

# Town of Maggie Valley

## Planning Board Maggie Valley Town Board Room Thursday, December 6, 2007 5:30 p.m.

### MINUTES

Members Present: Chairman Billy Brede, Scott Pauley, June Johnson, John Schreiber, and Bill Chamberlin  
Staff Present: Manager Tim Barth, Planning Director Nathan Clark, and Town Clerk Vickie Best  
Others Present: Six people were in attendance

**1. Approval of the Minutes: November 1, 2007**

**MS. JOHNSON MADE A MOTION TO APPROVE THE MINUTES FROM NOVEMBER 1, 2007.**

**MR. SCHREIBER SECONDED THE MOTION.  
MOTION CARRIED.**

**2: Preliminary Plat Approval: Whisper Creek**

Chairman Brede, Mr. Pauley, Mr. Schreiber, and Mr. Chamberlin previously did an on-site visit to the area in question.

The parcel was annexed into Maggie Valley on September 18, 2007. The area was zoned Residential 1 on October 23, 2007. The subdivision consists of 21-lots and a common area/ green space consisting of 5.45 acres. Haywood County monitored the soil and erosion control plan permit. Water is provided to the area by private individual wells.

The roads do not meet the Town of Maggie Valley's Road Standards due to grade. There are areas that exceed the minimum 18% road grade. The Board of Aldermen grants Road deviations.

All planning board members were concerned about the steepness of the roads. Mr. Chamberlin has had concerns about Gold Rush Road with a grade of 20.7% that serves lots 6, 7, and 8. Blossom Trail was also a big concern, especially since the parcels lay on the North side of the mountain. During the winter months, the roads would be hazardous. Mr. Chamberlin suggested the developer contact the neighbor to see if he could widen the right-of-way.

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Mr. Pauley felt the grade was so extreme that safety was a serious concern. If these grades were close, it would be a consideration; but the grades greatly exceed the town regulations.

Ms. Johnson expressed her concerns about emergency vehicles being able to maneuver the roads. Most likely, the investors will not be mountaineers, which often decrease their ability to maneuver mountainous steep terrain. There were also concerns about steep slopes being above house sites. Ms. Johnson had strong reservations about the road deviation.

Mr. Schreiber felt the same as the other board members. The allowed grade should be closer to the required 18%. Mr. Schreiber could not understand why the developer already had so much gravel down on the roadbed.

Chairman Brede agreed with the members stating that he would not recommend approval by the Council. Chairman Brede encouraged the board members to attend the Council meeting on December 18, 2007.

Director Clark explained that the road deviation is a Aldermen issue. The Planning Board handles plat approval.

Chairman Brede stated that the members do not have a problem with the subdivision plat if the roads were lowered in grade to as close to 18% as possible. Also the green space/ common area is inaccessible.

**MR. CHAMBERLIN MADE A MOTION TO RECOMMEND THAT THE ALDERMEN PERSONALLY VISIT THE SITES AND TO ACT WITH CAUTION WHEN GRANTING ROAD DEVIATIONS DUE TO THE STEEPNESS, AND TO RECOMMEND THAT EXTRA RIGHT OF WAY BE OBTAINED TO PROVIDE A FULL 30-FOOT RIGHT OF WAY AND TO IMPROVE THE EXISTING ASPHALT TO MEET TOWN STANDARDS GOING INTO THE DEVELOPMENT AND THAT THE PLAT BE BROUGHT BACK TO THE PLANNING BOARD.**

Director Clark explained that Council could place conditions on getting a road deviation. As for slope, the plan was submitted to the County prior to the Haywood County Slope Ordinance being adopted.

**MR. PAULEY SECONDED THE MOTION.  
MOTION CARRIED UNANIMOUSLY.**

**3: Preliminary Plat Approval: Mountain Watch**

The roads have been named. There is ample green space located on usable land. The roads have a maximum grade of 15%. Water is to be provided by wells. Lots 30 and 33

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will be accessed by one driveway. There are some areas that three homes will have access off one driveway.

A majority of the members did an on-site visit prior to the meeting.

**CHAIRMAN BREDE MADE A MOTION TO APPROVE THE PLAT AS PRESENTED DATED 11/27/07 FOR MOUNTAIN WATCH SUBDIVISION, PRELIMINARY PLAT APPROVAL IS GRANTED AT THIS TIME. MR. CHAMBERLIN SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.**

**4: Preliminary Plat Approval: Twinbrook**

There are 15 cottages, the main house, and a maintenance shop. The owners desire to change the property from rentals to 64 lots to be sold. The area has been deemed residential use. The open space is approximately 8% of the total project. The maximum road grade is 12%. Carl Loop and Viola Loop will be one-way looping roads.

The road width will be 18 feet when complete. A 30-foot right-of-way will be in place except on Carl and Viola Loop (the one-way loop). The two streams will be buffered.

