

MINUTES
Town of Marshall Board of Alderman
Regular Meeting
November 20, 2023
6:00 p.m.

In attendance were Mayor Nancy Allen, Aldermen Billie Jean Haynie, Thomas Jablonski, Aileen Payne, Christiaan Ramsey, and Laura Ponder Smith. Also in attendance were Town Administrator Forrest Gilliam and Town Attorney Jamie Stokes.

Mayor Allen called the meeting to order at 6:00 p.m.

Item 1

Upon motion by Alderman Smith, seconded by Alderman Ramsey, the Board voted 5-0 to approve the agenda as presented, with the exception of moving Public Comment to just before Item #8 – Board Appointments.

Item 2

Upon motion by Alderman Haynie, seconded by Alderman Jablonski, the Board voted 5-0 to approve the minutes from the October 16, 2023 Regular Meeting.

Item 3

Mayor Allen confirmed that a quorum of the Board of Aldermen was present. Forrest Gilliam, Town Administrator, stated that notice was properly advertised for the following public hearings: Proposed Ordinance for Text Amendment ZTA 2023-01 (Increasing Maximum Height by 10 feet in Central Business District), Proposed Ordinance for Text Amendment ZTA-2023-01 (Eliminate Campgrounds as Special Use in R-1 Low Density Residential District), Public Hearing for Proposed Ordinance for Map Amendment RZ-2023-02 (Rezoning Property at 571 Rollins Road to Conditional Mixed Use), Public Hearing for Proposed Text Amendment ZTA-2023-03 (Creating Island Overlay District to prohibit residential and lodging uses, and keeping of animals overnight), Public Hearing for Proposed Ordinance for Map Amendment RZ-2023-03 (Mapping Island Overlay District on 115, 145, 158 and 149 Blannahasset Island).

Item 4

Upon motion by Alderman Haynie, seconded by Alderman Ramsey, the Board voted 5-0 to open the public hearing to consider proposed UDO Text Amendment ZTA-2023-01 – An ordinance increasing the Maximum Height in the Unified Development Ordinance Dimensional Table by 10 feet for buildings in the C-B Central Business District. From 30 feet to 40 feet (Main Street and River Side) and 40 feet to 50 feet (Main Street Non-River side). The hearing was opened at 6:05 p.m.

Kaitland Finkle, Zoning Officer, presented a staff report on the proposed Text Amendment and Plan Consistency Statement as recommended by the Planning Board. There were no questions from Board members regarding the staff report.

Mayor Allen asked if anyone from the public wished to speak on the proposed text amendment. No member of the public signed up to speak on the proposed text amendment, and no member of the public asked to speak with Mayor Allen announced the opportunity to speak.

There being no comment from the public, Mayor Allen asked for a motion to close the public hearing. Upon motion by Alderman Smith, seconded by Alderman Jablonski, the Board voted 5-0 to close the public hearing at 6:07 p.m.

The public hearing for the proposed text amendment having been properly held, Mayor Allen asked for a motion to approve the Consistency Statement and Ordinance for Text Amendment ZTA-2023-01 (Increasing the Maximum Height by 10 feet for buildings in the C-B Central Business District). Upon motion by Alderman Smith, seconded by Alderman Haynie, the Board voted 5-0 to approve the Consistency Statement and Ordinance for Text Amendment ZTA-2023-01.

Item 5

Upon motion by Alderman Smith, seconded by Alderman Ramsey, the Board voted 5-0 to open the public hearing to consider proposed UDO Text Amendment ZTA-2023-02 – An ordinance eliminating Campgrounds as a Special Use from the Table of Permitted Uses in the R-1 Low Density Residential District. The hearing was opened at 6:09 p.m.

Kaitland Finkle, Zoning Officer, presented a staff report on the proposed Text Amendment and Plan Consistency Statement as recommended by the Planning Board. There were no questions from the Board regarding the staff report.

Mayor Allen asked if anyone from the public wished to speak on the proposed text amendment. Michelle Morrison, of 1020 Redmon Road, spoke in support of the proposed text amendment. Linda Jarvis, of 1401 Redmon Road, spoke in support of the proposed text amendment. Joseph Cipollina, of 830 Redmon Road, spoke in opposition of the proposed text amendment. Kaitland Finkle, Zoning Officer, stated that she received two emails in support of the proposed text amendment.

