36-8571 / 8607-36-9299
- iii. Resolution 22-5 West PIN 8607-24-3974

ALDERMAN OWENS MADE A MOTION TO APPROVE THE CONSENT AGENDA AS PRESENTED. MOTION CARRIED UNANIMOUSLY.

5) **Presentation: Hylah Birenbaum, Haywood Community College Foundation**

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Hylah Birenbaum, Executive Director of College Advancement for Haywood Community College (HCC), provided a presentation on the many ways to give to HCC through donations, scholarships, endowments, land acquisition, through a will, 401K, etc.

Ms. Birenbaum invited everyone to come on campus and enjoy the beautiful gardens, the Mill House where weddings are often held, and prom pictures are taken. "Come play disk golf or hike on HCC's trail".

HCC offers a wide range of courses to empower students to have a trade/career.

On April 26, 2022, a fund raiser for HCC will be hosted at Elevated Mountain Distillery.

6) **Public Comment**

Rose Beck, owner of Roses in the Valley, and previous owner of Poppy's Little Knife Store for over 10-years, addressed Council regarding how Council keeps coming back to the subject of food trucks. Ms. Beck suggested Council develop regulations to be followed and let food trucks come to Maggie Valley. "Food is needed when alcohol is being served. Maggie Valley has lost one restaurant (Legend's restaurant due to a fire). We need food options."

Rick Helfers stated that he likes food trucks and that food trucks should be allowed, especially when alcohol is being sold. "If you see a problem, fix it".

Ellen Pitt, advocate for Mothers Against Drunk Driving, addressed Council regarding the text amendment proposed here tonight. "We need to be helping children and the elderly. Not homeless people that could work but will not. Most homeless people like living in tents and refuse help. There is little to no sobriety in the homeless. Housing First is a complete waste of money. Rapid rehousing has not worked either."

Dave Angel, recognized Chief Russ Gilliland and his Police Department for being so responsive to Ghost Town when there are issues with trespassing, thieves and vandals in general. "A horse statue was stolen, and the church was destroyed; even the beautiful stained-glass windows were broken."

The Maggie Valley Police have done an exceptional job trying to protect Ghost Town properties and catching folks trespassing.

Scott Wilson asked that Council delay their vote and the text amendment. "Please do your research on homelessness."

Allen Alsbrooks, owner of Hearth and Home Inn, stated that the boardroom is full of citizens with concerns. Mr. Alsbrooks wishes more people turned out for all Aldermen Meetings, not just about hot topics. "This is our community, and we are your constituents."

7) **Consideration of Rezoning: 217 Campbell Creek Road PIN 7686-17-4633**

A new survey plat has confirmed that the acreage originally listed as 5.19 acres is now 6.182 acres. The parcel was annexed into the corporate limits August 17, 2021. The initial zoning was R2 as set by the Board of Aldermen on October 12, 2021. The property is bordered by R1 and C1 zonings.

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The 2007 Land Use Plan calls for this parcel to be zoned R3 high density. The Planning Board recommended high density zoning.

R2 will allow 24 lots, while R3 will allow 38 lots.

Jerry Michael Day addressed Council stating that he has now partnered with Costal Development Inc. "There will not be a mobile home park nor an apartment building on this property. We want 38 single-family homes. The watershed is on our property. We will be connecting to water and sewer. The property is below the water intake for Maggie Valley. We went to the Campbells (Bart Campbell and Hazel Bradshaw) to purchase a 30' right-of-way, so traffic can come onto Rocky Top Road. We will do away with the bridge crossing into Pioneer Village." Mr. Day asked that Council and the surrounding people work with them, because the right-of-way could be cut off. "This is not a wildlife sanctuary. The elk can be dangerous and destructive."

Mayor Eveland opened the Public Hearing at 8:07pm.

a. Public Hearing

Linda Taylor, realtor for both Frankie Wood and the Day Family addressed Council stating that she has the privilege of knowing people with the money to do the development. "I have information that you do not have." Ms. Taylor felt it was ridiculous that someone cannot sell property/start a project in Maggie Valley until the UDO is complete. "Problems were known seven years ago with the Webb Property on Campbell Creek Road. Seven years later and the problem still has not been fixed!" Ms. Taylor went on to explain how she owns over two-million dollars' worth of property in Maggie Valley. "This was to be our retirement. The HCTDA makes it look like tourism is on the rise. I know five businesses right now that are facing bankruptcy. What will happen when there is no one is left to buy/sell land in Maggie Valley because of the political atmosphere? This is very concerning." Ms. Taylor asked that Council not kill our tourism and to stop fighting each other.

Arron Gurney, part owner of Kamp-N-Kountry stated that they were new to the community and as newcomers they have the utmost respect for local people. "Single family homes on the adjacent property would be pleasing."

Dr. Bill Falls, resident of 144 Stoney Ridge Loop, questioned the impact high density would have on our environment, drinking water, and creeks.

Allen Alsbrooks, owner of Hearth and Home Inn, asked that Council look at the map. "R1 zoning for Kamp-N-Kountry is not conforming at all. These parcels are meant to be high density and the roads will meet Town Standards."

Dayle Culhane, resident of 170 Panoramic Loop, stated that Crocketts Meadow is zoned R3, and they had to purchase an extra lot to have some room. "This is upsetting to the renters and owners in the area. This does affect people in neighborhoods."