**MS. JOHNSON MADE A MOTION TO APPROVE THE PRELIMINARY PLAT AS PRESENTED, BASED ON BUILDINGS IN EXISTENCE, ALL NEW STRUCTURES WILL NEED TO MEET THE GUIDELINES OF THE SUBDIVISION ORDINANCE. MR. PAULEY SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.**

**5: Final Plat Approval: Brookside Condominiums**

Preliminary plat approval was granted in Spring 2007. The Town has certified the sewer and water. The cost estimate has been submitted for the paving. A bond will be submitted within a few days.

Due to the pavement being poured over the sewer lines, the owners recognize that if sewer work is needed, that the repair of the pavement will be at the owners' expense.

Mr. Pauley felt that the board members did not receive the information in time to adequately review the material.

Mr. Alford, the engineer, stated that due to the flood way, the buildings were built 9 feet off the ground on pedestals.

**CHAIRMAN BREDE MADE A MOTION TO MAKE THE FOLLOWING CHANGES BEFORE SIGNING OFF ON THE FINAL PLAT: EACH BUILDING AND HOW MANY UNITS ARE TO NOTED, THE ELEVATION OF THE**

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**GARAGES ARE TO BE NOTED, A NOTATION FOR UTILITIES SHOULD BE INCLUDED AND IN THE EVENT OF SEWER WORK BEING NEEDED IT IS THE OWNERS RESPONSIBILITY TO REPAIR THE PAVEMENT.**

**MS. JOHNSON SECONDED THE MOTION.  
MOTION CARRIED UNANIMOUSLY.**

**6: Rezoning Request: Gulf Highway**

Mr. Clark provided the following information.

Gulf Highway Land Corporation (Paula Dingsus Paxton) owns two C-1 zoned vacant tracts {Haywood County PIN 8606-18-1736 (3.55 ac) and 8606-18-6835 (8.82 ac)} at the intersection of Soco Road and Jonathon Creek Road (base of Campbell Woods. When combined this tract becomes 12.37 acres, which is less than the 15-acre size desired by shopping center developers. By adding (rezoning) lots 1,13, 14, 15 to the two existing tracts it yields a tract that is almost 17 acres in size. The newly adopted land use plans, identifies this area "Gateway Commercial" which envisions large-scale commercial developments. Rezoning this to C-1 will aid in achieving this vision. Town Staff have met with a series of different commercial developing firms over the last few months who want to develop a commercial center (including a grocery store, pharmacy etc) they cite lack of available/affordable tracts to develop this type of project on. This rezoning would increase in size the most attractive commercial tract remaining in town. The downside to this development/rezoning application is it that the lots proposed for rezoning border existing dwelling units. Adding this type of intense zoning district adjacent to their homes could diminish property values/quality of life. The developer has ensured the town that only the front half of lots 1,13,14,15 would be used commercially the back half would be used as a dense vegetative buff

**MR. CHAMBERLIN MOVED TO RECOMMEND THE REZONING OF LOTS 1, 13, 14, AND 15 TO COMMERCIAL 1 TO ALLOW FOR THE FRONT COMMERCIAL PARCELS TO BE ENLARGED AND A BUFFER TO BE CREATED BETWEEN THE COMMERCIAL AND THE RESIDENTIAL.**

**MS. JOHNSON SECONDED THE MOTION.  
MOTION CARRIED UNANIMOUSLY.**

The second rezoning request came about this fall. Property owner/developer Jim Paxton approached the town about building a second series of town homes like those that he built in 1999. In 1999, Campbell Woods was solely in Haywood County's jurisdiction although Maggie Valley provided sanitary sewer throughout the neighborhood. In 2003 when the Town's ETJ map was created, Campbell Woods was zoned R-1. By this action, it made seven existing town homes a non-conforming use and compromised the neighborhood's vision as indicated in the Neighborhood Covenants dated 1999, which allowed the construction of town homes. There is no indication from Planning Board or Town Board minutes that any individual thought was given to Campbell Woods when zoning it in 2003. It was lumped in

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with the rest of the project that dedicated lands touching US-19/276 as commercial, those properties that did not were zoned low density residential. The newly approved land use plan suggests medium density development for the area. That would allow 2-4 dwelling units per acre with the town homes being an allowed use. The Town's recommendation is to rezone all of Campbell Woods R-2 (medium density residential) to allow the original vision of Campbell Woods to be completed, and end the non-conforming status of seven town homes already in existence.

Attorney Kirsten stated that in May 1997 the restrictions were amended to allow for attached housing. Developers respond to the market. The Board of Aldermen will hold a public hearing prior to any rezoning, thus giving residents an opportunity to voice their concerns.

**CHAIRMAN BREDE MADE A MOTION TO RECOMMEND THE REZONING OF  
 THE RESIDENTIAL PORTION OF CAMPBELL WOODS ESTATES FROM  
 RESIDENTIAL 1 TO RESIDENTIAL 2.  
 MR. SCHREIBER SECONDED THE MOTION.  
 MOTION CARRIED UNANIMOUSLY.**

**7: Text Amendment: Subdivision Ordinances, Private Wells**

Director Clark provided the following options upon Chairman Brede's request.