Alderman Haynie asked about the possibility of the Town putting specific restrictions on any approved campground that has already applied for a Special Use Permit prior to the proposed ordinance being adopted. Ms. Finkle responded that the Board of Adjustment may place conditions on a campground as part of the Special Use Permit process.

Alderman Payne asked whether the Zoning Board of Adjustment had previously approved two campgrounds on Redmon Road. Forrest Gilliam, Town Administrator, and Kaitland Finkle, Zoning Officer, explained the process used by the Board of Adjustment when considering a special use application. Because the Town's current Unified Development Ordinance enacted in 2011 allows for Campgrounds as a Special Use in the R-1 District, the Board of Adjustment has to consider applications for Special Use in that District as to whether the proposed campground meets all of the requirements of the UDO, and that the Board of Adjustment cannot make a decision based on a subjective opinion about whether a campground as a general rule is appropriate for the district, but whether it meets the standards of the ordinance and other matters of law based on evidence presented during the Board's hearing. The Board of Alderman has the authority to adopt and amend ordinances through the legislative process, and can make decisions based on preferences and opinions, as long as they are not violating state law or constitutional rights. Within the Town of Marshall, only the Board of Aldermen has the power to remove the option for Campgrounds as a Special Use in the R-1 district.

There being no further comment from the public, Mayor Allen asked for a motion to close the public hearing. Upon motion by Alderman Smith, seconded by Alderman Haynie, the Board voted 5-0 to close the public hearing at 6:24 p.m.

The public hearing for the proposed text amendment having been properly held, Mayor Allen asked for a motion to approve the Consistency Statement and Ordinance for Text Amendment ZTA-2023-02 (Eliminating Campgrounds as a Special Use from the Table of Permitted Uses in the R-1 Low Density Residential District). Upon motion by Alderman Smith, seconded by Alderman Jablonski, the Board voted 5-0 to approve the Consistency Statement and Ordinance for Text Amendment ZTA-2023-02.

Item 6

Upon motion by Alderman Haynie, seconded by Alderman Smith, the Board voted 5-0 to open the public hearing to consider proposed UDO Map Amendment RZ-2023-02 – Property located at 571 Rollins Road, approximately .57 acres. The existing zoning is R2 (Medium Density Residential). The proposed zoning is C-MU (Conditional Mixed Use). Conditions requested are to add a second story and allow the following four additional uses on site: Multi-family dwellings (including apartment and townhome units), Artists & Craftsmen, Professional Offices, Retail Uses (less than 5,000 square feet inside fully enclosed building). The hearing was opened at 6:27 p.m.

Kaitland Finkle, Zoning Officer, presented a staff report on the proposed Map Amendment and Plan Reasonableness Statement as recommended by the Planning Board. Ms. Finkle explained that it was staff's recommendation that the applicant pursue the Conditional zoning process for Mixed Use, rather than a standard rezoning to Mixed Use, in order to limit the potential future uses that would be possible on the parcel in the event that the rezoning is approved. The proposed Conditional Mixed Use zoning would limit use of the property to the four types of uses listed in the application, as well as adding a second story to the building. A standard rezoning to Mixed Use would include four pages of other allowed uses beyond the four uses listed in the application. Ms. Finkle also explained that the existing use of the building as warehouse space is a legal non-conforming use. This means that the use as warehouse space can continue, but the building cannot be improved in value by more than fifty percent, nor can the square footage of the building be expanded, without the building coming into compliance with zoning requirements. In order to expand the building or have uses beyond the legal non-conforming use of warehouse space, the owner had to request a rezoning, at which point Ms. Finkle suggested that the applicant pursue the more restrictive Conditional option rather than a standard rezoning to Mixed Use.

Alderman Haynie asked Ms. Finkle to list the four uses that are included in the application. Ms. Finkle stated that in addition to the request to add a second story to the building, the specific requested uses from the applicant are multi-family dwellings, including apartment or townhome units; spaces for Artists and Craftsmen; Professional Office Space, and Retail Use that is less than 5,000 square feet, contained within a fully enclosed building. If approved, all of these uses would have to be contained in the existing building and its additional story.

