

**Planning Board Minutes  
Special Called Meeting  
Maggie Valley Town Hall Boardroom  
Tuesday, March 22<sup>nd</sup>, 2022  
5:30pm**

**Planning Board Members Present:** Chairman Rick Helfers, Vice Chairman Jim Heffron, Jeff Lee, Bill Sebastyn

**Staff Present:** Kaitland Finkle, Town Planner and Shelly Coker, Executive Assistant

**Others Present:** Five others

**1. Call to Order**

The meeting was called to order at 5:30pm by Chairman Helfers. The Pledge of Allegiance was said by all. Chairman Helfers confirmed there was a quorum. Planner Finkle said that Ms. Connie Dennis has announced her resignation from the Planning Board to the Board of Aldermen. The Aldermen will determine who will fill the open seat on this board.

**2. Old Business**

**a. Rules of Procedure (Dispersal for approval on April 19<sup>th</sup>) [Subsequently Moved to April 7th]**

Planner Finkle distributed the Draft Rules of Procedure. Mr. Lee brought up the day of the meeting to be changed. Chairman Helfers asked to add to Agenda – Roll call / Quorum Determination, then Approval of Agenda. The Declaration of Conflict of Interest will also be added before adopting the agenda and will be effective for the entire meeting. There will be a second for all motions, to be consistent with the other boards.

Mr. Sebastyn brought up the number of board members that could be together and discuss any items upcoming before the Board. Contact with those appearing before the board was brought up by Mr. Helfers. Mr. Heffron stated that things could be discussed ‘after the fact. Planner Finkle will change the wording to ‘pending’ or ‘submitted application prior to meeting’. Mr. Lee talked about meeting outside of a publicized meeting. Planner Finkle brought up the distinction of private citizen vs. speaking for the Board. Only the Chairman can do this, an example would be speaking to the newspaper for a quote. The intent is that you are not conducting business outside of these walls, Planner Finkle said. She will find out how this is stated in the Aldermen’s rules. Also Board members should not state their decision ahead of the meeting, before they hear what is presented or discussed in the public meeting. Mr. Sebastyn asked if someone comes over, what should you do. Mr. Helfers said listen, but do not comment. Mr. Lee said do not come into a meeting with your mind made up. Mr. Helfers and Mr. Sebastyn asked about meeting as a majority outside the boardroom. Even two or three people should not be discussing Board Business, Planner Finkle stated. Have the discussions here in the open forum.

Mr. Lee brought up attendance, asking if more than three absences was still pertinent. The Bylaws would have to be changed if there was a change to three rather than more than three. Planner Finkle will ask the Aldermen about changing the Bylaws. Medical Leave does not qualify. Planner Finkle will make the changes. She thinks Board members should vote on this on April 19<sup>th</sup>. [Subsequently Moved to April 7th] Mr. Helfers asked if there was any more discussion. Voting was brought up by Mr. Sebastyn. Planner Finkle stated that if someone does not vote, the vote will be counted as affirmative. If you are excused or recused, you do not vote. Mr. Helfers said that anyone who is recused will go sit in the audience. Conflicts will be

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declared at the beginning of the meeting. As a private citizen sitting in the audience, you can still speak. This will be voted on in April. [Subsequently Moved to April 7th]

**b. Draft UDO**

**i. R-3 Text Amendment (Uses & Dimensional Standards)**

Planner Finkle spoke of the Unified Development Ordinance work. Recent rezoning requests for R-3 were all denied based on the ability to locate manufactured homes. The Aldermen would like the uses to be removed so the higher density can be granted. The Board of Aldermen would like the Planning Board to look at the Uses and Density in the High-Density Zoning and submit a recommendation. Proposed changes to the Town's Zoning Ordinance Table of Permitted Uses are prohibiting the following from the R-3 Zoning District: Class A and Class B Manufactured Homes and Manufactured Home Parks as a Special Exception. Proposed changes to the Density and Dimensional Standards: new minimum lot area would be .2 acre or 8,712 sq ft. Required Lot unit for additional dwelling units .1 ac or 4,356 sq ft. Five units per acre would be allowed for single family lots. Multifamily units will each require .1 of an acre. The Board of Aldermen will not be bound by the Planning Board's recommendation and may modify the text based on public input.

