



OAK RIDGE TOWN COUNCIL MEETING
MAY 5, 2016 – 7:00 P.M.
OAK RIDGE TOWN HALL

MINUTES

Members Present

Spencer Sullivan, Mayor
George McClellan, Mayor Pro Tem
Jim Kinneman
Mike Stone
Doug Nodine

Staff Present

Michael Thomas, Town Attorney
Bill Bruce, Planning Director
Bruce Oakley, Town Manager
Sam Anders, Finance Officer
Sandra Smith, Town Clerk

1. CALL TO ORDER

Mayor Spencer Sullivan called the meeting to order at 7:00 p.m.

A. Invocation.

The invocation was given by Roger Howerton of Central Baptist Church.

B. Pledge of Allegiance.

2. APPROVE AGENDA

Mayor Pro Tem George McClellan made a **motion** to approve the meeting agenda, which was amended to remove approval of the April 19, 2016 special meeting minutes and add a closed session as item 13.a. **Councilman Jim Kinneman** seconded the motion, and it was passed unanimously (5-0).

3. APPROVE MINUTES OF THE APRIL 7, 2016 MEETING

Councilman Kinneman made a **motion** to approve the April 7, 2016 meeting minutes. **Councilman Mike Stone** seconded the motion, and it was passed unanimously (5-0).

4. RESOLUTIONS, PROCLAMATIONS, ANNOUNCEMENTS

Andrew Russoli Strength & Honor Scholarship Recipient award. Mayor Sullivan asked Mayor Pro Tem McClellan, Fire Chief Steve Simmons and Assistant Chief Sam Anders to come forward to make the presentation. Anders also called forward Firefighter Alyson Jones, the 2014 and 2015 scholarship award winner, and Giavanna Giaimo, a UNCG student pursuing a degree in neonatal nursing. McClellan said the scholarship is in memory of Andrew Russoli, who was killed in military service in Iraq, since Russoli wanted to become a firefighter when his military service ended. The 2016 award was then presented to Giaimo.

5. REPORT FROM GUILFORD COUNTY SHERIFF'S OFFICE

Sgt. League reported there had been minimal crime in Oak Ridge in the past month , but reports included a residential burglary, thefts of unsecured items, and a burglary of an outbuilding. The previous month's vehicle break-ins seem to be under control, League said, although there was one vehicle break-in at the park. He advised residents to keep their vehicles locked and to remove any valuables.

6. REPORT FROM OAK RIDGE FIRE DEPARTMENT

Chief Steve Simmons said in April the fire department received 61 calls (26 medical, 35 fire/service related), and personnel received 248 hours of training. As fire safety tips, Simmons advised residents to keep their dryer vents clean and to make sure fire pits are at least 10 feet from a house or anything combustible.

7. TOWN MANAGER'S REPORT

A. Tax collection agreement.

Town Manager Bruce Oakley presented the tax collection agreement from Guilford County, which comes up for renewal every five years. If approved, the agreement would extend the Town's agreement for tax collection by the county until 2021. In response to a question, Oakley said there were no changes from the previous contract.

Councilman Kinneman made a **motion** to approve the agreement. **Pro Tem McClellan** seconded the motion, it was passed unanimously (5-0).

B. Bids for sidewalk construction.

Oakley announced that bids had been requested for construction of the sidewalk along Oak Ridge Road from Linville Road to Oak Ridge Commons, but he had not received enough responses. He said he would extend the bid period and seek additional bids.

C. Recognition of Town Clerk.

Oakley recognized Town Clerk Sandra Smith for having recently earned the N.C. Certified Municipal Clerk's designation.

8. PUBLIC HEARING

- A. Rezoning Case # RZ-16-01: AG to RS-40.** The property is located at 1830 Oak Ridge Road, on the south side of Oak Ridge Road approximately 1,100 feet west of Williard Road, in Oak Ridge Township. It is Guilford County Tax Parcel #0165486, is comprised of approximately 10.12 acres, and is located in the Greensboro (GW-III) Watershed, Scenic Corridor Overlay Zone. The owner is Ann P. Berrier; the applicant is Mark Disney.

