



**OAK RIDGE PLANNING & ZONING BOARD MEETING
OCTOBER 22, 2015 - 7:00 P.M.
OAK RIDGE TOWN HALL**

MINUTES

Members Present

Doug Nodine, Chair
Ron Simpson, Vice Chair
Nancy Stoudemire
Carl Leybourne
Bobbi Baker
Larry Stafford
Steve Wilson, Alternate (Sitting)
Patti Paslaru, Alternate (Not sitting)

Staff Present

Bill Bruce, Planning Director

Members Absent

Tammy Gardner
Brian Eichlin, Alternate

1. CALL TO ORDER

The meeting was called to order by Doug Nodine at 7:00 p.m.

2. APPROVE AGENDA

Nancy Stoudemire made a **motion** to approve the amended agenda after the correction of one of the tax parcel numbers under Sketch Plan Case # Sub-15-17. **Bobbi Baker** seconded the motion, and it was passed unanimously (7-0).

3. APPROVE MINUTES OF THE AUGUST 27, 2015, MEETING

Ron Simpson made a **motion** to approve the meeting minutes. **Carl Leybourne** seconded the motion, and it was passed unanimously (7-0).

4. PUBLIC HEARING

A. Rezoning Case # RZ-15-04: AG to CU-RPD. The property is located on the west side of Bridgehead Road, approximately 1,900 feet south of Oak Ridge Road, in Oak Ridge Township. It is Guilford County Tax Parcels 0167806 and 0167835, is made up of approximately 29.3 acres, and is owned by Gregory H. and Mary B. Campbell, and heirs of Richard Parker Barrow. The property is located in the Greensboro (GW-III) Watershed and the Oak Ridge Extraterritorial Jurisdiction (ETJ).

Planning Director Bill Bruce read the property description into the record and presented the staff report, which is hereby incorporated by reference and made a part of the minutes. Bruce since the staff report was issued, all the required property owners' signatures had been received agreeing to the development conditions. He said the conditions offered include a buffer along the property of Douglas Barrow at 4229 Bridgehead Road as well as a 600-foot landscaping buffer would be installed along the northern property line. Bruce said there were also zoning conditions regarding the timing of the construction of the trails and sidewalks, and that the trail would be public once it is connected to a larger trail network. He added that the Board had approved a sketch plan for this property several months ago, but that should have no bearing on whether it recommended the property be rezoned. The area around the proposed development is very low density and is mostly agricultural, with a few houses on large lots as well as significant wooded areas. Bruce said the proposed plan is generally consistent with the adopted Land Use Plan, but not overwhelmingly so. He also noted that an estimated 270 trips per day from the development would be a significant increase in the traffic on Bridgehead Road, but the plan would have to be approved by N.C. DOT as far as the entrance onto Bridgehead Road and most likely the Bridgehead and Oak Ridge Road intersection. The applicant indicated that they had reached out to neighbors about the plan.

Nodine opened the public hearing.

Proponents:

None

Opponents:

Patti Paslaru said she felt the plan was not consistent with the area and with the proposed Rural Preservation District (RPD) zoning because nothing of value was being preserved. She said the Board should be aware of this "loophole" regarding preserving open space, which is being addressed in the new Draft Future Land Use Plan, and said that she did not think the rezoning was consistent with the vision for Oak Ridge.

William Bolden said the neighbors' questions had really not been answered and that of the answers given, they seemed to change frequently. He said the neighbors on Bridgehead Road did not like the plan, and he had concerns about traffic and crime, since he has two children.

Doug Barrow, one of the heirs of the original property owner and the executor of his state, explained that the contract to sell the property was inherited by he and his siblings from his father, who recently died. He said he had worked to get the required signatures from his siblings, and

met with the builders on the conditions being offered, but that he would still like to see the property remain as it is.

Nodine and Leybourne both asked for clarification, and whether Barrow was an owner of the property who was in opposition to the rezoning; Barrow explained that he had inherited the contract to sell the property from his father, but that he would like for the property to remain as it is. Board members asked if Barrow lived on the property adjoining the one proposed for rezoning and was also an heir to that property, and he said yes.

Barrow was asked to provide more detail on why he was opposed. He said he preferred not to so he would not be in breach of contract.