In discussion, Mr. Helfers said he would like to go back to the .16 or 7,000 sq ft or approximately 6 per acre. His recommendation is to only change the Table of Uses. Mr. Heffron spoke of the terrain limitations. Planner Finkle showed an excel spreadsheet with recent requests for rezoning and what this would look like on three different lots.

- The Playhouse property under R-3 as it stands today could have 35 single family lots with 80 units maximum if located in a single structure, proposed R-3 would drop to 28 single family lots with 56 multifamily units max.
- The Day property under R-3 as it stands today could have 38 single family lots with 88 units maximum if located in a single structure, proposed R-3 would allow 30 single family lots with 61 multifamily units max.
- The Ferguson property could have 109 single family lots with 255 units maximum if located in a single structure. R-3 as proposed would allow 88 single family lots with 176 multifamily units max.

There is no difference in the total numbers whether developed by right or as a PUD per Planner Finkle. Mr. Heffron asked if the Aldermen had preferences either way. Planner Finkle said she had given them the Table of Uses at the Retreat. Affordable Housing was brought up by Mr. Helfers. Mr. Heffron spoke of the environment and the terrain of Maggie Valley. He would tend to go with the more restrictive zoning.

Cluster subdivisions have two routes as discussed by Planner Finkle and Town Manager Clark recently, density bonuses as an incentive or as a requirement if you are developing over a certain threshold of land. As an incentive if you choose to set aside open space, you would receive higher density. Mr. Helfers said that's a nice carrot or opportunity. He mentioned Affordable Housing as a requirement. Mr. Lee asked about current R-2 zoning vs. proposed R-3. Planner Finkle said it was about right in the middle – R-2.5. She said this proposal is based on what was discussed in the past workshop. Mr. Sebastyn said that the developers will look at the property

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and design around that, including properties that have a creek. Mr. Helfers spoke again about subsidized housing and his preference to leave the density as is. Mr. Heffron spoke of the environmental concerns after reading the 2007 Land Use Plan. Some of the slopes are steep and might be prone to landslides, washout, or flooding with destruction into the lower areas. Planner Finkle said that most jurisdictions have caps on how much percentage of land you can disturb; ours is only capped in the critical watershed area. An impervious surface cap was discussed up by Mr. Helfers. Planner Finkle stated that the county has requirements on steep slopes.

Mr. Lee asked for the number in R-2 zoning for single family lots currently, 11,000 sq ft was Planner Finkle's answer, almost four lots. The proposal is to change that to allow four by right by only requiring 10,890 sq ft. R-2 zoning will become slightly more dense and R-3 zoning will become slightly less dense. She said they are trying to be consistent between zoning districts. R-4 does not fit into the pattern, it is a truly distinct seasonal or short term residential district. If almost six dwelling units are allowed by right, there is no incentive to cluster and set aside open space. Mr. Heffron brought up the environmental effects and water run-off. Planner Finkle spoke of the benefit to the community in allowing someone to cluster and get higher numbers by giving back open space. Allen Alsbrooks spoke from the audience and asked if the public would be asking questions tonight. Chairman Helfers said no.

Planner Finkle said that she had gotten questions about down-zoning. This is considered down-zoning. She pointed out the definition in 160D-601, decreasing development density or reducing permitted uses to fewer uses. This is initiated internally by staff and the boards are allowed to do this by state statute. Some permitted uses are becoming prohibited. Mr. Sebastyn brought up the definition of Text Amendment and talked about the effect this will have. Mr. Lee asked about the Aldermen's decision to deny the three rezonings. Planner Finkle said one of the reasons stated in each instance, was the inclusion of Mobile Home Parks as allowed with a Special Exception in R-3. He asked if only the Table of Uses could be changed. Planner Finkle said yes. One reason R-3 requests were denied was because Mobile Homes are allowed in R-3. Mr. Lee asked Planner Finkle about the Aldermen's Consistency Statement. All three denials state MH Parks and one, the Ferguson Property mentioned density because of topography.