Frank Senatore, 212 Stoney Ridge Loop, stated that because it will help real estate, he agrees with the board waiting for the UDO to be complete. "Right now, there is a lot of vagueness. I am not for vengeance or whining, but people want to know what is going on. This is a dubious situation."

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Mayor Eveland closed the Public Hearing at 8:22 pm.

Alderman T. Wight read the following statement.

217 Campbell Creek is located behind a flea market that has been non-conforming for years. In front is Kamp-N-Kountry that is grossly nonconforming. To one side is town hall & town hall playground. To the other side it is lined with four layer that consist of natural buffering, a creek, vacant land, and Campbell Creek Road.

In the past, our planning board, planning director, and town board shared opposing views. The town board and the planning board were publicly called out on our zoning issues.

I want to ask my fellow board members: Do all of you understand zoning laws and regulations better than an experienced town paid employee, hired as an expert in her field, with multiple master's degrees?

And if so, why are we wasting our time and taxpayers' money to fund this position?

We have hired the best of the best and we should give her opinion credence, or we need to stop wasting taxpayers time and money.

Campgrounds and RV Parks are not allowed in R3. We have heard a lot of comments in the past in reference to appearance and design standards.

The property is now zoned R2. Disallowing R3 could result in duplexes and quadruplexes, rather than detached homes.

I propose we take the recommendation of the planning board and town planner and accept R3 zoning for 217 Campbell Creek Road.

Mayor Eveland responded that he had concerns about the critical watershed. Mr. Day responded that the watershed is on his land. Planner Finkle clarified that the property owner would be held to watershed rules.

b. Consideration of Approval: Ordinance 978

ALDERMAN T. WIGHT MADE A MOTION TO APPROVE THE R3 ZONING FOR 217 CAMPBELL CREEK ROAD. ALDERMAN P. WIGHT VOTED IN THE AFFIRMATIVE. MAYOR EVELAND AND ALDERMEN OWENS AND HINTON OPPOSED.

Motion failed.

c. Consideration of Approval: Consistency Statement

GOVERNING BOARD CONSISTENCY AND REASONABLENESS STATEMENT

Property PIN NO. 7686-17-4633: Rezoning from R-2 to R-3

WHEREAS, In accordance with N.C. Gen. Stat. § 160D-701, the following is stated:

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Zoning regulations shall be made in accordance with a comprehensive plan. When adopting or rejecting any zoning amendment, the governing board shall also approve a statement describing whether its action is consistent with an adopted comprehensive plan and any other officially adopted plan that is applicable, and briefly explaining why the board considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review.

The planning board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board.

Zoning regulations shall be designed to promote the public health, safety, and general welfare. To that end, the regulations may address, among other things, the following public purposes: to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to lessen congestion in the streets; to secure safety from fire, panic, and dangers; and to facilitate the efficient and adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. The regulations shall be made with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such city.

WHEREAS, The Planning Board of the Town of Maggie Valley determined that the Town's current Land Use Map from 2007 identifies the property as High Density Residential. Consistent with the Future Land Use Map, the Planning Board unanimously recommends rezoning the property from R-2 to R-3.

WHEREAS, R-3 is the Town's High Density Residential district; and

WHEREAS, As directed above, Town Board of Aldermen must approve a Plan Consistency and Reasonableness Statement with regard to each adoption or rejection of a zoning amendment.

NOW THEREFORE, based on the record of the proceedings related to the rezoning request, **THE BOARD OF ALDERMEN OF THE TOWN OF MAGGIE VALLEY HEREBY STATES:**

Section 1: The proposed zoning amendment is consistent with the Future Land Use Map and Comprehensive Plan adopted by the Town of Maggie Valley which identifies the property as High Density Residential.

Section 2: The proposed zoning amendment is not reasonable and not in the public interest; and therefore, is not approved based on the following:

- 1) Adjacent Zoning is R-1.
- 2) The property under consideration is adjacent to single family residences.

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- 3) The requested R-3 Zoning would allow Manufactured Home Parks as a Special Exception by the Zoning Board of Adjustment.

ALDERMAN HINTON MADE A MOTION TO APPROVE THE CONSISTENCY STATEMENT. MAYOR EVELAND AND ALDERMAN OWENS VOTED IN THE AFFIRMATIVE. ALDERMEN TAMMY AND PHILLIP WIGHT OPPOSED.

Motion passed by majority.

8) Consideration of Rezoning: 29 Playhouse Road PIN 7686-18-3030

The flea market has a history of code violation. The future land use map shows this flat parcel as being R3 High Density. The property can be accessed via Rocky Top Road and Playhouse Road.

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The R1 zoning is in grey, and the C1 zoning is in tan. The L shaped property belongs to the Day Family and has been zoned R2 and the owners are requesting to be rezoned to R3

The request is for a rezoning for the R1 portion of the property to be zoned R3. The flea market access is on Playhouse Road. The R1 portion of the property can be accessed off Rocky Top Road or Playhouse Road. The R1 zoning abuts the L shaped property that is currently zoned R2 but is requesting R3. The R3 zoning district allows multi-family units, single family units and apartment buildings as well as mobile home parks. Under R1 seventeen (17) units can be built. Under R3 thirty-five units can be constructed.

Regardless of the final decision, the consistency statement must support the decision.

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a. Public Hearing

Mayor Eveland opened the hearing at 6:59 pm.