Planning Director Bill Bruce presented the staff report, which is hereby incorporated by reference and made a part of the minutes. Bruce said the applicant had contacted many of the neighboring property owners of his intentions. He said staff recommended approval because the request is consistent with the Land Use Plan and it matches existing zoning and typical lot sizes in the vicinity. The Planning & Zoning Board voted unanimously to recommend the rezoning.

Bobbi Baker, vice chair of the Planning & Zoning Board, said about 20 people attended the meeting, and many voiced concerns about RS-40 zoning for the property and the number of lots that would potentially be allowed. She said many voiced concerns regarding site plan issues, but the Board had explained they could not consider those issues.

Mayor Sullivan opened the public hearing.

Proponents:

- Mark Disney, the applicant, said his goal was to obtain RS-40 zoning, which was consistent with the surrounding properties. He said he thought the rezoning would protect neighboring properties, since the current AG zoning would allow many uses. Disney, who was born and grew up in Oak Ridge, said he planned to construct a small development on the property; he said he planned to build his personal residence in the development, and his primary goal in developing the property was being able to move back to Oak Ridge.
- Chris Rohrer of Land Solutions said he had been working with the applicant throughout the process. Although the zoning would allow for up to 10 units, given the shape of the property and ordinance restrictions, it was not feasible to get that many. He said he felt the request was reasonable, was in harmony with adjoining parcels, and conforms to the Land Use Plan.
- Ann Schneider, chair of the Town's Historic Preservation Commission, said she had walked the property after receiving several emails. She said she had learned from staff that 20 percent of the tract would be set aside for a tree preservation area, and that could preserve some of the beautiful mature trees on the site. She said the developer had also said he was willing to try to find another location for the historic structure on the property, or at least to allow time for materials from the structure to be reclaimed. Schneider said she hoped the Town would reach out to try to find a new owner for the structure, and she also hoped the applicant would allow time for the structure to be studied and photographed, and to find people perhaps willing to salvage it. She said the best solution would be to find someone willing to move the historic structure.

Mayor Sullivan asked Disney to address Schneider's comments. Disney said he agreed with Schneider, but the structure is a liability and is dangerous. He said he had stated at the Planning & Zoning Board meeting that he would perhaps allow a day for people to come and salvage materials. He also said he would be open if the Town would like to try to find someone to move the structure.

Opponents:

- Lizann Dodd said when she purchased her property nearby on Williard Road in 2005, the first thing that happened was that her well went dry. In addition, she

said every time it rained, the property where she lives as well as the one she owns next door would become flooded. She said a neighbor had dug a trench, which now prevented her property from being completely flooded every time it rains. She said she was afraid if new houses were built on Disney's property, it would cause water to flow onto her property.

- Yanfei Yang, who lives beside the property to be rezoned, said most of the neighbors are concerned with the layout of the proposed subdivision. He said he was concerned with how to legally lock Disney into the plan he had shown to neighbors. He said restrictions on the property would benefit nearby residents as well as the Town.
- Richard Cavanaugh spoke about the Land Use Plan, saying Oak Ridge was supposed to continue to value scenic vistas and open space. He said he was concerned with changing the zoning of this property to RS-40, which would allow up to 10 homes, as well as preserving the old growth trees and the creek/swampy area on the property. He said it was unlikely to find someone who would preserve the 137-year-old log cabin on the property, and RS-40 zoning would create sprawl. He said the additional traffic would create dangerous conditions on roads, and that Oak Ridge is already growing faster than the roads can handle. He also expressed concerns for neighboring properties' wells, and wanted to know what the Town's plan is for water in the future. He asked the Council to deny the rezoning so the developer could return with a request for conditional use RS-40 zoning, and said denying the rezoning was the only way to protect the land and the neighbors. He also read a letter from Paul Woolf, expressing his concern about the rezoning.
- Rebecca Bettini, who lives on N.C. 150, expressed concerns about traffic on N.C. 150 and the fact that she has a shallow well. She said the Town had not addressed water availability recently, and that she did not want to own a house she could not sell in the future – something that would happen if she could not get water.
- Bertha Carlyle expressed concerns about traffic and water.