As a result of the record drought that Western North Carolina has experienced over the last year much a reexamination of the relationship between water supply and new development has occurred. In Maggie Valley, the Maggie Valley Sanitary District (the water department) has plenty of capacity to meet the current and future water demand because of the vastness of the Jonathon Creek and Campbell Creek Watershed. However new development is occurring outside of the bounds of the water department but inside the Town limits. This occurs because of the water department's policy against pump stations. Examples of this policy negatively impacted neighborhoods are in Brannon Forest and Trinity Cove This policy then requires developers to chose between establishing a community water system (state regulated) or drilling private/individual wells (unregulated). The concern with relying on private wells during the subdivision process is; how do you know if you can get water on that particular lot?

Options:

Most municipalities/counties in North Carolina do not address private wells as a concern in their subdivision standards for several reasons 1) A majority of the Piedmont is urbanized. A major component of being urbanized is having widespread public water/sewer. 2) Topography Eastern North Carolina is flat making widespread public water system easy to develop and maintain (i.e. no pump stations). 3) The state's overall attitude in rural areas between where government responsibility ends and individual responsibility begins. This ethos is where the Town's recommend solution to the private well problem rests. In Franklin County, a rural

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county that borders Wake County to the northeast has required this statement be placed on subdivision plats that are not on public water/public sewer: *Notwithstanding Franklin County approval of this plat, lots shown on said plat may not receive Health Department approval for on-site sewage disposal systems, nor for individual water supply systems.* This statement allows the subdivision of land, gives notice to the buyer that they need to do their due diligence when purchasing the lot and protects the county but not allowing the assumption that water is provided.

Unlike the Franklin County example, Maggie Valley requires the septic approvals from the Haywood County Health Department before granting subdivision approval, this approval policy would remain the same.

The proposed water language would read: **Lots shown on this plat will not be serviced by the Maggie Valley Sanitary District or by a Community Water System permitted by the North Carolina Department of Natural and Environmental Resources. Water will be provided by unverified/undocumented private wells.**

Another option would to require test wells to be preformed prior to subdivision approval. This option is found in select subdivision standards in desert climates (Utah, Arizona, Nevada) where ground water is at a minimum and little public service districts exist outside of urbanized areas or regions that have dwindling groundwater available because of over use (Upstate New York). These requirements have a set of state issued checks and balances in place to ensure compliance, something that we do not have in North Carolina.

The final option would be require all new subdivisions with 8 dwelling units or more to establish a community water system. In doing so DNER will be responsible for permitting and regulating the water system in the subdivision ensuring virtual safety for the homeowners in that neighborhood. This adds a significant predevelopment cost to the project as well as limits reconfiguration of the subdivision at a later date.

The members discussed the issue in depth. The property buyer should be protected but again how far does the government's involvement go. Water is available on any lot if one drills deep enough. The other side to that is people should have water available in a cost effective manner.

Mr. Chamberlin felt the proposed language was harsh.

Manager Barth suggested the following wording. **The Town makes no guarantee as to the presence and availability of water on individual lots.**

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**CHAIRMAN BREDE MADE A MOTION TO APPROVE THE FOLLOWING LANGUAGE FOR THE SHORT TERM:  
LOTS SHOWN ON THIS PLAT WILL NOT BE SERVICED BY THE MAGGIE VALLEY SANITARY DISTRICT OR BY A COMMUNITY WATER SYSTEM PERMITTED BY THE NORTH CAROLINA DEPARTMENT OF NATURAL AND ENVIRONMENTAL RESOURCES. THE TOWN MAKES NO GUARANTEE AS TO THE PRESENCE AND AVAILABILITY OF WATER ON INDIVIDUALS LOTS.  
MR. CHAMBERLIN SECONDED THE MOTION.  
MOTION CARRIED.**

**8: Other Business**

Christmas luncheon will be held December 19 for the Planning Board.

The Planning Board members asked to be notified for the Parade meeting.

**9: Public Comment**

Joann Lyons stated that she appreciates the planning board's interest in protecting the buyer. Ms. Lyons' went on to say that she almost feels wells should be drilled prior to getting a building permit.

Ms. Lyons went on to stated that on Mr. Childers' behalf he was promised by the surveyors that he could reach an 18% grade on all roads within the development. Mr. Childers' has worked with the Town and has strived to keep the Town abreast of concerns and developments. He did everything he could do to lower the road grade at a great expense. Mr. Childers' has an engineer that will certify the safety and compaction of the roads.

The Planning Board and Town staff did disagree on the issue. The Planning Board's main concern is the health, safety, and welfare of everyone.

Ms. Lyons' reminded the Board that Haywood County allows engineers to certify up to a 25% road grade.

**10: Adjournment**

**ON MOTION OF MR. PAULEY, SECONDED BY MS. JOHNSON, THE MEETING  
ADJOURNED AT 8:04 PM.**

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Chairman Billy Brede

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Town Clerk Vickie Best, CMC