Betty Joe Campbell Beasley, 1222 Campbell Creek Road, addressed Council on behalf of her mother Hazel Bradshaw. "The Town has been on us for years to clean the flea market property. Now the family have decided to sell the property, and someone will develop the property where the flea market is. Ms. Beasley asked that Council not judge development when they have not seen a plan. Everyone needs to get along and let Maggie Valley grow."

Bart Campbell, Ms. Beasley's brother, addressed Council stating that he tried to help Kamping-N-Kountry get an easement to fix Rocky Top Road. "We have sewer and water on this parcel. It makes no sense having R1 abutting C1 zoning district. Give us a chance to develop the property."

Raymond Chandler, resident of 369 Rocky Top Road, stated that he is against high density. "There will be a huge amount of RV units and motorhomes coming and going on an already narrow road. It is hard to travel Rocky Top Road now because of the poor condition of the road. There was a plan to repave the road and widen the entrance. Now, that has fallen through."

Linda Taylor, realtor for the property in question, addressed Council asking that folks realize this is a request for residential zoning. "You can't put RV Parks in a residentially zoned area. People read social media and the newspaper and come to believe half-truths. That is what has caused the dispute. Jean Day, the owner of the other property asking to be rezoned fought annexation for years. These people owned their property before the Town was incorporated. Your Town Planner has a double master's degree and is recommending R3 zoning. The ordinance will dictate what is allowed on someone's property if it is properly zoned."

R2 can by right build 87 units. R3 will allow 88 units. The problem is that they want single family detached homes. The owners want 37 lots, verses 24 lots. The zoning is taking that option away from them. By the way, the State will not allow us to ban single-wide mobile homes and there is nothing you can do about that."

Howell Boyne stated that there is one way in and one way out on Rocky Top Road. R3 zoning is not what we need in Maggie Valley. "We need less cement slabs."

Allen Alsbrooks responded that there will be two lane access up to Kamp-N- Kountry. "The 30' right-of-way runs parallel to Town Hall. The road will meet the Town's Road Standards."

Stephen Ayers, resident of 7 Higel Drive, stated that there will still be problems because the road will still go down to a one-lane road. "Do the right thing for everyone."

Tammy Hartszog, owner of Kamp-N- Kountry, informed the audience that she has submitted a petition signed by 118 people within her business that have concerns about R3 zoning. Ms. Hartszog has also received 39 emails stating the same concerns. "We (residents within Kamp-N-Kountry) went back to the drawing board to determine what we can live with. We have not seen any plans."

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Ms. Hartszog went on to say that communication needs to improve. "At first no more RV Parks, no apartments, now what is being discussed? With the upmost respect for the Campbell and Day families, we are here to represent our residents and address their concerns."

Ms. Hartszog went on to explain that they tried to get 90% participation to fix Rocky Top Road but could never reach 90%. "We have sent out letters stating that we will be returning their funds. Will may try again in the future."

Dave Angel, owner of Elevated Mountain Distillery, stated that everyone is concerned about plans. "The developer does not have to present plans. There is no expectation of plans." Mr. Angel went on to asked that everyone look at the Campbell and Day property lines. "There is no legal right-of-way. Rocky Top Road is not a legal road."

Jimmie (Tinker) Moody addressed everyone asking that they stop their whining. "Do you have a business? Do you have children or grandchildren? The road right-of-way is not in compliance. We have few restaurants open on certain days. Let the food trucks come in. Let the houses come in, otherwise we will have no one to work. Just stop and get along."

Mayor Eveland closed the Public Hearing at 7:30 pm.

Attorney Justus explained that the developer does not have to present plans. If plans were presented, Council would have to ignore them because once a zoning district is approved, the developer may develop whatever allowable use is within that zoning district.

Alderman T. Wight had great concerns about all the false information that is being put out to the public. "Allow the developer to have the highest density possible. This is not fair to the property owners."

Alderman P. Wight agreed adding that all three zonings fit the mold for R3 density. "Let's move Maggie Valley forward."

Alderman Owens had a problem doing rezonings before completing the UDO.

Alderman T. Wight responded that the property adjacent to these properties are grossly nonconforming. "We are telling these property owners that your neighbor can have high density, but you cannot have the same rights."

Alderman Owens disagreed because the current UDO is fifteen years old. "There are short comings in the current ordinance. There are a lot of allowable uses within R3 zoning that are very concerning to me."

Mayor Eveland reminded Aldermen P. Wight of a time when he voted for R2 rather than R3 on May 11, 2015. (Webb property at the entrance to Crocketts Meadow was zoned R2 in 2015.)

When questioned about the difference between mobile homes and mobile home parks, Planner Finkle replied that most of the time single-wide mobile homes are in a mobile home park. While most of the time, double-wide mobile homes are placed on a parcel alone. Mobile home parks are allowed in R3 after being granted a special exception through the Zoning Board of Adjustment.

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Mayor Eveland reminded Council that they have no control over the Zoning Board of Adjustment and the decisions they make.

Alderman P. Wight stated that this is a farce, "I have no problem with an R3 motion until the UDO is complete. Now it is seven years later, and the zoning ordinance has "still" not been revised." Alderman P Wight added that Council needs to trust the boards they appoint.