Maurice Woods said she owned property on Bridgehead Road and that the land had been in the family for many years. She said the area was rural, and she preferred not to see that change. She also cited potential issues with traffic.

Proponents – Rebuttal:

Anthony Donato, who is one of the people purchasing the property, addressed comments made by opponents, saying that 50 percent of the property would be preserved as open space, the plan is unobtrusive, and that DeDe Cunningham, the real estate agent, had made efforts to contact all the neighbors. He said he was surprised that Barrow had spoken in opposition, and that he had been working with Barrow's attorney for nearly three months on getting all the proper signatures and on setting conditions that everyone agreed to. He said they had done everything they could to comply with all Town requirements as well as to meet the needs and concerns of the property owners.

Leybourne asked if there was any reason Donato had not spoken initially in support of the plan; Donato said he had not said anything because he felt the staff report was adequate.

Opponents – Rebuttal:

Maurice Woods said she was never contacted by anyone regarding the proposed rezoning.

William Bolden said the only time representatives of the applicant had ever come by was during regular working hours, during which he happened to be home because he is a firefighter. He said his in-laws, who live next door, had never been contacted. He added that the conversations he had lasted about two minutes, and any efforts to call and ask additional questions were unsuccessful.

With no other speakers, Nodine closed the public hearing.

Nancy Stoudemire said she had received an email from a gentlemen who was unable to be at the meeting but was opposed to the rezoning, and some other Board members said they had as well. Stoudemire read the email from Craig Biles, which is hereby incorporated by reference and made a part of the minutes, into the record.

Leybourne asked Bruce to elaborate on his concerns about the rezoning. Bruce said he had looked at the very low density on the surrounding properties and the appropriateness of a major subdivision off Bridgehead Road – which may or may not be in condition to handle the major increase in traffic. Leybourne asked if that was a technical opinion or a subjective opinion, and Bruce said it was a very subjective opinion. He added that the open space being preserved, he thought, was the best the applicants could do in this instance. Bruce said some properties greatly benefit from the RPD zoning, but he did not think that this was the best example of that, but that the open space being preserved was the most appropriate area to preserve on the property. He added that the addition of the buffers helps the plan get closer to some of the goals of the Land Use Plan, but he did not feel that every criteria was a “slam dunk” as far as being met. He said he did not generally give a lot of conditions as part of his recommendation, but that this was a complex request, and that neighborhood input would also play a significant role in the Board’s recommendation.

Leybourne then asked Bruce to comment on his note in the staff report regarding the Future Land Use Plan; Bruce said the Town is currently working on an update to the Future Land Use Plan, and that one of the concerns the committee has voiced is that the Rural Preservation Districts and planned developments have often been used more as a tool to maximize lot count and less of a way to preserve the valuable open space on a property. He said there had been discussion that for a property that does not clearly offer a rural preservation component, perhaps RS-40 is a more appropriate zoning. Clustering development may be more appropriate for locations with, for example, a historic farm, where the historic elements, mature tree stands and the view from the road are preserved. However, Bruce cautioned the Board that these issues are being discussed in the Land Use Plan update, the draft has not yet been adopted. Leybourne asked if there was a specific recommendation in the Land Use Plan update to address that concern, and Bruce said the draft Land Use Plan update says that RPD zoning is appropriate on property that has valuable open space component or something that is worthy of being preserved as a valuable part of Oak Ridge’s rural identity. Leybourne asked that would be defined or if it would be more subjective in nature, and Bruce said it would be subjective and allow for interpretation.

Leybourne asked Bruce to comment on the email received that was mentioned earlier and specifically the portion regarding the use of berms. Bruce said that berms were addressed in the current Land Use Plan because they are a man-made feature, but that should also be balanced with the neighbor's desire for privacy. He said every piece of property is different, and some are more suited than others.

Baker asked about development condition number 3 regarding trails, saying she did not see the location of the trail; Bruce noted that it was shown on the sketch plan that was previously approved. Baker said she understood the writer of the email's concern about berms because the property was quite flat and there would be the introduction of such a man-made feature.

