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Marvin flips on mussel decision

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Developer, one. Heelsplitters, zero.

Marvin planners have flipped on an earlier village decision to pass on a builder-donated tract of land for green space that had been potentially de-railed by the endangered Carolina heelsplitter mussel.

The village Board of Adjustment voted unanimously last week to exempt builder Robert Epps from a new state ban on development near a creek believed to shelter the heelsplitter.

The panel concluded Epps had put two months of work into his Elysian Fields subdivision, which was cleared in January, before the N.C. Division of Water Quality notified Marvin of the requirement in March. Former Marvin Planning Director Bill Duston rejected Epps' initial appeal in July, but village greenway advisers argued Epps' donation was a vital link in Marvin's long-term open space plans.

"It was just a vindication of our beliefs and our efforts," said Ray Williams, chairman of the Marvin Parks, Greenways and Recreation Advisory Board.

Williams used village money to hire Charlotte lawyer Neil Robinson, who argued Thursday that Duston had originally planned to approve Epps' exemption before Marvin Councilwoman Terri Patton "illegally" intervened. Patton did not return a phone call for comment before deadline Tuesday.

Epps wants to donate roughly half of his 14-acre subdivision for greenway trails, but the Division of Water Quality is calling for a 200-foot buffer around heelsplitter streams.

Marvin clerk Melody Graham said the Board of Adjustment's decision could be appealed to state courts.

But Williams said only people with a "genuine grievance" can challenge the panel's vote.

"For instance, if my wife was unhappy with it, she can't appeal because she doesn't live along one of those creeks, she doesn't own land on the creeks," he said. "And that decision has no impact on her other than she doesn't like it."

N.C. Department of Environment and Natural Resources spokes-man Jamie Kritzer, who also speaks for DWQ, said his agency will review Marvin's decision before it decides how to respond.

"At this point, we don't know enough about the decision," Kritzer said.

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