Alderman T. Wight added that it is an over-reach of government when you put people's plans and properties on hold until July when the UDO is finished. "You are taking people's property rights."

b. Consideration of Approval: Ordinance 979

ALDERMAN HINTON MADE A MOTION NOT TO CHANGE THE ZONING. MAYOR EVELAND AND ALDERMAN OWENS VOTED IN THE AFFIRMATIVE. ALDERMEN TAMMY AND PHILLIP WIGHT OPPOSED.

The request to be zoned R3 is denied by majority vote.

c. Consideration of Approval: Consistency Statement

Governing Board Consistency and Reasonableness Statement

5.65 Portion of Property PIN NO. 7686-18-3030: Rezoning from R-1 to R-3

WHEREAS, In accordance with N.C. Gen. Stat. § 160D-701, the following is stated:

Zoning regulations shall be made in accordance with a comprehensive plan. When adopting or rejecting any zoning amendment, the governing board shall also approve a statement describing whether its action is consistent with an adopted comprehensive plan and any other officially adopted plan that is applicable, and briefly explaining why the board considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review.

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Zoning regulations shall be designed to promote the public health, safety, and general welfare. To that end, the regulations may address, among other things, the following public purposes: to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to lessen congestion in the streets; to secure safety from fire, panic, and dangers; and to facilitate the efficient and adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. The regulations shall be made with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such city.

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WHEREAS, The Planning Board of the Town of Maggie Valley determined that the Town's current Land Use Map from 2007 identifies the property as High Density Residential. Consistent with the Future Land Use Map, the Planning Board unanimously recommends rezoning the R-1 portion of the property to R-3.

WHEREAS, R-3 is the Town's High Density Residential district; and

WHEREAS, As directed above, Town Board of Aldermen must approve a Plan Consistency and Reasonableness Statement with regard to each adoption or rejection of a zoning amendment.

NOW THEREFORE, based on the record of the proceedings related to the rezoning request, **THE BOARD OF ALDERMEN OF THE TOWN OF MAGGIE VALLEY HEREBY STATES:**

Section 1: The proposed zoning amendment is consistent with the Future Land Use Map and Comprehensive Plan adopted by the Town of Maggie Valley which identifies the property as High Density Residential.

Section 2: The proposed zoning amendment is not reasonable and not in the public interest; and therefore, is not approved based on the following:

- 1) Adjacent Zoning is R-1.
- 2) The property under consideration is adjacent to single family residences.
- 3) The requested R-3 Zoning would allow Manufactured Home Parks as a Special Exception by the Zoning Board of Adjustment.

ALDERMAN OWENS MADE A MOTION TO APPROVE THE CONSISTANCY STATEMENT AS PRESENTED. MAYOR EVELAND AND ALDERMAN HINTON VOTED IN THE AFFIRMATIVE, AND ALDERMEN TAMMY AND PHILLIP WIGHT OPPOSED.

The consistency statement was approved by a three to two vote.

9) **Consideration of Rezoning: 751 Soco Road PIN 7696-77-7475**

The ETJ portion of this parcel is zoned R1 (16 plus acres) while the area near Soco Road is zoned C1 (1.2 acres). Raven Ridge, the adjoining subdivision is zoned R2. Appalachian Village, the other adjoining property is zoned R3 with single family homes. The future land use map has this area zoned Mixed Use which would allow for high density. Remember these numbers do not reflect roads, buffers, etc.

Joann Lyons, the agent for the 17.6 acres as well as the developer of Appalachian Village and The Preserves at Jonathan Creek addressed Council. "There are thirty single family detached homes in Appalachian Village. This property would not be the same in elevation, Appalachian Village is much steeper."

a. Public Hearing

Mayor Eveland opened the public hearing at 8:44pm.

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David Lybrand, resident of 56 Appalachian Village, stated that he is not opposed to high density but as HOA President of Appalachian Village, the neighbors want single-family homes. "Our neighborhood is zoned R3 because some of the lots did not meet the R2 dimensions. Comparing this property (751 Soco Road) to Appalachian Village is not a valid comparison. There can not be plans for a property project before it is zoned. Everyone is talking about the plans. Plans mean nothing at this point. The developers do not have to follow through with their plans. With this uncertainty, please support the R2 zoning."

Steven Marx, resident of 210 Raven Ridge, stated his opposition to R3 zoning. "What are the plans?" Attorney Justus replied that the applicant is not obligated to show plans because the plans cannot be considered for the zoning process. Once zoned, the landowner can have whatever use is allowed within that district.

Linda Taylor, the realtor for the property, stated that the developers want 27 lots. "Listen to Haywood County Developers, when it is all said and done, it is all about the number of front doors. Thanks to these three aldermen, how many apartment front doors do you want to see? The State will only allow you to do so much."

Scott Neilson, resident of 40 Indian Trace, stated that he was at the last Planning Board Meeting and Planner Finkle asked Frankie to come and show the plans.

► The daughter of the former owner of 15 Appalachian Trail stated that the property was purchased to build her father a single-family home, but they ended up buying a home for Rubae Schoen. She wrote letters to all the residents to see if they would like to purchase the vacant land. "We should not have to wait from 2015 to 2022 to fix the R3 designation. I lost three offers because of this."

Harold Boyne, resident of 87 Appalachian Trail, stated that R2 fits into the plan Mr. Hotchkiss is wanting to do. "Why do they continue to push for R3 zoning with zero restrictions? In 1943 the atom bomb was developed. The bomb should have never been developed. There are a lot of things that should never have been developed. We have got to fix things that have happened over the years. Make Maggie Valley better!"