Baker summarized that the Board was looking at 27 lots that are a minimum of 20,000 square feet on 29 acres with 50 percent open space, so the lots would all be located on 14½ acres; Bruce concurred. Baker said the rezoning is being proposed for a rural area with very low density. She said she was trying to match up in her mind Oak Ridge's definition of low density with potentially 27 lots on 14½ acres. Bruce said the density should be applied to the entire property, and that there would be 14½ acres that would never be developed. She said she understood, but that people would drive down the very rural Bridgehead Road and then there would be 27 homes grouped together.

Stoudemire said she understood the plan generally met the Town's requirements, but asked if there was another zoning that might be better in this location. Bruce said if it would be a subdivision, it would need to be RS-40 or RPD; he added that the Town is trying to get away from the PD-R zoning because it did not have the open space requirement. He said another way to look at the situation was that if the rezoning came back to the Board in the future as RS-40, there could still potentially be 27 homes, although the lots would be configured differently and would be more spaced out. Stoudemire said she was not sure that 27 homes was appropriate to her either way. She asked about the percentage of tree preservation area; Bruce said the requirement is 20 percent, and this plan meets that requirement.

Simpson said he had also visited the site and there was practically no road frontage to this property and what was there was located in a curve. He said he was wondering about the safety issues regarding the road and serving an additional 27 houses, but asked if that was a DOT consideration and not one of P&Z. Bruce said that was correct, but said that the development would be located on the outside of the curve, which makes a big difference in a driver's sight distance as opposed to if it was located on the inside of the curve. He said either way, it would be an

unusual intersection. Simpson agreed, saying Bridgehead is a narrow country road. Having seen the site, Simpson said he did not believe it had the type of rural vista that was intended for preservation, and he thought perhaps RS-40 zoning might be more appropriate here.

Steve Wilson said he was concerned about the comment from a neighbor that business cards had been left with the neighbors with instructions to call if there were questions; Wilson said this is Oak Ridge, and things do not work that way here. He also expressed concern about the curve in Bridgehead Road where the entrance to the development would be located, as well as the lot sizes being proposed, saying he did not want Oak Ridge to turn into Greensboro.

Larry Stafford said the more he looked at the plan, the more conflicted he became. He said the stub road connects to a property where the owners do not want a road going through their property. He also said there were two proposed septic fields, both of which are located uphill from the well. However, he noted that if the rezoning request was for RS-40, the trees on the property would disappear. He said he also wondered if there was enough water, and although the well was likely located in the best place, he pointed out that it was still downhill from the septic fields.

Leybourne said he generally advocated for property owners' rights, but said he was against this rezoning for several reasons, including that an RPD zoning clearly does not fit here. He said DOT would deal with any road concerns, both on N.C. 150 and where the road from this development intersects with Bridgehead Road. He said a berm here would be totally out of character in terms of rural preservation, but said something about the process here was not right. He said no one representing the developer spoke in favor of the rezoning, instead letting the town planner make their case. He said regardless of what had been said, none of the neighbors who had spoken had felt they had been adequately contacted or had any input. He added that he had never been presented with an heir or property owner who is against a rezoning. For those reasons, Leybourne said he planned to vote against the rezoning.

Nodine agreed, saying he did not feel this property really met the definition for what he considers a Rural Preservation District, that there was nothing unique being preserved here, and that the zoning was likely chosen so the developer could maximize the number of houses built.

Carl Leybourne made a **motion** to deny the rezoning request for the principal reason that it does not meet the spirit and intent of the RPD zoning. **Ron Simpson** seconded the motion, and it was passed unanimously (7-0).

B. Rezoning Case # RZ-15-05: LB to CU-GB. The property is located at 1684 N.C. Highway 68 North, in Oak Ridge Township. It is Guilford County Tax Parcel 0166232, is approximately 1.2 acres, and is owned by Twilight Outparcel LLC. The property is located in the Scenic Corridor Overlay Zone and the Greensboro (WS-III) Watershed Overlay Zone.

Bruce read the property description into the record and presented the staff report, which is hereby incorporated by reference and made a part of the minutes. He said the applicant was proposing all the uses currently allowed in the Limited Business zoning plus a few allowed in the General Business zoning, including automobile repair services, minor; auto supply sales; restaurant with a drive-thru; and tire sales. He said the rezoning would also essentially double the street planting yard area when the property is developed, and that it would match the planting yard at McDonald's across the road. Bruce said the rezoning met the requirements of the adopted Land Use Plan, it represents only a slight increase in potential development intensity, and staff recommended approval of the rezoning.