Rebuttal – Proponents:

- None

Rebuttal – Opponents:

- None

The public hearing was closed.

Council discussion/questions:

- Kinneman asked if Chris Rohrer of Land Solutions could address the issues regarding drainage and runoff. Rohrer said no more water would enter or exit the property than it does now, although it could possibly be more concentrated. He said they would have to submit an erosion control plan, and that Guilford County would make sure the appropriate measures were in place. Kinneman asked about another possible access point to the property, and Rohrer said he

had prepared sketches using both access points, and that both would yield the same number of lots.

- McClellan asked about the 20 percent tree preservation area and the old growth trees; Disney said the 20 percent preservation was a requirement of the ordinance. He agreed there were some beautiful mature trees on the site, which would be preserved if possible. McClellan asked whether there was a creek or intermittent stream on the property; Bruce said if it is determined to be a legitimate stream, the ordinance required a 50-foot buffer on either side which would have to be re-vegetated. McClellan asked about the log structure on the property; Schneider said the cabin portion of the structure appeared to have been built in the late 1800s, but that it had been moved to this location for use as a vacation cabin. She said it was in pretty poor condition, but that anything could be restored with enough time, effort and money. Disney said the owner's son said the log cabin had been moved from near the Old Mill; he offered to give Schneider the owner's son's contact information. Disney said he would not close on the property until June 10, and Schneider said it would be great to have time to reach out to the community and look into the history of the structure.
- Stone also asked about the historic structure. He asked Disney how many of the adjacent property owners he had contacted; Disney said of the 13, he had talked to roughly 10 of them. Stone asked why he had not talked to all of them, and Disney said he had mailed them all a letter and felt he had made a strong effort.
- Nodine asked Disney why he did not propose CU-RS-40 zoning with the condition that there only be five or six lots. Disney said he felt the plan he submitted was appropriate, and that he honestly did not know he should have applied for conditional use zoning at the time the application was submitted. Nodine asked if he was willing to do that now; Disney said yes, although that would require the signature of the property owner, who was not interested in reapplying. He said showing neighbors one plan and building something different was how some developers get a bad reputation, and the plan he showed neighbors was what he intended to build.
- Sullivan asked about potential flooding on other properties, and asked if there was any way to predict what types of measures Guilford County would require to mitigate it. Bruce said it was hard to tell based on what had been submitted at this point, but that there are ordinances in place to guide those measures.

Mayor Pro Tem McClellan made a **motion** to approve the rezoning request based on the following:

1. The proposed zoning amendment is consistent with the adopted Future Land Use Plan of the Town of Oak Ridge. The Planning Board has provided the Council with its written statement that the proposed zoning amendment is consistent with the comprehensive plan, and the Council concurs and adopts the Planning Board's finding of consistency by reference. In addition, the Council further finds that the proposed zoning amendment is consistent with the comprehensive plan because it identifies the area as residential and meets Objective 1.2 of the Land Use Plan adopted by Council on January 7, 2016, and amended on February 4, 2016.
AND

2. The proposed zoning amendment is reasonable. The Council considers the proposed zoning amendment to be reasonable because:
 - A. The report of the Town staff finding the proposed zoning amendment to be reasonable is adopted by reference.
 - B. The Council further finds that the proposed zoning amendment is reasonable because it is consistent with the zoning of surrounding neighborhoods.

AND

3. The proposed zoning amendment is in the public interest. This Council considers the proposed zoning amendment to be in the public interest because:
 - A. The report of the Town staff finding the proposed zoning amendment to be in the public interest is adopted by reference.
 - B. The Council further finds that the proposed zoning amendment is in the public interest because it meets the recommendations of the Land Use Plan adopted by Council on January 7, 2016, and amended on February 4, 2016.