Stewart Matney, resident of 192 Melody Lane asked that Council please deny the R3 zoning.

Larry Clark, a property owner of the land his father-in-law once owned. "The indigenous people in the community cannot love Maggie Valley anymore than I do. Maggie Valley does need to grow. People have the right to sell their property. Clean up what is here. We need a grocery store, a doctor's office, and the junk to be cleaned up. The city is behind on enforcement. People are confused. Make Maggie Valley better for everyone. Start with what we got before we keep layering new stuff on top. Have some honesty. Deals are being made."

Allen Alsbrooks asked that we keep focus on the fact that R3 is on one side of the property and R2 on the other. We are asking for the appropriate zoning for the area.

Beth Brown, owner of 871 Soco Road stated that although her property does not border this property, Bob Ferguson (previous owner of 751 Soco Road) was her best friend. "We are talking about properties bordering this property. Don't continue to go the wrong way. We are delaying decisions until the correct

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zoning is done. Smoky Mountain Retreat is zoned R1. You cannot see the area from Soco Road. These homes are the gateway into our valley. One man with all these connections is scary. We all are worried!"

Mayor Eveland closed the Public Hearing at 9:14 pm

After taking a five-minute break, Council was back in session at 9:20pm.

Mayor Eveland stated there is no reason the property could not be zoned R2 on the bottom portion of the property and R1 at the top.

Alderman Owens stated that the developer could not build out to R3 without sewer being available. Alderman P. Wight responded that according to Planner Finkle, it is impossible to build out to R3 because of the topography.

Alderman Hinton then responded, "Why vote for R3 then?" Alderman Owens agreed, there is no logical reason to zone the property R3 if the property can't carry R3 density.

Aldermen T. Wight presented the following statement.

I am not sure where R3 has no restrictions is coming from. That is simply not true. We have received numerous objections to the rezoning of 751 Soco Road.

Many of the requests in writing and on social media suggest properties should be zoned low density for the others' pleasure to observe wildlife and views. I too am a huge fan of wildlife and views. To my knowledge no one offered to purchase the property for preservation.

We can not expect people to maintain and pay taxes on property for the sole purpose of others' pleasure. While the property at 751 Soco Road is truly beautiful it belongs to someone who wishes to have the same rights enjoyed by their neighbors on both sides.

None of those who object have commented on the 1.2 acres of the property currently zoned C1. Motels up to 45-feet can be built in C1. We currently have motels in Maggie Valley on one-acre parcels.

To clear up false rumors; RV parks and campgrounds are not allowed in R3 zoning.

We are here today to zone property based on the property and surrounding properties and all allowable uses. And if we get caught up in drama and restrict property owners based on animosity toward certain individuals, we risk putting our town in a very vulnerable position.

R3 zoning for 751 Soco Road is consistent with the neighborhood, topography, and future zoning maps.

R3 zoning is recommended by both the Town Planner and the Planning Board. It is my position that we allow R3 zoning for 751 Soco Road.

b. Consideration of Approval: Ordinance 980

ALDERMAN T. WIGHT MADE A MOTION TO ZONE THE AREA R3. ALDERMAN P. WIGHT VOTED IN THE AFFIRMATIVE, AND MAYOR EVELAND AND ALDERMEN OWENS AND HINTON OPPOSED.

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The motion failed by majority vote.

c. Consideration of Approval: Consistency Statement

GOVERNING BOARD CONSISTENCY AND REASONABLENESS STATEMENT

Property PIN NOs. 7696-77-7475 & 7696-88-0432: Rezoning from R-1 & C-1 to R-3

WHEREAS, In accordance with N.C. Gen. Stat. § 160D-701, the following is stated:

Zoning regulations shall be made in accordance with a comprehensive plan. When adopting or rejecting any zoning amendment, the governing board shall also approve a statement describing whether its action is consistent with an adopted comprehensive plan and any other officially adopted plan that is applicable, and briefly explaining why the board considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review.

The planning board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board.

Zoning regulations shall be designed to promote the public health, safety, and general welfare. To that end, the regulations may address, among other things, the following public purposes: to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to lessen congestion in the streets; to secure safety from fire, panic, and dangers; and to facilitate the efficient and adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. ~~The regulations shall be made with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such city.~~

WHEREAS, The Planning Board of the Town of Maggie Valley determined that the Town's current Land Use Map from 2007 identifies the property as Soco Road Mixed Use. Consistent with the Future Land Use Map, the Planning Board recommends (3-1) rezoning the property from C-1 and R-1 to R-3.

WHEREAS, R-3 is the Town's High Density Residential district; and

WHEREAS, as directed above, Town Board of Aldermen must approve a Plan Consistency and Reasonableness Statement with regard to each adoption or rejection of a zoning amendment;

NOW THEREFORE, based on the record of the proceedings related to the rezoning request, **THE BOARD OF ALDERMEN OF THE TOWN OF MAGGIE VALLEY HEREBY STATES:**

Section 1: The proposed zoning amendment is consistent with the Future Land Use Map and Comprehensive Plan adopted by the Town of Maggie Valley which identifies the property as Soco Road Mixed Use.

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Section 2: The proposed zoning amendment is not reasonable and not in the public interest; and therefore, is not approved based on the following:

- 1) The subject property is adjacent to single family homes.
- 2) The topography of the property does not support high density development.
- 3) The requested R-3 Zoning would allow Manufactured Home Parks as a Special Exception by the Zoning Board of Adjustment, a use which is incompatible with the surrounding neighborhood.