**Mr. Helfers asked for a motion to accept the proposal to delete from the R-3 Zoning District Class A, Class B and Mobile Home Parks. This Use Change motion to amend the Table of Uses only. Mr. Heffron made the motion. The motion passed with all in favor.**

Mr. Lee asked about the next item which proposed changes from staff to have the number of units go from six to five. Planner Finkle said the existing table was set up arbitrarily. She would like to go up exactly one unit per acre per higher density zoning district— also cluster development (PUD) will be allowed in any zoning district. Change may happen in residential to incentivize cluster subdivision. Mr. Lee asked if that would be by Special Exception. Planner Finkle said at this time they are decided by the Zoning Board of Adjustment. Conditional Zoning is not a quasi-judicial decision. There are two paths to take. Mr. Helfers spoke again of his wish to have the density stay as it is. Mr. Heffron said that if you stay as is, clustering is more difficult. By right, minimum lot area and density are proposed to be changed per Planner Finkle. The text amendment will change the single family density from approximately six to

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exactly five. Mr. Heffron said considering the environment, he would prefer the lower density. Mr. Helfers disagreed. Planner Finkle stated that R-3 zoning has not been granted in a long time. She said that this will allow re-zoning requests to be approved before the UDO adoption. Mr. Helfers would like to hear more from the public. He thinks we have not heard enough. He would like this to be revisited. Planner Finkle said they can approve or deny or change how this is written. It can only be tabled for 30 days. She would not recommend tabling it since the Public Hearing meeting has already been advertised for April 5<sup>th</sup> at 6:30pm. Planning Board will only make a recommendation.

**Mr. Heffron made a motion to recommend the adoption of the Proposed R-3 Text Amendment for Dimensional Standards. Mr. Heffron and Mr. Sebastyn voted in favor. Mr. Lee and Mr. Helfers were opposed. Motion did not carry; the vote was a tie.**

The UDO was to be discussed this evening. Planner Finkle is set to be discussing the Use Table and the Density with the Board of Aldermen at a workshop on Thursday morning at 9:30am. Mr. Lee stated that Mr. Helfers could speak to the Board of Aldermen as the Chairman of the Planning Board. Mr. Helfers had development concerns and Mr. Heffron and Mr. Sebastyn had environmental concerns.

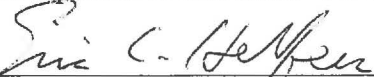
Planner Finkle will run through the items that she will go over on Thursday with the Board of Aldermen. Mr. Lee asked about multi-family units and Planner Finkle discussed that. Will multi-family dwellings be regulated based off square footage or regulated based on number of units. She gave the breakdown of the Dimensional Requirements. Square footage and units per acre should equal each other. She would like to tell a developer the exact number of units they can have. R-4 zoning was discussed as well. Everyone looked at the Zoning Map. Seasonal Residential will be allowed along Jonathan Creek. The specifications of each district were discussed. Residential and Commercial differences were also discussed.

### **3. Other business**

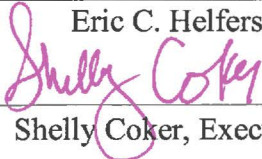
Planner Finkle will go to the Aldermen on Thursday and will share the concerns for and against changing the density for R-3. The Planning Board will be the steering committee for the Land Use Plan Update. She gave out the WithersRavenel update, which was a memo concerning the Kick-Off meeting that was held last week. There was discussion.

### **4. Adjourn**

**A Motion to adjourn was made by Mr. Helfers. The motion passed with all in favor.** Mr. Sebastyn cannot make it to the next meeting on April 19<sup>th</sup>. [Subsequently Moved to April 7<sup>th</sup>] There was discussion of other dates. The meeting may be rescheduled. The Planning Board may have a new person at that time. The meeting was adjourned at 7:45pm.



Eric C. Helfers, Chairman



Shelly Coker, Executive Assistant