Alderman Payne asked about the size of the parcel the building sits on, and whether there is additional space on the property for parking. Ms. Finkle answered that the property totals .57 acres. She further stated that prior to any construction taking place a zoning permit would have to be issued by staff. At that point staff would verify that the use being applied for within the four approved uses has the required number of spaces for that particular use as mandated in the UDO. Those space minimums will be different for housing units or retail. Staff could not issue the zoning permit if there is not sufficient parking as is required for that use in the UDO.

Ms. Finkle explained that the parcel is currently zoned R-2, as is everything in the vicinity on Rollins Road, and that the future land use map from the Comprehensive Land Use Plan calls for the area to be R-2 and recreational uses. The request is not consistent with the future land use map, but there are other recommendations in the Comprehensive Land Use Plan that encourage higher density and intensity uses in certain circumstances. She also stated that there is a current mix of uses in the vicinity of the property, including non-residential uses, but all are zoned R-2.

Mayor Allen asked if anyone from the public wished to speak on the proposed text amendment. Gerri Allen, of 221 Rollins Road, spoke in opposition to the proposed map amendment. Mark Tipton, of 435 Rollins Road, spoke in opposition to the proposed map amendment. Lucas Tipton, of 589 Rollins Road, spoke in opposition to the proposed map amendment. Pat Jones, owner of property at 587 Rollins Road, spoke in opposition to the proposed map amendment. Wanda Allen, of 24 Rollins Road, spoke in opposition to the proposed map amendment. Matthew Lucas, representing Every Angle, Inc. owner of the subject property at 571 Rollins Road, spoke in favor of the proposed map amendment. Jay Tipton, owner of property at 718 Rollins Road, spoke in opposition to the proposed map amendment. Bruce Tipton, of 408 Rollins Road, spoke in opposition to the proposed map amendment.

In response to a question asked during public comment about whether anything can be built in the area due to floodplain regulations, Ms. Finkle stated that people are allowed to build as long as they meet floodplain regulations, which include requirements surrounding built elevation and other standards. The Floodplain regulations are administered by Madison County.

There being no further comment from the public, Mayor Allen asked for a motion to close the public hearing. Upon motion by Alderman Ramsey, seconded by Alderman Haynie, the Board voted 5-0 to close the public hearing at 6:53 p.m.

The public comment period raised the question of whether a future owner could continue with commercial use, if the requested permit is approved. Ms. Finkle confirmed that the approved zoning would run with the land, within the four uses requested in the Conditional Mixed Use zoning request.

Alderman Smith asked if the project could move forward as a non-conforming use even if the zoning change is not approved. Ms. Finkle stated that the owners could use the existing building for the existing use of warehouse space, but they are not allowed to expand. She stated that because the property is in a floodplain, there are strict regulations on what is allowed if the use is not elevated out of the floodplain. Storage uses would be allowed due to the legal non-conformity, but commercial and residential use could not go into the building without retrofitting it above the floodplain.

The public hearing for the proposed text amendment having been properly held, Mayor Allen asked for a motion to approve the Reasonableness Statement and Ordinance for Map Amendment RZ-2023-02 (Rezoning property located at 571 Rollins Road to C-MU (Conditional Mixed Use) with submitted conditions requesting adding a second story and allowing specified uses.) Alderman Thomas Jablonski was recused from voting due to a conflict of interest due to having an ownership stake in the subject property. Alderman Laura Ponder Smith inquired to Attorney Stokes regarding a potential conflict of interest for Alderman Smith, as her son works for Every Angle, Inc., which owns the property. Attorney Stokes advised that a legal conflict of interest did not exist that would require Alderman Smith to recuse herself, but that there could be the appearance of a potential conflict of interest, and that, out of an abundance of caution, she would advise Alderman Smith to recuse herself, though the decision is ultimately up to Alderman Smith. Alderman Smith stated that she would recuse herself due to the potential appearance of a conflict of interest. Mayor Allen again asked for a motion to approve the Reasonableness Statement and Ordinance for Map Amendment RZ-2023-02. No motion was made. Mayor Allen stated that the proposal died for lack of a motion.