ALDERMAN HINTON MADE A MOTION TO ADOPT THE CONSISTENCY STATEMENT. ALDERMEN TAMMY AND PHILLIP WIGHT OPPOSED. MAYOR EVELAND AND ALDERMAN OWENS VOTED IN THE AFFIRMATIVE.

The consistency statement was approved by majority.

10) **Consideration of Text Amendment: Table of Permitted Uses (Office & Institutional)**

This is a staff-initiated text amendment.

Planning Board recommendation and Consistency Statement for Office/institutional text amendment to Table of Permitted Uses.

The proposal is to reorganize, add, and delete uses in the Table of Permitted Uses given current development pressure and foreseeable trends. Proposed changes are in accordance with draft proposals in the UDO update. This text amendment is consistent with the Town's Future Land Use Plan which stated that the Ordinance needs revisions, and it is necessary to bring the Ordinance up to date to make it more meaningful.

160D-601. Procedure for adopting, amending, or repealing development regulations.

(a) Hearing with Published Notice. - Before adopting, amending, or repealing any ordinance or development regulation authorized by this Chapter, the governing board shall hold a legislative hearing. A notice of the hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date scheduled for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

(b) Notice to Military Bases. - If the adoption or modification would result in changes to the zoning map or would change or affect the permitted uses of land located five miles or less from the perimeter boundary of a military base, the local government shall provide written notice of the proposed changes by certified mail, return receipt requested, to the commander of the military base not less than 10 days nor more than 25 days before the date fixed for the hearing. If the commander of the military base provides comments or analysis regarding the compatibility of the proposed development regulation or amendment with military operations at the base, the governing board of the local government shall take the comments and analysis into consideration before making a final determination on the ordinance.

(c) Ordinance Required. - A development regulation adopted pursuant to this Chapter shall be adopted by ordinance.

(d) Down-Zoning. -No amendment to zoning regulations or a zoning map that down-zones property shall be initiated nor is it enforceable without the written consent of all property owners whose

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property is the subject of the down-zoning amendment unless the down-zoning amendment is initiated by the local government. For purposes of this section, "down-zoning" means a zoning ordinance that affects an area of land in one of the following ways:

- (1) By decreasing the development density of the land to be less dense than was allowed under its previous usage.
- (2) By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.

a. Public Hearing

Mayor Eveland opened the hearing at 9:35pm.

Ellen Pitt, an advocate for Mother's Against Drunk Driving, stated that she would like to see homeless shelters excluded from all zoning districts. "Housing First and Rapid Rehousing programs do not work. Please educate yourself."

Linda Taylor stated that \$50 per night to house a homeless person is a lot of money. "I don't have a mortgage, but most hotel/motel owners do."

Attorney Justus clarified earlier comments where he did not like the idea of excluding a use in all districts. "Excluding a use is sometimes a risk. You need to have a purpose for zoning and grouping compatible uses. You need to look at what you are doing. If C2 is appropriate, then consider that. Those people may have drug problems, but (Council) don't get involved in the different people and what they may do."

Alderman T. Wight asked for confirmation that no part of this amendment is to be used to down-zone a property or the sale of a property. "I do not agree with the way the transparency of this was done. We need to be transparent with our community."

Again, Planner Finkle explained how the Zoning Board of Adjustment has eight questions they must answer before consideration is given to a special exception.

Alderman T. Wight asked if you could have additional standards such as sobriety. Attorney Justus responded no.

b. Consideration of Approval: Ordinance 981

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ORDINANCE NUMBER 981

TOWN OF MAGGIE VALLEY

AN ORDINANCE AMENDING THE ZONING ORDINANCE: TABLE OF PERMITTED USES

WHEREAS, The Town of Maggie Valley held a public hearing on amending the Zoning Ordinance on March 8, 2022; and

WHEREAS, The proposed text amendment reorganizes, adds, and deletes uses in the Table of Permitted Uses given current development pressure and foreseeable trends; and

WHEREAS, The proposed text amendment is in accordance with draft proposals in the UDO update; and

WHEREAS, The proposed text amendment is consistent with the Town's Future Land Use Plan which states that the Ordinance is in need of revisions and that it is necessary to bring the Ordinance up to date to make it more meaningful; and

WHEREAS, A public notice was published on February 19 & 26, 2022; and

NOW THEREFORE BE IT RESOLVED BY THE MAGGIE VALLEY BOARD OF ALDERMEN THAT:

1. All requirements were met in accordance with G.S. 160D-601 for amending development regulations.

GOVERNING BOARD CONSISTENCY STATEMENT

Text Amendment to Table of Permitted Uses: Office/Institutional Land Uses

WHEREAS, in accordance with N.C. Gen. Stat. § 160D-701, the following is stated:

Zoning regulations shall be made in accordance with a comprehensive plan. When adopting or rejecting any zoning amendment, the governing board shall also approve a statement describing whether its action is consistent with an adopted comprehensive plan and any other officially adopted plan that is applicable, and briefly explaining why the board considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review.

The planning board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board.

Zoning regulations shall be designed to promote the public health, safety, and general welfare. To that end, the regulations may address, among other things, the following public purposes: to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of

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population; to lessen congestion in the streets; to secure safety from fire, panic, and dangers; and to facilitate the efficient and adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. The regulations shall be made with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such city.