Nodine opened the public hearing.

Proponents:

Philip Cooke, manager of Twilight Outparcel, LLC, who owns the property, spoke in favor. Although the Land Use Plan recommends conformance with Historic District standards, Cooke said they had requested to be exempt from that because much of the site has already been developed without conforming to the Historic District standards, with much of it done before the Historic District was established. He said it would be developed similar to the other buildings nearby and in conformance with the Scenic Corridor overlay, which would ensure appropriate materials and design elements are used. Cooke said there is currently nothing planned for the site, but that they have received interest for the types of uses he was requesting. He said he would be glad to answer questions from the Board.

Opponents:

None

The public hearing was closed.

Leybourne asked about the Historic District exemption, and asked if the site was in the Historic District; Bruce said no. Cooke explained that the site had never been in the Historic District or developed according to its standards. As an example, Bruce said 68 Place and the office building at the corner of Linville Road and N.C. 68 were both rezoned with the condition that they be developed consistent with Historic District

Guidelines. Cooke said this property and adjoining ones had never been developed according to the Guidelines.

Stoudemire asked if restaurants were allowed in Limited Business zoning; Bruce responded yes, but said restaurants with drive-thrus were not. She asked if site plan approval would be required if the rezoning is approved, and Bruce said yes.

Simpson asked if the driveway that leads to the townhouses would share the driveway with this property; Cooke said yes, that there is currently an easement and that when this lot is developed, a new easement would be worked out to connect the townhouses' driveway to this development. Simpson, who is also a member of the Historic Preservation Commission, said he was also surprised to learn that this property is not in the Historic District and asked if Cooke was interested in building something on the property that was compatible with the surrounding buildings. Cooke said whatever was built on the site would absolutely be compatible with other buildings his family has constructed on the surrounding properties. He reiterated that the surrounding development pre-dates the Historic District's establishment, and said he felt they had proven with their history the type of development they would do. Simpson said he had seen that, but was concerned about an establishment such as an Advance Auto Parts, which tended to be quite colorful. Cooke said that an Advance Auto Parts might locate on the site, but – like the Tractor Supply across the street – it would be the most attractive Advance Auto Parts ever seen. Simpson said Cooke's words were very reassuring.

Wilson asked if there were any restrictions on the types of businesses that would be allowed. Bruce said currently no drive-thrus are allowed, but the request was to amend that to allow a restaurant with a drive-thru as a permitted use. Wilson said he could foresee a bad traffic problem because, unlike McDonalds – whose drive-thru does not come out directly onto N.C. 68 – this site would lead directly out on to N.C. 68. He said it seemed like the request was a sort of blank check to allow any type of business to be located there. Leybourne disagreed, saying this request would only allow the four additional uses in addition to what is already allowed there. He said Wilson might object to allowing those four uses, but that granting this rezoning request was not permission to build just anything on the site. He added that there is a whole list of uses that would not be allowed.

Bruce said, for instance, a major auto repair service that does body work would not be allowed here because the applicant had restricted the rezoning to request only specific additional types of development. He said if the rezoning request is not approved, the property is still approved for

Limited Business and all the types of development that would be allowed with that.

Ron Simpson made a **motion** to approve the rezoning, citing the staff report and the conformance with the Land Use Plan. **Nancy Stoudemire** seconded the motion, and it was passed unanimously (7-0).

5. NEW BUSINESS

A. Site Plan Case # SP-15-01: Scuba Tools. Lake Time Enterprises, LLC seeks zoning compliance for an existing commercial site located at 2900 Oak Ridge Road in Oak Ridge Township. The property is Guilford County Tax Parcel 0163026 and 0163042 (part). The site consists of two industrial buildings on a total of approximately 3.429 acres, and is zoned CU-LI, RS-40, and AG. It is in the Scenic Corridor Overlay Zone and General (GS-III) Watershed Overlay Zone. Designer: Triad Land Surveying, P.C.