Councilman Nodine seconded the motion, and after additional discussion, it was passed unanimously (5-0).

- B. Text Amendment.** Amendments proposed to Chapter 30 of the Oak Ridge Code of Ordinances to implement recommendations of the adopted Oak Ridge Future Land Use Plan Update, to ensure compliance with state statutes, and to modernize and correct inconsistencies. Proposed amendments include but are not exclusive of Article IV Division 2 Planning and Zoning Board, Article V Enforcement, Article VII Zoning (to revise Rural Preservation District and Rural Multifamily District, and create a new Town Core-Residential District), Section 30-111 Establishment of Official Zoning Map, Section 30-301 Zoning map and text amendments, Section 30-302 Conditional use districts and special use permits, and Section 30-700 Assurance of completion of improvements.

Bruce presented the Board with two documents, which are hereby incorporated by reference and made a part of the minutes – one with the proposed changes to the ordinance, and the other one with staff comments. Some of the proposed changes included:

- Notifying more nearby property owners of a proposed rezoning
- Allowing the Town to keep the official zoning map in digital form
- Allowing special use permits to go directly to Town Council
- Requiring an environmental inventory to ensure RPD zoning preserves some element that is environmentally or historically important
- Removing the ability to submit a protest petition on a rezoning request due to the legislature removing that option
- Changing RPD developments to allow lots as small as 15,000 square feet without changing the overall density allowed
- Clarifying responsibility for trail maintenance
- Allowing the Planning & Zoning Board authority to approve UDPs
- Removing RM zoning and creating TC-R zoning in the town core to allow for up to two units per acre

Bruce said the Town Attorney had suggested removing Article V Enforcement from discussion at this time. He said the text amendment had been reviewed by the Planning & Zoning Board, who unanimously recommended approval with the exception of leaving minimum lot sizes in RPD zoning at 20,000 square feet. Bruce

said he had recommended allowing lots as small as 15,000 square feet in RPD zoning because the developer would be allowed to develop the same number of lots, but the smaller size he suggested would give the developer more flexibility.

Sullivan opened the public hearing.

Proponents:

- Bobbi Baker said the Planning & Zoning Board had felt it was appropriate to maintain consistency and keep the minimum lot sizes in RPD zoning at 20,000 square feet.
- Ann Schneider said as a member of the Land Use Plan Update steering committee that she was thrilled to see the changes suggested become part of the Town's development ordinance.

Opponents:

- None

The public hearing was closed.

Council discussion/ questions:

- Kinneman and McClellan said they liked the size of 15,000 square feet in RPD zoning. Kinneman said he felt that way because no more houses would be allowed than are currently, more trees could be preserved in open space, and some people might like to have a smaller lot in return for getting to live in the country.
- Stone brought up several concerns, including notification of even more neighbors of a proposed rezoning, requiring advertising of rezoning in the Northwest Observer, the type of community outreach required of an applicant, whether the Town was trying to get rid of planned unit development districts, the 15,000-square-foot minimum lot size in RPD developments, protecting existing residents from their subdivisions being connected to other subdivisions and their streets being used as cut-throughs, and trail requirements.

Councilman Kinneman made a **motion** to continue the public hearing until the June 2 meeting. **Mayor Pro Tem McClellan** seconded the motion, and it was passed unanimously (5-0).

Mayor Pro Tem McClellan made a motion to take a 5-minute recess at 9:22 p.m.

Councilman Stone seconded the motion, and it was passed unanimously (5-0).

Councilman Kinneman made a motion to return at 9:27 p.m. **Mayor Pro Tem McClellan** seconded the motion, and it was passed unanimously (5-0).

C. 2016-17 Fiscal Year Budget

Budget Committee chairman John Jenkins presented the proposed 2016-17 fiscal year budget, which is hereby incorporated by reference and made a part of the minutes. He said the committee had looked at last year's budget and done a line-item-by-line-item comparison. It then asked committee chairs and Oakley to present any budget requests. He

said the committee had considered lowering the property tax rate – as it does every year – but because the Town had taken a big hit by paying off the loan for the park property, the committee did not think it was prudent to request a drop in the tax rate at this time. He said the budget included a capital request of \$286,554 and a parks and recreation operating budget of \$372,892.