WHEREAS, The Planning Board of the Town of Maggie Valley determined that the Town's Future Land Use Plan states that the Ordinance is in need of revisions and that it is necessary to bring the Ordinance up to date to make it more meaningful. Consistent with the Future Land Use Plan, the Planning Board recommends (4-0) approving the proposed text amendment.

WHEREAS, Proposed text reorganizes, adds, and deletes uses in the Table of Permitted Uses: Office/Institutional Land Uses; and

WHEREAS, As directed above, Town Board of Aldermen must approve a Plan Consistency Statement with regard to each adoption or rejection of a text amendment.

NOW THEREFORE, based on the record of the proceedings related to the proposed text amendment, **THE BOARD OF ALDERMEN OF THE TOWN OF MAGGIE VALLEY HEREBY STATES:**

Section 1: The proposed text amendment is consistent with the Future Land Use Map and Comprehensive Plan adopted by the Town of Maggie Valley.

Office/Institutional Text Amendment to Table of Permitted Uses

Plan Consistency Statement for staff-initiated text amendment to The Town of Maggie Valley Zoning Ordinance.

The proposal is to reorganize, add, and delete uses in the Table of Permitted Uses given current development pressure and foreseeable trends. Proposed changes are in accordance with draft proposals in the UDO update. This text amendment is consistent with the Town's Future Land Use Plan which states that the Ordinance is in need of revisions and that it is necessary to bring the Ordinance up to date to make it more meaningful.

As part of the Board of Aldermen's changing the text of the Zoning Ordinance is the required adoption of a plan consistency statement.

ALDERMAN P. WIGHT MADE A MOTION TO ADOPT ORDINANCE NUMBER 981 AND APPROVE THE CONSISTENCY STATEMENT. MOTION PASSED UNANIMOUSLY.

11) Consideration of Public Land Real Estate Listing Contract - Old Still Road

This is commonly called the waterfall property off Old Still Road.

The parcels to be sold in a lump sum listing include:

- PIN 7697-21-4657 4.38ac

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- PIN 7697-21-6804 0.58ac
- PIN 7697-22-2032 1.67ac
- PIN 7697-22-4049 0.24ac
- PIN 7697-21-5436 1.15 ac

Total acres = 8.02

Appraisal Price: \$274,650

Proposed Listing Price: \$225,000

ALDERMAN OWENS MADE A MOTON TO APPROVE THE LISTING CONTRACT. MOTION CARRIED UNANIMOUSLY.

12) **Consideration of Adoption: Sewer Use Ordinance (update)**

This is an update only. There are no costs increases involved.

ALDERMAN T. WIGHT MADE A MOTION TO APPROVE THE SEWER USE ORDINANCE AS PRESENTED. MOTION CARRIED UNANIMOUSLY.

13) **Consideration of Approval: Zambelli Fireworks Contract – July 4, 2022**

The fireworks for the same show as in the past have increased the price of the fireworks \$3,000. Haywood County Tourism Development Authority have contributed funding in the past.

ALDERMEN T. WIGHT MADE A MOTION TO APPROVE THE JULY 4TH FIREWORKS SHOW FOR \$18,000. MOTION CARRIED UNANIMOUSLY.

14) **Consideration of Purchase: Town Hall Park Slide**

The slide had to be removed because of a crack. A new slide can be purchased for under \$15,000.

ALDERMAN T. WIGHT MADE A MOTION TO APPROVE THE PURCHASE OF A SLIDE FOR THE PLAYGROUND FOR UP TO \$15,000. MOTION CARRIED UNANIMOUSLY.

15) **Consideration of Special Event Permit – Food Truck: Elevated Mountain**

Dave Angel owner of Elevated Mountain Distillery submitted a special event/outdoor sales request for the remainder of 2022. The request is for every weekend from Thursday through Sunday to be allowed to have a food truck.

Dave Angel and General Manager Jessica Newhart addressed Council asking for the same blanket approval as was given to Tube World.

Alderman Owens explained that the outdoor sales in the ordinance is not for food trucks. There were no other guidelines in the ordinance directly encompassing food trucks.

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In the beginning, Alderman Owens voted no to a food truck at Tube World. "After giving more thought to the situation and location, basically children freezing to death and needing hot chocolate. I decided to vote yes."

Alderman T. Wight provided the following statement:

My fellow board members may try to argue Elevated Distillery should not receive a special event permit because they provide special events every weekend and therefore, should be considered outdoor sales. I do not feel this board should dictate how many special events a business in our community may have.

Elevated Mountain Distillery is an asset to our community year-round.

During the pandemic, he (Dave Angel) converted his business to provide our valley and countless others with hand sanitizer during a time we could not purchase it at the local stores.

It is a growing trend for distilleries to offer "special" events for a multitude of reasons from raising money for charities to social gatherings for all to enjoy from locals to tourist. These are special events because they are not their normal business operations.

Many of you may not know last year Dave Angel and Elevated Mountain Distillery raised over \$60,000 for various charities through special events. This year they have already exceeded \$9,000.

Mr. Angel has held numerous benefits and events to help others such as Paws, Veterans, Haywood Strong, a benefit to raise money, clothing, and for flood victims and Maggie Strong, a benefit to raise money for the employees who were left without a job when Legends Restaurant burned, and allowed the use of his facility to accommodate winter events, always extending a hand to help our community, surrounding area, and other businesses.