Bruce read the property description into the record and presented the staff report, which is hereby incorporated by reference and made a part of the minutes. He said the Board's review is somewhat different in this case because it pertains to an existing site. He said 15 years ago or so when the metal building on the property was constructed, a site plan was approved by Guilford County with a specific amount of impervious surface. After obtaining approval, the former owner paved an additional area, which brought the impervious surface area over the threshold for what is allowed in the watershed area. Bruce said the new owners are now dealing with this issue, and their solution was to purchase an additional 1.41 acres that would remain undeveloped to offset the built-upon area. With the addition of that acreage, the built-upon area was again below the 24 percent maximum allowed in the development ordinance. Bruce said landscaping was also required as part of the approved 1999 site plan, but that it was never installed or was removed later. Per the new zoning condition, the wooded portion to the rear of the property would remain and serve as the tree preservation area. Lighting will be cut-off or shielded per the Town's lighting ordinance, and some approvals outside the purview of the Board are still outstanding. Bruce said the Town would also make sure junk on the site was properly cleaned up to ensure there is no longer a nuisance violation, and that the current owners have been working diligently on that. Staff recommended approval of the site plan.

Baker asked if there were any concerns or anything to add regarding the additional property. Bruce said he did not know whether the applicants had actually acquired the additional property and he thought negotiations were ongoing. He suggested the Board note if the plan is approved that it be upon the condition that the sale of the adjoining

property be closed and that property added to the current site. Baker said that would address her concern should the sale fall through.

Simpson asked if approval of the site plan would bring the property into compliance with the Town. Bruce said it would as far as zoning requirements are concerned, although there could be some additional building code and environmental health issues to be worked out.

Bobbi Baker made a **motion** to approve Site Plan Case #15-01 for Scuba Tools with the condition that the sale of the additional 1.41 acres of adjoining property goes through. **Carl Leybourne** seconded the motion, and it was passed unanimously (7-0).

B. Sketch Plan Case # Sub-15-17: Happy Hill Road Proposed RPD (Rural Preservation District). The property is located on the west side of Happy Hill Road, approximately 1,200 feet north of Warner Road, in Oak Ridge Township. It is Guilford County Tax Parcels 0164944 and 0164937. This sketch plan consists of 76 proposed lots, open space, and right-of-way dedication on a total of approximately 82.76 acres. Current Zoning: AG. Proposed Zoning: RPD. Developer: D. Stone Builders. Surveyor: Hugh Creed Associates. **This is a technical review only. If approved the sketch plan will accompany the applicant's rezoning application and be subject to Planning and Zoning Board and Town Council public hearings. Approval of the sketch plan does not constitute approval of the rezoning.**

Bruce read the property description into the record and presented the staff report, which is hereby incorporated by reference and made a part of the minutes. He reminded the Board that the review was a technical one to ensure that the plan could meet the requirements of the Development Ordinance if the subsequent rezoning is approved. Bruce said he thought the sketch plan does meet the technical requirements of the ordinance and appears to meet the intent of the Rural Preservation District, and he recommended approval of the sketch plan for the purposes of submitting a rezoning application.

Baker asked about a stream running along the lower left portion of the property that runs along a tree line. She asked if that was where trees would be removed. Bruce said most of the trees that would be removed would be along Happy Hill Road or perhaps in off-site septic areas. Baker asked if the number of homes would depend on suitable soils for septic, and Bruce said yes, and that the 76 homes proposed would be a maximum number.

Stoudemire also asked about the trees in the proposed off-site septic area, and Bruce said not all the trees there would be removed and that there were ways to work around that.

Simpson asked about the trees along Happy Hill Road and the house locations. Bruce said the tree preservation buffer noted along Happy Hill Road would remain with houses behind them to screen them from the road.

Stafford noted that it seemed like all the proposed roads were through the woods.

Nodine said because of the topography, this property seemed to fit the RPD zoning better than the previous one discussed.

Carl Leybourne made a **motion** to recommend approval of the sketch plan for purposes of submitting a rezoning application. **Steve Wilson** seconded the motion, and it was passed unanimously (7-0).

6. PUBLIC COMMENTS

Councilman George McClellan thanked the Board for the work it was doing.

7. ADJOURNMENT

Nancy Stoudemire made a **motion** to adjourn the meeting at 8:20 p.m. **Bobbi Baker** seconded the motion, and it was passed unanimously (7-0).

Respectfully Submitted:



Sandra B. Smith, CMC, Town Clerk



Doug Nodine, Chair