Item 7

Upon motion by Alderman Ramsey, seconded by Alderman Smith, the Board voted 5-0 to open the public hearing to consider proposed UDO Text Amendment ZTA-2023-03 – An ordinance Creating an Island Overlay District to prohibit the following uses: Any use listed under “Residential Uses” in the Permitted Use Table in Section 3.3 including: Accessory Dwellings, Accessory Structures (residential), Boarding or Rooming Houses, Conservation Developments, Family Care Homes, Home Occupations, Manufactured Homes on Individual Lots (singlewide and doublewide), Manufactured Home Park, Multi-Family Dwellings (includes apartments and townhomes), Single-family dwellings (detached), Temporary Emergency Manufactured Homes, Two-family dwellings (duplexes). Bed and breakfast inns. Hotels, motels, and inns. Animal services (with outdoor kennels). Agricultural operations, farming, & livestock. Equestrian uses (horseback riding, stables). The hearing was opened at 7:04 p.m.

Kaitland Finkle, Zoning Officer, presented a staff report on the proposed Text Amendment and Plan Consistency Statement as recommended by the Planning Board. There were no questions from the Board regarding the staff report.

Mayor Allen asked if anyone from the public wished to speak on the proposed text amendment. Rob Pulleyn, owner of property at 115 Blannahassett Island, spoke in favor of the proposed text amendment. Matthew Lucas, owner of the gym building on the island, spoke in favor of the proposed text amendment.

There being no further comment from the public, Mayor Allen asked for a motion to close the public hearing. Upon motion by Alderman Ramsey, seconded by Alderman Smith, the Board voted 5-0 to close the public hearing at 7:10 p.m.

The public hearing for the proposed text amendment having been properly held, Mayor Allen asked for a motion to approve the Consistency Statement and Ordinance for Text Amendment ZTA-2023-03 (Creating Island Overlay District to prohibit residential and lodging uses, and keeping of animals overnight). Alderman Jablonski recused himself due to a conflict of interest as he has an ownership stake in property that is on the island. Upon motion by Alderman Payne, seconded by Alderman Smith, the Board voted 4-0 to approve the Consistency Statement and Ordinance for Text Amendment ZTA-2023-03.

Item 8

Upon motion by Alderman Ramsey, seconded by Alderman Haynie, the Board voted 5-0 to open the public hearing to consider the proposed UDO Map Amendment RZ-2023-03, mapping the Island Overlay District on Blannahassett Island to the following addresses: 115, 145, 148, and 149 Blannahassett Island, totaling approximately 11.66 acres. Parcel identification numbers assigned to the properties are 9706-65-6213, 9706-75-2033, 9706-74-0990, 9706-64-7994. The hearing was opened at 7:13 p.m.

Kaitland Finkle, Zoning Officer, presented a staff report on the proposed Map Amendment and Plan Reasonableness Statement as recommended by the Planning Board. There were no questions from the Board regarding the staff report.

Mayor Allen asked if anyone from the public would like to speak regarding the proposed map amendment. No member of the public signed up to speak on the proposed map amendment, and no member of the public asked to speak with Mayor Allen announced the opportunity to speak.

There being no comment from the public, Mayor Allen asked for a motion to close the public hearing. Upon motion by Alderman Smith, seconded by Alderman Haynie, the Board voted 5-0 to close the public hearing at 7:16 p.m.

The public hearing for the proposed map amendment having been properly held, Mayor Allen asked for a motion to approve the Reasonableness Statement and Ordinance for Map Amendment RZ-2023-03 (Mapping Island Overlay (I-O) District on 115, 145, 148, and 149 Blannahassett Island). Alderman Jablonski recused himself due to a conflict of interest as he has an ownership interest in property on the island. Upon motion by Alderman Smith, seconded by Alderman Haynie, the Board voted 4-0 to approve the Reasonableness Statement and Ordinance for Map Amendment RZ-2023-03

Item 9 – Public Comment

Karen Jordan and Tony Rogers spoke during public comment regarding an excessively high water bill caused by a water leak on their property that they were not aware of until the Town's crews noticed a high reading when they read their meter in October. The owners fixed the underground leak within two days of learning of it, but they still owe \$900 even after an adjustment per the Town's existing Water Leak Adjustment Policy. Mr. Gilliam will review policies in neighboring towns and report back to the Board.

Item 10

Upon motion by Alderman Haynie, seconded by Alderman Smith, the Board voted 5-0 to appoint Eugene Ipo to an unexpired term as an alternate on the Board of Adjustment. The term will expire on January 31, 2025.