Elevated Mountain Distillery is a locally owned brick and mortar business with sufficient ingress, egress, and parking.

As board members public safety should be our number one propriety, and it is my position that we should always allow Elevated Distillery a food truck in the name of safety.

We are currently going into our 2022 season, and we are down a popular restaurant, other restaurants have long wait-times, are short staffed, and open within limited hours.

And I would like to personally say thank you to Dave Angel and Elevated Mountain Distillery for your support in and around our community, continued willingness to help and support others and your enthusiasm to see our valley survive.

But certainly, now is a time we can show our gratitude to Mr. Angel & Elevated Mountain Distillery for all their charitable efforts by allowing the special events permit throughout the 2022 season. And send the message we support our local business and the local business community.

Mr. Angel and Ms. Newhart described up-coming events such as high school reunions, music events, etc.

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Holding events has become the trend for distilleries, but they need to be able to offer food for the safety of their clientele.

It was stated that the Board does not want to set a precedence and Mr. Angel's response is that the board already has.

Alderman Owens stated that he appreciates Alderman T. Wight's comments, but there is a difference between a business plan and a special event.

Mr. Angel countered that Tube World had no special event.

Mayor Eveland was concerned about no rules being in place and that rules need to be in place one way or the other.

Alderman P. Wight stated that this a "no foul-no-harm" because this is insane when a business can't have an event. "It is a brick-and-mortar business."

Mr. Angel responded that it is not fair to his business. Tube World only operates during winter months. Elevated Mountain Distillery is open year-round. Mr. Angel stated that Council was showing favoritism and is against him.

Manager Clark and Attorney Justus encouraged Council to resolve the food truck issue once and for all.

Tube World was given the opportunity to have a food truck for 42-days.

Attorney Justus suggested Council ask Mr. Angel to submit a calendar to Planner Finkle designating the days he wishes to have a food truck up to 42-days for the remainder of 2022. Two Council members should meet and try to devise a compromise for regulating food trucks or provisions for prohibiting food trucks. "The issue needs to be clarified and Mr. Angel's request needs to be delt with."

Alderman Owens questioned if Council gives Mr. Angel 42 days, (he is allowed to have a food truck) is that setting another precedence? "There are certain restrictions I would like to see." Mayor Eveland remains opposed to food trucks.

ALDERMAN T. WIGHT MADE A MOTION TO APPROVE FOOD TRUCKS AT ELEVATED MOUNTAIN DISTILLERY FOR 42-DAYS AND THAT MR. ANGEL PROVIDE PLANNER FINKLE A CALENDAR OF WHEN HE WANTS FOOD TRUCKS, AND THAT SHE AND ALDERMAN OWENS WORK ALONG WITH ATTORNEY JUSTUS TO CREATE PROVISIONS FOR FOOD TRUCKS. MOTION CARRIED UNANIMOUSLY.

16) Consideration of Festival Grounds Approval: BoHo Hippie Fest – May 7, 2022

ALDERMEN T. WIGHT MADE A MOTION TO APPROVE THE EVENT FOR MAY 7, 2022. MOTION CARRIED UNANIMOUSLY.

17) Other Business

Manager Clark received plans from JTM Engineering for parking on the previously purchased property across from the festival grounds. If the maple trees are removed, ninety parking spaces can be located

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on the parcel. If the trees remain, 75 parking spaces can be created. The trees are old and showing signs of disease. If the trees remain, the roots could eventually push up the paving.

Because no one wants to lose trees, collectively, Council debated taking out the trees. The maple trees are beautiful during the fall colors and the shade they provide during the summer is significant.

If the trees remain there is also a certain amount of liability if a fallen limb hits a parked vehicle.

REGRETFULLY, ALDERMAN P. WIGHT MADE A MOTION TO TAKE DOWN THE TREES, AND GET AS MANY PARKING PLACES AS POSSIBLE, ADDING THAT THE TOWN HAS PLANTED TREES UP AND DOWN SOCO ROAD AND CREATED A RAIN GARDEN BY THE WATERFALL AT THE FESTIVAL GROUNDS. MOTION CARRIED UNANIMOUSLY.

- The Planning Board will continue their review of the UDO on Tuesday March 15 at 5:30 pm.
- On Thursday March 24, 2022, Council will meet at 9:30 am to discuss the UDO and Food Trucks. This allows Aldermen Owens and T. Wight to find a resolution to the food truck issue.
- The Agenda Setting/Monthly Workshop will be held at 9:30 am on Wednesday March 30, 2022, in the Town Hall Boardroom.
- The regularly scheduled Board of Aldermen Meeting will be held on Tuesday April 5, 2022, in the Town Hall Boardroom at 6:30 pm.

18) **Department Head Reports**

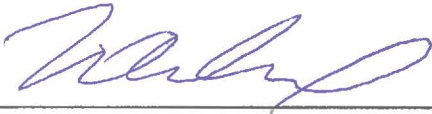
Due to the late hour, Manager Clark will email the department head reports to Council.

19) **Closed Session: NCGS 143-318.11 (3) Attorney-Client Consultation**


The Attorney-Client Consultation is no longer needed.

20) **Adjournment**

ON MOTION OF ALDERMAN T. WIGHT, WITH ALL IN FAVOR, THE MEETING WAS ADJOURNED AT 10:46 PM.



Mayor Mike Eveland



Vickie Best, CMC, Town Clerk