Councilman Kinneman pointed out that if the property tax rate is reduced, the amount of sales tax distribution received from Guilford County is also reduced.

Councilman Nodine asked about the fund balance, and Finance Officer Sam Anders said the addition of \$258,000 from the 2016-17 fiscal year budget would increase it to about \$2.5 million. Nodine asked what the recommended fund balance should be, and Anders explained that he thought it needed to be enough to run the town for a year because of the danger that the state or some other agency could seize some of the town's money. Nodine said he did not think the Council had adequate time to go through the budget by the time it has to be passed. Council members pointed out that the Council can make changes to the budget before passing it, or it can vote to amend the budget at any time during the year.

The public hearing was opened.

Proponents:

- None

Opponents:

- None

The public hearing was closed.

Council discussion/questions:

Council members then discussed and made comments on the proposed budget. Another public hearing will be held at the June 2, 2016 meeting.

9. CITIZEN COMMENTS

- None

10. MONTHLY FINANCIAL UPDATE

Finance Officer Sam Anders presented the financial report, which is hereby incorporated by reference and made a part of the minutes.

Councilman Kinneman made a **motion** to approve the financial report. **Mayor Pro Tem McClellan** seconded the motion, and it was passed unanimously (5-0).

11. COMMUNITY UPDATES

A. Parks & Recreation Commission.

Chairman Bill Edwards reported:

- A successful Canine Capers was held April 30 and additional infrastructure had been added to the Bark Park.
- The grand opening of the amphitheater and Phase II was April 9.
- The grand opening of the Cascades Preserve was May 6.
- The next Music in the Park events would be May 14 featuring The Radials and May 22 with a gospel sing featuring Todd Hedrick.
- RidgeFest is scheduled for June 2-4.

B. Finance Committee.

No additional report

C. Planning & Zoning Board.

Vice Chair Bobbi Baker said Council had already discussed the rezoning and text amendment also discussed by the Board at its meeting. The Board also discussed the Tree Board and Tree City application, which is not due until December. Baker said she thought becoming a Tree City would be a positive thing and fit well with the community.

D. Board of Adjustment.

No meeting

E. Historic Preservation Commission.

Chair Ann Schneider reported:

- Two COAs were approved at the last meeting: a single family residence for Brian and Amy Hall on Tarleton Drive, and changes Philip Cooke made to the building elevations for the proposed commercial building at 8001 Marketplace Drive.
- The historic marker dedication ceremony at Ai Church was a great event. She thanked Preservation Oak Ridge.

12. CITIZEN COMMENTS

- Bill Edwards commented on the Tree City designation, saying perhaps a loblolly pine forest could be planted in the open field at the back of the Town Park, and Scouts could assist with harvesting the pine needles.

13. COUNCIL COMMENTS

14. CLOSED SESSION

A closed session was held to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body pursuant to N.C.G.S. 143-318.11(a)(3).

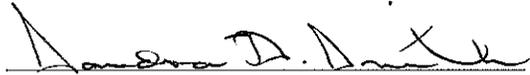
Mayor Pro Tem McClellan made a **motion** to go into closed session at 10:20 p.m.
Councilman Kinneman seconded the motion, and it was passed unanimously (5-0).

Councilman Kinneman made a **motion** to return to open session at 10:30 p.m. **Mayor Pro Tem McClellan** seconded the motion, and it was passed unanimously (5-0).

15. **ADJOURNMENT**

Mayor Pro Tem McClellan made a **motion** to adjourn the meeting at 10:30 p.m.
Councilman Kinneman seconded the motion, and it was passed unanimously (5-0).

Respectfully Submitted:



Sandra B. Smith, NCCMC, CMC, Town Clerk


C. Spencer Sullivan, Mayor