Item 11

Forrest Gilliam, Town Administrator, explained that staff is working on updates to the Town's policies for special events in an effort to make sure that events take place in an orderly fashion and that the Town is not out significant expense for

privately sponsored events, or large public events. Special events have the benefit of bringing people to town, but at a certain point such events can tax the town's limited resources, especially Police. The goal is to create policies that ensure appropriate services for large crowds will not taking service away from other areas of town during events. Drafts will be brought back to the board for discussion at future meetings.

Item 12

The Board received an update regarding \$18 million in sewer funding received by Madison County through a special appropriation from the General Assembly. \$3 million of the funding will go to Hot Springs for sewer expansion and \$15 million of the funding will be used by Marshall and Mars Hill to enhance and expand sewer service along the NC 213 corridor. Mr. Gilliam clarified that the proposal does not propose connecting the sewer systems of the two towns. The engineering firm hired by the County in 2022 to analyze options did not recommend such a connection. Instead, Marshall would extend sewer service from the current endpoint at Hayes Run Plaza approximately one mile to French Broad Electric and Silver Mill Road. This will serve an area of likely future growth in Marshall. Before service is expanded, the Town must make \$2.3 million in upgrades to its wastewater treatment plant in order to receive wastewater from additional customers. The Town has applied for a grant from the Economic Development Administration and Appalachian Regional Commission for this purpose, and should hear back in the coming months. The Town is having regular meetings with leadership from Mars Hill and Madison County regarding sewer projects and how best to use the combined available funds to enhance sewer service for existing customers and to serve economic development opportunities for the towns and the county.

Item 13

A report the Tax Collection and Water/Sewer collection rates for the month of October was presented to the Board.

The financial report for the month of October was presented to the Board.

Upon motion by Alderman Smith, seconded by Alderman Ramsey, the Board voted 5-0 to approve Budget Amendment #2024-003. The budget amendment budgets additional prior years tax revenues and offsets the additional revenues by reducing the budgeted amount from Appropriated Fund Balance.

Upon motion by Alderman Payne, seconded by Alderman Haynie, the Board voted 5-0 to approve Budget Amendment #2204-004. The budget amendment shifts Powell Bill funds originally budgeted in the Miscellaneous category to Equipment Maintenance and Repair and Maintenance.

Discussion took place regarding what night to hold the Town's Independence Day celebration, as the company used by the Town for the fireworks display is building their schedule for 2024. The vendor is already booked for July 4th. After discussion and consultation with DMA leadership present at the meeting, the consensus of the Board was to hold the event on Friday, July 5th.

Reports from Boards and Community Organizations

Downtown Marshall Association – The Downtown Marshall Association provided a report on upcoming events, including Jingle Mingle on Main, scheduled for Thursday, December 14th. DMA is also making plans for their annual Marshall Gras event. DMA is also holding their officer elections in January.

Board of Adjustment – Ben Smith, Board of Adjustment Chairman, shared that the Board met on November 13th for a training provided by Kaitland Finkle, and that the Board is preparing to hold the Hearing for the Special Use Permit for a proposed campground on Redmon Road on December 11.

Planning Board – No meeting

Parks and Recreation – No meeting

Department Reports

Fire Department – No report.

Police Department – Report in packet

Public Works Department – Jamie Chandler shared the Unaccountable Water Rate, monthly operating reports for wells, and the monthly maintenance report.

Zoning Department – See Board of Adjustment report.

Upon motion by Alderman Ramsey, seconded by Alderman Payne, the Board voted 5-0 to enter into closed session for the purposes of personnel and attorney-client privilege.

Upon motion by Alderman Payne, seconded by Alderman Ramsey, the Board voted 5-0 to return to open session.

Upon motion by Alderman Payne, seconded by Alderman Haynie, the Board voted 5-0 to authorize a policy stating that any maintenance worker who fills in for weekend or holiday monitoring of wells and/or the wastewater treatment plant shall be paid \$75 per day. Fill-in days shall not exceed 15 days each year for the entire department.

Upon motion by Alderman Ramsey, seconded by Alderman Smith, the Board voted 5-0 to approve the list of Christmas Bonuses as presented by Forrest Gilliam, Town Administrator. The bonuses were included in the budget for the year.

Upon motion by Alderman Jablonski, seconded by Alderman Ramsey, the Board voted 5-0 to adjourn at 9:25 p.m.



Nancy Allen, Mayor



Forrest Gilliam, Town Administrator